IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

LEONARD WILSON JR., GUN OWNERS OF AMERICA, INC., GUN OWNERS FOUNDATION, and the STATE OF MISSOURI, Plaintiffs, v. JACKSON COUNTY, MISSOURI, SHERIFF DARRYL FORTE, in his Official Capacity as the Sheriff of Jackson County, Missouri, and MELESA JOHNSON, in her Official Capacity as the Prosecutor of Jackson County, Missouri, Defendants.	)	Civil No.: 4:25-cv-487-BP

PLAINTIFFS' SUGGESTIONS IN SUPPORT OF THEIR MOTION FOR PRELIMINARY AND/OR PERMANENT INJUNCTION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases Page(s)

Statutes

Rules

Other Authorities

STATEMENT OF FACTS

Pursuant to Fed. R. Civ. P. 65(a), Leonard Wilson Jr., Gun Owners of America, Inc., Gun Owners Foundation, and the State of Missouri ("Plaintiffs") submit these suggestions in support of their motion for a preliminary and/or permanent injunction. Plaintiffs ask this Court to enjoin Defendants from enforcing Sections 1 and 3 of Jackson County Ordinance No. 5865, codified at Jackson County Code § 5577 (the "Ordinance") which, along with violating Missouri State law, unconstitutionally restrict the Second and Fourteenth Amendment rights of adults under the age of 21 to keep and bear arms, prohibiting them from acquiring and possessing handguns and so-called "handgun ammunition," along with so-called "semiautomatic assault rifles."

A. Defendants Knowingly Enacted an "Unlawful" Ordinance "Hoping for a Court Battle."

On November 4, 2024, the Jackson County Legislature passed the Ordinance. Section 1 of the Ordinance prohibits persons under 21 from purchasing "a handgun or handgun ammunition," and prohibits selling or transferring those items to such a person. Jackson County Code § 5577(1). Section 3 of the Ordinance prevents a person between 18 and 21 years old from possessing a "semiautomatic assault rifle," providing limited exceptions for (i) attending a safety course, (ii) target shooting, (iii) shooting on relatives' property who give permission, and (iv) for law enforcement/military. *Id*. at (3)(a)-(d). None of those exceptions apply to Plaintiffs' proposed course of conduct, discussed in detail below. Finally, the Ordinance does not define its key terms, failing to prescribe what constitutes "handgun ammunition" or a "semiautomatic assault rifle." Those who violate the Ordinance "shall on conviction be subject to punishment by a fine of not more than one thousand dollars ($1000) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both." Jackson County Code § 5520.[1]

[1] *See* https://tinyurl.com/2fvh5csp.

Jackson County Executive Frank White, Jr. initially vetoed the Ordinance, citing Missouri's firearm preemption statute, Mo. Rev. Stat. § 21.750, and explaining that the Ordinance "remains fundamentally flawed, unlawful, and counterproductive."[2] Bryan Covinsky, County Counselor, echoed these sentiments, adding that enactment of the Ordinance would "expose potential liability on behalf of Jackson County." *Id.* at 8. Even so, the Jackson County Legislature overrode the Executive's veto, and the Ordinance went into effect. *Id.* at 4. Speaking to local media, the Ordinance's sponsor, Manny Abarca, touted the Ordinance as a political point in favor of gun control, to "challenge[] the preemption laws put on by the state,"[3] noting that he "wrote this [Ordinance], knowing that it would be challenged, *hoping for a court battle*." *Id.*

B. Plaintiffs.

Plaintiff Leonard Wilson Jr. is a natural person, a citizen of the United States and of the State of Missouri, a resident of Miller County, and eligible to possess firearms under federal and Missouri law. Wilson is 18 years old, and a member of Plaintiff Gun Owners of America, Inc. *See* Declaration of Leonard Wilson Jr., ECF #1-2, ¶¶1-2. Wilson wishes to purchase a handgun and handgun ammunition from his uncle, who resides in Jackson County, and who has agreed to sell these things to Wilson. *Id.* ¶¶7-9; *see also* Compl. ¶¶18-21. However, because Wilson is under 21, his and his uncle's intended course of conduct is proscribed by Section 1 of the Ordinance, and they cannot consummate the transaction without violating the ordinance. ECF #1-2, ¶11. Wilson also intends to purchase an AR-15-style rifle within the next three months and wishes to transport it through Jackson County, Missouri, to visit his uncle's home and to target shoot at a range that he and his uncle frequent. *Id.* ¶12. Yet, solely because of his age, Section 3 of the Ordinance forbids Wilson's possession of "semiautomatic assault rifles," which the

[2] *See* https://tinyurl.com/5459ph55 at 5.
[3] https://tinyurl.com/ye2re8ty.

