

RESOLUTION NO. _____ - 2023

EXPRESSING the belief of the Mayor and City Council that they must take action to address the public health crisis caused by gun violence in Cincinnati through the common-sense regulation of deadly weapons; and further **EXPRESSING** the Mayor and City Council's commitment to protecting children and victims of domestic violence from gun violence.

WHEREAS, on February 2, 2022, City Council passed Resolution No. 11-2022, expressing Council's "commitment to reducing the prevalence of gun violence in our City and protecting citizens from gun violence" and Council's belief that gun violence is a public health crisis in the City of Cincinnati and; and

WHEREAS, since the resolution's passage, gun violence has continued to plague our city and rob us of our most valuable assets, our people, despite the City's ongoing dedication of substantial municipal resources and its multi-disciplinary approach to addressing and reducing gun violence; and

WHEREAS, in the year 2022 alone, there were 411 victims of gun violence in Cincinnati, Ohio, and 62 of those shot were killed; and

WHEREAS, recent tragic deaths caused by firearms in Cincinnati include an eight-year-old child, who shot and killed himself in May 2020 after accessing a loaded gun in his house, and a three-year-old shot and killed by his six-year-old brother in October 2022 after finding a loaded gun in their house; and

WHEREAS, these examples demonstrate that access to loaded guns and improperly stored guns poses a significant and unacceptable risk of injury and death to occupants of and visitors to homes, and especially to children; and

WHEREAS, despite the known safety risks and appalling outcomes associated with the careless use and keeping of firearms, the Ohio General Assembly, through the adoption of and subsequent amendments to Ohio Revised Code ("R.C.") 9.68, has progressively restricted the ability of local governments and their officials to encourage, propose, and implement common-sense gun-control measures to address the ongoing public health crisis by imposing liability on political subdivisions who, among other things, adopt resolutions, use threat of legal process, or engage in any other action to regulate the possession and use of a firearm; and

WHEREAS, the threat of R.C. 9.68 litigation and the mandatory attorney fees and costs imposed by the statute preemptively chill and restrain the proposal and discussion of ordinances and resolutions that address the subject of guns by political subdivisions and their officials; and

WHEREAS, consequently, the Mayor and Council have felt constrained to consider only narrowly tailored policies that, in their view and the professional judgment of the City Solicitor and Manager, clearly do not violate R.C. 9.68; and

WHEREAS, accordingly, on January 27, 2023, the Mayor, the Vice Mayor, and three additional Councilmembers proposed two new gun regulations and presented them to Council in the form of an ordinance for Council's consideration and debate; and

WHEREAS, the proposed gun measures would establish a new chapter in the Cincinnati Municipal Code ("CMC"), Chapter 915, "Weapons Offenses," and that chapter would include two new criminal offenses concerning the use and accessibility of firearms: CMC Section 915-3, "Child Endangering," and CMC 915-5, "Having Weapons While Under Disability"; and

WHEREAS, the Mayor, Vice Mayor, and sponsoring Councilmembers hold a good-faith belief that the two proposed gun regulations are narrowly tailored and complementary to state and federal law such that they do not violate R.C. 9.68; and

WHEREAS, hours before the Mayor, Vice Mayor, and sponsoring Councilmembers held a press conference announcing the two proposed gun regulations to the public, the Executive Director of the Buckeye Firearms Association had already released a statement threatening to sue the City for its proposed ordinances; and

WHEREAS, this immediate threat of litigation is exactly the type of action that has historically chilled the City and its elected officials' speech on ordinances and resolutions related to guns; and

WHEREAS, notwithstanding R.C. 9.68, the City of Cincinnati and its elected officials have the absolute right to engage in free speech under the First Amendment to the United States Constitution and Article I, Section 11 of Ohio Constitution, which provisions guarantee the Mayor and the Council the right to propose and pursue legislation and gun-control initiatives they believe to be in the public interest; and

WHEREAS, as elected officials, the Mayor and Council are obligated to take a public stance on urgent and life-altering issues raised to them by City residents, one of which is the ongoing crisis of gun violence in City neighborhoods; and

WHEREAS, given their undeniable right to engage in free speech, and their sworn duty as public officials, the Mayor and Council wish to propose for public debate and discussion further ordinances and resolutions that address the subject of guns, including policies designed to protect children and victims of domestic abuse; and

WHEREAS, open, public discussion and debate surrounding gun regulation is essential to the formation of effective, community-supported gun policies, the promotion of public safety in neighborhoods plagued by gun violence, and the maintenance of positive relationships between the City and its residents; and

WHEREAS, the Mayor and Council resolve that gun violence, especially gun violence involving children, must be addressed with the common-sense regulation of deadly weapons, and that the City, the Mayor, and Council, pursuant to the home-rule authority granted by Article XVIII, Section 3 of the Ohio Constitution, and the free-speech rights guaranteed by the First Amendment to the United States Constitution and Article I, Section 11 of Ohio Constitution, possess the constitutional right to express this commitment and enact laws protecting the citizens of Cincinnati; now, therefore,

BE IT RESOLVED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That the Mayor and this Council declare their intent to undertake every permissible act to protect children and victims of domestic violence from gun violence.

Section 2. That the Mayor and this Council, each individually and collectively on behalf of the City, wish to exercise the right to free speech by proposing new ordinances and resolutions addressing gun violence to the full extent permitted by state and federal law, including regulations which affect the proper storage of guns and threaten legal process against those who recklessly abuse the right of gun ownership; and that the Mayor and this Council would introduce, propose, discuss, and debate such laws and initiatives but for R.C. 9.68 and its chilling, preemptive effects on the proposal and passage of gun-control laws and regulations.

Section 3. That the Mayor and this Council declare their support for the City's lawsuit re-filed as *City of Cincinnati v. State*, Hamilton County Case No. A-2300389, on January 27, 2023 (the "2023 Gun Lawsuit").

Section 4. That the Mayor and this Council consider the 2023 Gun Lawsuit necessary to enable continued public proposal, debate, and discussion of gun-related ordinances and resolutions without escalating risk of R.C. 9.68 liability.

Section 5. That this resolution be spread upon the minutes of Council and that the office of Mayor Aftab Pureval will transmit copies of this resolution to the Ohio House of representatives, the Ohio State Senate, and Ohio Governor Mike DeWine.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Submitted by Mayor Aftab Pureval, Vice Mayor Jan-Michele Lemon Kearney, Councilmembers Liz Keating, Scotty Johnson, and Meeka Owens