



**NAILAH K. BYRD**  
**CUYAHOGA COUNTY CLERK OF COURTS**  
1200 Ontario Street  
Cleveland, Ohio 44113

**Court of Common Pleas**

**New Case Electronically Filed:**  
**April 21, 2015 15:51**

By: DAVID S. KESSLER 0041982

Confirmation Nbr. 419388

OHIOANS FOR CONCEALED CARRY, INC., ET AL

CV 15 844547

vrs.

**Judge:**

THE CITY OF CLEVELAND, OHIO, ET AL

SHIRLEY STRICKLAND SAFFOLD

**Pages Filed: 48**

**IN THE COURT OF COMMON PLEAS, CUYAHOGA COUNTY  
CIVIL DIVISION**

**State ex Rel. Ohioans For Concealed Carry** :  
c/o Jeffrey Garvas, President :  
P.O. Box 247 :  
Avon, Ohio 44011 :

and :

**Danny L. McIntosh** :  
411 Skyview Road :  
Cleveland, Ohio 44109 :

Relators/Plaintiffs, :

vs. :

CASE NO. \_\_\_\_\_

**The City of Cleveland, Ohio,** :  
**c/o Law Director Barbara A. Langhenry** :  
601 Lakeside Avenue, Room 106 :  
Cleveland, Ohio 44114 :

JUDGE \_\_\_\_\_

and :

**Barbara A. Langhenry, in her official** :  
**capacity as the Director of the Cleveland** :  
**Department of Law** :  
601 Lakeside Avenue, Room 106 :  
Cleveland, Ohio 44114 :

Respondents/Defendants. :

**COMPLAINT FOR INJUNCTION,  
DECLARATORY JUDGMENT AND MANDAMUS**

Now come Relators/Plaintiffs, and for their Complaint for Injunction, Declaratory Judgment and Mandamus against the Respondents/Defendants state as follows:

## INTRODUCTION

1. Relators/Plaintiffs (hereafter “Relators” or “Relator” in the singular) seek an injunction against enforcement of the portions of Emergency Ordinance No. 931-14 that are preempted by Ohio’s Statewide firearm preemption statute, R.C. §9.68.

2. Relators seek a declaratory judgment that portions of Ordinance No. 931-14 violate R.C. §9.68.

3. Relator Ohioans for Concealed Carry additionally seeks to compel the Cleveland Director of Law to produce certain records requested pursuant to Ohio’s public record law, R.C. §149.43.

## PARTIES

4. Relator Ohioans for Concealed Carry (hereafter “Relator OFCC”) is a not-for-profit Ohio corporation formed in 1999 and composed of firearm owners across the state of Ohio, including members who are taxpayers of the City of Cleveland pursuant to R.C. §733.59.

5. Relator Danny L. McIntosh (hereafter “Relator Macintosh”) is a member of OFCC who resides at 411 Skyview Road, Cleveland, Ohio 44109, and as such is a resident and taxpayer of the City of Cleveland pursuant to R.C. §733.59.

6. Respondent/Defendant City of Cleveland (hereafter “Respondent City” or “the City”) is a municipal corporation with offices at 601 Lakeside Avenue, Room 106, Cleveland, Ohio 44114.

7. Respondent/Defendant Barbara A. Langhenry, in her official capacity as Director of the Cleveland Department of Law (hereafter, “Respondent Law Director”), with offices at 601 Lakeside Avenue, Room 106, Cleveland, Ohio 44114, is the City Director of Law as

contemplated by R.C. §733.59 and City of Cleveland Charter Chapter 15, and is responsible for advising the City on legal matters.

### **JURISDICTION AND VENUE**

8. This Court has original jurisdiction pursuant to Article IV, §3(B)(1) of the Ohio Constitution, and pursuant to R.C. §§149.43(C)(1) and R.C. Chapters 2727 and 2731.

### **FIRST CAUSE OF ACTION**

#### **Statutory taxpayer's Action for Injunctive Relief under R.C. §733.59**

9. Relators incorporate paragraphs 1 to 8 above as if the same were fully rewritten and set forth herein.

10. In July of 2014, Cleveland Mayor Frank Jackson released a draft of proposed emergency legislation designated Ordinance No. 931-14). The legislation included restrictions on the right of the people to own, possess, purchase, sell, transfer, transport, store or keep firearms, parts of firearms, components and ammunition.

11. On or about July 10, 2014, Relator OFCC, on behalf of itself and its members, including Relator McIntosh, sent correspondence to Respondent Law Director advising her that much of the proposed legislation was prohibited by Ohio's Statewide preemption statute, R.C. §9.68, and that she had a duty to seek an injunction against enforcement of those provisions in the event the City moved forward. A true and accurate copy of the letter is attached as Exhibit "A".

12. Respondent Law Director did not reply to Relators' request. Upon information and belief, Respondent Law Director took no affirmative action to prevent Respondent City from passing legislation violative of R.C. §9.68, or advising the City that to do so would constitute a

blatant abuse of power directly contrary to R.C. §9.68, which was upheld by the Ohio Supreme Court as a constitutionally sound restriction on the City's home rule power in *Ohioans for Concealed Carry, Inc. v. City of Clyde*, 120 Ohio St.3d 96 (2008) and *City of Cleveland v. State of Ohio*, 128 Ohio St.3d 135 (2010).

13. On or about April 20, 2015, Cleveland City Council in fact passed legislation designated Ordinance No. 931-14, including provisions violative of R.C. §9.68. A true and accurate copy of the legislation passed is attached as Exhibit "B". The sections of the Ordinance that violate R.C. §9.68 by requiring or imposing upon the people requirements of license, permission, restriction, delay or process not found in State or Federal law (the "Conflicting Sections") include, but are not limited to: 627.12 – authorizing warrantless seizure of firearms without due process; 627.13 – prohibiting sale or transfer of firearms without reporting the sale or transfer to the City; 627.16 – prohibiting the negligent transfer of a firearm to a prohibited person; 627.18 – requiring City residents to report the loss or theft of any firearm; and Chapter 628 – creating a "gun offender registry". In addition, Ordinance No. 931-14 includes many provisions which may, more or less, restate State or Federal law, but still touch upon matters reserved exclusively to State or Federal law by R.C. §9.68 because they deal with the right of the people to own, possess, purchase, sell, transfer, transport, store, or keep firearms, parts of firearms components and ammunition (the "Prohibited Subject Sections"). The City is precluded by R.C. §9.68 from enacting both the Conflicting Sections and the Prohibited Subject Sections.

14. Respondent Law Director has not taken any action to oppose the City's violation of R.C. §9.68, and upon information and belief, has no intention of so acting. In fact, Respondent Law Director approved Ordinance 931-14 with minor changes that fail to address the violations of R.C. §9.68 as evidenced by the document attached as Exhibit "C", wherein

Ronda G. Curtis, Respondent's Chief Assistant states, "THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS". Although Exhibit "C" is unsigned, it was provided to Relator OFCC and others by Cleveland City Council, and, upon information and belief, states Respondent Law Director's final position on the matter.

15. Respondent Law Director has a clear legal duty, pursuant to R.C. §733.56, and Cleveland Charter Chapter 15, Section 87, to apply for an injunction to restrain the misapplication of funds of the City, the abuse of its powers, or the execution or performance of any contract made in behalf of the City in contravention of law, or which was procured by fraud or corruption.

16. Passage of Ordinance 931-14 has resulted in, or is imminently likely to result in, the misapplication of funds of the City, by virtue of efforts by the City to advertise and promote the Ordinance, enforce the ordinance, and implement the ordinance. The Ordinance is itself an abuse of the City's home rule power as repeatedly stated by the Ohio Supreme Court. The ordinance has involved, or is reasonably likely to involve, execution of contracts with third parties concerning the advertisement, enforcement, and implementation of the unlawful provisions therein.

17. In spite of Relators' requests, Respondent Law Director has not taken action to restrain the misapplication of funds, abuse of corporate powers or execution of unlawful contracts related to or resulting from the adoption of Ordinance 931-14.

18. Relators seek to enforce the public right of the people to keep and bear arms and all peripheral rights guaranteed to them by the Constitution of Ohio, the Constitution of the United States of America and R.C. §9.68.

19. The Relators have deposited security for costs with the Clerk of Courts, as required by R.C. §733.59, and stand ready to make such additional deposits as may be ordered.