Ordinance does not define, but which Wilson believes might cover the AR-15 style rifle he wishes to purchase. Wilson reasonably fears arrest and prosecution under the Ordinance should he acquire, possess, and transport his desired AR-15 throughout Jackson County, or should he purchase a handgun and "handgun ammunition" – also not defined – from his uncle. Compl. ¶¶23-26. Wilson therefore has standing to challenge Defendants' enforcement of Sections 1 and 3 of the Ordinance. *See Gray v. City of Valley Park*, 567 F.3d 976, 984, 986 (8th Cir. 2009); *Saint Paul Area Chamber of Com. v. Gaertner*, 439 F.3d 481, 485 (8th Cir. 2006); Compl. ¶¶30-32, 35-41.

Plaintiff Gun Owners of America, Inc. ("GOA") has more than 2 million members and supporters across the country, including across Missouri and within Jackson County, Missouri. At least one of GOA's members, Plaintiff Wilson, is over the age of 18 but under the age of 21 and is affected by the Ordinance's ban on acquisition of handguns and "handgun ammunition," and prohibition of possession of "semiautomatic assault rifles" within Jackson County. *See* Compl. ¶27. Plaintiff Gun Owners Foundation ("GOF") is supported by gun owners across the country, including residents of Missouri, who fund the organization's activities so that it can, *inter alia*, file litigation such as this to preserve, protect, and defend their right to keep and bear arms. Some of GOF's supporters are over the age of 18 but under the age of 21 and, like Wilson, reside within or visit Jackson County, but are restricted in acquiring and possessing arms by the Ordinance's provisions. Compl. ¶28. Together, Plaintiffs GOA and GOF[4] have standing to represent the interests of their members and supporters in this litigation. *See Org. for Black Struggle v. Ashcroft*, 493 F. Supp. 3d 790, 798-99 (W.D. Mo. 2020); Declaration of Erich M. Pratt, ECF #1-3, ¶16.

[4] Although not a "traditional" membership organization, courts have found GOF to possess the "indicia of membership" under *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333 (1977), for purposes of representing its supporters' interests in litigation such as this. *See, e.g.*, *Texas v. BATFE*, 737 F. Supp. 3d 426, 438 (N.D. Tex. 2024).

Plaintiff State of Missouri is a sovereign State of the United States of America. Attorney General Andrew Bailey is authorized to bring actions on behalf of Missouri that are "necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary." Mo. Rev. Stat. § 27.060. Missouri also has *parens patriae* standing to assert its quasi-sovereign interest in protecting its citizens' constitutional rights against violation. *See, e.g.*, *New York ex rel. James v. Niagara-Wheatfield Cent. Sch. Dist.*, 119 F.4th 270, 281-82 (2d Cir. 2024); *Puerto Rico Pub. Hous. Admin. v. U.S. Dep't of Hous. & Urban Dev.*, 59 F. Supp. 2d 310, 324-27 (D.P.R. 1999). Missouri likewise has direct standing to assert its sovereign interest in "creat[ing] and enforc[ing] a legal code," *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 601 (1982), including its firearm preemption provision which is undermined by the Ordinance's flagrant attempt to regulate firearms. *See* Mo. Rev. Stat. § 21.750.

ARGUMENT

I. PRELIMINARY INJUNCTION STANDARD.

Considering a preliminary injunction motion, a court must "weigh[] four factors," including "(1) the threat of irreparable harm to the movant; (2) the state of balance between this harm and the injury that granting the injunction will inflict on other parties litigant; (3) the probability that movant will succeed on the merits; and (4) the public interest." *Wildhawk Invs., LLC v. Brava I.P., LLC*, 27 F.4th 587, 593 (8th Cir. 2022) (*en banc*). An "irreparable injury [is] an injury 'of such a nature that money damages alone do not provide adequate relief." *Reprod. Health Servs. v. Parson*, 1 F.4th 552, 562 (8th Cir. 2021). In this Circuit, the "likelihood of success on the merits is [the] most significant" factor. *Minn. Ass'n of Nurse Anesthetists v. Unity Hosp.*, 59 F.3d 80, 83 (8th Cir. 1995). Finally, "[t]he balance of harms and public interest factors merge

when the government is the opposing party." *Walen v. Burgum*, 2022 U.S. Dist. LEXIS 94978, at *6 (D.N.D. May 26, 2022). Each factor weighs heavily in Plaintiffs' favor here.

