

5. The Plaintiff brings its claims under R.C. Chapter 2721 seeking declaratory relief.
6. The Plaintiff also seeks a temporary restraining order, preliminary injunction, and permanent injunction.
7. This Court has jurisdiction to hear the Plaintiff's claims.
8. Venue is proper in Franklin County since the Defendant maintains its principal place of business in Franklin County, Ohio.

**FIRST CAUSE OF ACTION
VIOLATION OF HOME RULE**

9. In response to the growing gun violence, the City of Columbus has enacted various ordinances to regulate the possession and use of firearms in the City of Columbus.
10. While the Ohio General Assembly has worked to repeal gun laws that have been a part of Ohio's history and tradition, the City of Columbus has been working to pass common sense gun reform legislation.
11. The purpose of the City's legislation is to fill the gaps in Ohio law in order to protect children, residents, and visitors of the City.
12. On December 5, 2022, the City of Columbus passed Ordinance 3176-2022, a copy of which is attached to this Complaint as Exh. A.
13. The stated purpose of the Ordinance was to "amend sections 2303.05, 2303.14, 2323.11, and 2323.20; to enact sections 2323.191, 2323.32, and 2323.321, and to repeal existing sections 2303.05, 2303.14, 2323.11, and 2323.20 of Columbus City Codes to effectuate common sense gun reform; and to declare an emergency."
14. Among the things that this Ordinance sought to accomplish was to mandate the safe storage of firearms for situations in which the owner of a firearm knew or had reason to know that the firearm could be accessed by a minor.

15. Ohio law specifically has no requirements for the safe storage of a firearm.
16. Instead, prosecutors may try to charge an individual with Endangering Children (R.C. 2919.22) in those situations in which a minor accesses a firearm and harms herself or others.
17. In order to bring a charge of Endangering Children, however, the individual who owns the firearm must be the child's "parent, guardian, [or] custodian" or a "person having custody or control, or person in loco parentis of [the] child." R.C. 2919.22(A).
18. As a result, if a child, who is playing at a friend's house, gets access to a negligently secured firearm and injures herself, a prosecutor cannot bring a charge of Endangering Children against the owner of the firearm because, at a minimum, there is no in loco parentis relationship between that child and the firearm owner.
19. To fill this gap in Ohio law and to protect children, the City's ordinance makes it a misdemeanor for a person to store a firearm in such a manner as described above.
20. There are affirmative defenses to the ordinance, such as by keeping the firearm in "safe storage" or by keeping it on the person's person. C.C.C. 2323.191(A)(2)(a), (C). A firearm is in "safe storage" if, for example, a "trigger lock" device is installed on it or the firearm is kept in a gun safe or in any other device "designed to be unlocked only by means of a key, a combination, or other similar means." C.C.C. 2323.11(O).
21. In addition to the negligent storage of a firearm, the ordinance bans possession of high capacity magazines, which it defines generally as magazines capable of storing 30 or more rounds of ammunition. *See* C.C.C. 2323.11(N).
22. Finally, the ordinance closes gaps in state law as it relates to the strawman purchase of firearms. *See* C.C.C. 2323.20.

23. City Council unanimously passed this ordinance as emergency legislation on December 5, 2022.
24. Mayor Andrew Ginther signed the ordinance into law on December 6, 2022.
25. Pursuant to the City's charter, this ordinance became effective immediately upon the signature of the mayor.
26. On February 27, 2023, the Columbus City Council unanimously passed Ordinance 0680-2023. A copy of that ordinance is attached to this complaint as Exh. B.
27. The purpose of this Ordinance is to "amend sections 2323.11, 2323.23, and 2323.231 of the Columbus City Codes to effectuate common sense gun reform; and to declare an emergency."
28. The purpose of this Ordinance was to fix a drafting error that had occurred with Ordinance 3176-2022 as well to give any individual who possessed high capacity magazines inside Columbus city limits until July 1, 2023 to dispose or remove them.
29. This ordinance was signed by Mayor Andrew Ginther on February 28, 2023 and, pursuant to the Columbus City Charter, became effective immediately.
30. In addition to pursuing common sense gun reform from a legislative perspective, the Columbus Charter and Columbus City Code provide certain emergency powers to various government officials.
31. For example, "[t]he executive and administrative powers of the city shall be vested in the mayor, directors of departments and other administrative officers and boards provided for in this charter or by ordinance." Columbus City Charter Sec. 57.
32. The Charter also provides that one member of City Council shall be elected as President of Council. Columbus City Charter Sec. 10.

