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15 **IN THE UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **WESTERN DIVISION**

18 CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED;
19 THE SECOND AMENDMENT
FOUNDATION; and GUN OWNERS
20 OF CALIFORNIA, INC.,

21 Plaintiffs,

22 v.

23 CITY OF GLENDALE; GLENDALE
CHIEF OF POLICE CARL
24 POVILAITIS, in his official capacity;
GLENDALE CITY CLERK SUZIE
25 ABAJIAN, in her official capacity;
and DOES 1-10,

26 Defendants.
27
28

CASE NO:

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

42 U.S.C. §§ 1983 & 1988

1 NOW COME Plaintiffs California Rifle & Pistol Association, Incorporated,
 2 The Second Amendment Foundation, and Gun Owners of California, Inc.
 3 (collectively “Plaintiffs”), and allege against Defendants City of Glendale, Glendale
 4 Chief of Police Carl Povilaitis, and Glendale City Clerk Suzie Abajian (collectively
 5 “the City”) as follows:

6 INTRODUCTION

7 1. On July 17, 2022, a gunman opened fire at Greenwood Park Mall in
 8 Greenwood, Indiana. Tragically, the assailant managed to kill three people.
 9 Fortunately, his rampage was quickly cut short before it could get much worse
 10 thanks to the actions of 22-year-old Elisjsha Dicken. Dicken, who was legally
 11 carrying a concealed handgun, fired on the attacker several times from the
 12 impressive distance of 40 yards, killing him. Dicken’s actions likely saved the life
 13 of his girlfriend who was there with him, and countless others as well.¹

14 2. On August 4, 2018, 150 children at a back to school event in a Florida
 15 park were engaging in festivities when a shooter opened fire. Before anyone could
 16 be injured or killed, an unnamed armed bystander who was legally carrying a
 17 handgun shot down the gunman. Deputy Chief Todd Hutchinson commented “We
 18 are extremely grateful that nobody else was injured in this incident...This suspect
 19 opened fire at a crowded public park, this could have been so much worse.”²

20
 21 ¹ National Review Editors, *A Good Guy With a Gun*, National Review, (July 20,
 22 2022, 6:30 AM), <<https://www.nationalreview.com/2022/07/a-good-guy-with-a-gun/>> (as of October 6, 2022) (“Just 15 seconds elapsed between the beginning of
 23 the shooting at the Greenwood Park Mall and Elisjsha Dicken’s intervening. Had
 24 Dicken not been there, the three innocent people who were killed would have been
 25 joined by many others.”).

26 ² Kyle Swenson, *Bullets flew at a Florida ‘Peace in the City’ event for kids. An
 27 armed bystander was ready.*, Washington Post (August 7, 2018, 5:00 AM),
 28 <<https://www.washingtonpost.com/news/morning-mix/wp/2018/08/07/bullets-flew-at-a-florida-peace-in-the-city-event-for-kids-an-armed-bystander-was-ready/>> (as
 of October 6, 2022); see also Chip Skambis, *Police: Armed bystander takes down
 gunman at Titusville back-to-school event*, WFTV 9 ABC (August 24, 2018, 10:41
 AM), <<https://www.wftv.com/news/local/police-investigate-shooting-at-titusville-park/806192101/>> (as of September 7, 2022).

1 3. There are countless more examples of legally armed men and women
2 heroically stopping criminals and saving lives, many of which have been recorded
3 by the media. Such incidents range from people who stopped or mitigated mass
4 killing attempts, to those who prevented far more common muggings or assaults.
5 One database has recorded over 550 defensive gun use incidents so far in 2022
6 alone.³ Such databases can of course only capture incidents reported by the media,
7 leaving out many defensive gun uses that did not make the news.

8 4. The two heroic individuals described above, as well as the thousands
9 more who in recent years have defended themselves with their lawfully carried
10 handguns, come from diverse backgrounds and all walks of life. But many of them
11 have something in common. Had their heroic actions taken place in much of the
12 City of Glendale—which makes it unlawful to possess a firearm on all city-owned
13 or city-controlled property—these individuals would have likely been in violation
14 of Glendale’s Municipal Code.

15 5. Glendale Municipal Code section 9.25.040(A) (the “Ordinance”)
16 generally bans possession on “city property” of any firearm or ammunition, and
17 does not make any exception for those who have a license to carry a concealed
18 handgun (“CCW Permit”). The term “city property” is defined to include
19 effectively all public property within the City of Glendale, as well as some private
20 property, with the only exception being streets/roads and sidewalks. In sum, other
21 than streets/roads and sidewalks, the Ordinance makes it unlawful for the typical,
22 law-abiding adult to possess a firearm or ammunition on *any* public property,
23 publicly controlled-property, or public-affiliated private property in the City of
24 Glendale.

25
26
27 ³ Heritage Staff, *Defensive Gun Uses in the U.S.*, Heritage, (July 26, 2022),
28 <<https://datavisualizations.heritage.org/firearms/defensive-gun-uses-in-the-us/>> (as of October 6, 2022).

