

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN,

and

MARK SMITH

PLAINTIFFS,

CASE NO. _____

v.

THE CITY OF ROANOKE

and

SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

**COMPLAINT FOR DECLARATORY RELIEF AND
APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION**

COME NOW the Plaintiffs, by counsel, and move this Honorable Court for:

(1) a declaratory judgment finding that the provisions of Roanoke City Code § 24-2.1(a)(b) (prohibition of firearms in city parks), § 24-2.1(a)(d) (prohibition of firearms in public places used by or adjacent to permitted and unpermitted events), and § 24-2.1(c) (security measures to prevent the carrying of firearms in the challenged locations) (collectively the “Roanoke Ordinance”) are: (a) violative of Article I, § 13 of the Constitution of Virginia (right to keep and bear arms);¹ and (b) violative of Article I, § 11 of the Constitution of Virginia (due process of law) as being void for vagueness;²

(2) immediate entry of a temporary injunction enjoining the Chief of Police and all other law enforcement divisions, officers, agencies, and agents from enforcing the prohibitions contained in Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c);

¹ Plaintiffs bring their Article I, § 13 claim against § 24-2.1(a)(b) (parks), § 24-2.1(a)(d) (events), and § 24-2.1(c) (security measures as to parks and events). To the extent that § 24-2.1(c) authorizing preventative security measures stands on its own, apart from the parks and events prohibitions, Plaintiffs seek declaratory and injunctive relief against § 24-2.1(c) as well.

² Plaintiffs bring their Article I, § 11 claim against § 24-2.1(a)(d) (events) only.

(3) issuance of a permanent injunction enjoining the administration, enforcement, and imposition of the prohibitions contained in Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c); and

(4) such other relief as the Court may deem appropriate, and in support thereof state as follows:

JURISDICTION AND VENUE

- 1) This Court has jurisdiction to grant the relief sought pursuant to Va. Code § 17.1-513, § 8.01-184, § 8.01-620, and § 8.01-645.
- 2) Venue is proper and preferred in this Court pursuant to Va. Code § 8.01-261(15)(c), § 8.01-261(1)(a), and § 8.01-261(5), and is otherwise proper.

PARTIES

- 3) Plaintiff Virginia Citizens Defense League (“VCDL”) is a Virginia non-stock corporation with its principal place of business in Newington, Virginia. VCDL is organized and operated as a nonprofit civic league that is exempt from federal income taxes under § 501(c)(4) of the U.S. Internal Revenue Code (“IRC”). VCDL has tens of thousands of members and operates as a nonprofit, nonpartisan, grassroots organization dedicated to advancing the fundamental human rights of all

Virginians to keep and bear arms as guaranteed by Article I, § 13 of the Constitution of the Commonwealth of Virginia.

- 4) Plaintiff Gun Owners of America, Inc. (“GOA”) is a California non-stock corporation with its principal place of business in Springfield, Virginia. GOA has over 2 million members and supporters, including thousands in Virginia, and operates as a nonprofit organization exempt from federal income taxes under § 501(c)(4) of the IRC. GOA’s mission is to preserve and defend the inherent rights of gun owners.
- 5) Plaintiff Gun Owners Foundation (“GOF”) is a Virginia non-stock corporation with its principal place of business in Springfield, Virginia. GOF is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under § 501(c)(3) of the IRC. GOF is supported by gun owners across the country, including Virginia residents.
- 6) Plaintiff Maynard Keller, Jr. is natural person, a United States citizen, a member of GOA and VCDL, and a resident of Roanoke, Virginia. He is a law-abiding citizen, is eligible to possess firearms under Virginia and federal law, and has a valid Virginia Concealed Handgun Permit (CHP).
- 7) Plaintiff Kameron Hamlin is a natural person, a United States citizen, and a resident of Franklin, Virginia. He is a law-abiding citizen, is eligible to

possess firearms under Virginia and federal law, and has a valid Virginia Concealed Handgun Permit (CHP).

- 8) Plaintiff Mark Smith is a natural person, a United States citizen, and a resident of Roanoke, Virginia. He is a law-abiding citizen, is eligible to possess firearms under Virginia and federal law, and has a valid Virginia Concealed Handgun Permit (CHP).
- 9) Defendant City of Roanoke is an independent city organized under the Constitution and laws of the Commonwealth of Virginia.
- 10) Defendant Scott Booth is the Chief of Police for the City of Roanoke, Virginia, and is responsible for oversight and enforcement of the Roanoke Ordinance. He is being sued in his official capacity.

CONSTITUTIONAL AND STATUTORY BACKGROUND

- 11) The Virginia Constitution, Article I, Section 13 provides, in relevant part:

That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed....

- 12) There is no Virginia statute which prohibits a person from openly carrying a firearm generally.

- 13) In Virginia, a person is prohibited from carrying a concealed handgun in public unless that person is issued a Concealed Handgun Permit (CHP) under Virginia Code § 18.2-308.
- 14) Virginia, like many other states, has what is known as a “preemption” statute, found at Virginia Code § 15.2-915, which generally prevents localities from creating a patchwork of gun laws across the Commonwealth that are difficult and burdensome for otherwise law-abiding gun owners to navigate.
- 15) Beginning July 1, 2020, pursuant to an amendment to Virginia’s preemption statute found at § 15.2-915(E) and attached as Exhibit “A,” the General Assembly delegated localities the authority to regulate the “possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof”:
- (i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes;
 - (ii) in any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality;
 - (iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality;
 - (iv) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and

when such building, or part thereof, is being used for a governmental purpose. [Va. Code § 15.2-915(E).]

- 16) Since enactment of this statute, several Virginia jurisdictions have chosen to regulate firearms, firearm components, and ammunition in some or all of the above-identified locations. As of this filing and to Plaintiffs' knowledge, some form of restrictions allowed by § 15.2-915(E) have been implemented in Alexandria, Arlington, Blacksburg, Charlottesville, Fairfax (city and county), Falls Church, Loudoun, Newport News, Petersburg, Richmond, Roanoke, and Winchester.
- 17) The Roanoke Ordinance, attached as Exhibit "B," reads as follows, with the challenged provisions underlined and in bold:

Sec. 24-2.1. - Prohibition of firearms on city property.

(a) The possession, carrying or transportation of firearms, ammunition or components or combinations thereof is prohibited (a) in any buildings, or part thereof, owned or used, by the city, or by any authority or local governmental entity created or controlled by the city, for governmental purposes; or **(b) in parks owned or operated by the city, or by any authority or local governmental entity created or controlled by the City;** and (c) in any recreational or community center facility operated by the city, or by any authority or local governmental entity created or controlled by the city, **(d) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit,** and (e) the following owned and/or controlled by City of Roanoke Redevelopment and Housing Authority ("housing authority") that are used for governmental purposes:

(1) RRHA's Office

2624 Salem Turnpike, N.W.
Roanoke, VA 24017

(2) EnVision Center
2607 Salem Turnpike, NW
Roanoke, VA 24017

(3) Lansdowne Park Site Manager's Office
2624 Salem Turnpike, N.W.
Roanoke, VA 24017

(4) Hunt Manor Site Manager's Office
802 Hunt Avenue, NW
Roanoke, VA 24012

(5) Melrose Towers Site Manager's Office
3038 Melrose Avenue NW
Roanoke, VA 24017

(6) Jamestown Place Site Manager's Office
1533 Pike Lane SE
Roanoke, VA 24014

(7) Morningside Manor Site Manager's Office
1020 13th Street, SE
Roanoke, VA 24013

(8) Bluestone Park Site Manager's Office
2617 Bluestone Avenue, NE
Roanoke, VA 24012

(9) Indian Rock Village Site Manager's Office
2034 Indian Village Lane, SE
Roanoke, VA 24013

(10) Villages at Lincoln Site Manager's Office
1801 Dunbar Street, NW
Roanoke, VA 24012

(b) The possession, carrying, storage or transportation of firearms by city employees, agents or volunteers in workplaces owned, operated or managed by the city is prohibited unless expressly authorized by the city manager in writing for a specific purpose.

(c) Pursuant to this section, the city may implement security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, by a person with any firearms, ammunition or components or combination thereof, such as the use of metal detectors and increased use of security personnel.

(d) This section shall not apply to (a) military personnel when acting within the scope of their official duties, (b) sworn law enforcement officers, conservators of the peace, animal wardens and wildlife officials acting in their official capacity, (c) private security personnel hired by the City, when any of them are present in buildings owned, leased or operated by the City or in parks and in any recreational or community facility that is owned or used by the City; (d) museums displaying firearms and the personnel and volunteers of museums or living history re-enactors, performers, actors and/or interpreters, who possess firearms that are not loaded with projectiles, when such persons are participating in, or traveling to or from, historical interpretive events or are acting in any play, stage show or performances that involve the display or demonstration of such firearms as a part of such play, stage show or presentation; (e) exhibitors [sic], sellers and purchasers of firearms at gun shows conducted and held at the Berglund Center and (f) activities of (i) a Senior Reserve Officers' Training corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. §2101 et seq., or (ii) any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. Such activities in (f) above shall follow strict guidelines developed by such institutions for these activities and shall be conducted under the supervision of staff officials or such institutions.

(e) Notice of the restrictions imposed by this ordinance shall be posted (i) at all entrances of any building, or part thereof, owned or used by the city, or by any authority or local governmental entity created or controlled by the city, for governmental purposes; (ii) at all entrances of any public park owned or operated by the city, or by any authority or local governmental entity created or controlled by the city; (iii) at all entrances of any recreation or community center facilities operated by the city, or by any authority or local governmental entity created or controlled by the city.