33. The Charter provides for a Director of Public Safety. “Under the direction of the mayor, the director of public safety shall be the executive head of the division of police and fire. The public safety director shall have all powers and duties connected with and incident to the appointment, regulation, and government of the department, except as otherwise provided by this charter. The public safety director shall keep a record of all proceedings.” Columbus City Charter Sec. 101.
34. The Director of Public Safety also has the authority to appoint the chief of police. Columbus City Charter Sec. 101.
35. “The division of police shall be composed of a chief and such police officers and other employees as may be provided by ordinance of council. In case of riot or like emergency the mayor may appoint additional police officers for temporary service who need not be in the classified service.” Columbus City Charter Sec. 102.
36. Columbus City Code provides that various city officials have the authority to proclaim a state of emergency in the City. Columbus City Code Sec 123.01.
37. That provision states, “When there is a tumult, riot, mob or body of people acting together with the intent to commit a felony or to do or offer violence to person or property; or by force and violence to break or resist the law; or in the event of a flood, fire, snowstorm, or any other disaster affecting life and property and which substantially impairs the functioning of the city government and its ability to protect the lives and property of the people; any of the following named officers, acting in the order herein designated when the previously named officer or officers are absent from the city or are unavailable, or incapable of so doing, are authorized to proclaim the existence of a state of emergency in the city of Columbus or within any prescribed area or areas thereof; the

mayor, the president of city council, the director of public safety, the chief of the division of police.” Columbus City Code Sec. 123.01.

38. The appropriate city official has the power to “issue such proclamations as he deems necessary to protect life and property. Said proclamation may include, but is not limited to, the establishment of curfew; prohibiting the sale of beer or intoxicating liquor; prohibiting the sale of firearms; restricting or prohibiting movement into, out of, or within the affected area or areas; or prohibiting or limiting the assemblage of persons; or prohibiting or limiting persons under the age of 18 years from being upon or about public streets, public places or places of amusement and entertainment within the city during the hours when said persons are required to be in attendance at either a public or private school, unless said persons are accompanied by their parent, guardian or other adult persons having the care or custody of them or, are upon an emergency errand or other legitimate business directed by their parent, guardian or other adult person having the care and custody of them.” Columbus City Code Sec. 123.02.

39. The Code provides that “[n]o person shall fail to obey the lawful order of any police officer, militia members or other law enforcement officer; and no person shall in any way intentionally interfere with any such police officer, militia members or other law enforcement officer, or firefighter, rescue personnel, medical personnel, or other authorized person in the protection or preservation of life or property during the existence of a state of emergency as proclaimed, as provided in Section 123.01 of the Codes of the city of Columbus, Ohio, 1959.” Columbus City Code Sec. 123.03.

40. In order to further remove any common sense regulation relating to firearms or ammunition, the Ohio General Assembly enacted Am. Sub. S.B. 16 at the end of last year's legislative session.
41. Am. Sub. S.B. 16 amended R.C. 3761.16.
42. Prior to the amendment, R.C. 3761.16 provided that “[t]he chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or when there is a clear and present danger of a riot, may cordon off any area or areas threatened by the riot and prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits and may prohibit the sale, offering for sale, dispensing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosive in, to, or from the cordoned off areas.”
43. After the passage of Am. Sub. S.B. 16, R.C. 3761.16 was amended.
44. R.C. 3761.16 now reads as follows:
- (A) As used in this section, “mob” has the same meaning as in section 3761.01 of the Revised Code.
 - (B) The chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or a mob or when there is a clear and present danger of a riot or a mob, may cordon off any area or areas threatened by the riot or the mob and prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits and may prohibit the sale, offering for sale, dispensing, or transportation of dynamite or other dangerous explosives in, to, or from the cordoned off areas