1 6. For example, Elisjscha Dicken stopped a shooting at the Greenwood
2 Park Mall. An equivalent major shopping complex in Glendale is the Americana at
3 Brand. The Americana is next to several parking structures people regularly use to
4 park at when visiting, including the Orange Street Parking Structure, the Exchange
5 Parking Garage, and the Marketplace Parking Structure. All three of those
6 structures are operated by the City of Glendale and thus are off limits for anyone
7 possessing a firearm. Had Mr. Dicken or someone like him parked their cars in such
8 a structure before going to the Americana, they'd be in violation of the Ordinance.⁴

9 7. The nameless hero in Florida who stopped the shooting at a park
10 hosting a back to school event would likewise be in legal trouble if his action had
11 occurred at a Glendale park. The City operates over 40 parks and recreation
12 facilities and several playgrounds, and all of them are off limits for anyone
13 possessing firearms.

14 8. Off limits for anyone possessing firearms *who respects the law*, that is.
15 Such limitations only actually stop law abiding people from possessing firearms,
16 and such people are not a threat anyway. Laws like the Ordinance do not stop
17 criminals and mass killers who are not troubled by violating rules related to
18 carrying firearms. Instead, they give individuals with ill-intent “soft targets” where
19 people are unlikely to be armed to resist them. In sum, the Ordinance burdens the
20 right of self-defense for the law-abiding, while empowering violent predators who
21 know that they are unlikely to face armed resistance at many public places in
22 Glendale.

23 9. Glendale's Ordinance is plainly unconstitutional. The Supreme Court
24 has unequivocally confirmed “that the Second and Fourteenth Amendments protect
25 an individual's right to carry a handgun for self-defense outside the home.” *N.Y.*

26 ⁴ Moreover, even if an individual walked to the mall to avoid this issue, if *any* of
27 the places they passed through, unbeknownst to the individual, were privately
28 owned but were under some contract with the City, they would also be illegal to
possess a firearm in under the Ordinance.

1 *State Rifle & Pistol Association v. Bruen*, 597 U.S. at ___, 142 S. Ct. 2111 (2022)
2 (“*Bruen*”). That right extends to any public area that is not a “sensitive place.”
3 *District of Columbia v. Heller*, 554 U.S. 570, 592, 626-27 (2008).

4 10. The Supreme Court has not expressly established the universe of
5 “sensitive places” where the right can be restricted. It has, however, provided the
6 examples of schools and certain government buildings such as “legislative
7 assemblies, polling places, and courthouses” *Bruen*, 142 S. Ct at 2133. Beyond
8 those specific places, the Court has instructed courts to look to history in
9 determining whether particular areas were considered “sensitive places” at either
10 the time of our Nation’s founding or the adoption of the Fourteenth Amendment.
11 *Id.* at 2135-36. While it noted that there may be “new and analogous sensitive
12 places” to those historically considered such, the Court also noted that the term
13 could not be so broad as to “include all ‘places where people typically congregate. .
14 . . .’” *Id.* at 2133 (citation omitted).

15 11. Plaintiffs are non-profit civil rights organizations representing their
16 members who hold CCW permits and are affected by the Ordinance either because
17 they live in Glendale or visit the City regularly.

18 12. Plaintiffs bring this action to vindicate their members’ Second
19 Amendment rights to publicly bear arms for self-defense in non-sensitive places.
20 The Ordinance infringes that right by criminalizing the mere possession of any
21 firearm or ammunition on effectively all public property (as well as some private
22 property) within the City of Glendale, predominantly including areas that have *not*
23 historically been considered “sensitive places” to which Second Amendment
24 protections do not extend.

25 13. The City has the burden to prove that all areas included in the term
26 “city property” are “sensitive places.” *Bruen*, 142 S. Ct at 2129-30 (explaining that
27 the government must “justify its regulation by demonstrating that it is consistent
28 with the Nation’s historical tradition of firearm regulation”). The City cannot meet

1 that burden. While a few particular portions of “city property” could conceivably
 2 qualify as a “sensitive place,” how the City defines that term is unconstitutionally
 3 overbroad. Indeed, the Ordinance restricts firearm and ammunition possession on
 4 *all* city property, including in open, unsecure places like parking lots, parking
 5 structures, plazas, and (literally) open spaces. No historical analogue for restricting
 6 arms in those areas exists. Otherwise, the right to bear arms could not be exercised
 7 in populated areas, a notion the Supreme Court has expressly rejected. *Id.* at 2133-
 8 34.

9 14. Accordingly, Plaintiffs seek declaratory relief confirming that (1) the
 10 Ordinance’s expansive definition of “city property” includes places that have not
 11 historically been considered “sensitive” to which Second Amendment protections
 12 do not extend; and (2) the City’s total restriction on average residents possessing a
 13 firearm or ammunition in those non-sensitive places violates the Second and
 14 Fourteenth Amendments.

15 15. Plaintiffs also seek preliminary and permanent injunctive relief
 16 enjoining the City from enforcing the Ordinance.

17 **PARTIES**

18 **Plaintiffs**

19 16. Plaintiff California Rifle & Pistol Association, Incorporated (“CRPA”)
 20 is a non-profit membership and donor-supported organization qualified as tax-
 21 exempt under 26 U.S.C. § 501(c)(4) with its headquarters in Fullerton, California.
 22 Founded in 1875, the CRPA seeks to defend the civil rights of all law-abiding
 23 individuals, including the fundamental right to bear firearms for lawful purposes,
 24 including the core purpose of self-defense.

25 17. CRPA regularly participates as a party or amicus in litigation
 26 challenging unlawful restrictions on the right to keep and bear arms. It also
 27 provides guidance to California gun owners regarding their legal rights and
 28 responsibilities. CRPA members include law enforcement officers, prosecutors,

1 professionals, firearm experts, and the general public.