20. Accordingly, pursuant to R.C. §733.59 and City of Cleveland Charter Chapter 15, Section 90, Relators are entitled to preliminary and permanent injunctions prohibiting Respondents from expending funds, executing contracts, or taking any action in furtherance of implementation, enforcement or advertisement of Ordinance No. 931-14. Relators are further entitled to recover their costs, expenses of this action, and reasonable attorney fees.

**SECOND CAUSE OF ACTION**  
**Declaratory Judgment**

21. Relators incorporate paragraphs 1 to 20 above as if the same were fully rewritten and set forth herein.

22. Pursuant to Ohio Revised Code §9.68(B), Relators are entitled to declaratory judgment and request this Court declare the Conflicting Sections and the Prohibited Subject Sections of the City's Ordinance 931-14, as well as every other Ordinance maintained by Respondent City that purports to regulate the right of a person to possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components and ammunition, to be unlawful.

23. Ohio Revised Code §9.68 provides Relators a private right of action to challenge any ordinance, rule, or regulation in conflict with it. The statute further mandates an award of attorney fees, costs and expenses to any person or entity that prevails in a challenge to a local ordinance.

24. Pursuant to Ohio Revised Code §9.68(B), Relators are entitled to declaratory judgment and request this Court declare the Conflicting Sections and the Prohibited Subject

Sections of Ordinance 931-14, as well as every other Ordinance maintained by Respondent that purports to regulate the right of a person to possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components and ammunition, to be unlawful and to further declare that Relators have prevailed in a challenge as contemplated by R.C. §9.68, and award them attorney fees.

### **THIRD CAUSE OF ACTION**

#### **Mandamus to Compel Release of Public Records Pursuant to R.C. §149.43(C)(1).**

25. Relators incorporate paragraphs 1 to 24 above as if the same were fully rewritten and set forth herein.

26. On December 2, 2008, September 19, 2011, August 20, 2014 and September 9, 2014, Relator OFCC requested public records from Respondents by submitting to Respondent Law Director written requests for certain records relating to the City of Cleveland Gun Buyback program. True and accurate copies are attached hereto as Exhibit "D".

27. The information demanded constitutes "Records" and "Public Records" as those terms are defined in R.C. §149.43.

28. The information requested by Relator OFCC is not exempted from disclosure under Ohio law.

29. Relator OFCC has a clear legal right to the information requested pursuant to R.C. §149.011(G) and §149.43.

30. Respondent Law Director has a clear legal duty to produce the records requested in the letters attached hereto as Exhibit "D" by virtue of her position as law director for the City of Cleveland.



31. Relator OFCC lacks a plain and adequate remedy at law to otherwise address its record request.

32. Relator OFCC is entitled to a peremptory writ compelling Respondent Law Director to release the records requested in Records Request Letters.

33. Relator OFCC is entitled to an alternative writ compelling Respondent Law Director to release the records requested in Records Request Letters, and \$100.00 per day that the request remains unfulfilled, as well as costs and reasonable attorney fees.

### **PRAYER FOR RELIEF**

WHEREFORE, Relators pray that this Court grant the following relief:

1. Enjoin Respondents and those acting in concert with them from expending any City funds to implement, advertise, enforce or prepare to implement, advertise or enforce the Conflicting Sections and the Prohibited Subject Sections of Ordinance 931-14 that purport to require a license, permission, restriction, delay or process to own, possess, purchase, sell, transfer, transport, store or keep any firearm, part of a firearm, its components, and its ammunition.

2. Issue a Declaratory Judgment that both the Conflicting Sections and the Prohibited Subject Sections of Ordinance No. 931-14 are unlawful pursuant to R.C. §9.68.

3. Issue a Declaratory Judgment that Relators have prevailed in a challenge to Ordinance 931-14, and are entitled to recover their costs and reasonable attorney fees from Respondents.

4. Issue a peremptory writ compelling Law Director to release the public records requested by OFCC;

5. Issue an alternative writ compelling Law Director to release the public records requested by OFCC;
6. Award to Relator OFCC a forfeiture of \$100.00 per day from the date of each unfulfilled public records request, as well as costs and attorney fees;
7. Award to Relators the costs of this action;
8. Award to Relators reasonable attorney fees; and
9. Such other relief as this Court deems just and proper, at law and in equity.

Respectfully Submitted,

/s/ David S. Kessler

**David S. Kessler (0041982)**

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July 10th, 2014

*Via Facsimile*

City of Cleveland Department of Law  
Barbara A. Langhenry, Director  
601 Lakeside Ave Room 106  
Cleveland, OH. 44114

In Re: Firearms Regulation Prohibited by State Law

Ms. Langhenry

The purpose of this letter is to bring to your attention the illegal nature of legislation Mayor Frank Jackson has asked to have drafted by the Department of Law and introduced to City Council.

In 2007 The Ohio Legislature adopted Ohio Revised Code §9.68, an effort to create uniformity in the laws governing firearms across the state of Ohio. In essence, the statute provided that the *only* restrictions on the fundamental right to keep and bear arms in Ohio are those set forth in state and federal law. One year later, the Ohio Supreme Court decided *Ohioans For Concealed Carry v. City of Clyde* and upheld the statute as a general law beyond the reach of home rule.

In 2010, the City of Cleveland challenged R.C. §9.68 in *Cleveland v. State* and the court again upheld the law stating, "R.C. §9.68 is a general law that displaced municipal firearm ordinances and does not unconstitutionally infringe on municipal home rule authority"

When the Ohio Supreme Court ruled against Cleveland in this matter it clearly stated that R.C. §9.68 displaced municipal firearm ordinances – which is precisely why you have no firearm ordinances today.

The majority of "new" proposals requested by Mayor Jackson mimic existing state firearm laws.

The legislature provided no safe harbor for local regulations that purport to merely restate or incorporate Ohio or federal law concerning the right to keep and bear arms.<sup>1</sup> The remainder of the ordinances proposed by Mayor Jackson are simply prohibited and/or unconstitutional and offer no meaningful preventative value.

Ohioans For Concealed Carry, Inc.'s ("OFCC") position is consistent with Ohio Supreme Court case law in that we believe local ordinances, rules, or other regulations are displaced and may not be maintained. R.C. §9.68 is clear in its mandate that the United States Constitution, Ohio Constitution, state law, or federal laws are the only means by which regulation may be imposed on firearms in the State of Ohio.

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<sup>1</sup> Limited zoning regulations that do not create a de facto city wide prohibition are permissive under subdivision (A) of R.C. §9.68.

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"The people have the right to bear arms for their defense and security."  
Ohio Constitution, Article I, Section 4

City of Cleveland  
July 11<sup>th</sup>, 2014  
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Further, R.C. §9.68 provides for attorney fees and court costs should a person, group or entity prevail in a challenge to an ordinance, rule or regulation.

In *Cleveland* you challenged the attorney fee provisions and the Ohio Supreme Court ruled against that challenge and acknowledged the legislature had authority to enact it “as a means to deter certain conduct,” namely the continued existence or adoption of ordinances, rules or regulations displaced by R.C. §9.68.

Local governments should no longer be “in the business” of attempting to maintain or enforce local firearms ordinances, but should instead use state statutes where firearm related criminal charges are pursued by local law enforcement.

As the Director of Law you have a fiduciary responsibility to the City of Cleveland and its taxpayers to acknowledge that the further consideration and adoption of gun control ordinances will put the city at risk of costly litigation and attorney’s fees that can easily be avoided. Instead of drafting legislation prohibited by R.C. §9.68 you should be ardently advising Mayor Jackson and members of City Council to abandon this political stunt, and further advising the Council and the Mayor that further pursuit of this clearly unlawful legislation is a patent abuse of the City’s corporate powers.

If the City Council pursues legislation against your counsel, you have a statutory obligation to seek an injunction to prevent the legislation from becoming law in order to avoid the misappropriation of funds that would come from certain litigation and the inevitable obligation to pay plaintiff’s attorney fees. You also have an affirmative obligation to retrain the abuse of the City’s corporate powers. This mandatory duty is imposed upon you by R.C. 733.56 as well as the City Charter, Chapter 15, Section 87.

If the City of Cleveland adopts ordinances that contravene the intent and purpose of R.C. §9.68 Ohioans For Concealed Carry will pursue all avenues of relief including litigation against the City and each City Office and Officer that decided to ignore the law of the State of Ohio.

