

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

JOHN DOE 1
COLUMBUS, OHIO

and

JOHN DOE 2
COLUMBUS, OHIO

and

JOHN DOE 3
COLUMBUS, OHIO

and

JOHN DOE 4
COLUMBUS, OHIO

and

JOHN DOE 5
COLUMBUS, DELAWARE, OHIO

and

JANE DOE
COLUMBUS, OHIO

Plaintiffs,

vs.

CITY OF COLUMBUS
90 West Broad Street
Columbus, Ohio 43215

and

SHANNON HARDIN, in his official capacity as
City Council President
90 West Broad Street
Columbus, Ohio 43215

CASE NO: 23-cv-H-02-0089

JUDGE: DAVID M. GORMLEY

FIRST AMENDED COMPLAINT
FOR DECLARATORY
JUDGMENT AND INJUNCTIVE
RELIEF

and)
)
ZACH KLEIN, COLUMBUS CITY)
ATTORNEY, in his official capacity)
77 North Front Street)
Columbus, Ohio 43215)
)
Defendants.)

INTRODUCTION

1. Article I, Section 4 of the Ohio Constitution secures every Ohioan’s fundamental right to “bear arms for their defense and security.”

2. To further protect that right from invasion by local jurisdictions and to make the laws of the State uniform, the State of Ohio enacted R.C. 9.68, which prevents political subdivisions from regulating firearms. The Ohio Supreme Court has twice upheld this restriction against home rule challenges.

3. The uniformity of laws provides Ohio residents with the ability to follow the law without concern of being subject to arrest and prosecution in one community when their conduct is legal in another community. Further, because “[t]he individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly [found] the need to provide uniform laws * * *.” R.C. 9.68.

4. The Ohio General Assembly has enacted many common-sense gun regulations balancing Ohio residents’ right to “bear arms for their defense and security” with the need to protect Ohio residents, such as age restrictions on firearms purchases, who may carry a concealed firearm, limitations on where persons can carry a firearm, and what firearms and firearms-components are illegal. *See generally* R.C. Chapter 2923.

5. The City of Columbus’ disagreement with the State’s balance between these interests can only be addressed through lawful means, not by flouting the State’s preemption law and the Ohio Constitution.

6. “Municipalities shall have authority to exercise all powers of local self government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, *as are not in conflict with general laws.*” (Emphasis added) Ohio Const., Sec. 3, Art. XVIII.

7. The City of Columbus has tried more than once to circumvent the State’s protection of Ohioan’s constitutional rights by enacting further restrictions on the “right to keep and bear arms” without consideration of the negative impact those restrictions can have on law-obeying citizens. Alexis Moberger, *Gun store owner speaks out against city trying to put in “gun regulations,”* <https://tinyurl.com/StoreOwnerRegulation> (accessed Jan. 27, 2023); Dean Rieck, *Columbus Reveals Scheme to Regulate Guns Through Board of Health,* <https://tinyurl.com/BoardRegulations> (accessed Jan. 27, 2023).

8. The City of Columbus’ violent crime rate, as referenced in the “Whereas Clauses” of Ordinance 3176-2022, Ex. A at 1–2, cannot be used as an excuse to infringe upon the exercise of a fundamental right, whether it be the right to free speech, the right to assemble or the right to bear arms. Crime does not emanate from words, peaceable assembly, or the possession of firearm-loading devices in common usage (such as magazines), and legislative bans of any of these is not constitutionally permissible.

9. Ordinance 3176-2022 (the Ordinance) passed by Columbus City Council on December 5, 2022, and signed into law by the Mayor on December 6, 2022, ostensibly bans magazines which hold 30 or more rounds of ammunition. Ex. A at 4–6. Such 30-round magazines have been in civilian usage since at least the 1960s—in other words for about 60 years. They have

been used for many civilian firearms, including .22 caliber rifles, .30 caliber rifles, and the very common AR-15 (usually .223 caliber), none of which are fully automatic.¹ Notably, “AR-15-platform rifles are among the most popular firearms being sold. They are today’s modern sporting rifle.” National Shooting Sports Foundation, *Modern Sporting Rifle: The Facts*, <https://www.nssf.org/msr/> (accessed Feb. 9, 2023). It has been estimated that there are about 80 million 30-round magazines in civilian usage. National Shooting Sports Foundation, *Another Ban on “High-Capacity” Magazines?*, www.nssf.org/wp-content/uploads/2021/03/NSSF-factsheet-High-Capacity-Magazines.pdf (accessed Feb. 1, 2023). Only an infinitesimal fraction have ever used in the commission of a crime.

10. Contrary to media portrayals, the “AR” in “AR-15” does not mean assault rifle. An assault rifle is a military rifle which is fully automatic,² and the AR-15 will not fire fully automatic. Rather, “AR” is an abbreviation for the original patent holder for that firearm as developed in the 1950s—ArmaLite. *See* U.S. Patent No. 2,951,424 (filed Aug. 14, 1956).

11. The regulations enacted by the Ordinance, which ban the so called “large-capacity magazines,” place a substantial burden on Plaintiffs’ ability to defend themselves, not only in their homes located within the city, but also while in the city for any other lawful purpose.

12. The Ordinance does not link the ban on “large-capacity magazines” to any misuse of such magazines within the City of Columbus and does not provide any rationale at all as to how

¹ While it is possible for a gunsmith to convert an AR-15 to be fully automatic, that would be illegal. *See* R.C. 2923.11(E), (K); R.C. 2923.17.

² “Assault rifles are short, compact, selective-fire weapons that fire a cartridge intermediate in power between submachinegun and rifle cartridges. Assault rifles * * * are capable of delivering effective full-automatic fire * * *.” U.S. Army, Foreign Science and Technology Center, ST-HB-07-03-74, *Small Arms Identification and Operation Guide—Eurasian Communist Countries* 105 (1974), available at https://www.collezionareexordinanza.it/uploads/downloads/2017-07-02_dia-small%20arms%20identification%20communist%20countries.pdf.

the regulations enacted through the Ordinance will reduce the crime problems that the City of Columbus claims it is addressing through the enactment of the Ordinance. Ex. A. Nor could it.

13. The Ordinance also enacts regulations that purport to prohibit the “Negligent Storage of Firearms.” Ex. A at 5.

14. By enacting the regulations embodied in the Ordinance, the Columbus City Council exceeded its lawful authority and infringed upon law-abiding citizen’s statutory and constitutional rights.

15. The regulations enacted by the Ordinance infringe—facially and as applied to the Plaintiffs—on the rights protected in the Ohio Constitution (Article I, Section 4) and violates the state law which explicitly prevents political subdivisions from requiring a license, permission, or implementing restrictions, on ones right to “own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, *part of a firearm*, [or] *its components* * * * .” (Emphasis added.) R.C. 9.68.

16. On February 16, 2023, Plaintiffs John Doe 1–4 and Jane Doe filed suit against the Defendants alleging that, *inter alia*, the aforementioned Columbus City Code sections were unlawful and invalid. Compl.

17. On February 27, 2023, the Columbus City Council enacted ordinance 0680-2023 (the “New Ordinance”). Ex. H. The New Ordinance repealed and/or rescinded the regulations set forth in 2323.23, 2323.11, and 2323.321. It also enacted new regulations to replace the ones repealed.

18. Plaintiffs ask this Court to stop the infringement of their rights, declare the Ordinance and the New Ordinance null and void, prevent the Defendants from implementing or

enforcing the regulations enacted by the Ordinance and the New Ordinance, and award them costs and attorneys fees under R.C. 9.68.

NATURE OF THE ACTION

19. The Plaintiffs seek damages, and declaratory and injunctive relief under R.C. 2721.03 and R.C. 9.68 establishing that the City of Columbus has unlawfully and unconstitutionally infringed on the Plaintiffs' fundamental rights and has exceeded its Home Rule Authority under the Ohio Constitution by enacting city code sections in contravention of R.C. 9.68.

