

**COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

City of Columbus,	:	
	:	
Plaintiff,	:	Case No. 23 CV 3555
	:	
-vs-	:	JUDGE SERROTT
	:	
State of Ohio,	:	
	:	
Defendant.	:	

**DECISION AND ORDER GRANTING DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT**

I. Introduction

This case is before the Court on the Parties’ competing Motions for Summary Judgment. Plaintiff, City of Columbus (“City”) filed their motion on January 17, 2025. Defendant State of Ohio’s (“State”) Motion for Summary Judgment was filed January 21, 2025. City and State timely filed their Responses in Opposition. Being fully briefed and for the reasons that follow, the Court hereby **GRANTS** the State of Ohio’s Motion for Summary Judgment. Plaintiff’s Motion is **DENIED**.

II. Background

In 2006, the Ohio General Assembly enacted Ohio Revised Code § 9.68, dubbed the Firearms-Uniformity Law, with it taking effect the following year.¹ The goal of passing the Firearms-Uniformity Law was to “provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale or other transfer of firearms, their components, and their ammunition.”² R.C. § 9.68 expressly states that:

Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction,

¹ Defendant State of Ohio’s Motion for Summary Judgment at 2.

² *Id* (internal citations omitted).

delay, or process, may own, possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components, and its ammunition.

The Supreme Court of Ohio has held twice now that the Firearms-Uniformity Law is a general law that *is* constitutional and *does not* violate the home rule amendment of the Ohio Constitution. *Ohioans for Concealed Carry, Inc. v. City of Clyde*, 120 Ohio St.3d 96, 2008-Ohio-4605, 896 N.E.2d 967; *City of Cleveland v. State*, 128 Ohio St.3d 135, 2010-Ohio-6318, 942 N.E.2d 370.

On December 5, 2022, City passed Ordinance 3176-2022 (“ City Ordinance”).³ The purpose was to “amend sections 2303.05, 2303.14, 2323.11, and 2323.20; to enact sections 2323.191, 2323.32, and 2323.321, and to repeal existing sections 2303.05, 2303.14, 2323.11, and 2323.20 of Columbus City Codes to effectuate common sense gun reform; and to declare an emergency.”⁴ In pertinent part, the Ordinance “bans possession of high capacity magazines”⁵ (C.C.C. 2323.11), “mandate[s] the safe storage of firearms in situations where the owner of a firearm knows or has reason to know that the firearm could be accessed by a minor”⁶ (C.C.C. 2323.191), and “closes gaps in state law as it relates to the strawman purchase of firearms,”⁷ (C.C.C. 2323.20). Along with this pertinent Ordinance, Columbus City Code provides that where there is a “tumult, riot, mob, or body of people acting together with the intent to commit a felony or to do or offer violence to person or property; or in the event of a flood, fire, snowstorm, or any other disaster affecting life and property and which substantially impairs the functioning of the city government and its ability to protect the lives and property of the people”⁸ city officials have the ability to have the power to “[prohibit] the sale of firearms.”⁹

³ Plaintiff City of Columbus First Amended Complaint for Declaratory and Injunctive Relief at ¶ 12.

⁴ *Id* at ¶ 13.

⁵ *Id* at ¶ 21

⁶ *Id* at ¶ 14

⁷ *Id* at ¶ 22

⁸ *Id* at ¶ 37

⁹ *Id* at ¶ 38

City has asserted five causes of action against State. The first two allege that R.C. §§ 9.68, 3761.16, and 5502.411 each individually violate the home rule amendment of the Ohio Constitution. The next three, respectively, are: R.C. § 9.68 violates the doctrine of separation of powers, R.C. § 9.68 violates Article II, Section 32 of the Ohio Constitution, and the City Ordinances are valid under Article I, Section 4 of the Ohio Constitution. Each of these claims will be considered in turn.

III. **Standard of Review**

“Civ. R. 56(C) provides that before summary judgment may be granted, it must be determined that:

- (1) No genuine issue as to any material fact remains to be litigated;
- (2) the moving party is entitled to judgment as a matter of law; and
- (3) it appears from the evidence that reasonable minds can come to but one conclusion, and viewing such evidence most strongly in favor of the nonmoving party, that conclusion is adverse to the party against whom the motion for summary judgment is made.”

Davis v. Loopco Industries, Inc., 66 Ohio St. 3d 64, 65-66, 609 N.E.2d 144, 145 (internal citations omitted). “Because summary judgment is a procedural device to terminate litigation, it must be awarded with caution.” *Id.* “Doubts must be resolved in favor of the nonmoving party.” *Id.* “[P]leadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact” may be relied upon in determining the appropriateness of summary judgment. *See* Civ. R. 56 (C).