Sincerely,

Jeff Garvas, President  
Ohioans For Concealed Carry

Cc: Mayor Frank Jackson, City Council

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“The people have the right to bear arms for their defense and security.”  
Ohio Constitution, Article I, Section 4

# Ordinance No. 931-14

## AN EMERGENCY ORDINANCE

To repeal various sections of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended by various ordinances; and to supplement the codified ordinances by enacting new Sections 627.01 to 627.27 relating to weapons; and to supplement the Codified Ordinances by enacting new Sections 628.01 to 628.10 and 628.99 relating to gun offender registry.

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WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

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

Section 1. That the following Sections of the Codified Ordinances of Cleveland, Ohio, 1976, are repealed:

Section 627.01, as amended by Ordinance No. 2031-01, passed May 6, 2002,

Section 627.02, as amended by Ordinance No. 100-99, passed June 7, 1999,

Sections 627.03 and 627.04, as amended by Ordinance No. 483-75, passed June 9, 1975,

Section 627.05, as amended by Ordinance No. 54-74, passed March 25, 1974,

Section 627.06, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 627.08, as amended by Ordinance No. 483-75, passed June 9, 1975,

Section 627.081, as enacted by Ordinance No. 1130-92, passed May 11, 1992,

Section 627.082, as enacted by Ordinance No. 1130-92, passed May 11, 1992,

Section 627.09, as amended by Ordinance No. 483-75, passed June 9, 1975,

Section 627.10, as amended by Ordinance No. 1361-01, passed August 15, 2001

Section 627.11, as amended by Ordinance No. 483-75, passed June 9, 1975,

Section 627.12, as amended by Ordinance No. 1522-75, passed June 16, 1975,

Sections 627.14, 627.15, 627.16, 627.17, 627.18, and 627.19, as amended by Ordinance No. 1020-76, passed June 14, 1976

Sections 627.20 and 627.21, as amended by Ordinance No. 1020-76, passed June 14, 1976

Section 627.22, as amended by Ordinance No. 1656-75, passed May 15, 1976,

Section 627.23, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 627A.01, as enacted by Ordinance No. 2661-91, passed November 11, 1991,

EXHIBIT "B"

# Ordinance No.

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Sections 627A.02 and 627A.03, as enacted by Ordinance No. 1130-92, passed May 11, 1992,

Section 627.99, as amended by Ordinance No. 1631-05, passed March 20, 2006,

Section 628.01, as enacted by Ordinance No. 2661-91, passed November 18, 1991,

Section 628.02, as amended by Ordinance No. 105-05, passed July 12, 2006,

Sections 628.03 and 628.04, as enacted by Ordinance No. 2661-91, passed November 18, 1991,

Section 628.99, as amended by Ordinance No. 90-96, passed March 18, 1996;

Section 674.01, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 674.02, as amended by Ordinance No. 1107-76, passed May 10, 1976,

Section 674.03, as amended by Ordinance No. 975-A-75, passed February 9, 1976,

Sections 674.04 and 674.05, as amended by Ordinance No. 2393-02, passed February 3, 2003,

Sections 674.06 and 674.07, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 674.08, as amended by Ordinance No. 975-A-75, passed February 9, 1976,

Section 674.09, as amended by Ordinance No. 1107-76, passed May 10, 1976,  
and

Sections 674.10, 674.11, and 674.99, as amended by Ordinance No. 975-A-75, passed February 9, 1976.

Section 2. That the Codified Ordinances are supplemented by enacting new Sections 627.01 to 627.27 to read as follows:

## **CHAPTER 627 WEAPONS**

### Section 627.01      Definitions

As used in this Chapter:

# Ordinance No.

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(a) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. "Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22 caliber short, long, or long-rifle cartridges.

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

(c) "Concealed handgun license" or "license to carry a concealed handgun" means:

(1) Subject to this section, a license or temporary emergency license to carry a concealed handgun issued under Section 2923.125 or 2923.1213 of the Revised Code or a license to carry a concealed handgun issued by another state with which the attorney general has entered into a reciprocity agreement under Section 109.69 of the Revised Code.

(2) A reference in any provision of this Code to a concealed handgun license issued under Section 2923.125 of the Revised Code or a license to carry a concealed handgun issued under Section 2923.125 of the Revised Code means only a license of the type that is specified in that section. A reference in any provision of this Code to a concealed handgun license issued under Section 2923.1213 of the Revised Code, a license to carry a concealed handgun issued under Section 2923.1213 of the Revised Code, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Section 2923.1213 of the Revised Code. A reference in any provision of this Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the attorney general has entered into a reciprocity agreement under Section 109.69 of the Revised Code.

(d) "Dangerous ordnance":

(1) means any of the following, except as otherwise provided in this section:

A. Any automatic or sawed-off firearm, zip-gun, or ballistic knife;

B. Any explosive device or incendiary device:

C. Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid, and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, 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;

# Ordinance No.

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D. 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;

E. Any firearm muffler or silencer;

F. Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordinance.

(2) does not include any of the following:

A. 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;

B. 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;

C. 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;

D. Black powder, priming quills, and percussion caps possessed and lawfully used to fire a cannon on a type defined in this division 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;

E. 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.

F. 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.

(e) "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.

(f) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes



# Ordinance No.

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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, 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.

(g) "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.

(h) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "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.

(i) "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 this division can be assembled.

(j) "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.

(k) "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.

(l) "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.

# Ordinance No.

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(m) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Section 2923.128 of the Revised Code, under Section 2923.1213 of the Revised Code, or under a suspension provision of the state, other than this state in which the license was issued, and that has not been revoked under division (B)(1) of Section 2923.128 of the Revised Code, under Section 2923.1213 of the Revised Code, or under a revocation provision of the state other than this state in which the license was issued.

(n) "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.

(RC Section 2923.11)

## Section 627.02 Carrying Concealed Weapons

(a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:

(1) A deadly weapon other than a handgun;

(2) A handgun other than a dangerous ordnance;

(3) A dangerous ordnance.

(b) No person who has been issued a concealed handgun license shall do any of the following:

(1) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;

(2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;

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(3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

A. An officer, agent, or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns and is acting within the scope of the officer's agent's, or employee's duties;

B. Any person who is employed in this state, who is authorized to carry concealed weapons or dangerous ordnance 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, unless the appointing authority of the person has expressly specified that the exemption provided in this section does not apply to the person;

C. A person's transportation or storage of a firearm, other than a firearm described in divisions (b), (d), (f), (g), (j) and (n) of Section 627.01 of this Code, in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in divisions (b), (d), (f), (g), (j) and (n) of Section 627.01 of this Code, in the actor's own home for any lawful purpose.

(2) Division (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, is carrying a valid concealed handgun license, unless the person knowingly is in a place described in division (B) of Section 2923.126 of the Revised Code.

(d) It is an affirmative defense to a charge under this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance that the actor was not otherwise prohibited by law from having the weapon and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the

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actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this division or ~~division (f)(2) of this section~~, carrying concealed weapons in violation of division (a)(1) and (a)(2) of this section is a misdemeanor of the first degree. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

(2) If a person being arrested for a violation of division (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that division, and the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.

2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code.

B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars if all of the following apply:

1. The offender previously had been issued a concealed handgun license, and that license expired within the two years immediately preceding the arrest.

2. Within forty-five days after the arrest, the offender presents a concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Section 2945.71 of the Revised code.

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3. At the time of the commission of the offense, the offender was not knowingly in a place described in Division (B) of Section 2923.126 of the Revised Code.

C. If neither division (f)(2)A. nor B. of this section applies, the offender shall be punished under division (f)(1) of this section.

(3) Except as otherwise provided in this division, carrying concealed weapons in violation of division (b)(1) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of division (b)(1) of this section, the offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code.

(4) Carrying concealed weapons in violation of division (b)(2) or (3) of this section is a misdemeanor of the first degree. In addition to any other penalty or sanction imposed for misdemeanor violation of division (b)(2) or (3) of this section, the offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of Section 2923.163 of the Revised Code applies.  
(RC Section 2923.12)

Section 627.03      Reserved

Section 627.04      Using Weapons While Intoxicated

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

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(RC Section 2923.15)

Section 627.05      Improperly Handling Firearms in a Motor Vehicle

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box, or case;
- (2) In a compartment that can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Section 5503.34 of the Revised Code, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle;
- (3) Knowingly fail to remain in the motor vehicle while stopped or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but

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not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) Divisions (a) and (b) of this section do not apply to any of the following:

A. An officer, agent, or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's, or employee's duties;

B. Any person who is employed in this state, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in this division does not apply to the person.