PARTIES

20. Plaintiffs John Does 1–5 and Jane Doe are residents of Columbus, Ohio. See Affidavits attached as Ex. B–G.

21. Each of the foregoing Plaintiffs possesses one or more of the banned magazines—that is, magazines capable of holding 30 or more rounds of ammunition—at his or her residence and has possessed them prior to the enactment of the Ordinance. Ex. B–G. John Doe 1 has removed his magazines from the jurisdiction of the City of Columbus during the pendency of this action but wishes to and intends to bring those magazine back into the city. Ex. B. The remainder of the Plaintiffs continue to possess the banned magazines within the City of Columbus and intend to continue possessing those magazines within the City of Columbus. Ex. C–G. All of the Plaintiffs wish to continue owning and possessing the magazines in Columbus.

22. Plaintiffs have used pseudonyms rather than their real names because the Ordinance has caused their previously lawful possession of the prohibited magazines to now be unlawful. They must therefore pursue this action anonymously to avoid risk of arrest and prosecution while the courts determine if the Columbus Code provisions are invalid as alleged in this Complaint.

23. The newly imposed penalty for Plaintiffs previously legal conduct of possessing 30-round magazines is mandatory imprisonment for six months plus \$1,500 in fines. Ex. A at 6. The City of Columbus has indicated its intention to enforce the ordinance now and in the future and the Plaintiffs, if their identity is disclosed, will be vulnerable to such enforcement. *See State ex rel. Cincinnati Enquirer v. Shanahan*, 166 Ohio St.3d 382, 2022-Ohio-448, 185 N.E.3d 1089, ¶¶ 36–39. Accordingly, Plaintiffs are entitled to use pseudonyms in lieu of their real names in this case.

24. Plaintiffs represent diverse firearms owners in the City of Columbus.

25. Plaintiff John Doe 1 is a former National Rifle Association (NRA) instructor, is a senior citizen and is well versed in safe firearms handling and usage, including firearms accepting magazines holding 30 rounds or more of ammunition. Ex. B. John Doe 1 possesses magazines capable of holding 30 rounds and wishes to continue possessing such magazines within the City of Columbus. *Id.*

26. Plaintiff John Doe 2 owns and possesses a rifle which he keeps for self-defense, and which has a 30-round magazine. Ex. C. John Doe 2 possesses magazines capable of holding 30 rounds in the City of Columbus and intends to continue possessing such magazines within the City of Columbus. *Id.*

27. Plaintiff John Doe 3 is disabled, cannot easily reload a firearm if needed and is confined to a wheelchair. Possessing larger-capacity magazines for his self-defense firearm of choice is therefore essential to accommodating his right to defend himself in his home and when in the city. Ex. D. Columbus residents have been the victims of home invasions, including as

recently as last month.³ Accordingly, John Doe 3 reasonably desires to be able to effectively exercise the right of self-defense in his own home and when he is in the city. *Id.* John Doe 3 possesses magazines capable of holding 30 rounds in the City of Columbus and intends to continue possessing such magazines within the City of Columbus. John Doe 3. *Id.*

28. Plaintiff is also concerned about reports of delays in police response times, which creates greater urgency to Plaintiff's need to effectively exercise the right of self-defense in his own home. *See* The Columbus Dispatch, *Opinion: Is 911 becoming a joke in Columbus? Slower police response time alarming*, <https://tinyurl.com/ColumbusPoliceResponse> (accessed Jan. 27, 2023).

29. Plaintiff John Doe 4 previously worked as a social worker for over 15 years, is a Muslim, and recognizes the need to have a firearm of his choice for his defense and security. Ex. E. John Doe 4 possesses magazines capable of holding 30 rounds in the City of Columbus and intends to continue possessing such magazines within the City of Columbus. Ex. E.

30. John Doe 4 has good reason for this. "[A]nti-Muslim discrimination incidents and hate crimes are up 83 and 21 percent respectively, compared with the first quarter of [2018]." Dalia Hatuqa, *The Ohio Muslim groups standing up for their embattled community*, Middle East Eye, <https://www.middleeasteye.net/news/ohio-muslim-groups-standing-their-embattled-community> (accessed Feb. 9, 2023).

31. Plaintiff John Doe 5 is a resident of Columbus and his home is located in Delaware County. Ex. G. John Doe 5 has minor children at home where he keeps his firearms. *Id.* He stores his firearms in a manner that he believes keeps the minor children from accessing them, but allows

³ Adam Conn & Anna Hoffman, *Columbus police searching for two home invasion suspects, family traumatized from incident*, NBC 4, <https://www.nbc4i.com/news/local-news/columbus-police-searching-for-two-home-invasion-robbery-suspects/> (accessed Feb. 9, 2023)

him to utilize his firearms when necessary. *Id.* His methods comply with the relevant state laws. *Id.* John Doe 5 objects to the City of Columbus implementing laws on this issue because they are not consistent with the state laws on the issue and could subject him to legal action inconsistent with state law. *Id.*

32. John Doe 5 possesses magazines capable of holding 30 rounds in the City of Columbus, County of Delaware and intends to continue possessing such magazines therein. *Id.* He intends to possess them in his home and when in the City of Columbus for any other lawful purpose. *Id.*

33. Plaintiff Jane Doe legally emigrated from Africa to the United States with her family when she was a young child and is now a U.S. Citizen. Ex. F.

34. Jane Doe is a person of color. When she was 20 years old, she was living in Columbus, Ohio, where she chose to live partly because she believed it to be a safe city. That year, she was assaulted and physically injured in a public place in Columbus Ohio. She did not instigate the assault and did not retaliate against the person who assaulted her. When she reported it to the police, they eventually responded to the place where she was assaulted. Once they arrived, the police did not do anything—they would not take a written statement from Jane Doe, and they did not arrest the person who assaulted her. *Id.*

35. She proceeded to learn about firearms and later acquired an AR-15, intending to use it for self-defense in her home. She chose this firearm because it is lightweight, it has low recoil and is comfortable to use. Because of these things, it is easy for women to use. *Id.*

36. When she obtained her AR-15, she also obtained more than one 30-round magazine because generally it is the standard magazine for that rifle and was unaware if there were smaller magazines for that firearm. *Id.* Jane Doe possesses magazines capable of holding 30 rounds in the

City of Columbus and intends to continue possessing such magazines within the City of Columbus.
Id.

37. Others living outside the City of Columbus are also subject to arrest and prosecution while transporting a prohibited magazine through the City of Columbus. While the Ordinance provides for an affirmative defense to prosecution for driving through the City of Columbus with a prohibited magazine, that person would still need to hire a criminal defense lawyer, and the burden of proof would be shifted to the accused to prove the affirmative defense.

38. Defendant City of Columbus is a political subdivision located in Delaware, Fairfield and Franklin Counties, Ohio.

39. Defendant Shannon Hardin is the Council President of the Columbus City Council, the governing body of the City of Columbus. Mr. Hardin is being sued in his official capacity. The Columbus City Council is responsible for passing ordinances governing the City of Columbus.

40. Defendant Zach Klein is the City Attorney for the City of Columbus. He is the legal advisor of and attorney and counsel for the city and is responsible for defending all complaints in which the city is a party. He is also the government official responsible for enforcing the regulations enacted by the Ordinance and the New Ordinance.

VENUE AND JURISDICTION

41. Venue is proper in Delaware County because Defendant City of Columbus is located—and thus resides and conducts activity giving rise to this Complaint—in Delaware County, Ohio. Civ.R. 3(C)(1).

42. Venue is also proper because some of the tangible personal property that is subject to this dispute (i.e. 30-round magazines possessed by John Doe 5; other Columbus, Delaware

County residents; and retail establishments located in Columbus, Delaware County) is situated in Delaware County. Civ.R. 3(C)(5).

43. Venue is also proper because Plaintiff John Doe 5 possesses the prohibited magazines and stores his firearms in his residence located in Columbus, Delaware County and he fears arrest in Delaware County. The Defendants have indicated they will enforce the regulations embodied in the code sections as against all city residents and all passing through the City of Columbus, which includes Delaware County. Civ.R. 3(C)(3) and (6).