(C) The chief administrative officer of a political subdivision with police powers, when engaged in suppressing a riot or a mob or when there is a clear and present danger of a riot or a mob, may cordon off any area or areas threatened by the riot or the mob and prohibit persons from entering the cordoned off area or areas except when carrying on necessary and legitimate pursuits and may not prohibit the otherwise legal sale, offering for sale, dispensing, or transportation of firearms, other dangerous weapons, or ammunition by a person in a cordoned off area under either of the following circumstances:

(1) The cordoned off area encompasses the person's residence or business, or the person is accompanied by another person who resides or owns a business in the cordoned off area.

(2) The cordoned off area encompasses the person's place of employment.

(D) Divisions (C)(1) and (2) of this section do not apply to prisons or jails.

45. Thus, Ohio law now attempts to prohibit a mayor or other local official from prohibiting the sale of firearms or ammunition at times of mob action.

46. In fact, Ohio law now goes so far as to allow individuals who live in an emergency quarantined area to bring friends into the riot zone so their friends can also purchase firearms and ammunition.

47. Am. Sub. S.B. 16 also added R.C. 5502.411 to the Revised Code.

48. That provision of the Code provides, in part, "The transport, storage, sale, transfer, commerce in, import and export of, distribution, repair, maintenance, and manufacture of deadly weapons or firearms, ammunition, and accessories and components related to deadly weapons or firearms, shooting ranges, and other goods and services directly

related to lawful deadly weapon or firearm possession, use, storage, repair, maintenance, sale, transfer, and training in the use of deadly weapons or firearms, are declared to be life-sustaining “essential” businesses and services for the purposes of safety and security in times of declared emergency or any other statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, public nuisance, or emergency of whatever kind or nature.” R.C. 5502.411(B).

49. R.C. 5502.411(C) also states, “Except as provided in this section, no state agency, political subdivision, elected or appointed official or employee of this state or any political subdivision, or agent of this state or of any political subdivision, board, commission, bureau, or other public body established by law may, under any governmental authority or color of law exercised as part of any statutorily authorized response to any disaster, war, act of terrorism, riot, civil disorder, public health crisis, public nuisance, or emergency of whatever kind or nature, do any of the following:
- (1) Prohibit, regulate, or curtail the otherwise lawful possession, carrying, display, sale, transportation, transfer, defensive use, or other lawful use of any of the following:
 - (a) Any firearm, including any component or accessory of a firearm;
 - (b) Any ammunition, including any component or accessory of ammunition;
 - (c) Any ammunition-reloading equipment, component, or supplies;
 - (d) Any deadly weapon, including any component or accessory of a deadly weapon.
 - (2) Require registration of deadly weapon or firearm owners, of any firearms, including any component or accessory of a firearm, of any ammunition, including any component or accessory of ammunition, or of any deadly weapon, including any component or accessory of a deadly weapon;

- (3) Seize, commandeer, or confiscate in any manner, any of the following items that are possessed, carried, displayed, sold, transferred, transported, stored, or used in connection with otherwise lawful conduct:
- (a) Any firearm, including any component or accessory of a firearm;
 - (b) Any ammunition, including any component or accessory of ammunition;
 - (c) Any ammunition-reloading equipment, component, or supplies;
 - (d) Any deadly weapon, including any component or accessory of a deadly weapon.
- (4) Suspend or revoke a valid concealed handgun license, except as expressly authorized in Chapter 2923. of the Revised Code;
- (5) Refuse to accept or process an application for a concealed handgun license or for renewal of a concealed handgun license, provided the application for the license has been properly completed and submitted in accordance with section 2923.125 or 2923.1213 of the Revised Code and the application for the renewal has been properly completed and submitted in accordance with section 2923.125 of the Revised Code;
- (6) Prohibit, suspend, or limit the business operations of any entity engaged in the lawful selling or servicing of any firearms or ammunition, including any components or accessories of firearms or ammunition, any ammunition-reloading equipment, component, or supplies, or any deadly weapons, including any component or accessory of deadly weapons;
- (7) Prohibit, suspend, or limit the business operations of any legally established indoor or outdoor shooting range, whether located on state lands or on land other than state lands, or of any entity engaged in providing deadly weapon or firearms safety, deadly weapon

or firearms training, firearms license qualification or requalification, firearms safety instructor courses, or any similar class, course, or program;