(2) Division (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

A. The person transporting or possessing the handgun is carrying a valid concealed handgun license.

B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Section 2923.126 of the Revised Code.

(3) Division (a) of this section does not apply to a person if all of the following apply:

A. The person possesses a valid electric-powered all-purpose vehicle permit issued under Section 1533.103 of the Revised Code by the chief of the division of wildlife.

B. The person is on or in an electric-powered all-purpose vehicle as defined in Section 1531.01 of the Revised Code or a motor vehicle during the open hunting season for a wild quadruped or game bird.

C. The person is on or in an electric-powered all-purpose vehicle as defined in Section 1531.01 of the Revised Code or a motor vehicle that is parked on a road that is owned or administered by the division of wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.

(d) (1) The affirmative defenses authorized in divisions (d)(1) and (2) of Section 627.02 are affirmative defenses to a charge under division (a) of this section that involves a firearm other than a handgun.

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(2) It is an affirmative defense to a charge under division (a) of this section of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that this affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by division (a) of this section while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(e) No person who is charged with a violation of division (a) of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of division (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this division, a violation of division (b)(1) or (2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Section 5503.34 of the Revised Code that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of division (b)(1) or (2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code. A violation of division (b)(3) or (4) of this section is a misdemeanor of the first degree. In addition to any other penalty or sanction imposed for a misdemeanor violation of division (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to division (A)(2) of Section 2923.128 of the Revised Code.

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this division, division (B) of Section 2923.163 of the Revised Code applies.

(h) As used in this section:

(1) "Motor vehicle", "street," and "highway" have the same meanings as in Section 4511.01 of the Revised Code.

(2) "Unloaded" means:



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A. With respect to a firearm other than a firearm described in division (h)(3) of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question, and one of the following applies:

1. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

2. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

B. For the purposes of division (h)(2)A.2. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

1. A package, box, or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

2. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

C. For the purposes of division (h)(2)A. and B. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

(3) "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(4) "Commercial motor vehicle" has the same meaning as in division (A) of Section 4506.25 of the Revised Code.

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(5) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the department of public safety, division of state highway patrol, that is created by Section 5503.34 of the Revised Code.

(i) Divisions ~~(h)(2)A.~~ and B. of this section do not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter.  
(RC Section 2923.16)

## Section 627.06      Failure to Secure Dangerous Ordnance

(a) No person, in acquiring, possessing, carrying, or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

~~(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the first degree.  
(RC Section 2923.19).~~

## Section 627.07      Improperly Providing Access to Firearms to a Minor

(a) No person shall leave a firearm so as to allow access to the firearm by a person who is under eighteen years of age, except for lawful hunting, sporting, or educational purposes, including, but not limited to, instruction in firearm or handgun safety, care, handling, or marksmanship under the supervision and control of a responsible adult.

~~(b) A person who violates this section is guilty of a misdemeanor of the first degree, and shall be fined \$1,000 and imprisoned one hundred and eighty (180) days. The Court shall not suspend all or any portion of the fine and imprisonment.~~

## Section 627.08      Underage Purchase of Handgun

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(a) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this division does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

(1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio peace officer training council or equivalent firearms training.

(2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(b) Whoever violates this section is guilty of underage purchase of a handgun, a misdemeanor of the second degree.  
(RC Section 2923.211)

Section 627.09      Improperly Discharging a Firearm on or near Prohibited Premises

(a) No person shall do any of the following:

(1) Without permission from the proper officials and subject to division (b)(4) of this section, discharge a firearm upon or over a cemetery or within one hundred yards of a cemetery;

(2) Subject to division (b)(5) of this section, discharge a firearm on a lawn, park, pleasure ground, orchard, or other ground appurtenant to a schoolhouse, church, or inhabited dwelling, the property of another, or a charitable institution;

(3) Discharge a firearm upon or over a public road or highway;

(4) Discharge a firearm within five hundred (500) feet of the grounds of any park, playground, or recreation center owned by the City.

(b) This section does not apply to the following:

(1) A person acting in self-defense or otherwise with privilege to do so;

(2) A law enforcement or corrections officer acting within the course and scope of the officer's employment or official duties;

(3) Security personnel acting within the course and scope of their employment;

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(4) A person who, while on the person's own property, discharges a firearm; and

(5) A person who owns any type of property described in division (a)(2) and who, while on the person's own enclosure, discharges a firearm.

(c) Any person who violates this section is guilty of a misdemeanor of the first degree ~~and shall be fined one thousand dollars (\$1,000.00) and imprisoned for 180 days.~~

(RC Section 2923.162)

Section 627.10      Prohibited Weapons on School Property; Duty to Notify Police

(a) Subject to division (b) of this section, any school official or employee who discovers a prohibited weapon upon school grounds or in a school building shall immediately notify the Chief of Police or his or her designee and request the assistance of the Division of Police.

(b) Division (a) of this section shall not apply:

(1) To any school official or employee who has personal knowledge that the notification required by division (a) has already been given with respect to a particular discovery of a particular prohibited weapon; or

(2) When the prohibited weapon is in the possession of an officer, agent or employee 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, or law enforcement officers, as defined in division (k) of Section 601.01, to the extent that any such person is authorized to possess a prohibited weapon and is acting within the scope of his or her duties.

(c) Any school official or employee who fails to comply with division (a) of this section is guilty of a misdemeanor of the first degree.

(d) For purposes of this section, a "prohibited weapon" is any weapon defined, described, or listed in any division of Section 627.01, Section 627.15, Section 627.21, Section 627.22, Section 627.24, or Section 627.25.

Section 627.11      Possessing Certain Weapons at or About Public Places

(a) No person shall knowingly carry, have in his or her possession or ready at hand any BB gun, pellet gun, knife having a blade two and one-half (2-1/2) inches in length or longer, brass knuckles, cestus, billy, karate stick, blackjack, sword or saber while at or about a public place.

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(b) As used in this section, "public place" means any place to which the general public has access and a right to resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It also includes the front or immediate area of any store, shop, restaurant, tavern or other place of business and any grounds, areas or parks where persons would congregate.

(c) This section does not apply to officers, agents or employees of this or any other state or the United States, to law enforcement officers authorized to carry or possess deadly weapons or to persons with private or special police commissions, and acting within the scope of their duties.

(d) This section shall not apply if any weapon in division (a) of this section was part of a public weapon display, show or exhibition, or was in the possession of a person participating in an organized match, competition or practice session.

(e) It is an affirmative defense to a charge under this section that the actor was not otherwise prohibited by law from possessing the weapon, and that the weapon was kept ready at hand by the actor for defense purposes, while he or she was engaged in his or her lawful business or occupation, which business or occupation was of such character or at such a place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent man in having the weapon ready at hand.

(f) It is an affirmative defense to a charge under this section that the actor was not otherwise prohibited by law from possessing a knife having a blade two and one-half (2-1/2) inches in length or longer, and that either (i) the actor at the time was engaged in a lawful business or pursuit and that business or pursuit requires a knife having a blade two and one-half (2-1/2) inches in length or longer as a tool of trade or pursuit, or (ii) the knife having a blade two and one-half (2-1/2) inches in length or longer was kept ready at hand by the actor for defense purposes, while he or she was engaged in his or her lawful business or occupation, which business or occupation was of such character or at such a place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent man in having such a knife ready at hand.

(g) Notwithstanding the provisions of Section 601.13 and division (a) of Section 601.99, whoever violates this section is guilty of possessing certain weapons on or about public places, a misdemeanor of the first degree.

## Section 627.12 Seizure and Confiscation of Deadly Weapon

(a) In any situation where a deadly weapon is present and a person has been drinking or disturbing the peace, threatening bodily harm or causing or threatening a disturbance or violence, and there is reasonable cause for the investigating police officer to believe that such deadly weapon may be used to cause bodily harm, such deadly weapon may be seized by the police and kept in the custody of the Chief of Police.

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(b) After confiscation, any deadly weapon seized by a police officer shall be promptly returned to the person from whom it was seized if no complaint, indictment, or charge is issued against the person. However, any deadly weapon seized which has been reported stolen shall be returned to the owner thereof, unless possession by the owner would constitute a violation of any provision of these Codified Ordinances or of State or Federal law.