44. This Court has jurisdiction to issue a declaratory judgment under R.C. 2721.01–2721.15 and to grant a temporary restraining order, preliminary injunction, and permanent injunction under R.C. 2721.03.

45. This Court also has jurisdiction to grant damages, declaratory relief, and injunctive relief, or a combination of those remedies in addition to reasonable expenses under R.C. 9.68.

FACTS

46. The individual right to keep and bear arms is a fundamental individual right that predates the United States Constitution and Ohio Constitution. The citizens of Ohio acknowledged this right in Article VIII, Section 20 of the Ohio Constitution of 1802, and again in Article I, Section 4 of the Ohio Constitution of 1851.

47. In 2007, the Ohio General Assembly codified the constitutional right to bear arms and provided for the uniform regulations of firearms throughout Ohio. R.C. 9.68 (2007). The Ohio Supreme Court has twice upheld R.C. 9.68 as a general law that preempts local conflicting ordinances and does not unconstitutionally infringe on political subdivisions home-rule authority. *Ohioans for Concealed Carry, Inc. v. City of Clyde*, 120 Ohio St.3d 96, 2008-Ohio-4605, 896 N.E.2d 967; *City of Cleveland v. State*, 128 Ohio St.3d 135, 2010-Ohio-6318, 942 N.E.2d 370.

48. R.C. 9.68(A), as amended, now states that

The individual right to keep and bear arms * * * being a constitutionally protected right in every part of Ohio, the general assembly finds 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 * * *.

(Emphasis added.)

49. “The general assembly also [found] and declare[d] that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves or others.” *Id.*

50. To protect the rights of Ohioans, the General Assembly preempted, superseded, and declared null and void any further license, permission, restriction, delay, or process that “interferes with the fundamental individual right [to bear arms] 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 * * *.” *Id.*

51. On December 5, 2022, the Columbus City Council passed the Ordinance, which the mayor signed on December 6, 2022. *See* Ex. A.

52. The Ordinance enacted a new regulation embodied in Columbus City Code 2323.32—prohibiting the unlawful possession of a large-capacity magazine. Ex. A at 4–5. Columbus City Code 2323.11(N), as enacted by the the Ordinance, defined large-capacity magazines as

any magazine, belt, drum, feed strip, clip or other similar device that has the capacity of, or can be readily restored or converted to accept, thirty (30) or more rounds of ammunition for use in a firearm. A “large capacity magazine” does not include any of the following: (1) A feeding device that has been permanently altered so that it cannot accommodate more than thirty rounds of ammunition; (2) A .22 caliber tube ammunition feeding device; (3) A tubular magazine that is contained in a lever-action firearm; (4) A magazine that is permanently inoperable.

Ex. A at 3.

53. The Ordinance also added a regulation which made it a “misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for work release and up to a \$1500 fine” to “knowingly possess, purchase, keep for sale, offer or expose for sale, transfer, distribute, or import a large capacity magazine.” Ex. A at 4–5.

54. The Ordinance immediately made all Columbus residents who possess a prohibited magazine, such as Plaintiffs John Does 1–5 and Jane Doe a criminal.

55. However, the regulation enacted through the Ordinance and embodied in Columbus Code Section 2323.11(N) was internally contradictory. It defined a large-capacity magazine as one which holds “thirty (30) or more” rounds of ammunition, but then excluded “loading devices”—which would include magazines—that “cannot accommodate more than thirty rounds of ammunition * * *.” Ex. A at 3. So, a 30-round magazine is both prohibited and excluded.

56. Upon information and belief, including statements by Defendant Klein in his official capacity, the City of Columbus intends to enforce the regulations enacted through the Ordinance and/or the New Ordinance.

57. After the City of Columbus passed the Ordinance, the State of Ohio filed suit in Fairfield County to prevent the Ordinance's implementation. Compl., *State v. City of Columbus*, Fairfield C.P. No. 2022-cv-00657 (Dec. 14, 2022). Because of an already pending suit between the City of Columbus and the State of Ohio regarding the validity of R.C. 9.68 in Franklin County, the Fairfield County court dismissed the R.C. 9.68 claim. Op. & Entry Regarding Mot. for Prelim. Inj., *State v. City of Columbus*, Fairfield C.P. No. 2022-cv-00657 (Jan. 20, 2023).

58. Plaintiffs' claims can be properly brought before this Court as they were not parties to either previous suit between the City of Columbus and the State of Ohio and because the Plaintiffs are asserting additional constitutional claims.

59. On January 20, 2023, Defendant City Attorney Zach Klein said the regulations enacted by the Ordinance "can be enforced beginning Saturday morning," January 21, 2023. Mark Feuerborn, *Columbus gun laws dodge block on enforcement, going into effect soon*, <https://tinyurl.com/KleinStatement>.

60. Klein laer said the new regulations "will be enforced if police see those types of gun magazines. For example, he said people have carried assault-style rifles with large magazine capacities at protests." Mark Ferenchik and Eric Lagatta, *Columbus gun owners wary of city's new ammunition restriction*, The Columbus Dispatch (March 8, 2023), <https://www.dispatch.com/story/news/local/2023/03/08/columbus-gun-owners-wary-of-citys-new-ammunition-restriction/69958312007/>.

61. It is substantially likely that the City of Columbus will enforce the regulations enacted through the Ordinance and the New Ordinance against those who are caught with a prohibited magazine or storing their firearms in a manner inconsistent with the relevant regulation.

62. The Ordinance also immediately made all non-Columbus residents who travel through the city in possession of a subject magazine subject to arrest and prosecution. The affirmative defense in the Ordinance would not prevent such persons from losing his or her liberty—he or she would be put in jail, be required to post bail or remain incarcerated, hire defense counsel, and have the burden of proving the affirmative defense. *See* Ex. A.

63. Under R.C. 9.68, and Ohio Supreme Court precedent upholding it, Columbus is prohibited from enacting a magazine ban. Further, the Ohio Constitution protects the individual right to bear arms.

64. The enacted regulations also regulate the storage of firearms inside one’s residence. *See* Ex. A at 1–4, Columbus City Codes 2303.05, 2303.14, 2323.11(O), and 2323.191. These provisions are also preempted by R.C. 9.68.

65. On February 16, 2023, Plaintiffs John Doe 1–4 and Jane Doe filed their Complaint challenging the code sections enacted by the Ordinance. Compl.

66. On February 27, 2023, in response to Plaintiffs lawsuit, the City of Columbus repealed sections 2323.11, 2323.23 and 2323.321 of the Columbus City Code. Ordinance 0680-2023, Ex. H.

67. The New Ordinance enacts new regulations which ban all magazines capable of accepting 30 or more rounds of ammunition.

68. In the New Ordinance, the City also amended Columbus City Code 2323.23 to enact a new regulation, the so called “immunity from prosecution” regulation. The so called “immunity from prosecution” provision only protects those who wish to give up their magazines. As this Amended Complaint and Plaintiffs’ affidavits show, Plaintiffs do not wish to give up their possession of their magazines as the right to possess them is protected by state law.

69. There is a live dispute between the parties regarding the Defendants' authority to enact the firearms regulations that can be properly resolved through a declaratory judgment action.

70. There is also a live dispute between the parties regarding the Plaintiffs right to reasonable costs, including but not limited to, attorneys' fees pursuant to R.C. 9.68(B)(2) as the City repealed sections 2323.11 and 2323.321 of the Columbus City Code after Plaintiffs filed suit and rescinded enforcement of 2323.32.

COUNT ONE: THE COURT SHOULD DECLARE THAT THE REGULATIONS ENACTED BY THE ORDINANCE AND THE NEW ORDINANCE VIOLATE R.C. 9.68.

71. The Plaintiffs restate the foregoing and incorporate them here as if fully re-written.

72. R.C. 9.68 unequivocally requires uniform firearms laws in the State of Ohio. Passing such uniform laws is the duty of the General Assembly, not the Columbus City Council. The only regulations allowed by R.C. 9.68 are those "specifically provided by the United States Constitution, Ohio Constitution, *state law*, or federal law." (Emphasis added.) R.C. 9.68.