(f) Any persons violating this code section shall be guilty of a Class 1 misdemeanor.

18) These enactments have created a patchwork of laws, wherein most localities have no local firearm carry restrictions, some have adopted restrictions in every area authorized by § 15.2-915(E), and others have adopted only some of the restrictions authorized by the amendment, all with varying penalties. For example, Newport News Code § 43-3 restricts firearms in almost every area authorized by § 15.2-915(E), but punishes violations via civil fine of \$500 only, and specifically exempts valid CHP holders. In contrast, Petersburg City Code § 74-213 adopts all restrictions authorized by statute, punishes violations as a class 1 misdemeanor, and does not exempt CHP holders.

19) On March 15, 2021, after an impassioned public-comment session, the Roanoke City Council adopted Roanoke City Ordinance § 24-2.1 on a

party-line vote,³ restricting firearms, ammunition, and firearm or ammunition components in every available area authorized by Virginia Code § 15.2-915(E), using language that mirrors that of § 15.2-915(E), and with no exception for CHP holders.

20) A violation of Roanoke City Code § 24-2.1 constitutes a Class 1 misdemeanor punishable by up to 1 year's imprisonment or a fine of up to \$2,500, or both. Roanoke City Code § 1-10(b)(1).

21) Roanoke City Code § 30-103(a) states:

No person may conduct a public assembly in or upon any public street, sidewalk, alley or other portion of the public right-of-way, or in any public park or on any public property, or knowingly participate in any such assembly, without a permit, or being subject to a permit, issued by the director, except in accordance with the terms and conditions of this article. Any person, group or entity, who is not otherwise required to obtain a permit may not parade, march, gather or otherwise engage in an activity which will unduly disrupt either pedestrian or vehicular traffic, the movement of fire-fighting equipment from a station or en route to a fire, or police protection or ambulance service to the area of the activity, or which will interfere with a public assembly for which a permit has been issued.

22) Roanoke City Code § 30-102(g) defines "public assembly" as:

Any cohesive group of people, animals or vehicles, or combination thereof, upon any sidewalk, street, alley or other portion of the public right-of-way, or within a public park, or on any public property which is outdoors in the City of Roanoke and which group does not comply with normal vehicular or pedestrian traffic, regulations or controls, or normal usage of the sidewalk, street, alley or other portion of the

³ Michael Ruiz, *Virginia City Bans Guns on Municipal Property, Including Major Gun Show Venue*, *Fox News* (Mar. 16, 2021, 9:44 PM), <https://tinyurl.com/y62hem4d>.

public right-of-way, or park or public property. Such group includes any gathering, demonstration, or special event.

- 23) Roanoke City Code § 30-102(h) defines “special event” by incorporating the definition of “public assembly” and also including:

[A]ny gathering, parade, procession, running race, walk, block party, bicycle race, ceremony, show, exhibition, festival or similar event. Filming in public spaces throughout the city is also included as a special event. Special event categories are set forth as follows:

(1) Races, walks, and parades: Organized non-stationary activities involving running, biking, walking, marching, or other means of transportation, utilizing a fixed course that involves the use or obstruction of city street rights-of-way, city sidewalks, city parks or greenways.

(2) General events: Organized activities that have a stationary footprint in an identifiable location for a specific duration of time, often involving amplified sound, food, beverage, merchandise displays, and/or other forms of entertainment. Examples include festivals, performances, rallies, exhibits, markets, parties, weddings, conventions and other similar events.

(3) Neighborhood block parties: Organized small-scale activities that close a limited number of blocks on a low traffic volume residential street. These small-scale gatherings are initiated by and are intended to attract only local residents who live on or in close proximity to the street being closed. Block parties are not intended for the general public.

(4) Filming: An organized activity involving film and/or still photography production that requires the use of a public right-of-way, city park, or other outdoor city property.

- 24) There are multiple exceptions to the requirement to obtain a permit listed in Roanoke City Code § 30-105(d), including recreational activities

and public assemblies numbering five or fewer people on public sidewalks not impeding pedestrian flow.

FACTUAL ALLEGATIONS

- 25) The City of Roanoke maintains “nearly 13,000 acres of public land,” which includes 51 parks.⁴
- 26) Park amenities include trails, gardens, dog parks, an outdoor amphitheater, a zoo, playgrounds, grills, baseball diamonds, basketball courts, tennis courts, and an Olympic-sized pool.⁵
- 27) Previously, Plaintiffs VCDL, GOA, and GOF have held picnics and gatherings in local parks in Virginia, where members of the respective organizations have gathered for fellowship and activism while carrying firearms, not only for self-defense but also as a form of political speech.⁶ These meetings are also important sources of fundraising for the organizations and provide opportunities to connect with current and potential new members. (See attached Affidavit of Virginia Citizens

⁴ *About Us, Roanoke Parks and Recreation*, <https://tinyurl.com/nplvsqss> (last visited Jan. 11, 2024).

⁵ See generally *Roanoke Parks and Recreation*, *supra* note 4.

⁶ See *Nordyke v. King*, 319 F.3d 1185, 1190 (9th Cir. 2003) (“Gun possession can be speech where there is ‘an intent to convey a particularized message, and the likelihood [is] great that the message would be understood by those who viewed it.’”).

Defense League; Affidavit of Gun Owners of America, Inc. and Gun Owners Foundation.)

- 28) Local parks are an effective meeting place for members, both due to the relatively low costs typically associated with reserving space for such a meeting, and because the expansive nature of parks allows for larger membership gatherings.
- 29) Specifically relevant here, VCDL has previously organized a large gathering of gun owners in the City of Roanoke to lobby for gun rights, and both VCDL and GOA intend to host such gatherings in the future, which would require a permit from the City. Currently, anyone attending such gatherings will be forced into a Hobson's choice due to Roanoke Ordinance § 24-2.1, wherein they either must forgo their freedom of association or must give up their right to bear arms protected by Article I, § 13 of the Virginia Constitution. In fact, the Roanoke Ordinance directly prohibits exercise of Second Amendment rights *because* First Amendment speech and associational rights are being exercised.⁷
- 30) Furthermore, both VCDL and GOA are aware that, when attending gatherings, either to lobby in the City or for fellowship in City parks,

⁷ Plaintiffs refer to "First" and "Second" Amendment rights in the colloquial sense. Plaintiffs do not bring causes of action under the federal Constitution.

their members almost uniformly desire to attend while carrying the very firearms that the organizations are working to protect, and that, when events are held in locations where firearms are prohibited, attendance dramatically declines because members and supporters do not desire or intend to visit locations where they must disarm themselves. The Roanoke Ordinance prevents VCDL and GOA from hosting such events to celebrate and exercise Second Amendment rights.

- 31) Plaintiff Keller frequents public parks owned or operated by the City of Roanoke. Additionally, as a member of the Roanoke Bike and Pedestrian Committee, Plaintiff Keller regularly uses the Roanoke Valley Greenway trails, which now are posted with “no guns” signs pursuant to the Ordinance. (See attached Affidavit of Maynard Keller, Jr.)
- 32) As a Jewish-American, Plaintiff Keller is aware of various hateful acts carried out against Jewish people in the recent past, and desires to remain armed when traveling through Roanoke to defend himself and his loved ones. Plaintiff Keller also attends permitted events in the City of Roanoke on a regular basis, at which he desires to carry a firearm for self-defense.

- 33) At these permitted events, Plaintiff Keller engages in activities such as driving classic cars in various Roanoke parades throughout the year, including the Christmas parade.
- 34) As a member of GOA and VCDL, Plaintiff Keller additionally desires to attend permitted gatherings of GOA and VCDL members in City parks in Roanoke.
- 35) Prior to enactment of the Roanoke Ordinance, Plaintiff Keller lawfully carried a handgun in City parks and at permitted events (or events otherwise requiring a permit, even if none was obtained) for self-defense. Because of the Roanoke Ordinance, Plaintiff Keller now fears criminal prosecution should he be caught exercising his Article I, § 13 right to bear arms in public parks, at permitted events, or when attending or traveling near an event otherwise requiring a permit.
- 36) Indeed, Defendant Booth does not appear to have disavowed enforcement of the Roanoke Ordinance. On the contrary, on the topic of enforcing criminal laws, Defendant Booth has stated: “We will be relentless; we will be relentless in how we address gun violence in the Roanoke community.”⁸

⁸ Anna McDougall, *Incoming Roanoke Police Chief Talks Gun Violence Reduction Plans for the City*, [WFXR](http://wfxr.com/news/2023/09/27/roanoke-police-chief-talks-gun-violence-reduction-plans-for-the-city/), <http://wfxr.com/news/2023/09/27/roanoke-police-chief-talks-gun-violence-reduction-plans-for-the-city/> (Sept. 27, 2023, 6:59 AM).