2 18. CRPA members with CCW permits are harmed by the Ordinance
3 because it effectively makes their permits pointless in much of the City of Glendale
4 by declaring a multitude of places off limits for carry.

5 19. Plaintiff The Second Amendment Foundation (“SAF”) is a non-profit
6 membership organization. It is incorporated under the laws of the state of
7 Washington and was founded in 1974. SAF has over 700,000 members and
8 supporters nationwide, including thousands of members in California, many of
9 whom reside in Los Angeles county and live in or visit Glendale.

10 20. SAF is dedicated to promoting a better understanding about our
11 constitutional heritage to privately own, possess, and carry firearms through
12 educational and legal action programs designed to better inform the public about
13 gun control issues. SAF has been a pioneer in innovative defense of the right to
14 keep and bear arms, through its publications and public education programs like the
15 Gun Rights Policy Conference. SAF also expends significant sums of money
16 sponsoring public interest litigation to defend its own interests to disseminate
17 information to like-minded individuals, in an individualized setting like a gun
18 show, but SAF also seeks to defend the interests of its members in lawsuits like this
19 present effort. SAF members with CCW permits are harmed by the Ordinance
20 because it effectively makes their permits pointless in much of the City of Glendale
21 by declaring a multitude of places off limits for carry.

22 21. Plaintiff Gun Owners of California, Inc. (“GOC”) is a non-profit
23 organization incorporated under the laws of the state of California, with
24 headquarters in El Dorado Hills, California. GOC is dedicated to the restoration of
25 the Second Amendment in California. GOA members with CCW permits are
26 harmed by the Ordinance because it effectively makes their permits pointless in
27 much of the City of Glendale by declaring a multitude of places off limits for carry.

28 22. It should be noted that Plaintiffs did not file this suit alongside

1 individual plaintiffs because they could not, in good conscience, bring individuals
2 into this litigation until the newly enacted California Code of Civil Procedure
3 section 1021.11 is enjoined. All three Plaintiffs have filed lawsuits to stop that
4 blatantly unconstitutional fee shifting law, and once it is enjoined, this complaint
5 will likely be amended to include individual plaintiffs as well. That said, Plaintiffs
6 undoubtedly have associational standing on behalf of their members, and individual
7 plaintiffs are not necessary for this lawsuit to proceed.

8 23. Members of the associational Plaintiffs with CCW permits intend to
9 immediately to exercise their constitutional right to carry a firearm in public for
10 self-defense in all non-sensitive places in Glendale, but only refrain because they
11 are precluded from doing so because of the Ordinance. But for Defendants'
12 enforcement of municipal laws that prohibit members of the associational Plaintiffs
13 with CCW permits from lawfully carrying a firearm in public, they would
14 immediately begin carrying a firearm in public for self-defense in all non-sensitive
15 places in Glendale.

16 **Defendants**

17 24. Defendant City of Glendale (the "City") is an incorporated city in Los
18 Angeles County, California. The City is the entity that enacted, and is beneficially
19 interested in, the Ordinance.

20 25. Defendant Carl Povilaitis is the Chief of Police of the Glendale Police
21 Department. He is sued in his official capacity. He is charged with enforcing the
22 Ordinance, as codified in the Glendale Municipal Code.

23 26. Defendant Suzie Abajian is the City Clerk of Glendale. She is sued in
24 her official capacity. She is charged with recording, keeping, and printing the
25 ordinances of the City, including the Ordinance that is the subject matter of this
26 Complaint.

27 27. Based on information and belief, Plaintiffs allege that Does 1 through
28 10 are responsible for establishing, enforcing, or administering Glendale's

1 unconstitutional Ordinance, or are otherwise responsible for denying or limiting
2 Plaintiffs' members' right to bear arms. Plaintiffs will seek leave to amend this
3 Complaint when the true names and identities of Does 1 through 10 are
4 ascertained.

5 **JURISDICTION AND VENUE**

6 28. The Court has original jurisdiction of this civil action under 28 U.S.C.
7 § 1331, because the action arises under the Constitution and laws of the United
8 States, thus raising federal questions. The Court also has jurisdiction under 28
9 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the
10 deprivation, under color of the laws, statutes, ordinances, regulations, customs and
11 usages of the State of California and political subdivisions thereof, of rights,
12 privileges or immunities secured by the United States Constitution and by Acts of
13 Congress.

14 29. Plaintiffs' claims for declaratory and injunctive relief are authorized by
15 28 U.S.C. §§ 2201-2202, and their claim for attorneys' fees is authorized by 42
16 U.S.C. §1988.

17 30. Venue in this judicial district is proper under 28 U.S.C. §1391(b)(2)
18 because a substantial part of the events or omissions giving rise to the claims
19 occurred in this district, and Glendale is located within the Western Division of the
20 Central District.

21 **GENERAL ALLEGATIONS**

22 **[Right to Keep and Bear Arms]**

23 31. The Second Amendment to the United States Constitution provides:
24 "A well regulated Militia, being necessary to the security of a free State, the right of
25 the people to keep and bear Arms, shall not be infringed." U.S. CONST amend. II.

26 32. The Supreme Court has held that the Second Amendment right to keep
27 and bear arms is a fundamental, individual right that includes at its core the right of
28 law-abiding, competent adults to "possess and carry weapons in case of

1 confrontation.” *Heller*, 554 U.S. at 592.