73. The Ohio Supreme Court has twice upheld R.C. 9.68 against home rule challenges. The court has made clear that cities may not enact firearms regulations stricter than the State's laws. *City of Cleveland*, 128 Ohio St.3d 135, 2010-Ohio-6318, 942 N.E.2d 370.

74. The Ordinance places greater restrictions on the right to bear arms than those specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law by criminalizing the possession, purchasing, keeping for sale, offering or exposing for sale, transferring, distribution, or importation of a large-capacity magazine. *See* Ex. A.

75. Specifically the regulations embodied in Columbus City Codes 2323.32, 2323.191, 2323.11(N) and (O), and 2323.321, as enacted by the Ordinance, violate R.C. 9.68(A), and therefore, are null and void.

76. Similarly, the regulations embodied in the new Columbus City Codes 2323.11(N) and 2323.321, as amended by the New Ordinance, also violate R.C. 9.68(A), and therefore, are null and void.

77. The regulations embodied in Columbus City Codes 2303.05, 2303.14, 2323.11(O), and 2323.191, as enacted by the Ordinance and the New Ordinance, also violate R.C. 9.68(A), and therefore, are null and void.

78. Plaintiffs are entitled to a declaration that Defendant City of Columbus' foregoing regulations are unlawful, a permanent injunction enjoining Defendants from enforcing the foregoing regulations, an award of any damages Plaintiffs have suffered, and all reasonable expenses, including but not limited to, attorneys fees. R.C. 9.68(B).

COUNT TWO: THE COURT SHOULD DECLARE SECTIONS 2323.32, 2323.11(N), and 2323.321 AS ENACTED BY THE ORDINANCE VOID FOR VAGUENESS

79. The Plaintiffs restate the foregoing and incorporate them here as if fully re-written.

80. Ohio's Due Process Clause, Article I, Section I of the Ohio Constitution, protects Ohio citizens from ordinances which are overly vague. *Akron v. Rowland*, 67 Ohio St.3d 374, 381, 618 N.E.2d 138 (1993).

81. "In considering a challenge to an ordinance or statute as void for vagueness, a court is required to determine whether the enactment '(1) provides sufficient notice of its proscriptions to facilitate compliance by persons of ordinary intelligence and (2) is specific enough to prevent official arbitrariness or discrimination in its enforcement.'" *City of All. v. Carbone*, 181 Ohio App.3d 500, 2009-Ohio-1197, 909 N.E.2d 688, ¶ 15 (5th Dist.), quoting *Norwood v. Horney*, 110 Ohio St.3d 353, 2006-Ohio-3799, 853 N.E.2d 1115, ¶ 84. The "critical question in all cases is whether the law affords a reasonable individual of ordinary intelligence fair notice and sufficient definition and guidance to enable him to conform his conduct to the law." *Norwood* at ¶ 86.

82. The regulation embodied in Code section 2323.11(N) as enacted in the Ordinance is internally contradictory. It defines a large-capacity magazine as one which holds “thirty (30) or more” rounds of ammunition, but then excludes magazines which “cannot accommodate more than thirty rounds of ammunition * * *.” Ex. A at 3. Thus, a 30-round magazine is both prohibited and excluded.

83. It is not possible for a person of ordinary intelligence to know if a 30-round magazine is a prohibited item under the Ordinance or not.

84. “A law is also impermissibly vague when it delegates basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application.” *City of All.* at ¶ 47 (internal quotation marks and citations omitted).

85. Because section 2323.11(N) as enacted by the Ordinance was internally inconsistent, and a 30-round magazine is both prohibited and exempted, the Ordinance “gives police and courts unfettered discretion to determine whether a person’s conduct constitutes criminal” possession. *Id.*

86. Columbus City Code 2323.231 as enacted in the Ordinance is similarly contradictory and vague in its description of an alternate prohibition in the event that R.C. 9.68 is found to be valid. Ex. A at 6.

87. These provisions remained in place until at least February 27, 2023.

88. Thus, Columbus City Codes 2323.32, 2323.11(N), and 2323.321, as enacted by the Ordinance, violate Article I, Section I of the Ohio Constitution as void for vagueness.

89. To the extent that these sections remain in force as initially or could be enforced for possession of the subject magazines during that time, Plaintiffs are entitled to a declaration that

such regulations were and are unlawful, a permanent injunction enjoining Defendants from enforcing those regulations, an award of any damages Plaintiffs have suffered, and all reasonable expenses, including but not limited to, attorneys fees.

COUNT THREE: THE COURT SHOULD DECLARE THAT THE REGULATIONS ENACTED BY THE ORDINANCE AND THE NEW ORDINANCE VIOLATE ARTICLE I, SECTION 4 OF THE OHIO CONSTITUTION.

90. The Plaintiffs restate the foregoing allegations and incorporate them here as if fully re-written.

91. Article I, Section 4 of the Ohio Constitution protects the individual right to bear arms for defense and security. This includes firearms and their components, such as firearm magazines.

92. The City of Columbus may not enact ordinances or regulations that infringe on the fundamental individual right to bear arms. This restriction against government infringement of the fundamental right to bear arms includes bans on firearm magazines.

93. The Ordinance and the New Ordinance enacted regulations in the Columbus City Code to criminalize the possession, purchasing, keeping for sale, offering or exposing for sale, transferring, distribution, or importation of certain magazines. Ex. A at 4–5.

94. The regulations enacted by the Ordinance and the New Ordinance infringe on the fundamental right to bear arms.

95. The City of Columbus recognizes the utility of 30-round magazines for lawful purposes by allowing employees of the City of Columbus to possess and use such magazines. Ex. A at 4–5.

96. Further, the regulations set forth in Columbus City Codes 2323.32, 2323.11(N), and 2323.321 are not reasonable restrictions on firearms as there is no reasonable justification for

the conclusion that 30-round magazines cause any harm. *See* Ex. A.

97. The regulations enacted by the Ordinance and by the New Ordinance are ostensibly based on the City of Columbus' claim that 90% of Columbus' 139 homicides in 2022 were committed with firearms. *See* Ex. A. However, the Ordinance provides no indication that any of those homicides were committed by someone using a firearm with a prohibited magazine. Ex. A.

98. Yet, these regulations infringe on the rights of countless firearms owners without any reasonable connection between the means and the ends.

99. Thus, the regulations embodied in Columbus City Codes 2323.32, 2323.11(N), 2323.321, and 2323.191 as enacted by the Ordinance and the New Ordinance, violate Article I, Section 4 of the Ohio Constitution.

100. Plaintiffs are entitled to a declaration that these regulations are unlawful, a permanent injunction enjoining Defendants from enforcing them, an award of any damages Plaintiffs have suffered, and all reasonable expenses, including but not limited to, attorneys fees.

COUNT FOUR: THE COURT SHOULD AWARD PLAINTIFFS REASONABLE COSTS, INCLUDING BUT NOT LIMITED TO, ATTORNEYS FEES.

101. Plaintiffs restate the foregoing allegations and incorporate them here as if fully rewritten.

102. R.C. 9.68(B) grants Plaintiffs a cause of action to challenge municipal ordinances which conflict with R.C. 9.68.

In addition to any actual damages awarded against the political subdivision and other relief provided with respect to such an action, the court shall award reasonable expenses to any person, group, or entity that brings the action, to be paid by the political subdivision, if * * * (2) The ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after

the civil action was filed but prior to a final court determination of the action.

R.C. 9.68(B).

103. On February 16, 2023, Plaintiffs John Doe 1–4 and Jane Doe filed suit against the Defendants challenging, *inter alia*, the validity of the regulations embodied in Columbus City Code sections 2323.32, 2323.11, 2323.191, and 2323.321. Compl.

104. In apparent recognition of the likelihood of the imposition of a TRO or preliminary injunction, almost immediately after the February 21, 2023 Preliminary Injunction hearing, on February 27, 2023, the City of Columbus enacted the New Ordinance. The New Ordinance repealed and rescinded regulations embodied in the Columbus City Code that Plaintiffs challenged.