(c) Any deadly weapon seized by a police officer upon the arrest of any person, firm or corporation charged with a violation of any of the provisions of this chapter, or any felony or misdemeanor involving the use of a deadly weapon or the use of force or violence or the threat of the use of force or violence against the person of another, shall be confiscated by the Division of Police subject to the provisions of RC 2981.04.

(d) If the deadly weapon is a firearm, the Division of Police shall maintain the integrity and identity of the firearm in such a manner so that if the firearm subsequently is to be returned to the person it can be identified and returned to the person in the same condition it was in when it was seized."

## Section 627.13 Reporting Transfers of Firearms

(a) Effective November 1, 2015, except for transfers involving a licensed gun dealer, or taking place at an event held by a non-profit corporation organized under the laws of the state of Ohio for the purpose of hosting gun collectors in a venue with a minimum of 100 participants, no person shall sell or transfer a firearm without reporting the sale or transfer to the Division of Police. The Director of Public Safety may promulgate rules and regulations governing the reporting process.

(b) Effective November 1, 2015, a person who violates this section is guilty of a misdemeanor of the first degree.

## Section 627.14 Defacing Identification Marks of Firearms; Possessing Defaced Firearm

(a) No person shall do either of the following:

(1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on a firearm.

(2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(b) (1) Whoever violates division (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this division, defacing identification marks of a firearm is a misdemeanor of the first degree.

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(2) Whoever violates division (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this division, possessing a defaced firearm is a misdemeanor of the first degree.

(c) Division (a) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture. (RC Section 2923.201)

## Section 627.15 Unlawful Transactions in Weapons

(a) No person shall:

(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 spring-loaded weapon capable of propelling a knife or knifelike projectile, including, but not limited to, a ballistic knife (sometimes referred to commonly as a KGB knife) or similar weapon and/or advanced martial arts weapons, including, but not limited to shurikan (throwing star), nunchuck, sword, knife, staff, Tonfa, Kama, and Sai and/or other similar weapons.

This paragraph does not apply to the possession and/or use of advanced martial arts weapons on the premises of a recognized martial arts school or during the time said weapons are being transported directly to or from said premises.

(2) As used in paragraph (a)(1) hereof, the following designated martial arts weapons are defined as follows:

A. "Nunchuck" – two (2) pieces of hardwood sticks, generally equal in size and weight, held together by a piece of string, leather or chain.

B. "Sword" – a weapon with a long blade for cutting or thrusting designed, manufactured or marketed as a martial arts weapon.

C. "Knife" – a weapon consisting of a single- or double-edged short blade for cutting or throwing and designed, manufactured or marketed as a martial arts weapon.

D. "Staff" – a hardwood stick the size of which can vary from two (2) to six (6) feet in length which can be used to strike, to block, to jab, to hold and throw an opponent.

E. "Tonfa" – a hardwood shaft which measures about seventeen (17) inches in length with a handle approximately four and one-half (4-1/2) inches in length affixed to the shaft.

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F. "Kama" – an instrument consisting of a handle with a long curved single-edged blade affixed at the end of the handle.

G. "Sai" – a piece of steel or heavy metal that is approximately twelve (12) inches in length with a pointed or blunted end and two (2) prongs that extend down from the blade to form a handle and a protection for strikes.

(3) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him or her to be authorized to acquire dangerous ordnance pursuant to Section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(4) 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.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsection (a)(1) or (3) hereof is a misdemeanor of the second degree. Notwithstanding the provisions of Section 601.13 or 601.99 (a), violation of subsection (a)(4) is a misdemeanor of the fourth degree.

## Section 627.16 Prohibition Against Transferring Firearms or Dangerous Ordinance to a Felon or Intoxicated Person

(a) No person shall negligently sell, lend, give, or furnish any firearm to any person prohibited by Section 2923.13 or 2923.15 of the Revised Code from acquiring or using a firearm, or negligently sell, lend, give, or furnish any dangerous ordnance to any person prohibited by Section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance.

(b) A person who violates this section is guilty of a misdemeanor of the first degree.

## Section 627.17 Voluntary Surrender of Firearms and Dangerous Ordinance

(a) No person who acquires, possesses, or carries a firearm or dangerous ordnance in violation of Section 2923.13 or 2923.17 of the Revised Code shall be prosecuted for such violation, if he reports his possession of firearms or dangerous ordnance to any law enforcement authority, describes the firearms of [or] dangerous ordnance in his possession and where they may be found, and voluntarily surrenders the firearms or dangerous ordnance to the law enforcement authority. 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.



# Ordinance No.

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(b) Any firearm or dangerous ordnance, declared to be illegal under the provisions of Section 627.06 or RC Section 2923.20 may be disposed of by presenting the firearm or dangerous ordnance by the person owning or possessing it, at any district police station in the City of Cleveland, at the Central Police Station or the Detective Bureau of the Division of Police.

(c) No person disposing of a firearm or dangerous ordnance in the manner and at the places herein designated, shall be required to make any written or oral statement or report concerning the firearm or dangerous ordnance or the circumstances surrounding its acquisition, possession or present or past ownership. Receipt can be made available upon request.

## Section 627.18      Reporting Lost or Stolen Firearms

(a) No person who resides in the City shall fail to report to the Division of Police the theft or loss of a firearm he or she owns or possesses within forty-eight (48) hours of the time he or she knew or should have known that the firearm had been stolen or lost.

(b) The report to the Division of Police under division (a) shall contain such information as required by the Division of Police which may include the following information:

- (1) The name, address and social security number of the person owning or having possession of the firearm;
- (2) The model, caliber, serial number and manufacturer of the firearm;
- (3) Any registration number for the firearm;
- (4) The date and place of the theft or loss; and
- (5) A complete statement of the facts and circumstances surrounding the theft or loss.

(c) This section does not apply to:

- (1) Any law enforcement or corrections agency, or law enforcement or corrections officer acting within the course and scope of the officer's employment or official duties; or
- (2) A United States Marshall or member of the Armed Forces of the United States or the National Guard, or a federal or state official, who is required to possess a firearm in the operation of his or her official duties.

(d) No person shall knowingly provide false or misleading information pertaining to the loss or theft of a firearm that they own.

# Ordinance No.

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(e) Any person who violates division (a) or (d) of this section is guilty of a misdemeanor of the second degree.

## Section 627.19 Facsimile Firearms

(a) (1) "Firearm" shall have the same meaning as used in Section 627.01 of this chapter.

(2) "Replica or facsimile of a firearm" shall mean any device or object made of plastic, wood, metal or any other material which is a replica, facsimile or toy version of, or is otherwise recognizable as, a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher or any other firearm. As used in this section, "replica or facsimile of a firearm" shall include, but is not limited to, toy guns, movie props, hobby models (either in kit form or fully assembled), starter pistols, air guns, firearms that are inoperable and cannot readily be rendered operable, or any other device which might reasonably be perceived to be a real firearm.

(b) No person shall display, market for sale or sell any replica or facsimile of a firearm in the City. The provisions of this subsection shall not apply to any replica or facsimile firearm which, because of its distinct color, exaggerated size, or other design feature, cannot reasonably be perceived to be a real firearm.

(c) Except in self-defense, no person shall draw, exhibit or brandish a replica or facsimile of a firearm or simulate a firearm in a rude, angry or threatening manner, with the intent to frighten, vex, harass or annoy or with the intent to commit an act which is a crime under the laws of the City, State or Federal government against any other person.

(d) No person shall draw, exhibit or brandish a replica or facsimile of a firearm or simulate a firearm in the presence of a law enforcement officer, fire fighter, emergency medical technician or paramedic engaged in the performance of his or her duties, when the person committing such brandishing knows or has reason to know that such law enforcement officer, fire fighter, emergency medical technician or paramedic is engaged in the performance of his or her duties.

(e) (1) Whoever violates division (b) of this section is guilty of unlawful sale of a replica firearm, a misdemeanor of the third degree.

(2) Whoever violates division (c) of this section is guilty of brandishing a replica firearm, a misdemeanor of the first degree.

(3) Whoever violates division (d) of this section is guilty of brandishing a replica firearm in the presence of a public safety officer, a misdemeanor of the first degree.

## Section 627.20 Conveyance or Possession of an Object Indistinguishable from a Firearm in a School Safety Zone

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(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

(1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.