IV. **Law and Analysis**

a. **City’s first two causes of action fail under the *Canton* test.**

The first two causes of action asserted by the City are dependent on this Court finding that the State’s statutes do not take precedence over the City’s ordinances. “A state statute takes precedence over a local ordinance when (1) the ordinance is in conflict with the statute, (2) the ordinance is an

exercise of the police power, rather than of local self-government, and (3) the statute is a general law.” *City of Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, ¶ 9. Thus, in determining whether the firearm restrictions promulgated by the Columbus City Council are valid and enforceable, this Court must evaluate the laws in question in the *Canton* framework.

i. **The City’s Ordinances are in Conflict with the Firearms-Uniformity**

Law

First, this Court must determine whether the municipal ordinance is in conflict with the statute. “The test to determine when a conflict exists between a municipal ordinance and a general law of the state is whether the ordinance permits or licenses that which the statute forbids and prohibits, and vice versa.” *Village of Sheffield v. Rowland*, 87 Ohio St.3d 9, 11, 716 N.E.2d 1121 (1999)(internal quotations omitted). The City ordinances in question relate to the possession of high capacity magazines, the storage of firearms, and the selling of firearms. C.C.C. 2323.11. C.C.C. 2323.191. C.C.C. 2323.20. These City Ordinances conflict with Revised Code Sections 3761.16, 5502.411, and 9.68, statutes of the Firearms-Uniformity Law, as the State has enacted a comprehensive legislative scheme regulating firearms. Specifically, R.C. § 9.68, a general law as held by the Supreme Court of Ohio, prohibits municipalities from requiring “further license, permission, restriction, delay, or process” regarding the “own[ing], possess[ing], purchas[ing], acquir[ing], transport[ing], stor[ing], carry[ing], sell[ing], transfer[ing], manufactur[ing], or keep[ing] [of] any firearm, part of a firearm, its components, and its ammunition.” R.C. § 9.68. Thus, as the City Ordinances seek to limit firearms in a manner explicitly prohibited by statute, the first prong of the *Canton* test is met.

ii. **The City’s Ordinances are an Exercise of Police Power**

The second prong of the Canton test analyzes whether the city “ordinance is an exercise of the police power, rather than of local self-government.” *City of Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, ¶ 9. The Ohio Supreme Court has explained that “[a]n ordinance adopted under a power of local self-government must relate solely to the government and administration of the internal affairs of the municipality.” *Wesolowski v. City of Broadview Hts. Planning Comm.*, 158 Ohio St.3d 58, 2019-Ohio-3713, 140 N.E.3d 545, ¶ 18 (internal quotations omitted). Furthermore, “a police-power regulation seeks to protect the public health, safety, or morals, or the general welfare of the public.” *Wesolowski v. City of Broadview Hts. Planning Comm.*, 158 Ohio St.3d 58, 2019-Ohio-3713, 140 N.E.3d 545, ¶ 18 (internal quotations omitted). The Ohio Supreme Court in *Clyde* clearly held that firearms legislation is an exercise of the police power. *Ohioans for Concealed Carry, Inc. v. City of Clyde*, 120 Ohio St.3d 96, 2008-Ohio-4605, 896 N.E.2d 967, ¶ 37. Thus, the Court finds that the ordinances are a police-power regulation and therefore, the second prong of the Canton test is met.

iii. **Revised Code Sections 9.68, 3761.16, and 5502.411 are General Laws**

The final prong of the home rule analysis laid out in *Canton* is to determine whether the state law is a “general law.” To determine whether a statute is a general law, the “statute must (1) be part of a statewide and comprehensive legislative enactment, (2) apply to all parts of the state alike and operate uniformly throughout the state, (3) set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations, and (4) prescribe a rule of conduct upon citizens generally.” *City of Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, ¶ 21.

1. **Statewide and Comprehensive Legislative Enactment**

The “general law” analysis begins with the determination as to whether the statutes in question are part of statewide and comprehensive legislative enactment. City claims that Revised Code sections 3761.16 and 5502.411 are not part of a statewide and comprehensive scheme detailing the way a government can respond to civil unrest. State counters by arguing that those Revised Code sections are part of the scheme regulating firearms, envisioned in Revised Code section 9.68. City also raises the issue that knives have been included in an amended version of section 9.68 and argues that the statute no longer is comprehensive as to firearms. The Ohio Supreme Court has been clear in determining that R.C. § 9.68 meets this first prong. See *Cleveland v. State*, 2010-Ohio-6318 (“We reaffirm the holding that R.C. 9.68 is part of a statewide comprehensive legislative enactment.”). The Court agrees with the State that the Revised Code sections 3761.16 and 5502.411 are laws regarding firearms and are part of the framework envisioned in R.C. section 9.68. At this juncture, the Court does not believe that inclusion of knives in R.C. § 9.68 statute alters the status of the law as a comprehensive legislative enactment regarding firearms. Thus, this first prong of the general law test is met as to all these statutes.

