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Attorney for Plaintiffs

**IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY, PENNSYLVANIA**

FIREARM OWNERS AGAINST CRIME;	:	
	:	
FIREARM POLICY COALITION, INC;	:	
	:	
FIREARM POLICY FOUNDATION;	:	
	:	
MATTHEW BOARDLEY,	:	
	:	
SAADYAH AVERICK,	:	
	:	
FRED RAK,	:	
	:	
Plaintiffs,	:	Civil Action
	:	
vs.	:	
	:	
CITY OF PITTSBURGH;	:	No.
	:	
MAYOR WILLIAM PEDUTO;	:	
	:	
COUNCILMAN BRUCE KRAUS;	:	
	:	
COUNCILMAN COREY O'CONNOR;	:	
	:	
COUNCILMAN R. DANIEL LAVELLE;	:	
	:	
COUNCILWOMAN DEB GROSS ;	:	
	:	
COUNCILWOMAN ERIKA STRASSBURGER; and,	:	
	:	
COUNCILMAN RICKY BURGESS	:	
	:	
Defendants.	:	

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within TWENTY (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
THE ALLEGHENY COUNTY BAR ASSOCIATION
11th Floor, Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
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	:	
COUNCILWOMAN DEB GROSS ;	:	
	:	
COUNCILWOMAN ERIKA STRASSBURGER; and,	:	
	:	
COUNCILMAN RICKY BURGESS	:	
	:	
Defendants.	:	

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE
RELIEF FROM THE CITY OF PITTSBURGH’S ILLEGAL, UNENFORCEABLE
AND UNCONSTITUTIONAL ORDINANCES**

Plaintiffs, Firearm Owners Against Crime, Firearms Policy Coalition, Inc., Firearms Policy Foundation, Matthew Boardley, Saadyah Averick, Fred Rak, as well as on behalf of all similarly situated individuals to which Proposals 2018-1218,¹ 2018-1219,² and 2018-1220,³ as amended (hereinafter collectively “Proposals”) will be enforced against or aggrieved by, by and through their attorneys, Joshua Prince, Esq. and Adam Kraut, Esq. of Civil Rights Defense Firm, P.C., hereby file this Complaint for declaratory and injunctive relief against Defendants, Mayor William Peduto, Councilman Bruce Kraus, Councilman Corey O’Connor, Councilman R. Daniel Lavelle, Councilwoman Deb Gross, Councilwoman Erika Strassburger and Councilman Ricky Burgess, the City of Pittsburgh, and its officials, agents and employees, for violating Article 1, Section 21, Article 2, Section 1, Article 3, Section 1, 4, and 8 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and other statutory proscriptions and protections too numerous to list and in support thereof state the following:

JURISDICTION

1. This court has jurisdiction under 42 Pa.C.S.A. §§ 931, 7532, 7533, and 7536 of

¹ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

² See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

³ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

the Declaratory Judgments Act, as the acts of all Defendants related to this Complaint occurred in Allegheny County, Pennsylvania.

2. Venue is proper pursuant to 42 Pa.C.S. § 931 and Pa.R.C.P. No. 1006, as the acts of all Defendants related to this Complaint occurred in Allegheny County, Pennsylvania.

PARTIES

3. Plaintiff Firearm Owners Against Crime (hereinafter “FOAC”) is a statewide, non-partisan Political Action Committee [“PAC”] and membership organization with 1,789 members, which actively works to defend, preserve, and protect the constitutional and statutory rights of lawful firearm owners, through, *inter alia*, Article 1, Sections 21 and 25 of the Pennsylvania Constitution and the 2nd Amendment of the U.S. Constitution. FOAC was formed in 1993, formally becoming a statewide PAC in 1994, and has members who legally possess firearms under Federal and State law throughout the Commonwealth, including in Allegheny County. FOAC brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.
4. Plaintiff Firearms Policy Coalition, Inc. (hereinafter “FPC”) is a 501(c)(4) non-profit organization incorporated under the laws of Delaware. FPC serves its members and the public through direct advocacy, grassroots advocacy, legal efforts, research, education, operation of a Hotline, and other programs. The purposes of FPC include defending the United States Constitution and the

People's rights, privileges, and immunities deeply rooted in the Nation's history and tradition, especially the fundamental right to keep and bear arms. FPC brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.