(2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) Division (a) of this section does not apply to premises upon which home schooling is conducted. Division (a) of this section also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(c) Whoever violates division (a) of this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree.

(d) As used in this section:

(1) "Object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

(2) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.

(3) "School", "school building", and "school premises" have the same meaning as in Section 2925.01 of the Revised Code.

(4) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Chapter 3314 of the Revised Code; a governing board of an educational service center, or the governing body of a school for which the state board of education prescribed minimum standards under Section 3301.07 of the Revised Code.

(5) "School bus" has the same meaning as in Section 4511.01 of the Revised Code.  
(RC Section 2923.122)

# Ordinance No.

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## Section 627.21      Sale of Long-Bladed Pocket Knives

(a) No person shall give or sell a pocket knife having a blade of two and one-half (2-1/2) inches in length or longer, without first requiring a purchaser to properly identify himself or herself and register in a book kept for such purpose giving his or her name, address and age. The register shall be subject to inspection by any officer of the law upon demand.

(b) No person shall give, sell or exhibit for sale to a minor a knife having a blade two and one-half (2-1/2) inches in length or longer.

(c) Every person, firm or corporation dealing in the sale of knives shall post a copy of this section in a conspicuous place in such place of business.

(d) Whoever violates this section is guilty of unlawful pocket knife sale, a misdemeanor of the third degree.

## Section 627.22      Sale or Possession of Sling Shots and Pea Shooters

(a) No person shall carry on or about his or her person, sell or exhibit for sale a sling shot, commonly consisting of a forked stick with an elastic band attached, or a piece of elastic such as rubber, with a bag attached for shooting of projectiles.

(b) No person shall carry on or about his or her person, sell or exhibit for sale a pea shooter, commonly consisting of a hollow cylindrical object made of one (1) or more materials through which an object may be propelled by blowing air through the same.

(c) Whoever violates this section is guilty of unlawful sale or possession of sling shots or pea shooters, a minor misdemeanor.

## Section 627.23      Unlawful Display of Weapons

(a) No person, firm or corporation shall exhibit for sale in showcases or show windows any daggers, stilettos, brass or iron knuckles and billies, or display any signs, posters, cartoons or display cards, suggesting the sale of such weapons.

(b) Whoever violates this section is guilty of unlawful display of weapons, a misdemeanor of the first degree.

## Section 627.24      Possession or Use of Stench Bombs

(a) No person shall possess or use a tear gas device, stink bomb, smoke generator or other device releasing a substance which is harmful or offensive to

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persons exposed or which tends to cause public alarm. This section does not apply to law enforcement agents in the discharge of official duty.

(b) Whoever violates this section is guilty of unlawful possession or use of stench bombs, a misdemeanor of the first degree.

## Section 627.25      Tear Gas Guns

(a) No person not being a law enforcement officer acting in the line of duty or a person engaged in repelling robbers, thieves, murderers or other law violators in the defense and protection of his or her home or place of business, shall aim and discharge at any person a weapon or device of any kind which impels by compressed air, spring release or other means a projectile containing any liquid or gas which is dangerous to the safety or health of such person, or which otherwise discharges any such liquid or gas upon the person of another.

(b) Whoever violates this section is guilty of unlawful tear gas gun use, a misdemeanor of the first degree.

## Section 627.26      Containers or Combustibles

(a) No person shall make, use, have on or about his or her person or under his or her control any device or container, having a combustible material or substance which can be used as a means of igniting such device or container attached thereto as a fuse and containing therein any flammable or combustible material or substance, which device or container can be used as a firebomb by igniting the fuse or igniting the fuse and breaking the device or container by dropping, tossing or throwing such device or container against or upon an object. However, this section does not apply to any person using, making or having such device or container in his or her possession or under his or her control in the course of a legitimate business, employment or occupation.

(b) Whoever violates this section is guilty of unlawful manufacture, possession or use of combustible container, a misdemeanor of the first degree.

## Section 627.27      Jump Traps

(a) No person shall use or permit the use within the City of any steel jump animal trap or similar device with spring activated jaws of the types commonly used for the trapping of fur bearing animals, which is capable of inflicting cruelty upon dogs or cats or which constitutes a hazard to small children.

(b) Whoever violates this section is guilty of unlawful jump trap use, a misdemeanor of the third degree.

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Section 3. That the Codified Ordinances are supplemented by enacting new Sections 628.01 to 628.10 and 628.99 to read as follows:

## CHAPTER 628 GUN OFFENDER REGISTRY

### Section 628.01      Definitions

For purposes of this chapter, the following definitions apply:

- (a) "Convicted" or "conviction" means:
  - (1) Having been found guilty of a gun offense by a jury or judicial officer; or
  - (2) The acceptance of a plea of guilty or nolo contendere for a gun offense.
- (b) "Director" means the Director of Public Safety or the Director's designee.
- (c) "Gun offender" or "offenders" means any person convicted of a gun offense. "Gun offender" does not include a person whose conviction has been reversed on appeal, expunged or sealed pursuant to a court order, or otherwise set aside pursuant to law.
- (d) "Gun Offense" means:
  - (1) a violation of any of the following Revised Code sections or any substantially equivalent Codified Ordinance section that involves a firearm:

1547.69	Firearms prohibitions
2909.08	Endangering aircraft or airport operations
2923.12	Carrying concealed weapons
2923.121	Possession of firearm in beer liquor permit premises – prohibition, exceptions
2923.122	Illegal conveyance or possession of deadly weapon or dangerous ordnance or of object indistinguishable from firearm in school safety zone
2923.123	Illegal conveyance of deadly weapon or dangerous ordnance into courthouse – illegal possession or control in courthouse
2923.13	Having weapons while under disability
2923.15	Using weapons while intoxicated

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2923.16	Improperly handling firearms in a motor vehicle
2923.161	Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function
2923.162	Discharge of firearm on or near prohibited premises
2923.20	Unlawful transaction in weapons
2923.201	Possessing a defaced firearm
2923.21	Improperly furnishing firearms to minor

(2) Any offense where the indictment or information charging the offense specifies that the offender had a firearm on or about the offender's person or under the offender's control while committing the offense.

## Section 628.02      Duty to Register

(a) A gun offender who (1) resides in the City; and (2) on or after the effective date of this section is convicted of a gun offense shall register with the Director within five (5) days of either: (a) release, if the gun offender receives a sentence of imprisonment; or (b) the time sentence is imposed, if the sentence does not include imprisonment.

(b) Notwithstanding division (a), any gun offender who did not register in the time set forth in division (a) because, following the gun offender's discharge or release from a federal, state or local correctional facility, the gun offender was confined to a residential treatment center, hospital or other institution, shall register within five (5) days of the offender's discharge or release from such institution.

(c) A gun offender who did not reside in the City at the time when registration would have otherwise been required under this chapter, and subsequent to that time becomes a resident of the City, shall register within five (5) days of becoming a resident of the City.

(d) The form and manner of registration shall be as provided in rules and regulations promulgated by the Director.

(e) The registration shall include the following information:

- (1) The gun offender's name, date of birth, and sex;
- (2) The address where the gun offender resides, and any home or mobile phone number regularly used by the gun offender;
- (3) Any other legal name or alias of the gun offender;

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- (4) A copy of the driver's license or non-driver's photo identification card, or other document to establish proof of residence acceptable to the Director;
  - (5) A photograph of the gun offender;
  - (6) A description of the gun offense for which the offender was convicted;
  - (7) The name, address and phone number of the offender's place of work;
  - (8) The name and address of any educational institution which the gun offender attends; and
  - (9) Any other information that the Director shall find reasonably necessary to effect the purposes of this chapter.
- (f) The gun offender shall submit to fingerprinting in accordance with rules and regulations promulgated by the Director.
- (g) This chapter shall not apply to any person who:
- (1) Can demonstrate that the person's conviction for a gun offense was (i) reversed on appeal or otherwise set aside pursuant to law, including receiving a pardon; or (ii) based on a law that was invalidated or held to be unconstitutional or otherwise invalid; or (iii) expunged or sealed pursuant to a court order; or
  - (2) Was adjudicated a juvenile delinquent for an offense that, if committed by an adult, would not constitute a conviction for a gun offense.

