

**IN THE SUPERIOR COURT OF CARROLL COUNTY
STATE OF GEORGIA**

GEORGIACARRY.ORG, INC. and)	
JOHN MILLER,)	
Plaintiffs,)	
)	Civil Action No.
v.)	
)	
CITY OF CARROLLTON, GEORGIA,)	
)	
Defendant)	

COMPLAINT

Plaintiffs Georgiacarry.Org, Inc. and John Miller, by counsel, John R. Monroe, state the following as their Complaint:

Introduction

1. This is a Complaint for declaratory and injunctive relief, seeking to have two Carrollton city ordinances banning the carrying of firearms on the Carrollton Greenbelt and at parades declared void and unenforceable, on the grounds that the ordinances are preempted by state law and the Georgia Constitution, and are *ultra vires*.
2. Plaintiff John Miller ("Miller") is a natural person who resides in the Carrollton, Georgia.
3. Plaintiff Georgiacarry.Org, Inc. ("GCO") is a non-profit corporation organized under the laws of the State of Georgia. GCO is a member-oriented corporation whose goals include, among others, protecting the rights of its members to own and carry firearms. GCO has members residing in Carrollton County, including Miller.
4. Defendant is a city chartered and organized under the laws of the State of Georgia, and it has offices at 315 Bradley Street, Carrollton, Carroll County, Georgia 30117.

5. Defendant's Ordinance No. 82-100(4) prohibits parade participants from carry "arms or other weapons."
6. The "Greenbelt Trail" is a trail designated by the mayor and city council of Carrollton for walking, jogging, running, bicycling, and horseback riding.
7. Defendant's Ordinance No. 70-77 prohibits possession of "non-permitted firearms" on the Greenbelt Trail.
8. Pursuant to Ordinance No. 1-11(a), violations of ordinances are punishable by a fine not exceeding \$1,000 and imprisonment not to exceed six months, or both.
9. On or about January 16, 2013, GCO delivered a letter to Defendant's city manager and council members, pointing out that Ordinances 70-77 and 82-100(4) (the "Ordinances") are preempted by state law and asking that they be repealed.
10. GCO has not received a response to the January 16 letter, but in late February, Defendant's Mayor Wayne Garner told the press that he controls the city council's agenda and he had no intention of addressing the ordinances, saying instead he would "let a judge tell me that we need to do that."
11. Plaintiff John Miller owns a home in the City of Carrollton.
12. Miller is a citizen and taxpayer of Carrollton.
13. Miller uses the Greenbelt Trail frequently.
14. Miller possesses a Georgia weapons carry license ("GWL") issued pursuant to O.C.G.A. § 16-11-129.

15. While he uses the Greenbelt Trail, Miller would like to carry a firearm in case of confrontation, but he is in fear of detention, arrest, search and prosecution for violating Ordinance No. 70-77.
16. GCO has other members that use the Greenbelt Trail, that possess GWLs, that would like to carry firearms while they use the Greenbelt Trail, but that are in fear of detention, arrest, and prosecution for doing so.
17. As a citizen and taxpayer of Carrollton, Miller does not wish for public funds to be used to enforce the Ordinances.
18. GCO has other members that are citizens and taxpayers of Carrollton that do not wish for public funds to be used to enforce the Ordinances.
19. O.C.G.A. § 16-11-173(a) states, "It is declared by the General Assembly that the regulation of firearms is properly an issue of general, state-wide concern."
20. O.C.G.A. § 16-11-173(b)(1) states, "No county or municipal corporation, by zoning or by ordinance, resolution, or other enactment, shall regulate in any manner gun shows; the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms or components of firearms; firearms dealers; or dealers in firearms components."
21. Article I, Section I, Paragraph VIII of the Georgia Constitution states, "The right of the people to keep and bear arms shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne."
22. Article I, Section II, Paragraph V states, "Legislative acts in violation of this Constitution or the Constitution of the United States are void, and the judiciary shall so declare them."

23. The General Assembly has made provision in general law for the carrying and possession of firearms through a comprehensive statutory framework. O.C.G.A. §§ 16-11-126 through 135.

24. The General Assembly has also exercised its authority to define even further and limit the exercise of Carrollton's governing authority relating to the carrying and possession of firearms and the use of firearms in self defense. O.C.G.A. §§ 16-11-173 and 16-3-21(c).

Count I – The Ordinances are Preempted

25. The Ordinance is preempted by the General Assembly's comprehensive regulation of the field of firearms, specifically including but not limited to possession, carrying, and the places where one may or may not carry, pursuant to O.C.G.A. §§ 16-11-126 through 135.

26. The Ordinance is further preempted by, and repugnant to, O.C.G.A. § 16-11-173, and is therefore void and unenforceable.

27. The Ordinance is preempted by, and repugnant to, Article I, Section I, Paragraph VIII of the Georgia Constitution, and is therefore void and unenforceable.

Count II – The Ordinances are *Ultra Vires*

28. Defendant has no power to enact the Ordinance, as such power is specifically withheld from Defendant by O.C.G.A. § 16-11-173, so the Ordinance is *ultra vires*.

Count III – The Ordinances are Void

29. The Ordinance is a legislative act in violation of the Georgia Constitution, and is therefore void, and must be declared void by this Court.

Prayer for Relief

Plaintiff demands the following relief

30. A declaration that the Ordinance's provisions regarding firearms are preempted by O.C.G.A. § 16-11-173 and the Georgia Constitution.
31. A declaration that the Ordinance is *ultra vires* (as it pertains to firearms).
32. A declaration that the Ordinance is void.
33. An injunction prohibiting Defendant and its officers, agents, and employees from enforcing or attempting to enforce the Ordinances, to the extent they prohibit possessing or carrying firearms.
34. An injunction prohibiting Defendant from spending any public funds to enforce the Ordinances.
35. An injunction requiring Defendant to remove any signs on Carrollton property that cite a prohibition against possessing or carrying firearms pursuant to the Ordinances.
36. A jury to try this case.
37. Any other relief the court deems proper



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