105. The New Ordinance explicitly repealed Columbus City Codes 2323.11, 2323.23, and 2323.321 after Plaintiffs filed their suit but before a final court determination of this action. Ex. H. Thus, Plaintiffs are entitled to reasonable costs, including attorneys’ fees. R.C. 9.68(B)(2).

106. The New Ordinance also amended Columbus City Code 2323.23, a so called “immunity from prosecution” provision to add sections 2323.23(E) and (F) which repealed or rescinded the “manner of enforcement” of the regulations enacted in the challenged regulations.

107. Therefore, Plaintiffs are entitled to reasonable costs and attorneys’ fees. R.C. 9.68(B)(2).

WHEREFORE, Plaintiffs pray for the following relief:

A. A Declaration that Columbus City Codes 2323.32, 2323.11(N) and (O), 2323.321, and 2323.191 as enacted by the Ordinance and the New Ordinance violate Article I, Section 4 of the Ohio Constitution and thus are null and void;

B. A Declaration that Columbus City Codes 2323.32, 2323.11(N) and (O), 2323.321, and 2323.191 as enacted by the Ordinance and the New Ordinance violate R.C. 9.68 and are thus null

and void;

C. A Declaration that Columbus City Codes 2323.32, 2323.11(N), and 2323.321 as enacted by the Ordinance are void for vagueness and violate Ohio's Due Process Clause, Article I, Section I of the Ohio Constitution and thus are null and void;

D. The issuance of a temporary restraining order, preliminary injunction, and permanent injunction barring Defendant's from enforcing the challenged code provisions;

E. An award of any damages suffered by the Plaintiffs;

F. An award of reasonable costs, including but not limited to, attorneys' fees as provided for in R.C. 9.68 and as otherwise provided by law; and

G. Any further relief the Court deems just and equitable.

Respectfully submitted,

/s/ David C. Tryon

David C. Tryon (0028954)

Robert Alt (0091753)

Jay R. Carson (0068526)

Alex M. Certo (0102790)

The Buckeye Institute

88 East Broad Street, Suite 1300

Columbus, Ohio 43215

(614) 224-4422

Email: d.tryon@buckeyeinstitute.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

This will certify that a true and accurate copy of the foregoing First Amended Complaint for Declaratory Judgment and Injunctive Relief has been served by operation of this Court's electronic filing system this 10th day of March 2023.

/s/ David C. Tryon

David C. Tryon



City of Columbus

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File #: 3176-2022 Version: 1

Type: Ordinance Status: Passed

File created: 11/8/2022 In control: Rules & Reference Committee

On agenda: 12/5/2022 Final action: 12/7/2022

Title: 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.

Sponsors: Shayla Favor, Emmanuel V. Remy, Shannon G. Hardin

[History \(4\)](#)[Text](#)

Explanation

On August 4, 2019, in Dayton, Ohio just a short drive down the road, an armed gunman headed to the Oregon Entertainment District armed with a semi-automatic firearm equipped with a 100-round drum magazine and proceeded to carry out a mass shooting in which 9 people were killed and 27 were injured in just thirty seconds. Since then numerous additional mass shootings have taken place.

Columbus has not been immune to gun violence, it has long plagued our city, robbing us of our most valuable asset, our people. We have seen how gun violence has ripped through our communities especially among our youth. Last year alone, 91% of homicides in Columbus were committed with a firearm. Gun control simply cannot wait. This legislation will effectuate common sense gun reform in our community thereby creating a safer Columbus.

Title

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.

Body

WHEREAS, more Ohioans died from firearms in 2021 than almost any year on record, according to Ohio Department of Health data; and

WHEREAS, despite this fact, the Ohio legislature has steadily relaxed state gun laws; and

WHEREAS, the Columbus Division of Police has arrested 36% more juveniles for gun violations this year than in 2021; and

WHEREAS, 13% of the juveniles that were arrested for guns in 2022 brought the firearm with them to school; and

WHEREAS, gun violence has continually plagued our city, robbing us of our most valuable assets, our people; and

WHEREAS, the Mayor of Columbus has declared gun violence a public health crisis; and

Exhibit A

WHEREAS, in 2021, 91% of homicides in Columbus were committed with a firearm; and

WHEREAS, the safety of residents is of paramount importance; and

WHEREAS, an emergency exists in the usual daily operation of the Columbus City Council in that it is immediately necessary to authorize the effectuation of common sense gun reform in our community to create a safer Columbus, thereby preserving the public health, peace, property, safety, and welfare; **NOW THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That sections 2303.05, 2303.14, 2323.11, and 2323.20 of the Columbus City Codes are hereby amended as follows:

2303.05 - Negligent homicide.

(A) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section ~~2923.11 of the Ohio Revised Code~~ 2323.11.

(B) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(D) For purposes of this section, storing or leaving a deadly weapon or dangerous ordnance in a manner or location in the person's residence where the person knows or reasonably should know a minor is able to gain access to the deadly weapon or dangerous ordnance constitutes a substantial lapse from due care.

(E) There shall be a rebuttable presumption that a person exercised due care with respect to a deadly weapon that is a firearm where, by a preponderance of the evidence, it is shown that the person stored the firearm using safe storage as defined in Chapter 2323.

2303.14 - Negligent assault.

(A) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section ~~2923.11 of the Revised Code~~ 2323.11, cause physical harm to another.

(B) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(C) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

(D) For purposes of this section, storing or leaving a deadly weapon or dangerous ordnance in a manner or location in the person's residence where the person knows or reasonably should know a minor is able to gain access to the deadly weapon or dangerous ordnance constitutes a substantial lapse from due care.

(E) There shall be a rebuttable presumption that a person exercised due care with respect to a deadly weapon that is a firearm where, by a preponderance of the evidence, it is shown that the person stored the firearm using safe storage as defined in Chapter 2323.

2323.11 - Definitions.

As used in sections 2323.11 to 2323.5455 of the Columbus City Codes:

(A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(B)(1) "Firearm" means: (a) any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant; or (b) the frame or receiver of any such weapon as defined in 27 CFR §487.12. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.

(C) "Handgun" means any of the following:

- (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
- (2) Any combination of parts from which a firearm of a type described in division (C)(1) of this section can be assembled.

(D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

(E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.

(F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

(G) "Zip-gun" means any of the following:

- (1) Any firearm of crude and extemporized manufacture;
- (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
- (3) Any industrial tool, signaling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.

(H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.

(I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

(J) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

(K) "Dangerous ordnance" means any of the following, except as provided in division (L) of this section:

- (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;
- (2) Any explosive device or incendiary device;
- (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclotol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;
- (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
- (5) Any firearm muffler or suppressor;
- (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

(L) "Dangerous ordnance" does not include any of the following:

- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
- (2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;

- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
- (4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (L)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
- (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.
- (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act.
- (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

(M) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States department of transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks," as defined in section 3743.01 of the Revised Code, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in section 3743.80 of the Revised Code, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of section 3743.80 of the Revised Code and the rules of the fire marshal adopted pursuant to section 3737.82 of the Revised Code.

(N) "Large capacity magazine" means any magazine, belt, drum, feed strip, clip or other similar device that has the capacity of, or can be readily restored or converted to accept, thirty (30) or more rounds of ammunition for use in a firearm. A "large capacity magazine" does not include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate more than thirty rounds of ammunition;
- (2) A .22 caliber tube ammunition feeding device;
- (3) A tubular magazine that is contained in a lever-action firearm;
- (4) A magazine that is permanently inoperable.

(O) "Safe storage" means:

- (1) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;
- (2) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or
- (3) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

2323.20 - Unlawful transactions in weapons; failure to report loss.