II. PLAINTIFFS ARE LIKELY TO SUCCEED ON THEIR CLAIMS.

A. The Ordinance Violates the Second Amendment.

1. Second Amendment Methodology.

The Second Amendment to the United States Constitution provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court employed a textual and historical framework to explain that the Second Amendment guarantees individuals the preexisting right to keep and carry arms for self-defense and defense of others in the event of a violent confrontation. *Id.* at 592. This right is fully applicable against the states under the Fourteenth Amendment. *McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010).

In *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), the Supreme Court reiterated this textual and historical approach, further holding that the Second and Fourteenth Amendments together guarantee individual Americans not only the right to "keep" firearms in their homes, but also the right to "bear arms," meaning "to carry a handgun for self-defense outside the home," free from infringement by any government. *Id.* at 10. Once again employing its Second Amendment framework in *United States v. Rahimi*, 602 U.S. 680, 692 (2024), the Court directed lower courts to look to *Bruen* for "the appropriate analysis."

Thus, the *Bruen* Court first explained that, "when the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." *Bruen*, 597 U.S. at 17. Second, the Supreme Court held that, "[t]o justify [a] regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm

regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's 'unqualified command.'" *Bruen*, 597 U.S. at 17; *see also Rahimi*, 602 U.S. at 692 ("considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition"). Third, in reviewing the historical evidence, the *Bruen* Court cabined review of relevant history to a narrow time period, because "not all history is created equal," focusing on the period around the ratification of the Second Amendment, and *perhaps* the Fourteenth Amendment, but only to the extent that it "mere[ly] confirm[s]" a Founding-era tradition. *Bruen*, 597 U.S. at 37. Indeed, the Court noted that "post-ratification" interpretations "cannot overcome or alter th[e] text," and "we have generally assumed that the scope of the protection applicable to the Federal Government and States is pegged to … 1791." *Id.* at 36, 37. Thus, the only appropriate inquiry, according to *Bruen*, is what the "public understanding of the right to keep and bear arms" was during the ratification of the Second Amendment *in 1791*. *Bruen*, 597 U.S. at 46-47.

Indeed, following the Supreme Court's instruction, the Eighth Circuit recently explained that "*Bruen* strongly suggests that we should prioritize Founding-era history." *Worth v. Jacobson*, 108 F.4th 677, 692 (8th Cir. 2024), *reh'g en banc denied*, 2024 U.S. App. LEXIS 21237 (8th Cir. Aug. 21, 2024), *certiorari denied*, 2025 U.S. LEXIS 1555 (Apr. 21, 2025). Indeed, "it is questionable whether the Reconstruction-era sources have much weight," and the Eighth Circuit has described "temporal distance from the founding" as a "serious flaw[]" of previously proffered historical regulations. *Worth*, 108 F.4th at 696, 697. Because the Ordinance regulates people, conduct, and weapons plainly protected by the Second Amendment, Defendants bear the heavy burden of proving the Ordinance comports with a Founding-era historical tradition of similar regulation. But Defendants cannot meet their burden, as no such tradition ever existed.

2. Sections 1 and 3 of the Ordinance Violate the Second Amendment.

a. Plaintiffs Belong to "the People."

The Ordinance prohibits any person "under twenty-one years of age" from "purchas[ing] a handgun or handgun ammunition" (and anyone from selling such things to such a person), and any person "at least eighteen years of age, but less than twenty-one years of age," from "possess[ing] a semiautomatic assault rifle." Jackson County Code §§ 5577(1), (3). But Plaintiffs – adults ages 18 to 20 – belong to "the people" protected by the Second Amendment. Indeed, *Heller* explained that, "in all six other provisions of the Constitution that mention 'the people,' the term unambiguously refers to all members of the political community, not an unspecified subset." *Heller*, 554 U.S. at 580. And there is no historical doubt that adults ages 18 to 20 enjoyed Second Amendment rights at the Founding and beyond, both within and without the militia context.[5] In fact, the Supreme Court already has surveyed this Founding-era historical tradition. In *United States v. Miller*, 307 U.S. 174 (1939), the Court collected representative state militia laws from Massachusetts, New York, and Virginia, enacted between 1784 and 1786, which *required* individuals as young as 16 periodically to train, in public, with firearms "provide[d] himself, at his own Expense." *Id.* at 181; *see also id.* at 180-82; *Heller*, 554 U.S. at 624 ("The traditional militia was formed from a pool of men bringing arms 'in common use at the time' for lawful purposes like self-defense."). And on May 8, 1792, months after the Second Amendment was ratified, the Second Militia Act, 1 Stat. 271, provided that "*every* free able-bodied white male citizen … who is or shall be of age of eighteen years, and under the age of forty-five years (except as is herein

