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To: City Council

CC: James Kaib, Mayor; Charles Horner, Chief of Police;
Harold Pack, 4601 New Garden Ave., Portsmouth

From: David W. Kuhn, City Solicitor

Date: January 4, 2006

Subject: Codified Ordinance Section 705.30 (Dealers in Firearms and Ammunition;
Fee; Records and reports)

On two previous occasions, I wrote to the National Rifle Association, requesting its input regarding the legality of the subject ordinance. Not having received any replies, I furnished a copy of my correspondence to Councilman Mollette, who apparently telephoned the NRA about this matter.

Attached is a copy of correspondence I received from the NRA yesterday, indicating that under the "Home Rule" provisions of our Charter and the Ohio Constitution, the subject ordinance is legally valid.

As with any legislation, whether or not the captioned ordinance is needed, is a policy question for the legislative body.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
11250 WAPLES MILL ROAD, NORTH TOWER
FAIRFAX, VIRGINIA 22030-7400
(703) 267-1160

Office of Legislative Counsel

FAX: (703) 267-1164

Christopher A. Conte

January 1, 2005

Mr. David W. Kuhn
City Solicitor
728 Second Street
Portsmouth, Ohio 45662

Dear Mr. Kuhn,

Councilman Mollette and I had a good conversation about the legality of the Portsmouth gun registration ordinance, 705-30. Federal law prohibits the retention of firearm sales records on all levels under 18 U.S.C. 922(t)(2) and 28 CFR 25.9, but there is an exception for independent state and local law regarding firearms transactions.

In short, ordinance 705-30 is valid under Ohio's "home rule," but it may also no longer serve the function envisioned by its drafters. The NRA-ILA believes that this ordinance is unnecessary, for many reasons including the following:

- 1. The ordinance is duplicative:** BATFE form 4473 must first be filled out before the firearm transfer is completed. In addition, a records check is required under the National Instant Criminal Background Check System (NICS) as a permanent provision of the Brady Act under 18 U.S.C. 922(t) for all retail handgun and long gun transfers, and any firearms redeemed from pawn shops.
- 2. The ordinance has not been effective as a crime stopper.** While once hailed as a crime-fighting measure, gun registration has failed in this regard. Federal law once similarly required ammunition registration, but this ammunition provision was repealed for this very reason around 20 years ago.
- 3. The ordinance ties up valuable time and resources on all levels.** From the customer, to the gun store owner, to the law enforcement officer, additional paperwork is rarely the answer to where they want to spend their valuable, limited time.

The NRA-ILA prefers to see consistency in state gun laws, with state preemption providing one set of uniform rules for all to follow and easily understand. Testimony can be arranged to support repealing ordinance 705-30, but we would also be pleased if it was just quietly repealed for lack of effectiveness. **My direct office line and address is listed below if there are any questions.**

Sincerely,

Dave LaCourse
Executive Field Officer
P.O. Box 123
Canajoharie, NY 13317
Direct Line (518) 673-3747