- 37) Plaintiff Hamlin works in Roanoke and regularly brings his family, including his wife and three children under the age of 5, all of whom he is responsible for defending, to attend permitted events and to visit City parks, including Mill Mountain Park. During these visits, Plaintiff Hamlin desires to carry a firearm to defend himself and his family. (See attached Affidavit of Kameron Hamlin.)
- 38) Because of the Roanoke Ordinance and his fear of prosecution thereunder, Plaintiff Hamlin fears carrying a firearm at these locations, as he had in the past.
- 39) Plaintiff Smith enjoys hiking, biking, and running in City parks, but is fearful to do so unarmed, as many of the City's parks include remote areas where an unarmed person would be relatively helpless should he encounter an aggressor.⁹ (See attached Affidavit of Mark Smith.)
- 40) In fact, acknowledging that the parks and greenways in Roanoke are not off-limits to crime in spite of their "no guns" signs, the Roanoke Police advise residents to "always walk with a friend, let someone know where you will be and when you will be leaving that area, and be aware of your surroundings."¹⁰

⁹ See, e.g., Pat Thomas, *Attacker Sought After Elderly Woman Attacked on Greenway*, WDBJ7 (July 6, 2023, 4:38 PM), <http://tinyurl.com/npub357x>.

¹⁰ Thomas, *supra* note 9.

- 41) But for the Roanoke Ordinance, Plaintiff Smith would continue to carry a firearm in the locations now restricted, as he had in the past.
- 42) Finally, although Plaintiffs Keller, Hamlin, and Smith carry lawfully owned handguns throughout the City of Roanoke on a daily basis, they aver that, at times, they cannot accurately ascertain whether gatherings in Roanoke are permitted events or events for which a permit would otherwise be required. Moreover, they have no way of knowing just how “adjacent to” or far away from such an event a firearm prohibition extends, as the Ordinance does not say. As a result, Plaintiffs Keller, Hamlin, and Smith currently fear criminal prosecution under the Ordinance, should they continue exercising their Article I, § 13 right to bear arms in public.
- 43) Plaintiffs need not wait for an actual arrest or to be prosecuted to challenge the Roanoke Ordinance. Rather, “[w]hen an individual is subject to such a threat, an actual arrest, prosecution, or other enforcement action is not a prerequisite to challenging the law.” *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014); *see also MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128-29 (2007) (observing that, “where threatened action by government is concerned, we do not require a plaintiff to expose himself to liability before bringing

suit to challenge the basis for the threat”); *Steffel v. Thompson*, 415 U.S. 452, 459 (1974) (same); *Black v. Commonwealth*, 262 Va. 764, 777-78 (2001), *aff’d in part*, *Virginia v. Black*, 538 U.S. 343 (2003) (“Threat of prosecution under a criminal statute ‘tends to chill the exercise of [constitutional] rights.’” (quoting *N.C. Right to Life, Inc. v. Bartlett*, 168 F.3d 705, 710 (4th Cir. 1999))).

- 44) But for the Roanoke Ordinance, Plaintiffs Keller, Hamlin, and Smith would lawfully carry firearms in City parks and at permitted and otherwise unpermitted events. The challenged Ordinance thus not only infringes their right to bear arms under Article I, § 13, but also risks the personal safety of Plaintiffs and their families, leaving them without lawful tools to repel criminals who, by definition, do not follow the law.

COUNT I
(Article I, § 13, Virginia Constitution,
Right to Keep and Bear Arms)

- 45) Paragraphs 1 through 44 are realleged in full and hereby incorporated by reference.
- 46) Article I, § 13 of the Virginia Constitution provides “[t]hat a well regulated militia, composed of the body of the people, trained to arms, is

the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed....”

- 47) This text incorporates the operative clause¹¹ of the federal Second Amendment, which was added to Article I, § 13 in 1971. However, Virginians did not gain any new rights as a result of this effort to modernize the Virginia Constitution over 50 years ago.
- 48) Rather, protection of the natural, individual right to self-defense is not an act of legislative grace; the right exists with or without its documentary recognition and therefore *pre-exists* any constitution. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570, 592 (2008) (noting that “it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a *pre-existing* right”); *see also United States v. Cruikshank*, 92 U.S. 542, 553 (1876) (“Neither is it in any manner dependent upon that instrument for its existence.”).
- 49) In other words, Article I, § 13 is the Commonwealth’s recognition of a pre-existing right with which Virginians were endowed by their Creator, and it operates as a fixed limitation on the power of state or local government to enact legislation affecting firearms. Accordingly, Article

¹¹ “[T]he right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II.

I, § 13 operates as the Commonwealth’s highest “preemption” law, independent of any provision of Virginia Code § 15.2-915.

50) As the 1969 Virginia Commission on Constitutional Revision recognized:

most of the provisions of the Virginia Bill of Rights hav[ing] their parallel in the Federal Bill of Rights is ... no good reason not to look first to Virginia’s Constitution for the safeguards of the fundamental rights of Virginians. The Commission believes that the Virginia Bill of Rights should be a living and operating instrument of government and should, by stating the basic safeguards of the people’s liberties, minimize the occasion for Virginians to resort to the Federal Constitution and the federal courts. [*Report of the Commission on Constitutional Revision* at 86 (1969); *see also Richmond Newspapers, Inc. v. Commonwealth*, 222 Va. 574 (1981).]

51) Consequently, Article I, § 13 provides an independent basis for the protection of individual rights without the need to resort to federal law. Indeed, Article I, § 13 may provide even stronger protection than the U.S. Constitution but, at a minimum, protects rights on a coextensive basis.

52) Thus, federal law remains highly instructive, as Article I, § 13’s protections are at least coextensive with the federal Second Amendment’s protections. *DiGiacinto v. Rector & Visitors of George Mason Univ.*, 281 Va. 127, 134 (2011); *Stickley v. City of Winchester*, 110 Va. Cir. 300, 314 (Winchester 2022); *Elhert v. Settle*, 105 Va. Cir. 326, 330 (Lynchburg 2020) (“No party disputes that *Heller* and *McDonald* should provide the framework for analyzing the present case.

Based on the quality of analysis in both cases and the absence of disagreement from the parties, the Court finds *Heller* and *McDonald* to be highly persuasive in evaluating Virginia’s constitutional right to keep and bear arms.”).

53) Indeed, based on the textual similarity between Article I, § 13 and the Second Amendment’s operative clause, the 1971 General Assembly’s well-documented legislative intent in amending Article I, § 13, and the federal incorporation doctrine and Supremacy Clause, Article I, § 13 “cannot provide fewer rights than the rights inherent under the Second Amendment.” *Stickley*, 110 Va. Cir. at 316, 317.

54) The 1969 floor debates from the House of Delegates and Senate make clear that the legislature “desired to align Article I, Section 13, with the Second Amendment.” *Stickley*, 110 Va. Cir. at 312. Several excerpts and exchanges from the floor debates evince this understanding:

Delegate Harrell: This merely puts into the Constitution of Virginia what is in the Constitution of the United States, to which, of course, we are all subject. Certainly our Constitution could not be in derogation of the federal Constitution....

...

Senator Bateman: Senator Barnes, it is the intent or purpose of this amendment to do anything other than what is done or protected by the safeguards of the second amendment to the Constitution of the United States?

Senator Barnes: No, Sir, the purpose is identical.

Senator Bateman: And the purpose only to guarantee that which is already guaranteed there?

Senator Barnes: That is right....
[*Stickley*, 110 Va. Cir. at 312-13.]

- 55) Article I, § 13 is not the only Virginia constitutional provision that has been held coextensive with its federal counterpart. *See, e.g., Willis v. Mullett*, 263 Va. 653, 657 (2002) (due process under Article I, § 11); *Elliott v. Commonwealth*, 267 Va. 464, 473-74 (2004) (free speech under Article I, § 12).
- 56) Consistent with Virginia courts' analyses of other constitutional provisions, when a protection under the Virginia Declaration of Rights is coextensive with a federal constitutional right, Virginia courts often will apply the federal standard of review to the Virginia constitutional claim. *See Shivaee v. Commonwealth*, 270 Va. 112, 119 (2005) ("Because the due process protections afforded under the Constitution of Virginia are co-extensive with those of the federal constitution, the same analysis will apply to both."); *Vlaming v. W. Point Sch. Bd.*, 480 F. Supp. 3d 711, 721 (E.D. Va. 2020) (citation omitted) ("[C]ourts apply the same analysis to both federal and Virginia constitutional claims even though the claims 'arise under different sources of constitutional law.' Accordingly, courts may look to federal constitutional law when deciding Virginia constitutional claims.").

57) Consequently, although Plaintiffs do not bring any claims under the Second Amendment or under any other provision of the U.S. Constitution or federal law, discussion of Second Amendment authorities is appropriate because “the Court cannot examine Article I, Section 13, of the Constitution of Virginia, and the constitutionality of [the challenged ordinance] in a vacuum.” *Stickley*, 110 Va. Cir. at 318; *see also Lynchburg Range & Training v. Northam*, 455 F. Supp. 3d 238, 248 (W.D. Va. 2020) (no removal jurisdiction for an Article I, § 13 challenge).

58) Notably, another Virginia Circuit Court—the *Stickley* court—already has performed an extensive analysis of Article I, § 13, its appropriate standard of review, and its application to identical firearm prohibitions in parks and events¹² passed by the City of Winchester, also pursuant to Virginia Code § 15.2-915(E). *Stickley*, 110 Va. Cir. at 314; *see also Elhert*, 105 Va. Cir. at 329 (another court performing an extensive analysis and concluding “Article I, § 13 should be interpreted with a history-and-tradition framework”).

¹² Compare Winchester City Ordinance No. O-2021-1 (Feb. 9, 2021) (prohibiting firearms in all locations authorized by Virginia Code § 15.2-915(E)), *repealed by* Winchester City Ordinance No. O-2022-36 (Nov. 9, 2022), *following grant of preliminary injunction in Stickley v. City of Winchester*, 110 Va. Cir. 300 (Winchester 2022), *with* Roanoke City Code § 24-2.1(a).