(A) No person shall ~~do either of the following:~~

~~(1) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon. Recklessly sell, lend, give, or furnish a firearm to another person if the seller or furnisher knows, or has reason to know, that the person purchasing or attempting to purchase the firearm is doing so for, on behalf of, or at the request or demand of any other person that meets the criteria of one or more provisions of section 2923.13 of the Revised Code or section 2323.13 of the Columbus City Codes pertaining to weapons under disability.~~

(2) Recklessly purchase or attempt to purchase any firearm for, on behalf of, or at the request or demand of any other person knowing or having reasonable cause to believe that such other person meets the criteria of one or more provisions

of section 2923.13 of the Revised Code or section 2323.13 of the Columbus City Codes pertaining to weapons under disability.

(B) No person shall knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(C) Whoever violates division (A) of this section is guilty of unlawful transactions in weapons, a misdemeanor of the ~~second~~ first degree. Whoever violates division (B) of this section is guilty of failure to report loss of a firearm or dangerous ordnance, a misdemeanor of the fourth degree.

(D) Any instrumentality that has been used in a violation of this section shall be seized and subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

Section 2. That new sections 2323.191, 2323.32, and 2323.321 are hereby enacted, to read as follows:

2323.191 Negligent Storage of a Firearm

(A)(1) No person shall negligently store or leave a firearm in a manner or location in the person's residence where the person knows or reasonably should know a minor is able to gain access to the firearm.

(2)(a) This section does not apply to a person who stores or leaves a firearm in the person's residence if the firearm is kept in safe storage.

(b) This section does not apply to a person who stores or leaves a firearm in the person's residence if a minor gains access to the firearm as a result of any other person's unlawful entry into the person's residence.

(B)(1) Whoever violates this section is guilty of criminally negligent storage of a firearm. Except as provided in divisions (B)(2) or (B)(3) of this section, criminally negligent storage of a firearm is a misdemeanor of the fourth degree.

(2) If a minor gains access to a firearm as the result of a violation of this section, except as provided in division (B)(3) of this section, a violation of this section is a misdemeanor of the third degree.

(3) If a minor gains access to a firearm as a result of a violation of this section and uses the firearm to cause any personal injury or death, other than in self-defense, a violation of this section is a misdemeanor of the first degree.

(C) Nothing in this section prohibits a person who is in the person's residence from carrying a firearm on the person's person or placing a firearm in a location that is under the person's immediate control.

(D) This section shall not apply if the circumstances indicate that the firearm was unlawfully furnished to the minor, violation of which would be prosecuted under applicable state law.

(E) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.32 - Unlawful possession of a large capacity magazine

(A) No person shall knowingly possess, purchase, keep for sale, offer or expose for sale, transfer, distribute, or import a large capacity magazine.

(B)(1) This section does not apply to either of the following:

(a) An officer, agent, or employee of this or any other state, a political subdivision of this or any other state, or the United States; members of the armed forces of the United States or the organized militia of this or any other state; and law enforcement officers to the extent that the officer, agent, employee, or member is authorized to possess, purchase, keep for sale, offer or expose for sale, transfer, distribute, or import large capacity magazines and is acting within the scope of the officer's, agent's, employee's, or member's duties;

(b) Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnances or is authorized to carry handguns, and who is subject to and in compliance with the requirements of section 109.801 of the

Revised Code, and is acting within the scope of the employee's duties unless the appointing authority of the person has expressly specified that the exemption provided in division (B)(1)(b) of this section does not apply to the person;

(2) This section does not apply to a large capacity magazine which belongs to a firearm or which is possessed by the owner of a firearm which is registered with federal authorities under the National Firearms Act (26 U.S.C.A. Secs. 5801-5871) or has been rendered totally inoperable or inert and the firearm cannot be readily rendered operable or activated and which is kept as a trophy, souvenir, curio or museum piece.

(3) This section does not apply to importers, manufacturers, and dealers of large capacity magazines that are licensed under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923, and any amendments or additions thereto or reenactments thereof;

(4) This section does not apply to carriers, warehouses, and others engaged in the business of transporting or storing firearms for hire, with respect to large capacity magazines lawfully transported or stored in the usual course of business and in compliance with the laws of this state and applicable federal law.

(C) Whoever violates this section is guilty of unlawful carry or possession of a large capacity magazine, a misdemeanor punishable by up to one year in jail with a mandatory minimum jail term of at least one hundred eighty (180) consecutive days during which mandatory jail term the defendant shall not be eligible for work release and up to a \$1500 fine.

(D) It is an affirmative defense to a violation of this section that the person knowingly possessed, kept for sale, transferred, distributed, or imported a large capacity magazine solely for the purpose of transporting the large capacity magazine in a motor vehicle for an otherwise lawful purpose through the municipal limits of the city. This defense shall only apply if the large capacity magazine is not on the actor's person or within the passenger area of the motor vehicle.

(E) Any instrumentality that has been used in a violation of this section shall be seized and is subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code.

2323.321 Alternate large capacity magazine provision if Ohio Revised Code Section 9.68 is reinstated.

If a court of competent jurisdiction reinstates Ohio Revised Code Section 9.68 which governs the regulation of firearms by a political subdivision or if the definition of "Large capacity magazine" in Section 2323.11 of the Columbus City Codes is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, then the definition of a "Large capacity magazine" under Section 2323.11 shall be as follows:

"Large capacity magazine" means any magazine, belt, drum, feed strip, clip or other similar device that has the capacity of, or can be readily restored or converted to accept, one hundred (100) or more rounds of ammunition for use in a firearm other than a handgun. A "large capacity magazine" does not include any of the following:

(1) A feeding device that has been permanently altered so that it cannot accommodate more than one hundred rounds of ammunition;

(2) A .22 caliber tube ammunition feeding device;

(3) A tubular magazine that is contained in a lever-action firearm;

(4) A magazine that is permanently inoperable.

Section 3. That existing sections 2303.05, 2303.14, 2323.11, and 2323.20 are hereby repealed.


Section 4. That for reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.

Exhibit A

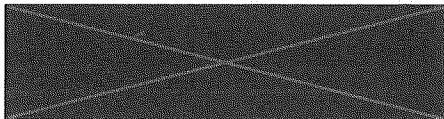
Page 6 of 6

GENERAL AFFIDAVIT

The within named person (Affiant), who is a resident of Franklin County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I,  hereby affirm and state that: (a) I am the John Doe 1 identified in the *John Doe 1, et al., v. City of Columbus, et al.* Complaint; (b) I am a resident of Columbus, Ohio; (c) Until passage of Columbus Ordinance 3176-2022 I possessed a thirty or more round magazine for use in a firearm; and (d) I feared that my possession of a thirty or more round magazine would subject me to arrest and prosecution and therefore removed these magazines from my residence to a location outside the City of Columbus pending the outcome of this case; (e) those magazines were the only ones that I had to use in one of my firearms and so at this time I cannot use that firearm to defend myself in my home; and (f) I wish to bring those magazines back into my residence so that I can use them with said firearm.

Dated this 6 day of February, 2023.



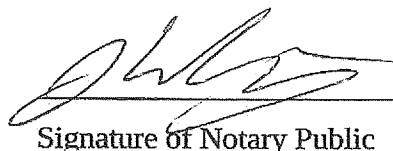
s/a/k/a John Doe 1

Signature of Affiant

State of Ohio

County of Franklin

Subscribed and sworn to, or affirmed, before me on this 6th day of February, 2023, by Affiant.


Signature of Notary Public

JACOB EDMISTON
Notary Public, State of Ohio
My Comm. Expires May 29, 2027

Exhibit B

Page 1 of 1

GENERAL AFFIDAVIT

The within named person (Affiant), [REDACTED], who is a resident of FRANKLIN County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I, [REDACTED] hereby affirm and state that: (a) I am the John Doe 2 identified in the *John Doe 1, et al., v. City of Columbus, et al.* Complaint; (b) I am a resident of COLUMBUS, Ohio; (c) I possess a thirty or more round magazine for use in a firearm; and (d) I fear my possession of a thirty or more round magazine will subject me to prosecution pursuant to Columbus Ordinance 3176-2022.

Dated this 14th day of FEBRUARY, 2023.

[REDACTED]
Signature of Affiant

State of OHIO

County of Franklin

Subscribed and sworn to, or affirmed, before me on this 14th day of Feb, 2023,
by Affiant [REDACTED].