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any of the following:

(a) Any firearm, including any component or accessory of a firearm;

(b) Any ammunition, including any component or accessory of ammunition;

(c) Any ammunition-reloading equipment, component, or supplies;

(d) Any deadly weapon, including any component or accessory of a deadly weapon.

(9) Suspend, restrict, or prohibit otherwise lawful hunting, fishing, or trapping activities or business entities conducting or directly facilitating lawful hunting, trapping, or fishing activities, whether conducted on state lands and waters or on land and waters other than state lands and waters.”

50. It also provides for a cause of action against the municipality for violating the provisions of R.C. 5502.411. R.C. 5502.411(E).

51. These Code provisions violate the City’s municipal home rule authority as guaranteed by the Ohio Constitution and Article XVIII.

SECOND CAUSE OF ACTION

VIOLATION OF HOME RULE

52. The Plaintiff restates and reincorporates by reference each and every allegation contained in Paragraphs 1 through 51 of the Complaint as if restated herein.

53. S.B. 156 became effective on September 13, 2022 and purports to state the General Assembly’s belief of “the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale,

other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition, and knives.”

54. It further states that “[e]xcept as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition, and any knife. Any such further license, permission, restriction, delay, or process interferes with the fundamental individual right described in this division and unduly inhibits law-abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected arms, including hunting and sporting activities, and the state by this section preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process.”

55. It also provides a cause of action against any municipality for violating any of the provisions of R.C. 9.68(A).

56. As highlighted above, the City of Columbus has passed common sense gun reform ordinances.

57. The City of Columbus seeks a declaration that, notwithstanding R.C. 9.68, Columbus City Code sections 2303.05, 2303.14, 2323.11, 2323.20, 2323.191, 2323.32, and 2323.321 are in force and effect, and that R.C. 9.68 is of no legal effect on these ordinances.

THIRD CAUSE OF ACTION
VIOLATION OF SEPARATION OF POWERS

58. The Plaintiff restates and reincorporates by reference all allegations contained in Paragraphs 1 through 57 of the Complaint as if restated herein.
59. By declaring certain municipal ordinances are pre-empted, superseded, and null and void, R.C. 9.68 engages directly in a judicial function.
60. R.C. 9.68 violates the doctrine of separation of powers.

FOURTH CAUSE OF ACTION
VIOLATION OF ART. II SEC. 32

61. The Plaintiff restates and reincorporates by reference all allegations contained in Paragraphs 1 through 60 of the Complaint as if restated herein.
62. Article II, Section 32 of the Ohio Constitution provides that “[t]he general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred
63. By declaring certain actions undertaken by municipalities to be pre-empted, superseded, and null and void in R.C. 9.68, the General Assembly has undertaken a judicial function.
64. Thus, R.C. 9.68 violates Art. II Sec. 32 of the Ohio Constitution.
65. WHEREFORE, the Plaintiff respectfully requests this Court issue the following relief:
- a. A declaration under R.C. Chapter 2721 that R.C. 3761.16, 5502.411, and 9.68 violate Articles II and XVIII of the Ohio Constitution.
 - b. A declaration that Columbus City Code sections 2303.05, 2303.14, 2323.11, 2323.20, 2323.191, 2323.32, and 2323.321 are enforceable.
 - c. A temporary restraining order, preliminary injunction, and permanent injunction against R.C. 3761.16, 5502.411, and 9.68.

- d. An order granting the Plaintiff their costs and fees.
- e. Another other relief this Court deems just and appropriate.

Respectfully submitted,

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