2 33. The Supreme Court has also held that the Second Amendment right to
3 keep and bear arms, by way of its incorporation into the Fourteenth Amendment,
4 applies equally to prohibit infringement of that right by state and local
5 governments. *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010).

6 34. *Heller* established a “text, history, and tradition” framework for
7 analyzing scope of the Second Amendment questions. *Bruen*, 142 S. Ct. at 2127-29,
8 citing *Heller*, 554 U.S. at 634. The Court then assessed historical evidence to
9 determine the prevailing understanding of the Second Amendment at the time of its
10 ratification in 1791, and thereafter. Based on that assessment, the Court concluded
11 that the District of Columbia statute which prohibited possession of the most
12 common type of firearm in the nation (the handgun) lacked a Revolutionary-era
13 analog, did not comport with the historical understanding of the scope of the right,
14 and therefore violated the Second Amendment.

15 35. Most recently, the Supreme Court confirmed and clarified *Heller*’s
16 historical approach to analyzing the Second Amendment’s scope:

17 We reiterate that the standard for applying the Second Amendment is
18 as follows: When the Second Amendment’s plain text covers an
19 individual’s conduct, the Constitution presumptively protects that
20 conduct. The government must then justify its regulation by
21 demonstrating that it is consistent with the Nation’s historical tradition
22 of firearm regulation. Only then may a court conclude that the
23 individual’s conduct falls outside the Second Amendment’s
24 “unqualified command”.

25 *Bruen*, 142 S. Ct. at 2126.

26 36. In applying that test, the *Bruen* Court confirmed “that the Second and
27 Fourteenth Amendments protect an individual’s right to carry a handgun for self-
28 defense outside the home.” *Id.* at 2122.

37. To be sure, the Supreme Court has noted that the carrying of arms may
be restricted in certain “sensitive places.” But the Court has also noted that “the
historical record yields relatively few 18th- and 19th-century ‘sensitive places’

1 where weapons were altogether prohibited” *Id.* at 2133. So far, the Court has
 2 only identified schools and certain government buildings such as “legislative
 3 assemblies, polling places, and courthouses . . .” as being such “sensitive places.”
 4 *Ibid.* Further, the Court cautioned that “expanding the category of ‘sensitive
 5 places’ simply to all places of public congregation that are not isolated from law
 6 enforcement defines the category of ‘sensitive places’ far too broadly...[it] would
 7 in effect exempt cities from the Second Amendment and would eviscerate the
 8 general right to publicly carry arms for self-defense.” *Id.* at 2134.

9 38. The Second and Fourteenth Amendments thus guarantee to all law-
 10 abiding, competent adults the right to carry firearms and ammunition for self-
 11 defense in all public areas that have *not* historically been considered “sensitive
 12 places” or are analogous to such places.

13 **[Americans With CCW Permits are Overwhelmingly Law-Abiding]**

14 39. Even before the *Bruen* ruling, over 40 states were either “shall issue,”
 15 where a permit must be issued to all citizens who apply and qualify for one, or
 16 “constitutional carry,” where anyone who is legally allowed to own a gun may
 17 carry a pistol concealed or openly without a permit. Millions of law-abiding
 18 Americans have legally carried firearms for years.

19 40. Because California permit-issuance is done at the county level, most
 20 counties in the state were effectively “shall issue” despite the unconstitutional good
 21 cause requirement that was previously allowed to be enforced. For instance,
 22 Tehama County Sheriff’s Department states on its Concealed Weapons Permits
 23 website that “Sheriff-Coroner Dave Hencratt supports the right of law-abiding
 24 citizens to keep and bear arms. In this regard, all qualified residents of Tehama
 25 County are eligible to apply for a permit to carry concealed weapons.”⁵ As another

26
 27 ⁵ “Concealed Weapons Permits - Tehama County Sheriff’s Office,”
 28 <<https://tehamaso.org/administration/licenses-permits/concealed-weapons/>> (as of
 October 6, 2022).

1 example, San Joaquin County Sheriff's Department expressly states on its website
 2 that "[p]ersonal protection or self-defense is sufficient to establish good cause" for
 3 the issuance of a permit.⁶

4 41. Despite most counties in California being effectively "shall issue" for
 5 a long time, there has been no crime problem resulting from people issued CCW
 6 permits in those counties. In fact, when the state recently tried to pass a law (Senate
 7 Bill 918) that would have violated the right to carry by making most public places
 8 off limits even for those with a CCW permit, it was opposed by the California State
 9 Sheriffs Association partially because of the fact that people with CCW permits
 10 almost never commit crimes and are not a problem for law enforcement. The
 11 Association stated in a letter to all members of the California State Assembly that
 12 SB 918 "greatly restricts when and where licensees may carry concealed and could
 13 severely restrict the exercising of [the right to bear arms]...*individuals who go*
 14 *through the process to carry concealed legally are exceedingly unlikely to violate*
 15 *the law*, yet SB 918 turns much of the state into 'no-carry' zones that will do
 16 nothing to foster public safety." (Italics added.)