- 59) In granting a preliminary injunction against the Winchester ordinance sections prohibiting firearms in city parks and at public events, the *Stickley* court held that 1) Article I, § 13 is at least coextensive with the Second Amendment based on its text and history; 2) the Second Amendment’s text-based standard of review applies to Article I, § 13 challenges; and 3) under that standard of review, a prohibition of firearms in public places like parks and events is unconstitutional. *Stickley*, 110 Va. Cir. at 318, 320, 325.
- 60) The coextensive constitutional standard of review for Article I, § 13 challenges is that explained in *District of Columbia v. Heller*, 554 U.S. 570 (2008), as reiterated and elaborated by *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022). *Stickley*, 110 Va. Cir. at 320.
- 61) Beginning with *Heller*’s analysis, the Supreme Court has consistently and “expressly rejected the application of any ‘judge-empowering “interest-balancing inquiry” that “asks whether the statute burdens a protected interest in a way or to an extent that is out of proportion to the statute’s salutary effects upon other important governmental interests,”” when it comes to the pre-existing right to keep and bear arms. *Bruen*, 142 S. Ct. at 2129; *see also McDonald v. City of Chicago*, 561 U.S. 742 (2010); *Caetano v. Massachusetts*, 577 U.S. 411 (2016) (per curiam).

62) This categorical rejection of judicial interest balancing reflects the Framers’ understanding that the pre-existing right to keep and bear arms “‘is the very *product* of an interest balancing by the people’ and it ‘surely elevates above all other interests the right of law-abiding, responsible citizens to use arms’ for self-defense.” *Bruen*, 142 S. Ct. at 2131.

Indeed,

[t]he very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to decide on a case-by-case basis whether the right is *really worth* insisting upon. A constitutional guarantee subject to future judges’ assessments of its usefulness is no constitutional guarantee at all. [*Heller*, 554 U.S. at 634.]

63) At bottom, the *Bruen* test “requires courts to assess whether modern firearms regulations are consistent with the ... text and historical understanding” of the enumerated right to keep and bear arms. *Bruen*, 142 S. Ct. at 2131.

64) Under this constitutional test, when the Constitution’s “plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s

conduct falls outside the Second Amendment’s [and Article I, § 13’s] ‘unqualified command.’” *Bruen*, 142 S. Ct. at 2129-30.

- 65) In other words, if Plaintiffs’ “proposed course of conduct” falls within the plain meaning of Article I, § 13’s text, such conduct is *presumed* protected and the Roanoke Ordinance is *presumed* unconstitutional unless Defendants carry their burden of proving otherwise. *Bruen*, 142 S. Ct. at 2134.
- 66) Indeed, Article I, § 13’s absolutist language contains no limitation or qualification constraining who may exercise the right to be armed—or where.
- 67) Accordingly, the right presumptively belongs to all “the people,” presumptively protects “all instruments that constitute bearable arms,” presumptively covers all “lawful purposes,” and presumptively extends to all locations. *Heller*, 554 U.S. at 581, 582, 624; *Bruen*, 142 S. Ct. at 2134-35 (“To confine the right to ‘bear’ arms to the home would nullify half of the Second Amendment’s operative protections.”).
- 68) Only if Defendants can conclusively demonstrate via historical tradition that the Framers never considered certain persons, arms, or activities to be within the protections of Article I, § 13 can a court

conclude that Plaintiffs’ “conduct falls outside [Article I, § 13’s] ‘unqualified command.’” *Bruen*, 142 S. Ct. at 2126.

69) Otherwise, that which Article I, § 13 protects, it protects absolutely.

70) A number of courts already have analyzed the operative constitutional text such that Plaintiffs, along with their activities outlined above, clearly enjoy a presumption of constitutional protection. For example, there is no question that “ordinary, law-abiding, adult citizens ... are part of ‘the people’” under the amendment’s plain text. *Bruen*, 142 S. Ct. at 2134. Further, there is no question that Plaintiffs’ proposed course of conduct—carrying commonly owned handguns in public for personal protection—falls squarely within the right to “bear arms.” *Id.* (“Th[e] definition of ‘bear’ naturally encompasses public carry.”). And finally, Plaintiffs’ “arms”—handguns—undoubtedly qualify, as Article I, § 13 “extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding.” *Heller*, 554 U.S. at 582; *see also Bruen*, 142 S. Ct. at 2134 (“Nor does any party dispute that handguns are weapons ‘in common use’ today for self-defense.”).

71) Consequently, and to reiterate, Defendants bear the heavy burden of proving that the Roanoke Ordinance’s prohibition on the carry of firearms in public parks and permitted and unpermitted events “is

consistent with the Nation’s historical tradition of firearm regulation.”

Bruen, 142 S. Ct. at 2130. They cannot.

72) When conducting this Article I, § 13 historical analysis, a number of methodological precepts bear emphasis. First, “when it comes to interpreting the Constitution, not all history is created equal.” *Bruen*, 142 S. Ct. at 2136. “Constitutional rights are enshrined with the scope they were understood to have *when the people adopted them*.” *Id.* Accordingly, only historical evidence contemporaneous with the Founding era is relevant in elucidating the scope of the right Article I, § 13’s Framers protected. *See id.* at 2136 (“[W]e must ... guard against giving postenactment history more weight than it can rightly bear.”); *id.* at 2137 (“[T]o the extent later history contradicts what the text says, the text controls.”); *id.* (“[P]ostratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text obviously cannot overcome or alter that text.”); *id.* (“[B]ecause post-Civil War discussions of the right to keep and bear arms ‘took place 75 years after the ratification of the Second Amendment, they do not provide as much insight into its original meaning as earlier sources.’”); *id.* (treating 19th-century evidence “as mere confirmation of what the Court thought had already been established”); *id.* (“[W]e have generally assumed that

the scope of the protection applicable to the Federal Government and States is pegged to the public understanding of the right when the Bill of Rights was adopted in 1791.”); *id.* at 2154 n.28 (“We will not address any of the 20th-century historical evidence brought to bear.... As with ... late-19th-century evidence, the 20th-century evidence ... does not provide insight into the meaning of the Second Amendment when it contradicts earlier evidence.”); *see also Espinoza v. Mont. Dep’t of Revenue*, 140 S. Ct. 2246, 2258-59 (2020) (rejecting examples of 19th century-era laws even from “more than 30 States” as failing to “establish an early American tradition”).

- 73) In other words, pre- and post-enactment historical evidence can only serve a confirmatory role and cannot establish a tradition that never otherwise existed at the Founding.
- 74) Moreover, the fact that Article I, § 13 was amended in 1971 to include the Second Amendment’s operative clause is inapposite and does not change the relevant time period for historical inquiry. *See Stickley*, 110 Va. Cir. at 322 (already rejecting the argument that courts should “consider[] the historical tradition as it existed when the General Assembly amended Article I, Section 13”). As discussed *supra*, the General Assembly’s “purpose [was] only to guarantee that which [wa]s

already guaranteed [in the Second Amendment],” *id.* at 313, and the Second Amendment guarantees a “pre-existing” right that is immune to post-enactment contradictions. *Heller*, 554 U.S. at 592; *Bruen*, 142 S. Ct. at 2136.

75) Second, it is Defendants’ burden—and theirs alone—to affirmatively prove that their modern regulation comports with the original public understanding of the Article I, § 13 right. *Bruen*, 142 S. Ct. at 2150 (“Of course, we are not obliged to sift the historical materials for evidence to sustain [the] statute. That is respondents’ burden.”). If Defendants fail to prove a broad and enduring historical tradition justifying the Roanoke Ordinance, Plaintiffs are entitled to injunctive relief. *See id.* at 2130 (emphasis added) (announcing that “*only*” when the government carries its burden “may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command’”).

76) Third, in proffering historical evidence, Defendants must establish a widespread Founding-era tradition. *Bruen*, 142 S. Ct. at 2130 (emphasis added) (contemplating a “historical *tradition* of firearm regulation”); *id.* at 2133 (requiring “well-established and representative” history); *id.* at 2153 (rejecting historical evidence from several states as “outliers”). While the *Bruen* Court did not articulate just how much historical

evidence constitutes a “tradition,” this Court need not address that question because there is *no* relevant evidence to support the Roanoke Ordinance.

77) Fourth, Defendants’ historical evidence must be “distinctly similar” to the Roanoke Ordinance (i.e., Founding-era laws prohibiting firearms on public parkland and at public events), because the public carry of firearms in these public places implicates no “unprecedented societal concerns or dramatic technological changes” that would warrant a loosening in analytical stringency. *Bruen*, 142 S. Ct. at 2131, 2132. In other words, the Founders had public land and attended public events just as we do today. If they did not overwhelmingly prohibit firearms at those locations, that “is relevant evidence that the challenged regulation is inconsistent with” Article I, § 13. *Id.* at 2131.

78) Fifth, Defendants cannot escape their burden by invoking the so-called constitutional “sensitive places” doctrine, which provides the “relatively few” places where the government may constitutionally prohibit firearms in accordance with historical tradition. *Bruen*, 142 S. Ct. at 2133. Indeed, “expanding the category of ‘sensitive places’ simply to all places of public congregation that are not isolated from law enforcement defines the category of ‘sensitive places’ far too broadly.”