Jacinda E. Goings
Signature of Notary Public

My Commission Expires: 2/20/2023

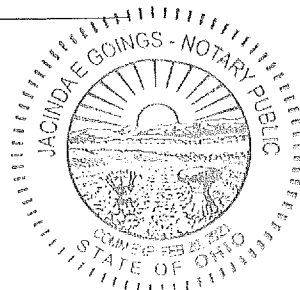




Exhibit C

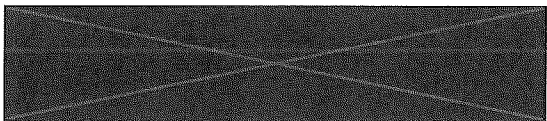
Page 1 of 1

GENERAL AFFIDAVIT

The within named person (Affiant),  _____, who is a resident of Franklin County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I,  _____, hereby affirm and state that: (a) I am the John Doe 3 identified in the *John Doe I, et al., v. City of Columbus, et al.* Complaint; (b) I am a resident of Columbus, Ohio; (c) I possess a thirty or more round magazine for use in a firearm; and (d) I fear my possession of a thirty or more round magazine will subject me to prosecution pursuant to Columbus Ordinance 3176-2022.


Dated this 31st day of Jan, 2023,

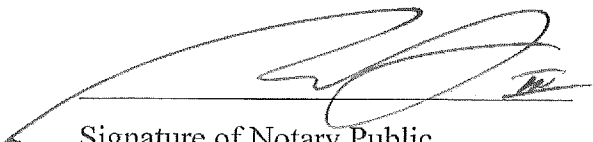


Signature of Affiant

State of OHIO

County of Franklin

Subscribed and sworn to, or affirmed, before me on this 31 day of January, 2023,
by Affiant .


Signature of Notary Public

My Commission Expires: Jan 31, 2023


NORMAN A. STRICKLAND III
Notary Public, State of Ohio
Commission No. 2018-RE-703826
My Commission Expires Jan. 31, 2023

Exhibit D

Page 1 of 1

GENERAL AFFIDAVIT

The within named person (Affiant), who is a resident of FRANKLIN County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I,  hereby affirm and state that: (a) I am the John Doe 4 identified in the *John Doe I, et al., v. City of Columbus, et al.* Complaint; (b) I am a resident of Columbus, Ohio; (c) Prior to passage of Columbus Ordinance 3176-2022 I possessed a thirty or more round magazine for use in a firearm and I continue to possess them; and (d) I fear that my possession of a thirty or more round magazine will subject me to arrest and prosecution; (e) I use those magazines with a firearm which is legal and I use only for legal purposes; and (f) I wish to continue using those magazines.

Dated this 8th day of FEBRUARY, 2023.



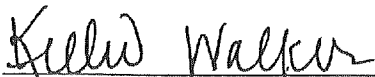
a/k/a John Doe 4

Signature of Affiant

State of Ohio

County of Franklin

Subscribed and sworn to, or affirmed, before me on this 8th day of February, 2023, by Affiant.



Signature of Notary Public



KELLIE WALKER
Notary Public
State of Ohio
My Comm. Expires
August 29, 2026

My Commission Expires: 08/29/2026

Exhibit E

Page 1 of 1

AFFIDAVIT

The within named person (Affiant), who is a resident of Franklin County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I, [REDACTED] hereby affirm and state that:

- a. I am the Jane Doe identified in the *John Doe 1, et al., v. City of Columbus, et al.* Complaint.
- b. I am a resident of Columbus, Ohio.
- c. When I was a child my family legally emigrated from Africa to the United States.
- d. I am now a U.S. Citizen.
- e. I am a person of color.
- f. When I was 20 years old, I was living in Columbus, Ohio, where I chose to live partly because I believed it to be a safe city. That year I was assaulted and physically injured in a public place in Columbus Ohio. I did not instigate the assault and I did not retaliate against the person who assaulted me. When I reported it to the police they eventually responded and came to the place where I was assaulted. Once they arrived, the police did not do anything—they would not take a written statement from me and they did not arrest the person who assaulted me.
- g. At that time I recognized that I would have to learn to defend myself. I then learned about firearms and later acquired an AR-15, intending to use it for self-defense in my home.
- h. I chose this firearm because it is lightweight, it has low recoil and is comfortable to use. Because of these things, it is easy for women like me to use.
- i. When I obtained my AR-15, I also obtained more than one 30-round magazine because generally it is the standard magazine for that rifle and I was unaware if there were smaller magazines for that firearm.
- j. I acquired that rifle and the 30-round magazines prior to passage of Columbus Ordinance 3176-2022 (the "Ordinance") and I continue to possess those magazines.

Exhibit F

Page 1 of 2


k. I recently learned that Columbus passed the Ordinance and that it supposedly makes me a criminal just for possessing those magazines.

l. I fear that my possession of those magazines will subject me to arrest and prosecution.

m. I wish to continue possessing and using those magazines.

Further, Affiant .

Dated this 14th day of Feb, 2023.

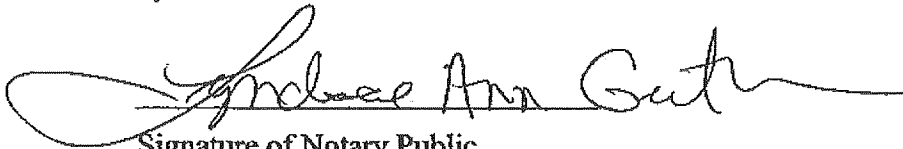
, a/k/a Jane Doe

Signature of Affiant

State of Ohio

County of Delaware

Subscribed and sworn to, or affirmed, before me on this 14th day of Feb., 2023,
by Affiant.



Signature of Notary Public

My Commission Expires: Dec 4.24

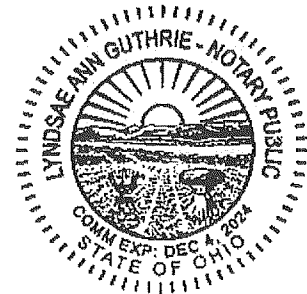


Exhibit F

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GENERAL AFFIDAVIT

The within named person (Affiant), [REDACTED] also known as John Doe 5 is a resident of Columbus, Delaware County, State of Ohio, personally came and appeared before me, the undersigned Notary Public, and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

I, [REDACTED], hereby affirm and state that: (a) I am the John Doe 5 identified in the *John Doe 1, et al., v. City of Columbus, et al.*; (b) I am a resident of Columbus, Ohio; (c) my residence is located in Delaware County Ohio; (d) I have lived at this residence since before the passage of Columbus Ordinance 3176-2022 in December 2022; (e) I possess in my residence a thirty or more round magazine for use in a firearm and possessed it prior to the passage of Columbus Ordinance 3176-2022; (f) I intend to continue possessing my thirty or more round magazine after the July 1, 2023; (g) I fear my possession of a thirty or more round magazine will subject me to arrest and prosecution by the City of Columbus; (h) I sometimes leave the house with the foregoing magazine when I go to a target range or when leaving for other lawful purposes and could be subject to arrest or prosecution at that time as well; (i) I regularly have minors in my residence where my firearms are stored; (j) I believe my storage methods for my firearms sufficiently prevent minors from accessing my firearms and the storage methods comply with any relevant state laws; and (k) I object to the City of Columbus implementing laws on this issue because they are not consistent with the state laws on this issue and could subject me to legal action inconsistent with state laws.

Dated this, 8th day of March, 2023.

[REDACTED], also known as John Doe 5

Signature of Affiant

State of Ohio

County of Franklin

Subscribed and sworn to, or affirmed, before me on this 8th day of March, 2023. by Affiant .

Richard J Bradley
Signature of Notary Public



RICHARD J BRADLEY
Notary Public
State of Ohio
My Comm. Expires
June 29, 2026

Exhibit 6

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City of Columbus

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File #: 0680-2023 Version: 1

Type: Ordinance

Status: Passed

File created: 2/23/2023

In control: Rules & Reference Committee

On agenda: 2/27/2023

Final action: 3/1/2023

Title: To amend sections 2323.11, 2323.23 and 2323.321 of the Columbus City Codes to effectuate common sense gun reform; and to declare an emergency.