17 42. The evidence available from other states also establishes how
 18 overwhelmingly peaceable and law-abiding people with CCW permits are. As one
 19 example, in 2020 Texas had 1,626,242 active conceal carry weapon license
 20 holders.⁷ That made people with such licenses 5.7% of Texas's population, yet
 21 according to the Texas Department of Public Safety, they only committed 0.4334%
 22 of the State's serious crimes, being responsible for just 114 out of a total of 26,304
 23 convictions. Even among those few convictions, only some of the crimes involved a
 24 gun at all. And of the ones that do, license holders are responsible an even smaller

25 ⁶ "Concealed Weapon Permit | San Joaquin County Sheriff's Office,"
 26 <<https://www.sjsheriff.org/concealed-weapon-permit/>> (as of October 6, 2022).

27 ⁷ All data for Texas is from the Texas Department of Public Safety and can be
 28 found at <<https://www.dps.texas.gov/section/handgun-licensing/demographic-reports-fiscal-year-2020>> (as of October 6, 2022).

1 proportion of them. For example, there were 1,441 convictions for aggravated
 2 assault with a deadly weapon in 2020, but people with a valid concealed weapon
 3 license were responsible for just 4 of those, or 0.2776% of the total, again way
 4 below their 5.7% share of the population as a whole.

5 43. The State of Florida confirms this phenomenon as well. As of
 6 September 30, 2022, the State had issued a total of 5,485,676 concealed weapon
 7 licenses since October 1, 1987, of which 2,578,630 are currently active.⁸ In that
 8 nearly 25-year timespan, only 17,286 permits have been revoked without being
 9 subsequently reinstated, or roughly 0.3% of the total issued.

10 44. Florida was the state where the modern right-to-carry movement
 11 originally gathered steam (though a handful of states had liberal permit-issuance
 12 policies before then). The State's enactment of shall-issue permitting was met with
 13 breathless predictions of wild-west style violence and "blood in the streets", but
 14 none of that happened. Indeed, at least one prominent opponent admitted his error,
 15 with Florida Representative Ronald A. Silver stating in 1990 that "There are lots of
 16 people, including myself, who thought things would be a lot worse as far as that
 17 particular situation [carry reform] is concerned. I'm happy to say they're not."
 18 Clayton E. Cramer & David B. Kopel, *"Shall Issue": The New Wave of Concealed*
 19 *Handgun Permit Laws*, 62 Tenn. L. Rev. 679, 692-93 (1995). John Fuller, general
 20 counsel for the Florida Sheriffs Associated, added: "I haven't seen where we have
 21 had any instance of persons with permits causing violent crimes, and I'm constantly
 22 on the lookout." *Id.* The Metro Dade Police Department originally kept detailed
 23 records of every incident involving concealed weapon licensees from enactment of
 24 the new law in 1987 until August 31, 1992. They stopped doing so because the
 25 rarity of such incidents made the effort a waste of time. *Id.*

26
 27 ⁸ All data for Florida is from the Florida Division of Licensing and can be found at
 28 <<https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports>> (as of
 October 6, 2022).

45. Finally, the State of Minnesota goes a step further and identifies not just the infrequent crimes committed by people with valid carry permits, but also what proportion of those crimes involve firearms. According to the Minnesota Department of Public Safety, the state had 387,013 valid carry permits in 2021, and only 40 permits were revoked that year.⁹ In addition, 3,863 crimes were committed by people with carry permits. This sounds much larger than the statistics from Texas or Florida, but that's simply because Minnesota greatly expands the definition of what constitutes a "crime". Indeed, of those 3,863 crimes, more than 60% were DWIs or other traffic offenses. Just over 2% of the crimes, or about 80 of them, were crimes in which a firearm was used in furtherance of the crime. In other words, in Minnesota, only about 0.02% of people with carry permits used a firearm in furtherance of a crime in 2021.

46. There are certainly more states with similar data that could be examined here, but Plaintiffs believe these three examples, along with the California State Sheriffs Association's letter regarding the failed SB 918, make the point: Even if Defendants could use "public safety" as a reason to curtail the right to carry in places that aren't truly sensitive, and they cannot because *Bruen* forbade such interest balancing, people with carry permits are dramatically more law abiding than the population as a whole and are thus very unlikely to ever pose a threat the City needs to concern itself with. Fear of CCW permit holders is completely irrational, given these statistics. The Ordinance is thus a solution in search of a problem, but unfortunately, one which dramatically violates Plaintiffs' constitutional right to carry.

[Glendale's Ordinance]

47. Glendale Municipal Code section 9.25.040(A) (the "Ordinance"),

⁹ All data for Minnesota is from the Minnesota Department of Public Safety Bureau of Criminal Apprehension and can be found at <https://dps.mn.gov/divisions/ooc/news-releases/Pages/BCA-Releases-2021-Permit-to-Carry-Annual-Report.aspx> (as of August 14, 2022).

1 provides:

2 No person shall:

3 A. Bring onto or possess on city property:

- 4 i. A firearm, loaded or unloaded.
 5 ii. Ammunition for a firearm.

6 48. The term “city property” in the Ordinance:

7 Means real property, including any buildings thereon, owned, leased,
 8 or subleased by the City of Glendale (“city”) and in the city’s
 9 possession—or in the possession of a public or private entity,
 10 corporation, or person under contract with the city to perform a public
 purpose—including, but not limited to, the following property: parks,
 playgrounds, open space, plazas, community centers, facilities
 (including the Glendale Civic Auditorium, the city’s civic center
 complex, and city libraries), parking lots, and parking structures.

11 *Id.* at § 9.25.030 (2022).