[5] Because the Second Amendment's prefatory militia clause "does not limit" the Amendment's operative "right of the people" clause, "but rather announces a purpose" that serves a "clarifying function," the Second Amendment must protect, *at a minimum*, those persons who belong to the "Militia." *Heller*, 554 U.S. at 577, 578. Otherwise, there would be no "link between the stated purpose and the command" of the operative clause. *Id.* at 577.

after excepted) shall severally and respectively be enrolled in the militia" (emphasis added). There is no mistaking 18-to-20-year-olds' historical ownership and use of arms.

But even outside of the militia context, adults ages 18 to 20 retained the right to acquire, possess, and carry firearms at the Founding. As the Fifth Circuit recently observed, "[w]hile it may be true that eighteen-to-twenty-year-olds could not then serve on juries, firearm restrictions are notably absent from the government's list of founding-era age-limited civil and political rights." *Reese v. BATFE*, 127 F.4th 583, 591 (5th Cir. 2025). Indeed, "young individuals were expected to keep the peace rather than disturb it. In addition to serving in the militia, eighteen-to-twenty-year-olds could be obliged to join the *posse comitatus*, … and bring 'such arms or weapons as they have or can provide.'" *Id.* at 598 (citation omitted). Based on this indisputable historical record, the Fifth Circuit invalidated a federal prohibition on the commercial purchase of handguns by adults under the age of 21.

The Eighth Circuit has observed this same tradition.[6] Invalidating a Minnesota ban on public carry by 18-to-20-year-olds, the court explained that "Minnesota cites common law evidence that (as minors) 18 to 20-year-olds did not have full rights. Minnesota, however, does not put forward common law analogues restricting the right to bear arms." *Worth*, 108 F.4th at 695. Indeed, there are none. Thus, for purposes of this challenge, it is settled Circuit law that

[6] Likewise, the Third Circuit held that a Pennsylvania restriction on 18-to-20-year-olds' public carry of handguns is not "consistent with the principles that underpin founding-era firearm regulations...." *Lara v. Comm'r Pa. State Police*, 125 F.4th 428, 445 (3d Cir. 2025); *see also Firearms Pol'y Coal., Inc. v. McCraw*, 623 F. Supp. 3d 740, 756 (N.D. Tex. 2022) (Texas "cannot sufficiently establish that a *prohibition* on law-abiding 18-to-20-year-olds carrying a handgun in public for self-defense is consistent with this Nation's historical tradition of firearm *regulation*.").

adults under age 21 enjoy the right to public carry – conduct necessarily including the simple acquisition and possession of firearms that the Ordinance prohibits. *Id.* at 698.[7]

The historical evidence establishes a tradition of acquisition, ownership, possession, *and* public carry of commonly owned firearms by adults ages 18 to 20 – all conduct that Defendants now deny Plaintiffs. Indeed, the Eighth Circuit already held that "[o]rdinary, law-abiding, adult citizens that are 18 to 20-year-olds are members of the people because: (1) they are members of the political community under *Heller*'s 'political community' definition; (2) the people has a fixed definition, though not fixed contents;[8] (3) they are adults; and (4) the Second Amendment does not have a freestanding, extratextual dangerousness catchall." *Worth*, 108 F.4th at 689.

b. The Second Amendment Covers the Acquisition and Possession of Handguns, "Handgun Ammunition," and "Semiautomatic Assault Rifles."

The Ordinance prohibits Plaintiffs from "purchas[ing] a handgun or handgun ammunition" and "possess[ing] a semiautomatic assault rifle." Jackson County Code §§ 5577(1), (3). But the Second Amendment protects not only the ownership and possession of firearms, *Heller*, 554 U.S.