2. Application to All Parts of the State

The City has not contested that R.C. sections 9.68, 3761.16, and 5502.411 uniformly apply to all parts of the State. Thus, the statutes meet the second prong of the *Canton* test.

3. Set Forth Regulations or Limit Legislative Power

Turning now to the third prong of the general law analysis, this Court examines whether the State’s statutes set forth police, sanitary, or similar regulations, rather than purport only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations. Here, as to R.C. § 9.68, the Supreme Court has held that this statute does establish

police regulations rather than grant or limit municipal legislative power, and thus meets this prong. *Cleveland v. State*, 2010-Ohio-6318, ¶ 27.

Next, R.C. 3761.16 meets this third prong as it asserts police regulations rather than simply limit the authority of a municipality to set forth its own police regulations. In contradistinction, this Court ruled that a statute similar to R.C. § 9.68, R.C. § 9.681, purporting to enact a comprehensive statute regulating tobacco violated Ohio's home rule. *City of Columbus v. State*, 2025-Ohio-2408 (10th Dist.) (*affirming this Court's decision on appeal*). The Statutes at issue here differ significantly from R.C. § 9.681.

In pertinent part, R.C. § 3761.16(C) states that “[t]he chief administrative officer of a political subdivision with police powers...may not prohibit the *otherwise* legal sale, offering for sale, dispensing, or transportation of firearms, other dangerous weapons, or ammunition by a person in a cordoned off area under either of the following circumstances: (1) The cordoned off area encompasses the person's residence or business, or the person is accompanied by another person who resides or owns a business in the cordoned off area. (2) The cordoned off area encompasses the person's place of employment.” *Id* (emphasis added).

Here, rather than simply limit the City's ability to set forth its own police regulations, R.C. § 3761.16 “relates to public health and safety as well as the general welfare of the public.” *Ohioans for Concealed Carry, Inc. v. Clyde*, 2008-Ohio-4605, ¶ 50 (internal citations omitted). The statute does not limit the chief administrative officer's ability to respond to a riot or mob. Instead, the statute does not allow the City to conflict with the State's legislative scheme regarding firearms by making the “*legal* sale, offering for sale, dispensing, or transportation of firearms” *illegal*. See R.C. § 3761.16 (emphasis added). As it relates to firearms, R.C. § 3761.16 does not purport to grant or limit the authority of cities to regulate firearms any more than R.C. § 9.68 does. The State

has passed extensive legislation to regulate firearms, unlike the sparse legislation regulating tobacco. *See City of Columbus v. State*, 2025-Ohio-2408 (10th Dist.). When analyzing these firearm laws within the regulatory scheme, it is clear that the State has set forth police regulations rather than only limit the City's authority to regulate firearms. Therefore, R.C. § 3761.16 does meet this prong as it sets forth police regulations rather than limit the authority of a municipality to set forth its own police regulations.

Further, City asserts that R.C. § 5502.411 violates this prong of the general law test. Like R.C. § 3761.16, City reasons that since R.C. § 5502.411 does not allow a municipality to declare something made legal by the state as *illegal*, the statute violates the third prong. However, for the reasons discussed above in regard to R.C. § 3761.16, R.C. § 5502.411 does meet this prong. Like R.C. §§ 9.68 and 3761.16, R.C. § 5502.411 does not limit City's authority to respond to emergencies. However, as the City's Ordinances relate to firearms, the State's general laws regarding firearms take precedence. Per the Supreme Court, because the firearms regulatory scheme is comprehensive and establishes police regulations, the laws within, like R.C. §§ 9.68, 3761.16, and 5502.411, that prevent municipalities from making conflicting firearm laws do meet this prong. *Cleveland v. State*, 2010-Ohio-6318, ¶ 27. Therefore, R.C. § 5502.411 meets this third prong of the general law test.

