

A city ordinance requires residents to keep firearms unloaded and disassembled while the firearms are located in their homes. The ordinance also requires residents to keep the disassembled firearm parts and any ammunition in separate safes. The purpose of the ordinance is to deter gun ownership by making it inconvenient to store firearms.

A resident of the city who owns and keeps firearms in her home for self-defense has filed suit against the city in a federal district court, arguing that the ordinance is unconstitutional.

Is the ordinance constitutional?

- A. No, because the ordinance interferes with the right to use firearms for self-defense in one's home.
- B. No, because the Second Amendment guarantees the absolute right to possess and use firearms.
- C. Yes, because the ordinance is rationally related to a legitimate government purpose.
- D. Yes, because the Second Amendment does not apply to municipal actions.

Explanation:

The **Second Amendment** generally prohibits government interference with an individual's **right to possess and use firearms** for a **traditionally lawful purpose** (eg, self-defense in one's home). This right is applicable to states and municipalities (eg, cities) through the Fourteenth Amendment due process clause **(Choice D)**.^{*} However, this **right is not absolute (Choice B)**. Instead, SCOTUS has stated that certain government restrictions on firearms are permissible, including:

- banning unusually dangerous firearms (eg, grenades)
- imposing conditions and qualifications on commercial sales of firearms
- forbidding the possession of firearms by felons and mentally ill individuals *and*
- prohibiting the open carry of firearms in certain areas (eg, schools) or concealed carry of firearms in public.

Here, a city ordinance requires residents to keep firearms unloaded and disassembled while the firearms are in their homes. This restriction makes it virtually impossible for residents to use firearms for the traditionally lawful purpose of self-defense in their homes. That is because residents must reassemble and reload the firearm to use it, which means that residents would not be able to immediately defend themselves if needed. For that reason, and because the ordinance does not fall within the permitted government restrictions, the ordinance is unconstitutional.

^{*}Every constitutional right applies to states and municipalities except (1) the Third Amendment ban on quartering soldiers in homes, (2) the Fifth Amendment requirement of a grand jury indictment for capital charges, and (3) the Seventh Amendment guarantee of a civil jury trial.

(Choice C) SCOTUS has never determined whether rational basis or strict scrutiny review applies to restrictions on the Second Amendment right to bear arms. Instead, such restrictions must not interfere with a traditionally lawful purpose for possessing and using firearms.

Educational objective:

The Second Amendment guarantees individuals the right to possess and use firearms for traditionally lawful purposes like self-defense in the home. However, this right is not absolute, so certain government restrictions are permissible—eg, banning certain types of firearms, prohibiting possession of firearms in certain places.

SCOTUS = Supreme Court of the United States.

References

- District of Columbia v. Heller, 554 U.S. 570, 635 (2008) (holding that the Second Amendment protects an individual's right to possess and use firearms for the traditionally lawful purpose of self-defense in the home).

- *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010) (holding that the Second Amendment is applicable to the states through the Fourteenth Amendment due process clause).

Copyright © UWorld. All rights reserved.

Permissible Second Amendment restrictions



Banning unusually dangerous firearms



Prohibiting open carry in certain areas



Prohibiting possession by felons & mentally ill



Imposing conditions & qualifications on commercial sales