12 The term, however, “[d]oes not include the public right-of-way owned by the
 13 city, including any area across, along, on, over, upon, and within the dedicated
 14 public alleys, boulevards, courts, lanes, roads, sidewalks, streets, and ways within
 15 the city.” *Id.*

16 49. As of 2013, when the City made legislative findings concerning the
 17 Ordinance, City Property on which firearms were banned included, but was not
 18 limited to: 47 parks and recreation facilities (including four community centers, one
 19 golf course, three soccer fields, and sixteen ball fields), all City playgrounds, eight
 20 public libraries, three downtown parking structures and other City-owned or
 21 operated parking lots, the Glendale Civic Auditorium and civic center complex, a
 22 youth center, an emergency center, undefined “open spaces” and “plazas,” and an
 23 unknowable amount of properties in the possession of private companies under
 24 contract with the city. Plaintiffs are not aware what other property the City may
 25 own that was not listed in the 2013 findings (including property the City may have
 26 acquired or taken under its control since those findings were made) but any such
 27 property would be included as well.

28 50. The term “ammunition” as used in the Ordinance “means any

ammunition as defined in California Penal Code section 16150 [].” *Id.* California Penal Code section 16150 includes as “ammunition” (1) any “loaded cartridges consisting of a primed case, propellant, and with one or more projectiles;” and (2) “any bullet, cartridge, magazine, clip, speed loader, autoloader, ammunition feeding device, or projectile capable of being fired from a firearm with a deadly consequence,” but “does not include blanks.”

51. The term “firearm” as used in the Ordinance “Means any gun, pistol, revolver, rifle, or any device, designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion,” including any “firearm” as defined in California Penal Code section 16520; any “BB device” as defined in California Penal Code Section 16250; and any “imitation firearm” as defined in California Penal Code Section 16700(a). GLENDALE, CAL. MUNICIPAL CODE § 9.25.030 (2022)

52. The term “unloaded” as used in the Ordinance means:

- a. No ammunition is in the firearm’s chamber or cylinder; and
- b. No ammunition, clip, tube, speed loader, or magazine that is compatible with the firearm and that contains ammunition is on the person who is carrying the firearm.

53. The only exceptions to the Ordinance apply to specific, limited groups of people, such as law enforcement, military, security guards, those delivering firearms or ammunition to Glendale police, and authorized participants in entertainment productions, or to persons lawfully relinquishing their firearms to Glendale police. *Id.* at § 9.25.050.¹⁰ There is no exception for people with valid CCW permits.

54. The Ordinance’s related “Findings” note that “the city council, in its proprietary capacity, wishes to keep city properties free from firearms and ammunition . . . , with the [indicated] exceptions.” *Id.* at § 9.25.020. Of course, that

¹⁰ There is an exception for “using the City’s target range” but it is meaningless because no such range exists. GLENDALE, CAL. MUNICIPAL CODE § 9.25.050 (2022).

1 violates *Bruen*, which mandates that the right to carry be allowed in all non-
 2 sensitive places.

3 55. Penalties for violating the Ordinance, which the City classifies as a
 4 misdemeanor, include a fine of up to \$1,000.00, imprisonment for up to six months,
 5 or both. *Id.* at § 1.20.010 (A).

6 [Relevant California Firearm Laws]

7 56. California law generally prohibits carrying firearms on one's person or
 8 within a vehicle (unless it is unloaded and in a locked container) in all public
 9 places¹¹ other than remote locations where the discharge of firearms is not
 10 prohibited. *See* CAL. PENAL CODE §§ 25850, 25400, 26350 & 26400 (Deering
 11 2022).

12 57. However, California authorizes city police chiefs and county sheriffs
 13 to issue concealed CCW permits to their residents, which licenses allow the
 14 licensees to carry a loaded handgun concealed in public. *Id.* §§ 26150-26155.
 15 Outside of certain remote locations, there is no lawful way to generally carry a
 16 firearm publicly in California other than having such a CCW permit. Californians'
 17 right to bear arms thus depends on them obtaining such license.¹² A license to carry
 18 concealed is generally valid statewide. *Id.* § 26200.

19 [Abrogation of Plaintiffs' Members' Right to Bear Arms and Right to Due 20 Process]

21 58. Plaintiffs' members, or at least the overwhelming majority of them, do
 22

23 ¹¹ California's carry laws do not define the term "public place." Whether a location
 24 is deemed a public place depends on the specific facts of each case and
 appropriately turns on whether the public can lawfully enter the area with little
 difficulty. *See, e.g., People v. Cruz*, 44 Cal. 4th 636, 674 (2008).

25 ¹² Until recently, California law required "good cause" to issue a permit. CAL.
 26 PENAL CODE § 26150(a)(2) (Deering 2022). That requirement fails under *Bruen*, as
 27 the Attorney General of California has already confirmed through a legal alert
 memorandum he sent out directing state and local officials to cease enforcing it. A
 28 copy of that legal alert can be found here: <https://crpa.org/news/blogs/ag-bonta-good-cause-requirement-is-unconstitutional/> (as of October 6, 2022).

1 not meet any of the narrow exceptions to the Ordinance’s restriction on possessing
2 firearm or ammunition on “city property.”

3 59. As described above, the Ordinance prohibits members of the
4 associational Plaintiffs with CCW permits from possessing a firearm or ammunition
5 on almost all public property within the City of Glendale, as well as some private
6 property if it is under contract to perform a public purpose. Indeed, the only public
7 property where firearms or ammunition can be possessed under the Ordinance are
8 on roads/streets and sidewalks.