Id. at 2134. Rather, courts have described historic “sensitive places” narrowly as “civic locations sporadically visited in general,” which are “typically secured locations, where uniform lack of firearms is generally a condition of entry, ... *where government officials are present and vulnerable to attack,*” and where “*a bad-intentioned armed person could disrupt key functions of democracy.*” *Hardaway v. Nigrelli*, 2022 U.S. Dist. LEXIS 200813, at *34 (W.D.N.Y. Nov. 3, 2022). A public place is not “sensitive” under Article I, § 13 simply because it is a place “where people typically congregate and where law-enforcement and other public-safety professionals are presumptively available.” *Bruen*, 142 S. Ct. at 2133.

79) Rather, a public place is “sensitive” only if disarmament in that location comports with early American history and tradition. It is not enough simply to declare a place sensitive; *Bruen*’s historical framework contains no exceptions and must be applied in all cases. 142 S. Ct. at 2129-30 (emphases added) (“The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’”).

80) The *Stickley* court concluded as much when it rejected the argument that public parks and permitted and unpermitted events might be “sensitive places”:

The “sensitive places” outlined in ... cases are confined, mostly enclosed areas, where individuals congregate and government business takes place. *Even the Virginia Supreme Court noted a distinction between a public street or park and the school buildings at George Mason University...* [*Stickley*, 110 Va. Cir. at 325 (emphasis added) (citation omitted).]

81) More fundamentally, the *Stickley* court found “no historical basis to permit broad prohibitions on public carry” in public parks and events, because there are “no significant examples that these restrictions are consistent with the Nation’s historical tradition of firearm regulation.” *Stickley*, 110 Va. Cir. at 323, 324.

82) All told, because the Roanoke Ordinance similarly prohibits Plaintiffs from carrying firearms in public parks and at or “adjacent to” permitted and unpermitted events, the Ordinance is presumptively unconstitutional under Article I, § 13.

83) And, because as the *Stickley* court already has found after a detailed historical analysis that there is no tradition of such regulation at the Founding, Defendants cannot carry their burden.

84) *Stickley* is not an outlier, as multiple federal courts are in accord. See *Koons v. Platkin*, 2023 U.S. Dist. LEXIS 85235, at *257 (D.N.J. May 16, 2023) (enjoining state law restricting carry in public parks); *Springer v. Grisham*, 2023 U.S. Dist. LEXIS 217447, at *28 (D.N.M. Dec. 5, 2023) (enjoining Governor’s order banning firearms in public parks); *Antonyuk v. Hochul*, 639 F. Supp. 3d 232, 349 (N.D.N.Y. 2022) (ban on carrying in public parks enjoined);¹³ *Wolford v. Lopez*, 2023 U.S. Dist. LEXIS 138190, at *94 (D. Haw. Aug. 8, 2023) (park ban enjoined); *May v. Bonta*, Nos. SACV 23-01696-CJC (ADSx), SACV 23-01798-CJC (ADSx), slip op. at 29 (C.D. Cal. Dec. 20, 2023) (park ban enjoined);¹⁴ *May*, slip op. at 27 (playground ban enjoined); see also *Antonyuk*, 639 F. Supp. 3d at 335-39, *overruled on other grounds*, *Antonyuk*, 2023 U.S. App. LEXIS 32492, at *223 (enjoining a ban on firearm carry at gatherings of individuals, which are akin to the Roanoke Ordinance’s permitted and unpermitted events).¹⁵

¹³ *But see Antonyuk v. Chiumento*, 2023 U.S. App. LEXIS 32492, at *171 (2d Cir. Dec. 8, 2023) (drawing a rural-urban distinction on appeal). However, Plaintiffs note methodological errors in the panel’s application of *Bruen* that prevent the panel opinion from being persuasive on this point, especially in light of the overwhelming consensus among the other courts to have heard the issue.

¹⁴ <http://tinyurl.com/yd48fwdd>.

¹⁵ On appeal, the Second Circuit panel vacated the district court’s injunction as to gatherings on standing grounds only, without overruling the district court on its underlying analysis.

85) Accordingly, Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c) violate Article I, § 13.

COUNT II
(Article I, § 11, Virginia Constitution,
Due Process of Law)

- 86) Paragraphs 1 through 85 are realleged in full and hereby incorporated by reference.
- 87) Roanoke City Ordinance § 24-2.1(a)(d) restricts firearms in “any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit.”
- 88) Article I, § 11 of the Virginia Constitution provides in relevant part that “no person shall be deprived of his life, liberty, or property without due process of law.”
- 89) An ordinance or law violates due process protections as being unconstitutionally vague if it lacks sufficient definiteness such that ordinary people cannot understand what conduct is prohibited, or it encourages arbitrary and discriminatory enforcement. This doctrine, as articulated by the Court of Appeals of Virginia, protects due process interests by requiring “that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly,’ and second, ‘preventing arbitrary and discriminatory

enforcement by requiring that laws ... provide explicit standards to those who apply them.” *Tjan v. Commonwealth*, 46 Va. App. 698, 707-08 (2005) (quoting *Parker v. Commonwealth*, 24 Va. App. 681, 687 (1997)).

- 90) Roanoke City Ordinance § 24-2.1(a)(d) does not define “open to the public,” and it is unclear to Plaintiffs whether “open to the public” may apply to businesses which are open to the public.
- 91) Plaintiffs Keller, Hamlin, and Smith carry firearms in public throughout the City of Roanoke on a daily basis and are fearful of arrest due to carrying when a permitted event, or event requiring a permit, is taking place nearby.
- 92) Nor does the Ordinance define the scope of the word “adjacent.” Indeed, the definition of “adjacent” is arbitrary, being “not distant; nearby,” or “in close proximity.”¹⁶ The Ordinance does not delineate how distant or how close a location must be to be covered by its proscription, yet imposes a Class 1 misdemeanor on those who violate its vague terms.
- 93) Plaintiffs who desire to remain law-abiding cannot ascertain when they may be close enough to an event for it to be designated “adjacent,”

¹⁶ *Adjacent*, Merriam-Webster, <http://tinyurl.com/mr5p5j5t> (last visited Jan. 11, 2024).

therefore making it unclear where it is unlawful for them to possess firearms, firearm components, and ammunition.

94) The phrase “event that would otherwise require a permit” is not defined in the City Code, and Plaintiffs are left to guess at when gatherings of persons in public places are such that a permit might have otherwise been required. Such guesswork would involve engaging in a real-time, convoluted process of elimination based on the definitions discussed in paragraphs 21-24, *supra*.

95) Virginia Code § 15.2-915(F) states that:

Notice of any ordinance adopted pursuant to subsection E shall be posted ... at all entrances or other appropriate places of ingress and egress to any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit.

96) Conspicuously, Roanoke’s Ordinance, subsection (e), does not comply with this statutory requirement, as it does not follow the statutory language and provides for no notice via signage at permitted events or events otherwise requiring a permit.

97) And such failure is unsurprising, due to the nature of permitted events occurring sporadically, and events that would otherwise require a permit occurring with even less predictability.

- 98) Thus, localities seeking to ban firearms while seeking to comply with the notice requirements of § 15.2-915(F) must task police or other officials with the onerous task of putting up signage before every permitted event, and require their officers to rapidly deploy to provide signage when an event otherwise requiring a permit occurs unannounced in their jurisdiction.
- 99) Alternatively, localities such as Richmond appear to leave signs up *permanently* across the jurisdiction announcing that, in the off chance that a permitted event (or event otherwise requiring a permit) were to occur, firearms, ammunition, and firearm or ammunition components would be restricted.
- 100) Both scenarios are inadequate.
- 101) The first scenario requires citizens to be on the constant lookout for such signs that might suddenly appear, without warning, in areas that they otherwise frequent on a daily basis. Requiring a person to have her head on a swivel for new signage as she walks home from work is entirely unrealistic. Due process requires clear notice that a person's conduct is unlawful, and transient signage that appears and disappears, in random locations, announcing ever-changing rules for otherwise routine daily life does not meet this stringent standard.

- 102) The second scenario above creates a situation where signs kept up round-the-clock chill the carry of firearms even during times when it is otherwise lawful and, due to their constant presence, provide no real notice as to when the warning signs are *actually* effective, desensitizing otherwise law-abiding persons who cannot determine *when* they must comply. In this scenario, the only winning move is not to play (not to carry a firearm at all).
- 103) Because the Roanoke Ordinance does not track the statutory language which requires signage be posted, due to the sometimes sporadic or transient nature of events, and with signs presenting a poor solution, law enforcement and civilians may be asked to guess at when the carry of firearms, ammunition, or components becomes subject to the restrictive Ordinance and therefore criminal. Many visitors to Roanoke will be caught unaware, making their visit to the City while carrying firearms a risky proposition. Indeed, unlike Roanoke, some other localities that decided to enact local gun control pursuant to Virginia Code § 15.2-915(E) (such as the City of Fairfax) recognized the ambiguity in attempting to prohibit firearms at permitted and unpermitted events and avoided enacting such an unclear prohibition, instead striking the

language relating to firearms at permitted events and omitting it completely from their ordinances.¹⁷

104) But even if Roanoke’s Ordinance complied with Virginia Code § 15.2-915(F) via requiring signage warning of the prohibition at entrances to permitted event areas (or unpermitted events that should have required a permit) affected by the Ordinance, a locality’s failure to ensure proper signage does not appear to invalidate the firearms prohibition which otherwise exists at such events, nor does it provide a statutory defense to those prosecuted for violating the Ordinance.

Therefore, Plaintiffs fear that, even where no signage is posted, should they unwittingly traverse an area “adjacent to” a permitted event, they would be subject to arrest and prosecution for a violation that they unknowingly committed.

