

RESOLUTION R-2019-23

A RESOLUTION IN SUPPORT OF OHIO SENATE BILL 202, 133rd GENERAL ASSEMBLY, 2019-2020.

WHEREAS, the Council of the Village of Windham believes local ordinances regulating firearms are essential to protect their residents.

WHEREAS, Ohio Revised Code Section 9.68, prohibits local governments from enacting any firearms regulations that are more restrictive than those passed by the Ohio legislature.¹ An amended Section 9.68 will become effective on December 28, 2019 further restricting Ohio political subdivisions from enacting and enforcing laws relating to the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition.¹¹

WHEREAS, the amended Ohio Revised Code Section 9.68 will create a private cause of action through which the Village may be liable for damages, attorney fees, and other costs for enacting and enforcing any firearm regulations that are more restrictive than those enacted by the state and federal governments.

WHEREAS, under Ohio Revised Code Section 9.68, the Village of Windham is without the authority to act in the best interests of the residents and law enforcement.

WHEREAS, The Ohio Senate, 133rd General Assembly, introduced House Bill 202 on September 19, 2019 to repeal section 9.68 of the Ohio Revised Code and to repeal the version of section 9.68 of the Ohio Revised Code that is scheduled to take effect on December 28, 2019, to restore local authority to generally regulate firearms-related conduct.

NOW, Therefore, Be It Resolved by the Council of the Village of Windham, Portage County:

Section 1: The Council of the Village of Windham supports Ohio Senate Bill 202, repealing Ohio Revised Code Section 9.68 as enacted and Ohio Revised Code Section 9.68 scheduled to take effect on December 28, 2019.

Section 2: The Fiscal Officer is hereby directed to send the Ohio Governor Mike Dewine, Senator John Eklund and Representative Diane V. Grendell a copy of this resolution.

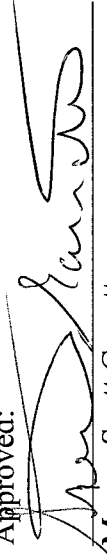
Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution/ordinance were adopted in an open meeting of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public in compliance with all legal requirements including Sections 121.22 of the Ohio Revised Code.

Passed in Council on First Reading, December 17, 2019

Vote of Council: Ayes: 6
 Nays: 0

Attest:


Fiscal Officer, Cherced Taylor

Approved: 
Mayor, Scott Garrett

Approved as to Legal Form:


Solicitor, Thomas Reitz

§ 9.68 Need to provide uniform laws with respect to regulation of firearms. [Effective until December 28, 2019]

(A) The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need 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. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, may own, possess, purchase, sell, transfer, transport, store, or keep any firearm, part of a firearm, its components, and its ammunition.

(B) In addition to any other relief provided, the court shall award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, rule, or regulation as being in conflict with this section.

(C) As used in this section:

(1) The possession, transporting, or carrying of firearms, their components, or their ammunition include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person's person or concealed ready at hand, of firearms, their components, or their ammunition.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

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

(1) A zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;

(2) A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.

§ 9.68 Need to provide uniform laws with respect to regulation of firearms. [Effective December 28, 2019]

(A) The individual right to keep and bear arms, being a fundamental individual right that predates the United States Constitution and Ohio Constitution, and being a constitutionally protected right in every part of Ohio, the general assembly finds the need to provide uniform laws throughout the state regulating the ownership, possession, purchase, other acquisition, transport, storage, carrying, sale, other transfer, manufacture, taxation, keeping, and reporting of loss or theft of firearms, their components, and their ammunition. The general assembly also finds and declares that it is proper for law-abiding people to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves or others. Except as specifically provided by the United States Constitution, Ohio Constitution, state law, or federal law, a person, without further license, permission, restriction, delay, or process, including by any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process, may own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition. Any such further license, permission, restriction, delay, or process interferes with the fundamental individual right described in this division and unduly inhibits law-abiding people from protecting themselves, their families, and others from intruders and attackers and from other legitimate uses of constitutionally protected firearms, including hunting and sporting activities, and the state by this section preempts, supersedes, and declares null and void any such further license, permission, restriction, delay, or process.

(B) A person, group, or entity adversely affected by any manner of ordinance, rule, regulation, resolution, practice, or other action enacted or enforced by a political subdivision in conflict with division (A) of this section may bring a civil action against the political subdivision seeking damages from the political subdivision, declaratory relief, injunctive relief, or a combination of those remedies. Any damages awarded shall be awarded against, and paid by, the political subdivision. In addition to any actual damages awarded against the political subdivision and other relief provided with respect to such an action, the court shall award reasonable expenses to any person, group, or entity that brings the action, to be paid by the political subdivision, if either of the following applies:

(1) The person, group, or entity prevails in a challenge to the ordinance, rule, regulation, resolution, practice, or action as being in conflict with division (A) of this section.

(2) The ordinance, rule, regulation, resolution, practice, or action or the manner of its enforcement is repealed or rescinded after the civil action was filed but prior to a final court determination of the action.

(C) As used in this section:

(1) The possession, transporting, or carrying of firearms, their components, or their ammunition include, but are not limited to, the possession, transporting, or carrying, openly or concealed on a person's person or concealed ready at hand, of firearms, their components, or their ammunition.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(3) "Reasonable expenses" include, but are not limited to, reasonable attorney's fees, court costs, expert witness fees, and compensation for loss of income.

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

(1) A zoning ordinance that regulates or prohibits the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for residential or agricultural uses;

(2) A zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of firearms, firearm components, or ammunition for firearms may occur, provided that the zoning ordinance is consistent with zoning ordinances for other retail establishments in the same geographic area and does not result in a de facto prohibition of the commercial sale of firearms, firearm components, or ammunition for firearms in areas zoned for commercial, retail, or industrial uses.