9 60. This of course violates the right to carry as discussed in *Bruen*. There,
10 the Court said that while some places are sensitive, the historical record supports
11 the existence of “relatively few” such sensitive places. *Bruen*, at 2133. None of
12 Glendale’s city property as defined in the Ordinance appears to qualify as a
13 “sensitive place” where restrictions on firearm and ammunition possession have
14 traditionally been allowed.¹³ There is no “well-established and representative
15 historical analogue,” *id.*, for restricting carry in parks and recreation facilities,
16 playgrounds, public libraries, parking structures and other parking lots, civic
17 centers, undefined “open spaces” and “plazas”, and properties in the possession of
18 private companies under contract with the city.

19 61. The Ordinance thus precludes Plaintiffs’ members from exercising
20 their Second Amendment rights to bear arms for self-defense in several areas where
21 those rights are guaranteed, i.e., *non*-sensitive places.

22 62. Defendants also violate Plaintiffs’ members’ Due Process rights by not
23 requiring all places where carry is forbidden to put up signs clearly stating that to be
24 the case. Members of the associational Plaintiffs with CCW permits may have no
25 idea a particular place is off limits for carry (e.g., when they aren’t aware that a
26 parking structure they entered is owned by the City, or when a private business they

27 ¹³ To the extent the City owns or operates any schools, courthouses, or closely
28 analogous places like that which are actually sensitive under *Heller* and *Bruen*,
Plaintiffs do not challenge restrictions on carrying in such places with this lawsuit.

1 entered is under some contract with the City, etc.), so they would be committing a
2 crime they had no notice of ahead of time.

3 63. As the Supreme Court has established, the general maxim that
4 ignorance of the law is no excuse is limited by the Due Process requirement of
5 notice. “Ingrained in our concept of due process is the requirement of notice. Notice
6 is sometimes essential so that the citizen has the chance to defend charges. Notice is
7 required before property interests are disturbed, before assessments are made,
8 before penalties are assessed.” *Lambert v. California*, 355 U.S. 225, 228 (1957). By
9 not requiring the posting of signs wherever the right to carry is prohibited, the City
10 robs Plaintiffs’ members who are exercising their right to carry of notice.

11 64. In sum, but for the Ordinance prohibiting the carrying of firearms in
12 non-sensitive places, members of the associational Plaintiffs with CCW permits
13 would carry firearms and ammunition on all City property in Glendale for the
14 lawful purpose of self-defense. They refrain from exercising that constitutional
15 right for fear of criminal liability for violating the Ordinance, and also because due
16 to the lack of signage notifying them whether particular places are prohibited, they
17 would have no notice if they inadvertently carried somewhere they shouldn’t.

18 **DECLARATORY RELIEF ALLEGATIONS**

19 65. There is an actual and present controversy between the parties.
20 Plaintiffs contend that the City’s Ordinance is unconstitutional both facially and as
21 applied to Plaintiffs’ members because it precludes Plaintiffs’ members and other
22 law-abiding individuals from exercising their fundamental right to publicly bear
23 arms in *non*-sensitive places. The City denies and disputes this. Plaintiffs desire a
24 judicial declaration of their rights and of the duties of the City in this matter.

25 66. Plaintiffs also allege that the Ordinance, in not requiring all places
26 where carry is forbidden to post signs clearly stating so, violates the right to Due
27 Process both facially and as applied to their members. Their members will
28 frequently not have notice as to whether a particular place in Glendale prohibits

1 carry otherwise. Defendants deny and dispute this. Plaintiffs desire a judicial
2 declaration of their rights and of the duties of the City in this matter on this
3 question.

4 **INJUNCTIVE RELIEF ALLEGATIONS**

5 67. Injunctive relief is necessary to prevent the City from enforcing its
6 Ordinances' restrictions. If an injunction does not issue, Plaintiffs will continue to
7 be irreparably injured by the Ordinance insofar as it precludes Plaintiffs' members
8 from exercising rights guaranteed by the Second and Fourteenth Amendments. The
9 City's enforcement of the Ordinance denies Plaintiffs' members the right to possess
10 firearms or ammunition in places that they are constitutionally entitled to do so,
11 including for the lawful purpose of carrying those arms for self-defense, without
12 subjecting themselves to risk of criminal prosecution.

13 68. The Ordinance also contains no signage requirement for places where
14 carry is forbidden, so Plaintiffs' members have no notice of whether or not they are
15 violating the law at many of the places they would like to carry. This violates
16 Plaintiffs' members' Due Process rights guaranteed by the Fourteenth Amendment.
17 To the extent that this Court deems any City property in Glendale to qualify as a
18 "sensitive place", the City should be required to post signs notifying people of that.

19 69. If not enjoined by this Court, Defendant will continue to enforce the
20 Ordinance in derogation of Plaintiffs' members' Second and Fourteenth
21 Amendment rights. Plaintiffs have no plain, speedy, and adequate remedy at law.
22 Damages are indeterminate and unascertainable, and would not fully redress any
23 harm suffered by Plaintiffs' members as a result of being unable to engage in
24 activity protected by the Second and Fourteenth Amendments, as they wish to do.