4. A Rule of Conduct upon Citizens Generally

The fourth and final prong of the general law test asserts that the law in question must "prescribe a rule of conduct upon citizens generally." *City of Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005, 766 N.E.2d 963, ¶ 21. City argues that R.C. §§ 9.68, 3761.16, and 5502.411 violate the fourth prong as they don't apply to citizens generally but rather "appl[y] to municipal legislative bodies." *Id* at ¶ 34-36 (internal citations omitted). However, when confronted with R.C.

§ 9.68, a law that “displaces municipal firearm ordinances,” the Supreme Court held that R.C. § 9.68 *did not* violate the fourth prong of the general law test. *Cleveland v. State*, 2010-Ohio-6318, ¶ 29. The Supreme Court explained that it is “err[oneous] [to] [consider] R.C. § 9.68 in isolation rather than as part of Ohio’s comprehensive collection of firearm laws.” *Id.* The Supreme Court further demonstrates that the Court should “[look] to other statutes regulating the same subject to determine whether the particular statute in question prescribed a rule of conduct upon citizens generally.” *Id.* The Supreme Court determined that when “[considering] the entire legislative scheme,” R.C. § 9.68 does apply to all citizens generally. Thus, as for R.C. § 9.68, this fourth prong is met.

Turning now to R.C. §§ 3761.16 and 5502.411, this Court will use the same steps of analysis to determine whether these laws violate the fourth prong of the general law test. Like R.C. § 9.68, R.C. §§ 3761.16 and 5502.411 each are a part of the legislative scheme regarding firearms. Following the instruction of the Supreme Court, this Court must consider R.C. §§ 3761.16 and 5502.411 “as part of Ohio’s comprehensive collection of firearm laws.” *Id.* Further, this Court must consider whether other statutes within the legislative scheme prescribe a rule of conduct upon citizens generally to determine whether these statutes meet this fourth prong. *Id.* Firearm statutes within the legislative scheme regulate “*where* firearms can be possessed...*who* can possess firearms...” and “*what kinds* of firearms people can possess.”¹⁰ When considering R.C. §§ 3761.16 and 5502.411 as a part of the legislative scheme, they apply to all citizens generally, as each are within the comprehensive collection of firearm laws. Therefore, R.C. §§ 3761.16 and 5502.411 each meet this fourth prong.

¹⁰ Defendant State of Ohio’s Response in Opposition to Plaintiff the City of Columbus’s Motion for Summary Judgment at 5.

In conclusion, City's first two causes of action fail. Each claim asserts that statutes within the Firearms-Uniformity Law violate Ohio Constitution's home rule amendment. However, when employing the Canton test, it is clear that R.C. sections 9.68, 3761.16, and 5502.411 each are general laws. First, the Supreme Court has already held that R.C. § 9.68 is a general law. *Cleveland v. State*, 2010-Ohio-6318. Second, R.C. §§ 3761.16 and 5502.411 each are general laws as they are: a part of a statewide and comprehensive legislative enactment, applicable to all parts of the state, assert police regulations rather than purport only to limit legislative authority, and prescribe a rule of conduct upon citizens generally. Therefore, the City's first two causes of action are dismissed.

b. **The Firearms-Uniformity Law Does Not Violate the Separation of Powers**

The Court will now address the City's third cause of action which asserts that "R.C. 9.68 violates the doctrine of separation of powers."¹¹ When presented with a separation of powers argument against R.C. § 9.68, the Supreme Court held that R.C. § 9.68(B) *did not* violate the doctrine in regard to the award of attorney's fees and costs. *Cleveland* at ¶ 34. Acknowledging this holding, the Court of Appeals of Ohio, First District, further asserted that R.C. 9.68(A) also did not violate the doctrine. As the State similarly contends in its response in opposition to the City¹², the Court of Appeals held that:

"R.C. 9.68(A) does not purport to expand the meaning of constitutional provisions relating to firearms; rather, it articulates the General Assembly's purpose for enacting the statute and identifies specific areas in which political subdivisions may not regulate in conflict with state or federal law. In doing so, the legislature did not usurp the judiciary's responsibility to define the constitutional rights associated with firearms nor did it limit the fact-finder's role in determining when a conflict exists between local and state or federal law." *Cincinnati v. State*, 2024-Ohio-2425, ¶ 53.

¹¹ Plaintiff City of Columbus First Amended Complaint for Declaratory and Injunctive Relief at ¶ 59.

¹² Defendant State of Ohio's Response in Opposition to Plaintiff the City of Columbus's Motion for Summary Judgment at 7 and 8.