## Section 628.03      Initial and Annual Registration

- (a) For the initial registration, a gun offender shall report in person at such place as the Director may direct.
- (b) After the initial registration, the gun offender shall report in person at such place as the Director may direct no later than one year after the date of the initial registration and thereafter no later than one year after the date of each annual registration, until such time that the gun offender is no longer required to register.



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## Section 628.04      Registration Period

A gun offender shall comply with the requirements of this chapter, including the registration requirement, for a period of four (4) years after the date of the offender's first registration.

## Section 628.05      Duty to Report Change of Information

A gun offender shall report any change in information required by this chapter within five (5) days of the change, in a manner and in a form prescribed by the Director.

## Section 628.06      Creation of Gun Registry

The Director shall collect the information provided under this chapter and create and maintain a list of registered gun offenders.

## Section 628.07      Sharing Registration Information

The Director may make the information collected under this chapter available to federal, state and local law enforcement agencies.

## Section 628.08      Cooperation with other Agencies

The Director shall cooperate with federal, state and local law enforcement agencies and the judiciary to facilitate implementation of this chapter.

## Section 628.09      Rules and Regulations

The Director shall promulgate rules and regulation for the implementation of this chapter and to prescribe all forms and information required.

## Section 628.10      Offense: False Information

(a) No person who is a gun offender shall fail to register or fail to renew the offender's registration as provided in this chapter.

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(b) No person shall knowingly provide false or misleading information pertaining to the offender's registration information.

Section 628.99      Penalty

(a) Any person who violates Section 628.10 is guilty of a misdemeanor of the first degree.

(b) Each day that a violation continues shall constitute a separate and distinct offense.

Section 4. That the Director of Public Safety shall provide an annual report to Council on the effectiveness of the Gun Offender Registry.

Section 5. That Sections 628.01 to 628.10 and 628.99 of the Codified Ordinances of Cleveland, Ohio, 1976, shall take effect and be in force on November 1, 2015.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

RH:RC:nl  
7-16-14

FOR: Director McGrath

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In Section 1, last line, strike the period after "March 18, 1996" insert a semicolon and the following:

"Section 674.01, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 674.02, as amended by Ordinance No. 1107-76, passed May 10, 1976,

Section 674.03, as amended by Ordinance No. 975-A-75, passed February 9, 1976,

Sections 674.04 and 674.05, as amended by Ordinance No. 2393-02, passed February 3, 2003,

Sections 674.06 and 674.07, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 674.08, as amended by Ordinance No. 975-A-75, passed February 9, 1976,

Section 674.09, as amended by Ordinance No. 1107-76, passed May 10, 1976,  
and

Sections 674.10, 674.11, and 674.99, as amended by Ordinance No. 975-A-75, passed February 9, 1976."

2. In Section 2, at new Section 627.02(f)(1), line 2, between "division" and the comma insert "or division (f)(2) of this section".

3. In Section 2, strike new Section 627.03 in its entirety and insert: "Section 627.03 Reserved".

4. In Section 2, at new Section 627.05(h)(2)A., line 2, strike "division (h)(6) and insert "division (h)(3)"; and Section 627.05(h), renumber subdivisions "(6)", "(7)" and "(8)" to "(3)", "(4)", and "(5)"; and at division (i), line 1, strike "(h)(5)A." and insert "(h)(2)A.".

5. In Section 2, at new Section 627.06, strike (b) in its entirety and insert: "(b) Whoever violates this section is guilty of failure to secure dangerous ordinance, a misdemeanor of the first degree. (RC Section 2923.19)".

6. In Section 2, at new Section 627.07(a), line 3, strike "firearms" and insert "firearm"; and at the end of division (b), strike "RC section 2923.19" and strike division (b) in its entirety and insert:

EXHIBIT "C"

"(b) A person who violates this section is guilty of a misdemeanor of the first degree, and shall be fined \$1,000 and imprisoned one hundred and eighty (180) days. The Court shall not suspend all or any portion of the fine and imprisonment."

7. In Section 2, at new Section 627.08, in the title of the section, strike "Firearms" and insert "Handgun".

8. In Section 2, at new Section 627.09(c), strike the period after "degree" and insert "and shall be fined one thousand dollars (\$1,000.00) and imprisoned for 180 days.".

9. In Section 2, strike new Section 627.12 in its entirety and insert:

"Section 627.12 Seizure and Confiscation of Deadly Weapon

(a) In any situation where a deadly weapon is present and a person has been drinking or disturbing the peace, threatening bodily harm or causing or threatening a disturbance or violence, and there is reasonable cause for the investigating police officer to believe that such deadly weapon may be used to cause bodily harm, such deadly weapon may be seized by the police and kept in the custody of the Chief of Police.

(b) After confiscation, any deadly weapon seized by a police officer shall be promptly returned to the person from whom it was seized if no complaint, indictment, or charge is issued against the person. However, any deadly weapon seized which has been reported stolen shall be returned to the owner thereof, unless possession by the owner would constitute a violation of any provision of these Codified Ordinances or of State or Federal law.

(c) Any deadly weapon seized by a police officer upon the arrest of any person, firm or corporation charged with a violation of any of the provisions of this chapter, or any felony or misdemeanor involving the use of a deadly weapon or the use of force or violence or the threat of the use of force or violence against the person of another, shall be confiscated by the Division of Police subject to the provisions of RC 2981.04.

(d) If the deadly weapon is a firearm, the Division of Police shall maintain the integrity and identity of the firearm in such a manner so that if the firearm subsequently is to be returned to the person it can be identified and returned to the person in the same condition it was in when it was seized."

10. In Section 2, in Section 627.13, strike (a) in its entirety and insert:

"(a) Effective November 1, 2015, except for transfers involving a licensed gun dealer, or taking place at an event held by a non-profit corporation organized under the laws of the state of Ohio for the purpose of hosting gun collectors in a venue with a minimum of 100 participants, no person shall sell or transfer a firearm without reporting the sale or transfer to the Division of Police. The Director of Public Safety may promulgate rules and regulations governing the reporting process."; and in division (b), line 1, strike "A Person" and insert "Effective November 1, 2015, a person".

11. In Section 2, at Section 627.18(b), line 1, strike "to the Division of Police" and after "shall contain" insert "such information as required by the Division of Police which may include".

11. In Section 3, at new Section 628.01(c), line 3, after "on appeal" insert "expunged or sealed pursuant to a court order,".

12. In Section 3, at new Section 628.02(g)(1), line 4, after "otherwise invalid; or" insert "(iii) expunged or sealed pursuant to a court order; or".

13. In Section 3, at new Section 628.06, line 3, strike "registered of gun" and insert "registered gun".

14. Insert new Sections 4 and 5 to read as follows:

"Section 4. That the Director of Public Safety shall provide an annual report to Council on the effectiveness of the Gun Offender Registry.

Section 5. That Sections 628.01 to 628.10 and 628.99 of the Codified Ordinances of Cleveland, Ohio, 1976, shall take effect and be in force on November 1, 2015."

15. Renumber existing Section 4 to new "Section 6".

Date: \_\_\_\_\_ (Signed): \_\_\_\_\_

Ronda G. Curtis  
Chief Assistant Director of Law

Ord. No. 931-14

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From: **Jeff Garvas** <jeff@ohioccw.org>  
Date: Tue, Dec 2, 2008 at 3:19 PM  
Subject: New Records Request  
To: "Roberson, Kimberly" <KRoberson@city.cleveland.oh.us>

Ms. Roberson,

You may remember me from a records request I initiated in August in the Gregory Llwellyn case (which, incidentally, I've never heard back from anyone on).

Today I'd like to request records related to the City of Cleveland's gun "buyback" program.

Today's Date: 12/02/2008  
Requester's Name: Jeff Garvas  
Company:  
Ohioans For Concealed Carry, Inc.

Address: POB 25488  
City/State/Zip: Cleveland, OH. 44125  
Telephone: 1-888-881-2559 x1  
Fax No: 1-888-881-2559

Records Requested:

I am requesting documentation from the City of Cleveland and/or the Cleveland Police Department related to the recent "Gun Buy Back" program that the City and the Police Department engaged in.