---

[7] The nonbinding Eleventh Circuit, which upheld a restriction on firearm purchases by 18-to-20-year-olds, was entirely unable to find a Founding-era *firearm regulation* restricting the Second Amendment rights of young adults, and instead pointed generally to Founding-era young adults' presumed "lack[]" of "cash and the capacity to contract" as evidence of an inability to *purchase* firearms. *NRA v. Bondi*, 133 F.4th 1108, 1123 (11th Cir. 2025), *petition for writ of certiorari filed sub nom. NRA v. Glass*, No. 24-1185 (U.S. May 16, 2025). *See also McCoy v. BATFE*, 2025 U.S. App. LEXIS 15056 (4th Cir. June 18, 2025) (upholding ban on 18-to-20-year-olds purchasing handguns from FFLs due to founding era *contract law*, not *firearm regulation*); *Cf. Reese*, 127 F.4th at 591 ("*firearm restrictions* are notably absent" from historical record); *Worth*, 108 F.4th at 695 (no "analogues restricting the *right to bear arms*"). Indeed, the Eleventh Circuit freely acknowledged that "Founding-era laws required minors to carry arms," and it "assume[d] that the Second Amendment protects individuals under the age of 21" with respect to firearm-related conduct *other* than purchases. *Id.* at 1123, 1130. Because the Ordinance bans both acquisition and possession/carry/use, *NRA v. Bondi* is of limited utility, even if its flawed reasoning were found persuasive. *Bondi* also cannot overcome *Worth*, which binds this Court.

[8] *See NRA*, 133 F.4th at 1180 (Brasher, J., dissenting) (citation omitted) (noting that 18-20 year olds "are analogous to legal adults at the time of the Founding," and to hold otherwise "is akin to 'applying the protections of the [Second Amendment] right only to muskets and sabers'").

at 583-84, but also the acquisition of those firearms as a necessary threshold act. Otherwise, there would be no firearms to "keep" or "bear" in the first place. *See Luis v. United States*, 578 U.S. 5, 26 (2016) (Thomas, J., concurring in the judgment) ("Constitutional rights thus implicitly protect those closely related acts necessary to their exercise."); *see also Griswold v. Connecticut*, 381 U.S. 479, 482-83 (1965) (listing numerous ancillary rights associated with "[t]he right of freedom of speech and press ... Without those peripheral rights the specific rights would be less secure."); *Bruen*, 597 U.S. at 70 ("The [Second Amendment] is not 'a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.'").[9] And because the Second Amendment must protect, *at minimum*, that conduct which effectuates its prefatory militia clause, *see supra*, the Second Amendment necessarily protects the right of 18-to-20-year-olds to

[9] *See also Reese v. BATFE*, 127 F.4th 583, 590 (5th Cir. 2025) ("the right to 'keep and bear arms' surely implies the right to purchase them."); *United States v. Gore*, 118 F.4th 808, 813 (6th Cir. 2024) ("[r]eceiving a firearm, of course, is protected because it is a logical antecedent to 'keep[ing]' a firearm."); *United States v. Knipp*, 2025 U.S. App. LEXIS 12054, at *7 (6th Cir. May 19, 2025) ("the Second Amendment's text … 'covers' th[e] right … to obtain firearms…."); *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011) ("The right to possess firearms for protection implies a corresponding right to acquire and maintain proficiency in their use…."); *Teixeira v. County of Alameda*, 873 F.3d 670, 677 (9th Cir. 2017) ("As with purchasing ammunition and maintaining proficiency in firearms use, the core Second Amendment right to keep and bear arms for self-defense 'wouldn't mean much' without the ability to acquire arms."); *Andrews v. State*, 50 Tenn. 165, 178 (1871) ("The right to keep arms, necessarily involves the right to purchase them … and to purchase and provide ammunition suitable for such arms...."); *Lynchburg Range & Training, LLC v. Northam*, 2020 Va. Cir. LEXIS 57, at *6 (Lynchburg Cir. Ct. Apr. 27, 2020) ("the right to keep and bear arms 'inclu[des] the otherwise lawful possession, carrying, transportation, sale, or transfer of firearms...."'); *Kole v. Village of Norridge*, 2017 U.S. Dist. LEXIS 178248, at *29 (N.D. Ill. Oct. 27, 2017) ("The founding-era sources cited by plaintiffs are more relevant. *E.g.*, Thomas Jefferson … 'Our citizens have always been free to make, vend, and export arms.'"); *Bezet v. United States*, 276 F. Supp. 3d 576, 605 (E.D. La. 2017) ("inhibit[ing] the ability to acquire … weapons … likely impinge[s] on the rights … to possess and carry firearms"), aff'd, 714 F. App'x 336 (5th Cir. 2017); *Ill. Ass'n of Firearms Retailers v. City of Chicago*, 961 F. Supp. 2d 928, 930 (N.D. Ill. 2014) ("This right must also include the right to acquire a firearm...."). Even the Fourth and Eleventh Circuits, which wrongly ruled against the rights of 18-20 year olds, assumed that acquisition was protected. *See McCoy*, 2025 U.S. App. LEXIS 15056, *11 (4th Cir. June 18, 2025); *see also NRA*, 133 F.4th at 1114 (implicit recognition of acquisition as "arms-bearing conduct").