Looking to these previous holdings and a review of the State’s arguments in opposition to the cause of action, this Court agrees that R.C. § 9.68 does not violate the separation of powers doctrine. Therefore, R.C. § 9.68 does not violate the separation of powers doctrine and this claim is also dismissed.

c. **The Firearms-Uniformity Law Does Not Violate Art. II Sec. 32**

Turning now to the City’s fourth cause of action, the Court does not agree that R.C. § 9.68 violates Article II, Section 32 of the Ohio Constitution. Article II, Section 32 states that, “[t]he general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred.” Oh. Const. Art. II, § 32. The City asserts that “[b]y declaring certain actions undertaken by municipalities to be pre-empted, superseded, and null and void in R.C. § 9.68, the General Assembly has undertaken a judicial function.”¹³ However, as stated in *Cincinnati v. State*, R.C. § 9.68 “[does not] usurp the judiciary’s responsibility to define the constitutional rights associated with firearms nor [does] it limit the fact-finder’s role in determining when a conflict exists between local and state or federal law.” *Cincinnati v. State*, 2024-Ohio-2425, ¶ 53. Because R.C. § 9.68 does not limit the fact-finder’s ability to resolve disputes by interpreting firearm laws, the General Assembly has not undertaken a judicial function. Therefore, R.C. § 9.68 does not violate Article II, Section 32 of the Ohio Constitution and the City’s fourth cause of action is dismissed.

d. **The City Ordinances Validity Under Art. I Sec. 4**

Lastly, the City’s fifth cause of action requests, in essence, that this Court issue an advisory opinion stating that the City’s ordinances are constitutional under Art. I, Sec. 4.¹⁴ However, “an advisory opinion is merely the opinion of a judge or judges of a court, which adjudicates nothing and is binding on no one.” *Nelnet, Inc. v. Rauch*, 2019-Ohio-561, ¶ 10 (citing *State ex rel. Draper*

¹³ Plaintiff City of Columbus First Amended Complaint for Declaratory and Injunctive Relief at ¶ 62

¹⁴ Plaintiff City of Columbus First Amended Complaint for Declaratory and Injunctive Relief at ¶ 77.

v. Wilder, 145 Ohio St. 447 at 160). Thus, even if this Court were to state that the City's ordinances are constitutional, it would not have any effect on whether they are actually valid or not. Therefore, the City's fifth cause of action is dismissed. Additionally, this Court has concluded that R.C. § 9.68 does not violate Ohio's Home Rule and the City may not pass ordinances conflicting with the statute.

V. **Conclusion**

For the aforementioned reasons, the Court **GRANTS**, the State of Ohio's Motion for Summary Judgment¹⁵ and **DENIES** the City's Motion.

IT IS SO ORDERED.

Electronically Signed By:

JUDGE MARK A. SERROTT

¹⁵ While this Court personally believes the City's ordinances are common sense much needed regulations aimed at curbing the rampant gun violence and mass shootings, this Court cannot create policy. This Court's judicial function is not to make policy but is limited to determine the constitutionality of the statute, not its wisdom.

Franklin County Court of Common Pleas

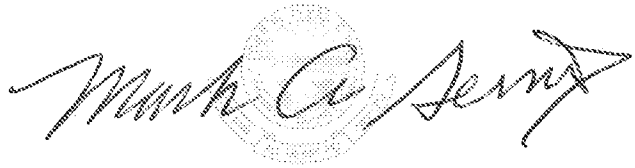
Date: 08-19-2025

Case Title: CITY OF COLUMBUS -VS- STATE OF OHIO

Case Number: 23CV003555

Type: ORDER

It Is So Ordered.

A handwritten signature in black ink, reading "Mark A. Serrott", is written over a circular, textured seal. The signature is fluid and cursive.

/s/ Judge Mark A. Serrott

Court Disposition

Case Number: 23CV003555

Case Style: CITY OF COLUMBUS -VS- STATE OF OHIO

Case Terminated: 18 - Other Terminations

Final Appealable Order: Yes

Motion Tie Off Information:

1. Motion CMS Document Id: 23CV0035552025-01-1799980000

Document Title: 01-17-2025-MOTION FOR SUMMARY
JUDGMENT - PLAINTIFF: CITY OF COLUMBUS

Disposition: MOTION DENIED

2. Motion CMS Document Id: 23CV0035552025-01-2199980000

Document Title: 01-21-2025-MOTION FOR SUMMARY
JUDGMENT - DEFENDANT: STATE OF OHIO

Disposition: MOTION GRANTED

3. Motion CMS Document Id: 23CV0035552025-02-1899950000

Document Title: 02-18-2025-MOTION TO STRIKE - PLAINTIFF:
CITY OF COLUMBUS

Disposition: MOTION IS MOOT