We're specifically requesting:

- All logs of firearms collected including models, serial numbers, and notes of the condition of those firearms that were collected
- Results of any attempts to trace the firearms for prior criminal misuse or theft, and the disposition of those firearms
- Any communication between city or police department officials about the program, specific firearms trace results, or the arrangement with third parties

Thank you,

Jeff Garvas

EXHIBIT "D"



Ohioans For Concealed Carry, Inc.  
P.O. Box 247 - Avon, OH 44011

www.OhioCCW.org

Phone & Fax: (888) 881-2559 - info@OhioCCW.org

TO: The cities of Cleveland, Euclid, Lakewood, Parma, and Shaker Heights, Ohio  
Via facsimile, e-mail or postal delivery

September 19<sup>th</sup>, 2011

To Whom It May Concern:

Pursuant to ORC 149.93 (Ohio Public Records Request) please remit the following information related to the September 17<sup>th</sup>, 2011 "Gun Buy Back" that was held in conjunction with the City of Cleveland.

In order to comply with ORC 149.93 in a timely manner please ensure that this public records request is fulfilled prior to the release of any firearms to ArcelorMittal or any other party for destruction and until this request has been satisfied:

1. A copy of your Public Records Retention Policy.
2. Any and all paper, electronic or otherwise records, log books, etc. of any inventory of the firearms collected at each of the drop off locations, including the name, address, and other personal information provided (if any) by the individual dropping off the firearm, at the location for which your city Police Department or agency was responsible.
3. A copy of any records indicating chain of custody of the firearms collected and who has possession of the firearms, and/or who shall maintain custody of the the firearms until destruction.
4. Any documents indicating the names, addresses or any other information provided of the people who provided their name to be entered into the drawing for the \$1000 reward or in exchange for a gift card, tickets, or other rewards.
5. The make, model and serial number (and any other information collected) of every firearm collected (by location) with any notes taken by those inventorying the firearms.
6. For each firearm:
  - a. A yes or no indication as to if the firearm was run through LEADS or any other system to determine if it is currently reported stolen property and the quantity of firearms deemed stolen.
  - b. A yes or no indication as to if the firearm was run through LEADS or any other system to determine if it is currently suspected to have been used in a criminal act, and the quantity of firearms deemed suspect.
  - c. Indication of the disposition of any firearm deemed to be stolen or suspected to have been used in a criminal act. (Destroyed, considered evidence, etc)
  - d. How long, and which agency will maintain records of, the collected firearms in the event that any quantity of those firearms collected turn out to be reported stolen in then future.
7. An indication of what the agencies in possession of stolen firearms will do with those stolen firearms, and within what timeline. (Destroy, return to rightful owner, etc)
8. Evidence or indication of any ballistic samples taken of each firearm for future comparison in the event that it was used in a crime. (Or indication that no such ballistic information shall be gathered)
9. Indication of how many firearms were deemed to be in functional order and qualified for the gift cards vs. those that were deemed not functional (and if a gift card was awarded for those).
10. The quantity and make/model and serial number of firearms turned in deemed not to be in functional order and if a gift card was rewarded or not for said firearm.
11. The quantity of handguns turned in at each location.
12. The quantity of long guns turned in at each location.
13. The number of arrests, if any, made at the gun buy back locations and for what cause.
14. Any video or audio, surveillance, dash camera footage, or other similar material collected by any agency or department at the drop off locations.
15. Any correspondence between your city and any other city or parties involved in the coordination, planning, procedures, and operation of the event.
16. The number of police officers and non-police officers who were assigned to process firearms or work at the event
  - a. The amount of hours worked for each officer or other employee and the cost to pay them.
  - b. The amount of hours paid that were paid at an overtime rate (and the total amount)
17. For each city involved in the Gun Buy Back program, please specify what your agency intends to communicate to the BATFE in terms of serial numbers, models, makes, etc. with respect to the firearms collected at this event and when.

In the event that any of this information is denied, please cite the section of ORC 149.93 that would authorize the respondent to deny or redact the requested information. If any of this information cannot be provided to me electronically via [jeff@ohioccw.org](mailto:jeff@ohioccw.org) please contact me directly at (888) 881-2559 x1. I will pay all reasonable fees authorized by Ohio Law for duplication, however please contact me if that cost is expected to exceed \$50.00

Sincerely,

Jeff Garvas

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"The people have the right to bear arms for their defense and security."  
Ohio Constitution, Article I, Section 4



**CITY OF CLEVELAND**  
Mayor Frank G. Jackson

## City of Cleveland Public Records Request

**Public Records Section**  
Department of Law  
601 Lakeside Ave., Room 106  
Cleveland, OH 44114-1077  
P: 216.664.2772 F: 216.420.8560

**INSTRUCTIONS:** You can type directly on this form or print it out and fill it in by hand. If filling in by hand, please print clearly. For questions and information, call the phone number above. Send the form to the address above, Attn: Kim L. Roberson, via fax at the above fax number or via email to [kroberson@city.cleveland.oh.us](mailto:kroberson@city.cleveland.oh.us).

<small>REQUEST DATE</small> 8/20/2014	<small>REQUESTOR'S NAME</small> Jeff Garvas	<small>COMPANY NAME (IF APPLICABLE)</small>	
<small>STREET ADDRESS</small> 2885 Sanford Ave SW		<small>CITY</small> Grandville	<small>STATE</small> MI
		<small>ZIP</small> 49418-1342	
<small>PHONE NUMBER</small> 216-496-3928	<small>FAX NUMBER</small> 888-881-2559	<small>EMAIL ADDRESS</small> jeff@ohioccw.org	

Please provide specific details about what you want, including time frame, locations, etc. (if applicable). Although the Public Records Law does not require your request to be in writing, this will avoid delays and confusion. Thank you.

I am requesting the property inventory, chain of custody and/or any other documentation the City of Cleveland Division of Police created during official "Gun Buy Back" events where firearms were collected from the general public in exchange for gift cards, prizes, cash or other rewards.

I have requested this data numerous times over the past six years and the City of Cleveland has never once fulfilled a single public records request related to this material that I have requested.

The City Wide Record Retention Schedule states that the City of Cleveland Police maintain "Property Inventory Sheets" for five years according to schedule 00-9 on page 14.

Therefore, I am re-requesting the City of Cleveland provide all inventory records of firearms collected at any Gun Buy Back that has occurred within the past five years - we'll let the one six years ago slide.

This information can be delivered to me electronically via email. The address provided on this form is for correspondence purposes only and I am not requesting that you provide the records to that address.





**CITY OF CLEVELAND**  
Mayor Frank G. Jackson

## City of Cleveland Public Records Request

**Public Records Section**  
Department of Law  
601 Lakeside Ave., Room 106  
Cleveland, OH 44114-1077  
P: 216.664.2772 F: 216.420.8560

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REQUEST DATE <b>9/9/2014</b>	REQUESTOR'S NAME <b>Jeff Garvas</b>	COMPANY NAME (IF APPLICABLE)	
STREET ADDRESS <b>2885 Sandford Ave SW #24874</b>		CITY <b>Grandville</b>	STATE <b>MI</b>
PHONE NUMBER <b>216-496-3928</b>	FAX NUMBER <b>888-881-2559</b>	ZIP <b>49418-1342</b>	
EMAIL ADDRESS <b>jeff@ohioccw.org</b>			

Please provide specific details about what you want, including time frame, locations, etc. (if applicable). Although the Public Records Law does not require your request to be in writing, this will avoid delays and confusion. Thank you.

I am requesting records from the September 6th, 2014 "Gun Buy Back" performed at 2001 Payne Avenue where firearms were collected from the general public in exchange for gift cards, prizes, sporting event tickets or other rewards.

The City Wide Records Retention Schedule states that the City of Cleveland Police maintain "Property Inventory Sheets" for five years according to schedule 00-9 on page 14. I am requesting the entire inventory of all firearms collected at the 9/6/2014 collection.

In addition to the inventory I am also requesting a copy of:

- The hours and hourly rate each City of Cleveland employee was paid to be at this event and their title (and quantity of employees). I am not asking for any identities to be revealed.
- Any "event plan" documentation that spelled out how the operation was to take place.
- Any written or electronic communication about the event any city employee had with another party before or after the event.

In addition to the above I am also requesting a copy of:

- The police reports, firearm inventory, and any firearm photos of the last ten (10) most recent cases where the City of Cleveland Police investigated an unjustified shooting and/or firearm related homicide and a firearm was recovered or inventoried, excluding those on-going investigations or trials that would warrant denial under R.C. 149.43(g) or (h) and instead working backwards until ten examples can be provided.

This request is separate from my 8/20/2014 request of a similar nature. The address provided on this form is for correspondence only. I would prefer to receive the records electronically.