acquire firearms to then possess. *See Miller*, 307 U.S. at 181 (collecting Founding-era militia statutes requiring those under 21 to "provide himself, at his own Expense, with a good Musket or Firelock," and then to "appear at his respective muster-field … armed, equipped, and accoutred").

c. Handguns, Ammunition, and "Semiautomatic Assault Rifles" Are "Arms."

Finally, the Ordinance regulates handguns, "handgun ammunition," and "semiautomatic assault rifles." Jackson County Code §§ 5577(1), (3). Each is protected by the Second Amendment's plain text. With respect to the term "Arms," the Supreme Court explained that such term includes "any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another," and at the Founding, "all firearms constituted 'arms.'" *Heller*, 554 U.S. at 581. Thus, because not only those items and activities in "existence in the 18th century are protected" by the Constitution, "the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding," *id.* at 582, and "that general definition covers modern instruments that" so much as "*facilitate* armed self-defense." *Bruen*, 597 U.S. at 28 (emphasis added); *see also Rahimi*, 602 U.S. at 691-92 (refusing to "apply[] the protections of the right only to muskets and sabers."). Thus, so long as a weapon is "bearable," the Second Amendment will presumptively protect it, and the constitutionality of a regulation of such weapon's acquisition or possession will be a historical question whose burden the government bears. *Bruen*, 597 U.S. at 17, 28. Defendants will be unable to show any historical tradition (not surety laws, or affray statutes, or anything else) at the Founding to support the Ordinance's *ban* on acquisition and possession of common modern arms.

Next, irrespective of the presence or absence of any historical tradition, the items restricted by the Ordinance are protected "arms" *because the Supreme Court has said so expressly*. *See Heller*, 554 U.S. at 629 (handguns are protected arms). Likewise, with respect to the so-called

"semiautomatic assault rifle" that Wilson wishes to purchase, a *unanimous* Supreme Court recently called the AR-15 "the most popular rifle in the country." *See Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 145 S. Ct. 1556 (2025). Jackson County's Ordinance is thus the Second Amendment equivalent of banning the King James Bible.

Next, the ammunition used in firearms is protected. *See Jackson v. City & Cty. of S.F.*, 746 F.3d 953, 967 (9th Cir. 2014)) ("without bullets, the right to bear arms would be meaningless."); *see also Andrews v. State*, 50 Tenn. 165, 178 (1871) ("The right to keep arms, necessarily involves the right to … purchase and provide ammunition suitable for such arms"); *Gazzola v. Hochul*, 88 F.4th 186, 195 (2d Cir. 2023) (per curiam) ("A State cannot circumvent [Second Amendment doctrine] by banning outright the sale or transfer of … necessary ammunition."); *see also* Mo. Const. art. I, § 23 (emphasis added) (securing "the right of every citizen to keep and bear arms, *ammunition*, and accessories typical to the normal function of such arms").

Next, handguns, "handgun ammunition," and "semiautomatic assault rifles" are protected for an additional reason – they "are weapons 'in common use' today for self-defense." *Bruen*, 597 U.S. at 21, 32 (cleaned up); *see also id.* at 47 (even historical analogues are "no justification for laws restricting the public carry of weapons that are unquestionably in common use today"). And as for whether weapons other than handguns are in "common use," the Court has found protection based on as few as "approximately 200,000" examples owned nationwide. *Caetano v. Massachusetts*, 577 U.S. 411, 420 (2016) (Alito, J., concurring in the judgment). The hundreds of millions of ubiquitous "arms" restricted by the Ordinance are undoubtedly in "common use" and therefore protected without further analysis.