105) The Ordinance’s use of the term “adjacent” and the phrases “open to the public” and “event that would otherwise require a permit” are unconstitutionally vague and violate Plaintiffs’ rights to due process.

¹⁷ Fairfax City Code § 54-4(b); Michael O’Connell, *Amended Gun Ban Ordinance Passed by Fairfax City Council, Patch* (Feb. 10, 2021, 6:21 PM), <https://tinyurl.com/5ssekpc> (“Miller, who made the original motion, agreed that the sections affected by Stehle’s motion were not well crafted as written.”).

106) Due to the possibility of arrest, Plaintiffs are unable to carry and transport firearms lawfully in places where they otherwise have and would continue to lawfully do so but for the Ordinance, and Plaintiffs are suffering irreparable harm by being denied their constitutional right as articulated in Article I, § 13. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”); *Bruen*, 142 S. Ct. at 2156 (“The [Second Amendment] is not ... ‘subject to an entirely different body of rules than the other Bill of Rights guarantees.’”).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that the Court:


- 1) Render a declaratory judgment that the challenged provisions of Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c) are unconstitutional for violating Article I, § 13 of the Virginia Constitution and therefore are void.
- 2) Render a declaratory judgment that the challenged provision of Roanoke City Code § 24-2.1(a)(d) is unconstitutional for violating Article I, § 11 of the Virginia Constitution and therefore is void.

- 3) Enter temporary and then permanent injunctions enjoining the City of Roanoke, Chief of Police Scott Booth, and any agents, officers, employees, or officials of the same, from enforcing Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c).
- 4) Grant such further relief pursuant to and in accordance with such declaratory judgment, Plaintiffs' costs and attorney fees, and such other and further relief as the Court may deem appropriate.

Respectfully Submitted,

VIRGINIA CITIZENS DEFENSE LEAGUE,
GUN OWNERS OF AMERICA, INC.,
GUN OWNERS FOUNDATION,
MAYNARD KELLER, JR.,
KAMERON HAMLIN, and
MARK SMITH

BY:



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CERTIFICATE OF SERVICE

In accordance with Va. Code § 8.01-629, the undersigned certifies that, on January 12, 2024, a true and accurate copy of the foregoing Complaint and Application was served upon the following, thereby giving notice of the same:

BY: 
COUNSEL

VIA FACSIMILE AND PERSONAL SERVICE BY PROCESS SERVER

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EXHIBIT

“A”

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 9. General Powers of Local Governments

§ 15.2-915. Control of firearms; applicability to authorities and local governmental agencies.

A. No locality shall adopt or enforce any ordinance, resolution, or motion, as permitted by § [15.2-1425](#), and no agent of such locality shall take any administrative action, governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute. For purposes of this section, a statute that does not refer to firearms, ammunition, or components or combination thereof shall not be construed to provide express authorization.

Nothing in this section shall prohibit a locality from adopting workplace rules relating to terms and conditions of employment of the workforce. However, no locality shall adopt any workplace rule, other than for the purposes of a community services board or behavioral health authority as defined in § [37.2-100](#), that prevents an employee of that locality from storing at that locality's workplace a lawfully possessed firearm and ammunition in a locked private motor vehicle. Nothing in this section shall prohibit a law-enforcement officer, as defined in § [9.1-101](#), from acting within the scope of his duties.

The provisions of this section applicable to a locality shall also apply to any authority or to a local governmental entity, including a department or agency, but not including any local or regional jail, juvenile detention facility, or state-governed entity, department, or agency.

B. Any local ordinance, resolution, or motion adopted prior to July 1, 2004, governing the purchase, possession, transfer, ownership, carrying, or transporting of firearms, ammunition, or components or combination thereof, other than those expressly authorized by statute, is invalid.

C. In addition to any other relief provided, the court may award reasonable attorney fees, expenses, and court costs to any person, group, or entity that prevails in an action challenging (i) an ordinance, resolution, or motion as being in conflict with this section or (ii) an administrative action taken in bad faith as being in conflict with this section.

D. For purposes of this section, "workplace" means "workplace of the locality."

E. Notwithstanding the provisions of this section, a locality may adopt an ordinance that prohibits the possession, carrying, or transportation of any firearms, ammunition, or components or combination thereof (i) in any building, or part thereof, owned or used by such locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) in any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) in any recreation or community center facility operated by the locality, or by any authority or local governmental entity created or controlled by the locality; or (iv) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit. In buildings that are not owned by a locality, or by any authority or local governmental entity created or controlled by the locality, such ordinance shall apply only to the part of the building that is being used for a governmental purpose and when such building, or part thereof, is being used for a governmental purpose.

Any such ordinance may include security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, or public streets, roads, alleys, or sidewalks or public rights-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit by a person with any firearms, ammunition, or components or combination thereof, such as the use of metal detectors and increased use of security personnel.

The provisions of this subsection shall not apply to the activities of (i) a Senior Reserve Officers' Training Corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. § 2101 et seq. or (ii) any intercollegiate athletics program operated by a public or private institution of higher education and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. Such activities shall follow strict guidelines developed by such institutions for these activities and shall be conducted under the supervision of staff officials of such institutions.

F. Notice of any ordinance adopted pursuant to subsection E shall be posted (i) at all entrances of any building, or part thereof, owned or used by the locality, or by any authority or local governmental entity created or controlled by the locality, for governmental purposes; (ii) at all entrances of any public park owned or operated by the locality, or by any authority or local governmental entity created or controlled by the locality; (iii) at all entrances of any recreation or community center facilities operated by the locality, or by any authority or local governmental entity created or controlled by the locality; and (iv) at all entrances or other appropriate places of ingress and egress to any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit.

1987, c. 629, § 15.1-29.15; 1988, c. 392; 1997, cc. [550](#), [587](#); 2002, c. [484](#); 2003, c. [943](#); 2004, cc. [837](#), [923](#); 2009, cc. [735](#), [772](#); 2012, c. [757](#); 2020, cc. [1205](#), [1247](#).

EXHIBIT
“B”

Sec. 24-2.1. - Prohibition of firearms on city property.

- (a) The possession, carrying or transportation of firearms, ammunition or components or combinations thereof is prohibited (a) in any buildings, or part thereof, owned or used, by the city, or by any authority or local governmental entity created or controlled by the city, for governmental purposes; or (b) in parks owned or operated by the city, or by any authority or local governmental entity created or controlled by the City; and (c) in any recreational or community center facility operated by the city, or by any authority or local governmental entity created or controlled by the city, (d) in any public street, road, alley, or sidewalk or public right-of-way or any other place of whatever nature that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit, and (e) the following owned and/or controlled by City of Roanoke Redevelopment and Housing Authority ("housing authority") that are used for governmental purposes:

(1) RRHA's Office

2624 Salem Turnpike, N.W.

Roanoke, VA 24017

(2) EnVision Center

2607 Salem Turnpike, NW

Roanoke, VA 24017

(3) Lansdowne Park Site Manager's Office

2624 Salem Turnpike, N.W.

Roanoke, VA 24017

(4) Hunt Manor Site Manager's Office

802 Hunt Avenue, NW

Roanoke, VA 24012

(5) Melrose Towers Site Manager's Office

3038 Melrose Avenue NW

Roanoke, VA 24017

(6) Jamestown Place Site Manager's Office

1533 Pike Lane SE

Roanoke, VA 24014

- (7) Morningside Manor Site Manager's Office
1020 13th Street, SE
Roanoke, VA 24013
- (8) Bluestone Park Site Manager's Office
2617 Bluestone Avenue, NE
Roanoke, VA 24012
- (9) Indian Rock Village Site Manager's Office
2034 Indian Village Lane, SE
Roanoke, VA 24013
- (10) Villages at Lincoln Site Manager's Office
1801 Dunbar Street, NW
Roanoke, VA 24012
- (b) The possession, carrying, storage or transportation of firearms by city employees, agents or volunteers in workplaces owned, operated or managed by the city is prohibited unless expressly authorized by the city manager in writing for a specific purpose.
- (c) Pursuant to this section, the city may implement security measures that are designed to reasonably prevent the unauthorized access of such buildings, parks, recreation or community center facilities, by a person with any firearms, ammunition or components or combination thereof, such as the use of metal detectors and increased use of security personnel.
- (d) This section shall not apply to (a) military personnel when acting within the scope of their official duties, (b) sworn law enforcement officers, conservators of the peace, animal wardens and wildlife officials acting in their official capacity, (c) private security personnel hired by the City, when any of them are present in buildings owned, leased or operated by the City or in parks and in any recreational or community facility that is owned or used by the City; (d) museums displaying firearms and the personnel and volunteers of museums or living history re-enactors, performers, actors and/or interpreters, who possess firearms that are not loaded with projectiles, when such persons are participating in, or traveling to or from, historical interpretive events or are acting in any play, stage show or performances that involve the display or demonstration of such firearms as a part of such play, stage show or presentation; (e) exhibitors, sellers and purchasers of firearms at gun shows conducted and held at the Berglund Center and (f) activities of (i) a Senior Reserve Officers' Training corps program operated at a public or private institution of higher education in accordance with the provisions of 10 U.S.C. §2101 et seq., or (ii) any intercollegiate athletics program operated by a public or private institution of higher education

and governed by the National Collegiate Athletic Association or any club sports team recognized by a public or private institution of higher education where the sport engaged in by such program or team involves the use of a firearm. Such activities in (f) above shall follow strict guidelines developed by such institutions for these activities and shall be conducted under the supervision of staff officials or such institutions.