25 70. The injunctive relief sought would eliminate that irreparable harm and
26 allow Plaintiffs' members to exercise their right to possess a firearm and
27 ammunition in *non*-sensitive public places, including for self-defense. Accordingly,
28 injunctive relief is appropriate.

FIRST CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF
U.S. CONST. AMEND. II, XIV
RIGHT TO BEAR ARMS
42 U.S.C. § 1983
AGAINST ALL DEFENDANTS

71. Plaintiffs hereby re-allege and incorporate by reference the allegations in the foregoing paragraphs as if set forth fully herein.

72. The Ordinance prohibits possession of firearms and ammunition on almost all public property within Glendale, as well as some private property. The areas that the Ordinance covers include areas that are *not* “sensitive places” where restrictions on firearm and ammunition possession have traditionally been allowed, nor are they analogous to such places.

73. Plaintiffs’ members do not qualify for any of the Ordinance’s exceptions. As a result, they are prohibited from possessing a firearm or ammunition on any “city property,” which term includes areas that are *not* “sensitive places.”

74. By prohibiting law-abiding adults, like Plaintiffs’ members, from bearing arms for self-defense in places where the Second and Fourteenth Amendments guarantee their right to do so, the Ordinance violates those Amendments.

75. The City is thus propagating customs, policies, and practices that deprive Glendale residents and others visiting the City of Glendale, including Plaintiffs’ members, of their constitutional right to bear arms for self-defense “in case of confrontation” in *non*-sensitive public places, as guaranteed by the Second and Fourteenth Amendments.

76. The City cannot satisfy its burden to justify these customs, policies, and practices that preclude Plaintiffs’ members from exercising those fundamental rights.

77. Plaintiffs are thus entitled to declaratory and injunctive relief against such unconstitutional customs, policies, and practices.

SECOND CLAIM FOR DECLARATORY AND INJUNCTIVE RELIEF
U.S. CONST. AMEND. XIV
RIGHT TO DUE PROCESS (NOTICE)
42 U.S.C. § 1983
AGAINST ALL DEFENDANTS

78. Plaintiffs hereby re-allege and incorporate by reference the allegations in the foregoing paragraphs as if set forth fully herein.

79. The Ordinance prohibits Plaintiffs' members with CCW permits from carrying in several non-sensitive places, in violation of the Constitution. The areas that the Ordinance covers include areas that are not "sensitive places" where restrictions on firearm and ammunition possession have traditionally been allowed, nor are they analogous to such places.

80. As a result, Plaintiffs' members are prohibited from possessing a firearm or ammunition on any of the places listed in the Ordinance, which includes many areas that are not "sensitive places".

81. The Ordinance, however, contains no requirement that all the places it forbids Plaintiffs' members from carrying in post a sign notifying them that carry is prohibited there. Plaintiffs' members thus risk inadvertently entering a place where carry is prohibited despite their CCW permits, putting them in legal jeopardy. While some places may be obviously off limits, such as schools or courthouses, most others are not nearly as clear.

82. In this way, the Ordinance violates Plaintiffs' members' Due Process rights by not providing them sufficient notice. "Ingrained in our concept of due process is the requirement of notice. Notice is sometimes essential so that the citizen has the chance to defend charges. Notice is required before property interests are disturbed, before assessments are made, before penalties are assessed." *Lambert*, 355 U.S. at 228.

83. Defendants are thus propagating customs, policies, and practices that deprive Plaintiffs' members of their constitutional right to due process, as guaranteed by the Fourteenth Amendment.

84. Defendants cannot satisfy their burden to justify these customs, policies, and practices that violate due process.

85. Plaintiffs are thus entitled to declaratory and injunctive relief against such unconstitutional customs, policies, and practices.

PRAYER

WHEREFORE, Plaintiffs request that judgment be entered in their favor and against Defendants as follows:

1. A declaration that Glendale Municipal Code section 9.25.030’s definition of “city property” includes areas that are not “sensitive places” where restrictions on firearm and ammunition possession have traditionally been tolerated under the Second Amendment;

2. A declaration that Glendale Municipal Code section 9.25.040(A) violates the Second and Fourteenth Amendments facially and as applied to Plaintiffs' members inasmuch as it precludes law-abiding citizens from possessing a firearm or ammunition in public areas that are not "sensitive places" where restrictions on firearm and ammunition possession have traditionally been allowed because those Amendments guarantee the rights of responsible, law-abiding citizens to carry arms for self-defense in *non*-sensitive public places;

3. A declaration that Glendale Municipal Code section 9.25.040(A) violates due process by not requiring signage in all places that are off limits for carry, thus robbing Plaintiffs' members of notice regarding whether or not they are violating the law;

4. An order preliminarily and permanently enjoining the City and all officers, agents, servants, employees, and persons under the authority of the City, from enforcing Glendale Municipal Code section 9.25.040(A);

5. Costs of suit, including attorney's fees and costs pursuant to 42 U.S.C. § 1988; and

6. Any further or alternative relief as the Court deems just and proper.

1 Respectfully Submitted,

2 Dated: October 10, 2022

MICHEL & ASSOCIATES, P.C.

3 /s/ C.D. Michel

4 C.D. Michel

5 Counsel for Plaintiffs California Rifle & Pistol
Association, Incorporated and Second
Amendment Foundation

6 Dated: October 10, 2022

LAW OFFICES OF DON KILMER

7 /s/ Don Kilmer

8 Don Kilmer

9 Counsel for Plaintiff Second Amendment
Foundation