5. Plaintiff Firearms Policy Foundation (hereinafter "FPF") is a 501(c)(3) non-profit organization incorporated under the laws of Delaware. FPF's mission is to protect and defend the Constitution of the United States and the People's rights, privileges and immunities deeply rooted in this Nation's history and tradition, especially the inalienable, fundamental, and individual right to keep and bear arms, through all lawful charitable and educational activities as permissible under law. FPF brings this action on behalf of itself, its members, supporters who possess all the indicia of membership, and similarly situated members of the public, including Plaintiffs Matthew Boardley, Saadyah Averick, Fred Rak.
6. Plaintiff Matthew Boardley (hereinafter "Mr. Boardley") is an adult resident of the Avella, Washington County, Pennsylvania, who works as Security Area Director at Heinz Field, Stage AE, and the AJ Palumbo Center in the City of Pittsburgh, and who lawfully possesses firearms under State and Federal law, including those regulated by the enacted Proposals. He is also a member of FOAC, FPC, and FPF.
7. Plaintiff Saadyah Averick (hereinafter "Mr. Averick") is an adult resident of the City of Pittsburgh, Allegheny County, Pennsylvania, who lawfully possesses firearms under State and Federal law, including those regulated by the enacted

Proposals. He is also a member of the Jewish Community in Squirrel Hill and of FOAC, FPC, and FPF.

8. Plaintiff Fred Rak (hereinafter “Mr. Rak”) is an adult resident of the City of Pittsburgh, Allegheny County, Pennsylvania, who lawfully possesses firearms under State and Federal law, including those regulated by the enacted Proposals. He is a USCCA firearms instructor and a member of FOAC, FPC, and FPF.
9. Defendant City of Pittsburgh (hereinafter, “Pittsburgh” or “City”) is a municipal corporation duly organized, existing and operating under and pursuant to the applicable laws of the Commonwealth of Pennsylvania, currently a City of the Second Class, pursuant to 53 P.S. § 22101, *et seq.*, located within the County of Allegheny, Pennsylvania, and at all relevant times owns, manages, operates, directs and controls the Pittsburgh Police Department and all City officials, agents, and employees.
10. Defendant Mayor William Peduto (hereinafter “Mayor Peduto”) is an adult, who at all times relevant was the Mayor of the City of Pittsburgh. At all relevant times, Mayor Peduto was a policymaker with decision-making authority and was responsible for executing, implementing and enforcing policies, regulations and ordinances of the City of Pittsburgh, including execution, implementation and enforcement of Proposals 2018-1218,⁴ 2018-1219,⁵ and 2018-1220.⁶ He is being sued in both his official and individual capacities.

⁴ *See*, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

11. Defendant Councilman Bruce Kraus (hereinafter “Councilman Kraus”) is an adult, who at all times relevant was the councilmember for District 3 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
12. Defendant Councilman Corey O’Connor (hereinafter “Councilman O’Connor”) is an adult, who at all times relevant was the councilmember for District 5 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
13. Defendant Councilman R. Daniel Lavelle (hereinafter “Councilman Lavelle”) is an adult, who at all times relevant was the councilmember for District 6 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.
14. Defendant Councilwoman Deb Gross (hereinafter “Councilwoman Gross”) is an adult, who at all times relevant was the councilmember for District 7 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. She is being sued in both her official and individual capacities.
15. Defendant Councilwoman Erika Strassburger (hereinafter “Councilwoman Strassburger”) is an adult, who at all times relevant was the councilmember for District 8 of the City of Pittsburgh and whom voted in favor of Proposals 2018-

⁵ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

⁶ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

1218, 2018-1219, and 2018-1220. She is being sued in both her official and individual capacities.

16. Defendant Councilman Ricky Burgess (hereinafter “Councilman Burgess”) is an adult, who at all times relevant was the councilmember for District 9 of the City of Pittsburgh and whom voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220. He is being sued in both his official and individual capacities.