(e) Notice of the restrictions imposed by this ordinance shall be posted (i) at all entrances of any building, or part thereof, owned or used by the city, or by any authority or local governmental entity created or controlled by the city, for governmental purposes; (ii) at all entrances of any public park owned or operated by the city, or by any authority or local governmental entity created or controlled by the city; (iii) at all entrances of any recreation or community center facilities operated by the city, or by any authority or local governmental entity created or controlled by the city.

(f) Any persons violating this code section shall be guilty of a Class 1 misdemeanor.

(Ord. No. 42020, § 1, 3-15-21; Ord. No. 42380, § 1, 6-21-22; Ord. No. 42402, § 1, 7-18-22)

**AFFIDAVIT OF
VIRGINIA CITIZENS
DEFENSE LEAGUE**

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN, and

MARK SMITH

PLAINTIFFS,

CASE NO. _____

v.

THE CITY OF ROANOKE

and

SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

AFFIDAVIT

This day appeared personally before me, a Notary Public in and for the Commonwealth and County aforesaid, the undersigned, after proof of identification, Philip Van Cleave, who being first duly sworn, gave oath to the best of the affiant's belief, knowledge, and intentions as follows:

1. I, Philip Van Cleave, am the President of Virginia Citizens Defense League (VCDL), and am authorized to testify on behalf of VCDL for matters set forth in this declaration.
2. I am a U.S. citizen and resident of Virginia.
3. I have personal knowledge of the facts stated herein, have reviewed the Complaint for Declaratory Relief and Application for Temporary and Permanent Injunction, and if called as a witness could competently testify thereto.
4. VCDL is a Virginia non-stock corporation with its principal place of business in Newington, Virginia.
5. VCDL is organized and operated as a nonprofit civic league that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code.
6. VCDL has tens of thousands of members and supporters, including some within this jurisdiction, and operates as a nonprofit, nonpartisan, grassroots organization dedicated to advancing the fundamental human rights of all Virginians to keep and bear arms as guaranteed by Article I, § 13 of the Constitution of the Commonwealth of Virginia.
7. In the past, VCDL has organized public gatherings for supporters of the right to keep and bear arms, such as in Winchester and annually in Richmond, the latter event being known as "Lobby Day."

8. Additionally, in the past, VCDL has organized at least two meetings which may have required a permit in Roanoke City for the purpose of promoting the concept of creating a Second Amendment Sanctuary.
9. At these public gatherings, current and prospective VCDL members often peacefully carry firearms as political speech and in the ordinary exercise of their natural rights to self-defense.
10. These public gatherings are vital to VCDL's fundraising efforts and organizational mission as a source of new membership and revenue.
11. Based on my experience having hosted numerous such gatherings in the past, the ability of current and prospective VCDL members to carry firearms at these events is crucial to their success.
12. VCDL observes poorer attendance, which leads to a corresponding decline in revenue, when we hold events where attendees are unable to carry firearms.
13. Together with Gun Owners of America (GOA) and Gun Owners Foundation (GOF), VCDL intends to host a public gathering in the City of Roanoke this year, where attendees, but for the Roanoke Ordinance challenged in this case, would peacefully carry firearms.
14. VCDL often hosts such events in public outdoor venues, such as city parks, due to their expansive space and relatively low costs of reservation and preparation.
15. It is my understanding that, under the Roanoke City Code, such a gathering would qualify as an event requiring a permit.

16. Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c) prevent attendees of future VCDL gatherings in Roanoke from congregating in City parks and at or near so-called “permitted events” while bearing arms.

17. In addition to violating our member’s right to bear arms, these Ordinance provisions also impair VCDL’s fundraising and recruitment mission by preventing VCDL from hosting pro-Article I, § 13 and pro-Second Amendment public gatherings where attendees bear arms.

18. VCDL is being irreparably harmed by Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c), which prohibits the constitutionally protected activity described above.

19. Additionally, the members represented by VCDL in this litigation are being irreparably harmed by Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c), which prohibits the constitutionally protected activity described above.

20. I certify under penalty of perjury that the foregoing is true and correct.

Philip VanCleave (SEAL)

COMMONWEALTH OR STATE OF Virginia
CITY/COUNTY OF Chesterfield, to-wit:

I, Taylor Manning, a Notary Public in and for the State and County aforesaid, do hereby certify that Philip VanCleave, whose name is signed to the foregoing Affidavit this 11 day of January, 2024, has this day personally appeared and acknowledged the same before me after sufficient proof of identity.

Given under my hand this 11 day of January 2024.



Taylor Manning
Notary Public

My commission expires: 01/31/2027

Registration #: 8025075

**AFFIDAVIT OF
GUN OWNERS OF AMERICA, INC.
AND
GUN OWNERS FOUNDATION**

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN, and

MARK SMITH

PLAINTIFFS,

CASE NO. _____

v.

THE CITY OF ROANOKE

and

**SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,**

DEFENDANTS.

AFFIDAVIT

This day appeared personally before me, a Notary Public in and for the Commonwealth and County aforesaid, the undersigned, after proof of identification, Erich Pratt, who being first duly sworn, gave oath to the best of the affiant's belief, knowledge, and intentions as follows:

1. I, Erich Pratt, am the Senior Vice President of Gun Owners of America, Inc. (GOA) and the Senior Vice President of Gun Owners Foundation (GOF), and am authorized to testify on behalf of GOA and GOF for matters set forth in this declaration.
2. I am a U.S. citizen and resident of Virginia.
3. I have personal knowledge of the facts stated herein, have reviewed the Complaint for Declaratory Relief and Application for Temporary and Permanent Injunction and, if called as a witness, could competently testify thereto.
4. GOA is a California non-stock corporation with its principal place of business in Springfield, Virginia. GOA is organized and operated as a nonprofit membership organization that is exempt from federal income taxes under Section 501(c)(4) of the U.S. Internal Revenue Code. GOA was formed in 1976 to preserve and defend the Second Amendment rights of gun owners. GOA's members and supporters include residents of and visitors to Roanoke.
5. GOF is a Virginia non-stock corporation with its principal place of business in Springfield, Virginia. GOF is organized and operated as a nonprofit legal defense and educational foundation that is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code. GOF is supported by gun owners across the country, and within Virginia.

6. GOA and GOF together have more than two million members and supporters nationwide, including thousands who are Virginia residents, some of whom reside in or visit this jurisdiction.
7. GOA and GOF frequently hold public gatherings, including rallies and picnics, for the purposes of fostering fellowship among supporters of the right to keep and bear arms, gaining new membership, and fundraising via donations.
8. In the past GOA and GOF have, along with VCDL, organized public gatherings for supporters of the right to keep and bear arms, such as in Winchester and annually in Richmond, the latter event being known as “Lobby Day.”
9. At these public gatherings, current and prospective GOA and GOF members and supporters often peacefully carry firearms as political speech and in the ordinary exercise of their natural rights to self-defense.
10. These public gatherings are vital to GOA and GOF’s fundraising efforts and organizational mission as a source of new membership and revenue.
11. Based on my experience having attended numerous such gatherings in the past, the ability of current and prospective GOA and GOF members and supporters to carry firearms at these events is crucial to their success.
12. GOA and GOF observe poorer attendance, which leads to a corresponding decline in revenue, when we hold events in locations where attendees are unable to carry firearms.
13. Together with the Virginia Citizens Defense League, GOA and GOF intend to host a public gathering in the City of Roanoke this year, where attendees, but for the Roanoke Ordinance challenged in this case, would peacefully carry firearms.

14. GOA and GOF often host such events in public outdoor venues, such as city parks, due to their expansive space and relatively low costs of reservation and preparation.

15. It is my understanding that, under the Roanoke City Code, such a gathering would qualify as an event requiring a permit.


16. Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c) prevent attendees of future GOA and GOF gatherings in Roanoke from congregating in City parks and at or near so-called "permitted events" while bearing arms.

17. In addition to violating ours members' and supporters' right to bear arms, these Ordinance provisions also impair GOA and GOF's fundraising and recruitment mission by preventing GOA and GOF from hosting pro-Article I, § 13 and pro-Second Amendment public gatherings where attendees bear arms.

18. GOA and GOF are being irreparably harmed by Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c), which prohibits the constitutionally protected activity described above.

19. Additionally, the members and supporters represented by GOA and GOF in this litigation are being irreparably harmed by Roanoke City Code § 24-2.1(a)(b), § 24-2.1(a)(d), and § 24-2.1(c), which prohibits the constitutionally protected activity described above.

20. I certify under penalty of perjury that the foregoing is true and correct.

 (SEAL)

COMMONWEALTH OR STATE OF
CITY/COUNTY OF Fairfax, to-wit:

I, Daniel Patrick Kane a Notary Public in and for the State and County aforesaid, do hereby certify that Eric Pratt, whose name is signed to the foregoing Affidavit this 11th day of January, 2024, has this day personally appeared and acknowledged the same before me after sufficient proof of identity.

Given under my hand this 11th day of January 2024.

Daniel Patrick Kane
Notary Public

My commission expires: 4/30/2025

Registration #: 103895

DANIEL PATRICK KANE
NOTARY PUBLIC
REGISTRATION # 103895
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
APRIL 30, 2025

**AFFIDAVIT OF
MAYNARD KELLER, JR.**

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN,

and

MARK SMITH

Case No.:

PLAINTIFFS,

v.