Sponsors: Shayla Favor

[History \(4\)](#)[Text](#)

Explanation

On August 4, 2019, in Dayton, Ohio just a short drive down the road, an armed gunman headed to the Oregon Entertainment District armed with a semi-automatic firearm equipped with a 100-round drum magazine and proceeded to carry out a mass shooting in which 9 people were killed and 27 were injured in just thirty seconds. Since then numerous additional mass shootings have taken place.

Columbus has not been immune to gun violence, it has long plagued our city, robbing us of our most valuable asset, our people. We have seen how gun violence has ripped through our communities especially among our youth. Last year alone, 91% of homicides in Columbus were committed with a firearm. Gun control simply cannot wait. This legislation will amend the common sense gun reform legislation previously enacted to correct a minor drafting error and to allow for disposition of previously legally acquired large capacity magazines thereby creating a safer Columbus.

Title

To amend sections 2323.11, 2323.23 and 2323.321 of the Columbus City Codes to effectuate common sense gun reform; and to declare an emergency.

Body

WHEREAS, more Ohioans died from firearms in 2021 than almost any year on record, according to Ohio Department of Health data; and

WHEREAS, despite this fact, the Ohio legislature has steadily relaxed state gun laws; and

WHEREAS, the Columbus Division of Police has arrested 36% more juveniles for gun violations this year than in 2021; and

WHEREAS, 13% of the juveniles that were arrested for guns in 2022 brought the firearm with them to school; and

WHEREAS, gun violence has continually plagued our city, robbing us of our most valuable assets, our people; and

WHEREAS, the Mayor of Columbus has declared gun violence a public health crisis; and

WHEREAS, in 2021, 91% of homicides in Columbus were committed with a firearm; and

WHEREAS, the safety of residents is of paramount importance; and

Exhibit HPage 1 of 5

WHEREAS, an emergency exists in the usual daily operation of the Columbus City Council in that it is immediately necessary to authorize the effectuation of common sense gun reform in our community to create a safer Columbus, thereby preserving the public health, peace, property, safety, and welfare; **NOW THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That sections 2323.11, 2323.23 and 2323.321 of the Columbus City Codes are hereby amended as follows:

2323.11 Definitions.

As used in sections 2323.11 to 2323.55 of the Columbus City Codes:

- (A) "Deadly weapon" means any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.
- (B) (1) "Firearm" means: (a) any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant; or (b) the frame or receiver of any such weapon as defined in 27 CFR §487.12. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
 - (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (C) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in division (C)(1) of this section can be assembled.
- (D) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (E) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (F) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.

"Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (G) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signaling device, or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried, or used as a firearm.
- (H) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (I) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.

Exhibit H

- (J) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (K) "Dangerous ordnance" means any of the following, except as provided in division (L) of this section:
- (1) Any automatic or sawed-off firearm, zip-gun, or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclitol, and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder, and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating, or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo, or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (L) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle, or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon, unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic, or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon of a type defined in division (L)(3) of this section during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers, and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio, or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (M) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States department of transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks," as defined in section 3743.01 of the Revised Code, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored, or used in any activity described in section 3743.80 of the Revised Code, provided the activity is conducted in accordance with all applicable laws, rules, and regulations, including, but not limited to, the provisions of section 3743.80 of the Revised Code and the rules of the fire marshal adopted pursuant to section 3737.82 of the Revised Code.

- (N) "Large capacity magazine" means any magazine, belt, drum, feed strip, clip or other similar device that has the capacity of, or can be readily restored or converted to accept, thirty (30) or more rounds of ammunition for use in a firearm. A "large capacity magazine" does not include any of the following:
- (1) A feeding device that has been permanently altered so that it cannot accommodate thirty (30) or more than thirty rounds of ammunition;
 - (2) A .22 caliber tube ammunition feeding device;
 - (3) A tubular magazine that is contained in a lever-action firearm;
 - (4) A magazine that is permanently inoperable.
- (O) "Safe storage" means:
- (1) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;
 - (2) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or
 - (3) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

2323.23 Immunity from prosecution.

- (A) No person who acquires, possesses, or carries a firearm or dangerous ordnance in violation of section 2323.13 shall be prosecuted for such violation, if the person reports the possession of firearms or dangerous ordnance to the Columbus Division of Police, describes the firearms or dangerous ordnances in the person's possession and where they may be found, and voluntarily surrenders the firearms or dangerous ordnances to the Division of Police. A surrender is not voluntary if it occurs when the person is taken into custody or during a pursuit or attempt to take the person into custody under circumstances indicating that the surrender is made under threat of force.
- (B) No person in violation of section 2323.13 solely by reason of the person's being under indictment shall be prosecuted for such violation if, within ten days after service of the indictment, the person voluntarily surrenders the firearms and dangerous ordnances in the person's possession to any law enforcement authority pursuant to section 2923.23(A) of the Revised Code, for safekeeping pending disposition of the indictment or of an application for relief under section 2923.14 of the Revised Code.
- (C) Evidence obtained from or by reason of an application or proceeding under section 2923.14 of the Revised Code for relief from disability, shall not be used in a prosecution of the applicant for any violation of section 2323.13.
- (D) Evidence obtained from or by reason of an application under section 2923.18 of the Revised Code for a permit to possess dangerous ordnance, shall not be used in a prosecution of the applicant for any violation of section 2323.13.

(E) No person who lawfully acquired or possessed a large capacity magazine prior to December 5, 2022 shall be prosecuted for lawfully possessing a large capacity magazine in violation of section 2323.32 prior to July 1, 2023. Any person who may not lawfully possess a large-capacity magazine as of December 5, 2022, shall, prior to July 1, 2023:

- (1) Remove the large-capacity magazine from the City limits; or
- (2) Prior to July 1, 2023, sell the large-capacity magazine to a licensed firearms dealer located outside of the City limits; or
- (3) Surrender the large capacity magazine for destruction by reporting the possession of the large capacity magazine to the Columbus Division of Police, describing the large capacity magazine in the person's possession and where the person may be found, and voluntarily surrendering the large capacity magazine to the Division of Police.

(F) Any person who may not lawfully possess a large-capacity magazine as of December 5, 2022, who fails to dispose of the large capacity magazine by July 1, 2023 in accordance with division (E) of this section may surrender the large capacity magazine for destruction by reporting the possession of the large capacity magazine to the Columbus Division of Police, describing the large capacity magazine in the person's possession and where the person may be found, and voluntarily surrendering the large capacity magazine to the Division of Police. A surrender is not voluntary if it occurs when the person is taken into custody or during a pursuit or attempt to take the person into custody under circumstances indicating that the surrender is made under threat of force.

Exhibit H

2323.321 Alternate large capacity magazine provision if Ohio Revised Code Section 9.68 is reinstated.

If a court of competent jurisdiction reinstates Ohio Revised Code Section 9.68 which governs the regulation of firearms by a political subdivision or if the definition of "Large capacity magazine" in Section 2323.11 of the Columbus City Codes is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, then the definition of a "Large capacity magazine" under Section 2323.11 shall be as follows:

"Large capacity magazine" means any magazine, belt, drum, feed strip, clip or other similar device that has the capacity of, or can be readily restored or converted to accept, one hundred (100) or more rounds of ammunition for use in a firearm other than a handgun. A "large capacity magazine" does not include any of the following:

- (1) A feeding device that has been permanently altered so that it cannot accommodate one hundred (100) or more than one hundred rounds of ammunition;
- (2) A .22 caliber tube ammunition feeding device;
- (3) A tubular magazine that is contained in a lever-action firearm;
- (4) A magazine that is permanently inoperable.

Section 2. That existing sections 2323.11, 2323.23 and 2323.321 of the Columbus City Codes are hereby repealed.

Section 3. That for reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes the same.