Finally, and once again, the Second Amendment *at a minimum* must protect those "Arms" necessary for effectuating its prefatory militia clause. Thus, the Second Amendment protects the

right of 18-to-20-year-olds to purchase, own, and possess "ordinary military equipment." *Miller*, 307 U.S. at 178. Thus, to the extent Defendants might argue that certain firearms are too sophisticated, too dangerous, or too modern for ordinary Americans to possess, the militia clause undermines such claims.

B. The Ordinance Violates the Due Process Clause.

As the Supreme Court stated, "a vague law is no law at all." *United States v. Davis*, 588 U.S. 445, 447 (2019). Due process "requires legislatures to set reasonably clear guidelines … to prevent 'arbitrary and discriminatory enforcement.'" *Smith v. Goguen*, 415 U.S. 566, 572-73 (1974). Violating these principles, the Ordinance leaves common persons unable to determine what they may and may not do, and invites arbitrary application. For example, Section 1 of the Ordinance prohibits anyone under 21 years of age from purchasing what it labels "handgun ammunition," but fails to define just what it is that qualifies, leaving Plaintiffs to guess. Since many, if not most, common ammunition calibers can be used in *both* handguns and rifles, the term "handgun ammunition" is hopelessly ambiguous and thus unconstitutionally vague. Similarly, Section 3 of the Ordinance prohibits 18-to-20 year olds from possessing a "semiautomatic assault rifle," another undefined term. Plaintiffs believe certain firearms likely qualify under this undefined term of art – but they have no way of knowing for sure – leaving them entirely unable to determine what sort of firearms are prohibited, versus what they may possess. It is obviously unacceptable when those seeking to exercise their enumerated right to "keep and bear arms" cannot even determine which arms they are permitted to keep and bear. Because the Ordinance's key terms are undefined, it is void for vagueness, "fail[ing] to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute." *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972).

C. The Ordinance Violates Missouri's preemption clause.

The Ordinance also is plainly preempted. Missouri's firearm preemption law, Mo. Rev. Stat. § 21.750(2), prohibits any "county, city, town, village, municipality, or other political subdivision of this state" from "adopt[ing] any order, ordinance or regulation concerning in any way" the "purchase," "sale," "transfer," or "possession" of "firearms" or "ammunition." The Ordinance expressly and openly violates this law by purporting to prohibit individuals from purchasing, selling, transferring, or possessing certain firearms with respect to individuals older than 18 but younger than 21. As if there could be any doubt, section 21.750 also expressly "occupies and preempts the *entire field* of legislation touching in any way firearms, components, ammunition and supplies to the *complete exclusion* of any order, ordinance or regulation by any political subdivision of this state" (emphasis added).

Defendants *know* the Ordinance violates this preemption law. The Jackson County Executive vetoed the Ordinance, expressly citing the preemption law. *Supra* at 2. And in overriding that veto, the Ordinance's sponsor, Manny Abarca, touted the Ordinance as a vehicle they could use to "challenge[]" the validity of "the preemption laws put on by the state."[10] Because there is no constitutional infirmity with Missouri's law, the Court should agree with the Ordinance's sponsor and hold that the Ordinance is obviously and squarely preempted.

III. Plaintiffs Will Suffer Irreparable Harm if the Ordinance Is Not Enjoined.

As this Circuit holds, "[i]n most instances, constitutional violations constitute irreparable harm." *Morehouse Enters., LLC v. BATFE*, 78 F.4th 1011, 1017 (8th Cir. 2023); *see also Planned Parenthood of Minn., Inc. v. Citizens for Cmty. Action*, 558 F.2d 861, 867 (8th Cir. 1977). As explained in Plaintiffs' Complaint, Wilson, the members and supporters of Plaintiffs GOA and

[10] https://tinyurl.com/ye2re8ty.