THE CITY OF ROANOKE,

and

SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

AFFIDAVIT

This day personally appeared before me, a Notary Public in and for the Commonwealth and County aforesaid, the undersigned, after proof of identification, Maynard Keller, Jr., who being first duly sworn, gave oath to the best of the affiant's belief, knowledge, and intentions as follows:

1. I, Maynard Keller Jr., am an American citizen of Jewish decent who resides in the City of Roanoke.
2. I am a member of Virginia Citizens Defense League (VCDL) and Gun Owners of America, Inc. (GOA).
3. I possess a valid Virginia Concealed Handgun Permit (CHP), and desire to carry a firearm to lawfully protect myself and my loved ones.
4. I am aware of incidents of violence directed toward Jewish individuals, including a massive rise in antisemitism, which is one of the reasons that I carry a firearm to protect myself and my family.
5. In fact, in October of 2023, there was a large anti-Israel protest in Blacksburg, with pro-Palestinian demonstrators chanting anti-Israel slogans.¹
6. I often frequent public parks and the Greenway Trails in the City of Roanoke, and desire to carry a firearm to protect myself in these locations. I intend to continue to visit the public parks and to continue to enjoy the Greenway Trails as I have been doing.
7. I also attend permitted events, such as the Roanoke Christmas and St. Patrick Day parades, in which I drive a classic car, and want to be able to lawfully carry a firearm at these events.

¹ https://roanoke.com/news/local/gaza-palestinians-israel-protest-blacksburg-virginia-tech-students-for-justice-in-palestine-young-democratic-socialists/article_29ab6068-6f9e-11ee-9e1f-2340bba806d2.html

8. As I travel through the City of Roanoke, which I do on a daily basis and will continue to do for the foreseeable future, I always carry my firearm, and am unsure at what times I may be adjacent to public events which would require a permit, even if no one obtained one.
9. Given that I carry my firearm to protect myself and my loved ones, I am at risk of being arrested and prosecuted due to Roanoke's Ordinance which seeks to make illegal what is otherwise constitutionally protected.
10. I reasonably fear arrest and prosecution if I am caught carrying a firearm in a City park, or at a permitted event or event otherwise requiring a permit, due to Roanoke's Ordinance.

Maynard Keller (SEAL)

COMMONWEALTH OR STATE OF Virginia
CITY/COUNTY OF Roanoke, to-wit:

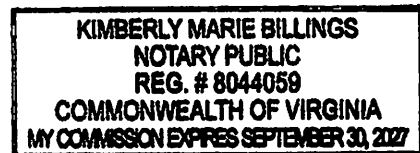
I, Kimberly Marie Billings, a Notary Public in and for the State and County aforesaid, do hereby certify that Maynard Keller, whose name is signed to the foregoing Affidavit this 9th day of January, 2024, has this day personally appeared and acknowledged the same before me after sufficient proof of identity.

Given under my hand this 9th day of January 2024.

Kimberly Marie Billings
Notary Public

My commission expires: September 30, 2027

Registration #: 8044059



**AFFIDAVIT OF
KAMERON HAMLIN**

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN,

and

MARK SMITH

Case No.:

PLAINTIFFS,

v.

THE CITY OF ROANOKE,

and

SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

AFFIDAVIT

This day personally appeared before me, a Notary Public in and for the Commonwealth and County aforesaid, the undersigned, after proof of identification, Kameron Hamlin who being first duly sworn, gave oath to the best of the affiant's belief, knowledge, and intentions as follows:

1. I, Kameron Hamlin am a United States citizen who resides in Franklin County Virginia.
2. I possess a valid Virginia Concealed Handgun Permit (CHP), and desire to carry a firearm to lawfully protect myself and my loved ones.
3. I am married, and have three children with my wife, all under the age of five.
4. I regularly visit Roanoke City parks with my family members. I intend to visit at least one Roanoke City park within the next 30 days with my family.
5. I also attend permitted events in Roanoke with my family on a regular basis and intend to visit future permitted events, including parades (such as the St. Patrick Day Parade) and Downtown events, including farmers markets which at times operate on closed-down public streets.
6. When visiting City parks and permitted events in Roanoke, I desire to carry a firearm to protect myself and my family.
7. I also carry a firearm as I travel through the City of Roanoke and am unsure of at what times I may be adjacent to public events which should require a permit, even if no one obtained one.
8. I fear arrest and prosecution if I am caught carrying a firearm in a City park, or at a permitted event or event otherwise requiring a permit, due to Roanoke's Ordinance.



(SEAL)

COMMONWEALTH OF STATE OF Virginia

CITY/COUNTY OF Roanoke, to-wit:

I, Faith Juliano, a Notary Public in and for the State and County aforesaid, do hereby certify that Kameron Hamlin, whose name is signed to the foregoing Affidavit this 11th day of January, 2024, has this day personally appeared and acknowledged the same before me after sufficient proof of identity.

Given under my hand this 11th day of JAN 2024.

Faith Juliano
Notary Public

My commission expires: 6/30/2025

Registration #: #7946961



**AFFIDAVIT OF
MARK SMITH**

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN,

and

MARK SMITH

Case No.:

PLAINTIFFS,

v.

THE CITY OF ROANOKE,

and

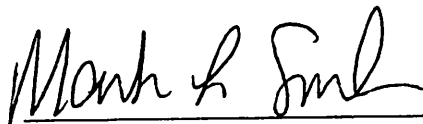
SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

AFFIDAVIT

This day personally appeared before me, a Notary Public in and for the Commonwealth and County aforesaid, the undersigned, after proof of identification, Mark Smith, who being first duly sworn, gave oath to the best of the affiant's belief, knowledge, and intentions as follows:

1. I, Mark Smith, am a United States citizen who resides in the County of Roanoke.
2. I possess a valid Virginia Concealed Handgun Permit (CHP), and carry a firearm to protect myself and my loved ones.
3. I enjoy hiking and walking in Roanoke City parks, and prior to passage of Roanoke's Ordinance banning firearms in City parks, I would routinely carry my firearm during such activities. I intend to continue, on a monthly basis, to utilize Roanoke City parks for my outdoor activities.
4. However, Roanoke passed an Ordinance largely criminalizing carrying a firearm in the places that I had always carried it. I desire to once again carry firearms when I visit Roanoke City parks, and but for the Ordinance, I would continue to carry my firearm in City parks.
5. I carry a firearm when I travel through the City of Roanoke and am unsure of at what times I may be adjacent to public events which should require a permit, even if no one obtained one.
6. I fear arrest and prosecution if I am caught carrying a firearm in a City park, or at or adjacent to a permitted event or event otherwise requiring a permit due to Roanoke's Ordinance.

 (SEAL)

COMMONWEALTH OR STATE OF Virginia
CITY/COUNTY OF Roanoke, to-wit:

I, Brittany Scherrep, a Notary Public in and for the State and County aforesaid, do hereby certify that Mark Smith, whose name is signed to the foregoing Affidavit this 9th day of January, 2024, has this day personally appeared and acknowledged the same before me after sufficient proof of identity.

Given under my hand this 9th day of January 2024.

Brittany Megan Scherrep
Notary Public

My commission expires: 09/30/2025

Registration #: 7953608

BRITTANY MEGAN SCHERREP NOTARY PUBLIC Commonwealth of Virginia Reg #7953608 My Commission Expires <u>09/30/2025</u>

**ATTORNEY GENERAL'S
NOTICE**

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE,

GUN OWNERS OF AMERICA, INC.,

GUN OWNERS FOUNDATION,

MAYNARD KELLER, JR.,

KAMERON HAMLIN,

and

MARK SMITH

PLAINTIFFS,

CASE NO. _____

v.

THE CITY OF ROANOKE

and

SCOTT BOOTH,
In His Official Capacity as Chief of Police
Roanoke Police Department
348 Campbell Avenue SW
Roanoke, Virginia 24016,

DEFENDANTS.

**NOTICE OF CONSTITUTIONAL CHALLENGE TO
ATTORNEY GENERAL**

Pursuant to Rule 3:14A of the Rules of the Supreme Court of Virginia, Plaintiffs file this notice of constitutional challenge to Roanoke City Code § 24-2.1(a)(b) (prohibition of firearms in city parks), § 24-2.1(a)(d) (prohibition of firearms in public places used by or adjacent to permitted and unpermitted events), and § 24-2.1(c) (security measures to prevent the carrying of firearms in the challenged locations) (collectively the “Roanoke Ordinance”).

Plaintiffs challenge Roanoke Ordinance subsections (a)(b), (a)(d), and (c) as violative of Article I, § 13 of the Virginia Constitution (right to keep and bear arms). In addition, Plaintiffs challenge subsection (a)(d) as violative of Article I, § 11 of the Virginia Constitution (due process of law).

Plaintiffs do not challenge the Roanoke Ordinance’s enabling statute, Va. Code § 15.2-915(E). However, the language of the Roanoke Ordinance mirrors that of the enabling statute.

Pursuant to Rule 3:14A(b)(1), the filing in which these Virginia constitutional challenges were raised is Plaintiffs’ enclosed Complaint for Declaratory Relief and Application for Temporary and Permanent Injunction.

Respectfully submitted,

VIRGINIA CITIZENS DEFENSE LEAGUE,
GUN OWNERS OF AMERICA, INC.,
GUN OWNERS FOUNDATION,
MAYNARD KELLER, JR.,
KAMERON HAMLIN, and
MARK SMITH

BY:



COUNSEL

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Winchester, VA 22601
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F: (540) 773-2414
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William J. Olson (VSB No. 15841)
William J. Olson, P.C.
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