GOF, and the State of Missouri will be irreparably harmed in a number of specified ways. For instance, Wilson faces arrest, risk of confrontation with law enforcement, prosecution and potential jail time should he exercise his Second Amendment rights in violation of the terms of an unconstitutional and clearly unlawful Ordinance. Compl. ¶¶21, 25. Likewise, GOA and GOF's members and supporters, like Wilson, face arrest, prosecution, and imprisonment for violations of an unconstitutionally vague and rights-infringing Ordinance. Compl. ¶¶27, 28. Meanwhile, Missouri's ability to create and enforce a legal code – here, preemption of firearms laws unless in conformance with Mo. Rev. Stat. § 21.750.1 – is directly undermined by the Ordinance. Compl. ¶43. However, a "plaintiff need not 'first expose himself to actual arrest or prosecution to be entitled to challenge [the] statute' … when fear of criminal prosecution under an allegedly unconstitutional statute is not imaginary or wholly speculative," even if a "criminal penalty provision has not yet been applied...." *Babbitt v. UFW Nat'l Union*, 442 U.S. 289, 301 (1979); *see also id.* at 302-03 (standing lies when statute "authorizes imposition of criminal sanctions against" violators). Thus, "Damocles's sword does not have to actually fall … before the court will issue an injunction," *League of Women Voters of the U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016), and "where threatened action by government is concerned, we do not require a plaintiff to expose himself to liability before bringing suit…." *MedImmune, Inc. v. Genentech, Inc.*, 549 U. S. 118, 128-29 (2007).

IV. The Balance of Equites and the Public Interest Factors Favor Plaintiffs.

The question here is "whether the balance of equities so favors the movant that justice requires the court to intervene to preserve the status quo until the merits are determined." *Dataphase Sys. v. C L Sys.*, 640 F.2d 109, 113 (8th Cir. 1981). When the "government is the opposing party," the balance of equities and public interest factors merge. *Nken v. Holder*, 556

U.S. 418, 435 (2009). Prior to the Ordinance's passage, there were no prohibitions in Jackson County on conduct that the Ordinance has now suddenly declared unlawful. In fact, the Ordinance's alleged triggering event, the shooting at the Kansas City Chief's Super Bowl celebration,[11] would not have been stopped by its provisions, as the alleged perpetrator was sixteen years old and unable to purchase any firearm either privately or at a federally licensed dealer. In other words, enjoining the Ordinance until this Court can properly consider the merits of Plaintiffs' claims, will cause no risk to the public. And "[a]s the protection of plaintiff's constitutional rights outweighs defendant's interest in regulating public safety through constitutionally infirm ordinances, the balance supports a permanent injunction." *Fernandez v. St. Louis Cty.*, 538 F. Supp. 3d 888, 903 (E.D. Mo. 2021). Likewise, the "public has no interest in enforcing an unconstitutional ordinance." *Fernandez,* 538 F. Supp. 3d at 903. (citation omitted).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court issue a preliminary injunction enjoining the Ordinance, until such time as a decision on the merits can be reached.

[11] *See* https://www.kctv5.com/2024/07/23/jackson-county-legislator-introduces-initiative-age-restrict-firearm-possession/; https://www.espn.com/nfl/story/_/id/39767070/teen-faces-new-charge-mass-shooting-chiefs-parade.

July 3, 2025

Respectfully submitted,

ANDREW BAILEY
ATTORNEY GENERAL

JOSHUA M. DIVINE
SOLICITOR GENERAL

/s/ Victoria S. Lowell
Peter F. Donohue, Sr., #75835(MO)
Deputy Director of Special Litigation
Victoria Lowell, #76461(MO)
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
207 W. High Street
Jefferson City, MO 65101
Tel: (314) 340-4792
Fax: (573) 751-0774
Peter.Donohue@ago.mo.gov
Victoria.Lowell@ago.mo.gov

Counsel for State of Missouri

Stephen D. Stamboulieh* (MS # 102784)
Stamboulieh Law, PLLC
P.O. Box 428
Olive Branch, MS 38654
(601) 852-3440
stephen@sdslaw.us
**Admitted Pro Hac Vice*
Counsel for Plaintiffs Wilson, GOA, and GOF

David E. Roland (Mo. Bar No. 60548)
Roland Law Firm
14779 Audrain Road 815
Mexico, MO 65265
(314) 604-6621
libertyandjustice@gmail.com
Counsel for Plaintiffs Wilson, GOA, and GOF

CERTIFICATE OF SERVICE AND COMPLIANCE

I, Victoria Lowell, hereby certify that I have on this day, caused the foregoing document or pleading to be mailed by United States Postal Service first-class mail, postage pre-paid, and by electronic mail, to the attorneys who have confirmed that they represent the above-named Defendants in this action.

I further certified that the document complies with this Court's local rules in that the document contains 13 pages, excluding tables, "signature blocks, certificates of service, and statements of fact." Local Rule 7.0(d)(2).

Dated: July 3, 2025

/s/ Victoria S. Lowell
Victoria S. Lowell