THE PENNSYLVANIA UNIFORM FIREARMS ACT

17. Pennsylvania’s Uniform Firearms Act (hereinafter, “UFA”) can be found at 18 PA.C.S. § 6101, et seq.
18. Pennsylvania’s UFA provides for “Limitation on the regulation of firearms and ammunition” in 18 Pa.C.S. § 6120(a), which declares: “No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.”
19. Additionally, 18 PA.C.S. § 6119 provides that a violation of Pennsylvania’s UFA, including for Section 6120, constitutes a misdemeanor of the first degree.

THE PENNSYLVANIA CONSITUTION

20. **Article I, Section 21. Right to Bear Arms:** “The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.”

21. **Article I, Section 25. Reservation of Powers in People:** “To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.”
22. **Article II, Section 1. Legislative power:** “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.”
23. **Article III, Section 1. Passage of laws.** “No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.”
24. **Article III, Section 4. Consideration of bills.** “Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill and before the final vote is taken, upon written request addressed to the presiding officer of either House by at least 25% of the members elected to that House, any bill shall be read at length in that House. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.”
25. **Article III, Section 8. Signing of bills.** “The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly

read immediately before signing; and the fact of signing shall be entered on the journal.”

MUNICIPAL PROHIBITIONS

26. 53 Pa.C.S. § 2962(c)(2) provides,

“**Prohibited powers.** A municipality shall not: ... (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.”

27. 53 Pa.C.S. § 2962(g) provides,

“**Regulation of firearms.** A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.”

28. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds “three hundred dollars (\$300) for any one offence.”

29. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds “one hundred dollars.”

ATTORNEY GENERAL’S DETERMINATION

30. On August 24, 2009, then-Attorney General Tom Corbett issued a letter to the Adams County Office of the District Attorney regarding the issue of Section 6120’s preemption, informing District Attorney Wagner that local municipalities are precluded from enacting ordinances regarding the possession of firearms. A copy of that letter is attached hereto and incorporated herein as Exhibit A.

DISTRICT ATTORNEY STEPHEN ZAPPALA’S DETERMINATION

31. On January 9, 2019, Allegheny County District Attorney Stephen Zappala issued a letter to Pittsburgh City Council regarding Article 1, Section 21 of the Pennsylvania Constitution and Section 6120, in which he advised City Council in relation to Proposals 2018-1218, 2018-1219, and 2018-1220 that “City Council does not have the authority to pass such legislation” and that “the legislation currently before Council, if passed, will be found unconstitutional.” A copy of that letter is attached hereto and incorporated herein as Exhibit B.

CITY SOLICITOR YVONNE HILTON’S DETERMINATION

32. Upon information and belief, City Solicitor Yvonne Hilton, concurring with District Attorney Zappala’s conclusions, refused participate in reviewing and revising the Proposals.

OFFICIAL OPPRESSION

33. 18 PA.C.S. § 5301 provides, “A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity commits a misdemeanor of the second degree if, knowing that his conduct is illegal, he:
- (1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien or other infringement of personal or property rights; or
 - (2) denies or impedes another in the exercise or enjoyment of any right, privilege, power or immunity.”

CASE LAW

34. The Pennsylvania Supreme Court in *Ortiz v. Commonwealth*, 681 A.2d 152, 156 (Pa. 1996), where the City of Pittsburgh was a party, in finding that both Article 1, Section 21 of the Pennsylvania Constitution and 18 Pa.C.S. § 6120 preempted *any* regulation of firearms or ammunition, declared,

Because the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. The constitution does not provide that the right to bear arms shall not be questioned in any part of the commonwealth except Philadelphia and Pittsburgh, where it may be abridged at will, but that it shall not be questioned in any part of the commonwealth. Thus, regulation of firearms is a matter of concern in all of Pennsylvania, not merely in Philadelphia and Pittsburgh, and the General Assembly, not city councils, is the proper forum for the imposition of such regulation. (Emphasis added).

35. In finding that the Pennsylvania Supreme Court’s holding in *Ortiz* was “crystal clear,” the Pennsylvania Commonwealth Court held that even regulation by a municipality *consistent with* the UFA was preempted. *See, National Rifle Ass’n v. City of Philadelphia*, 977 A.2d 78, 82 (Pa. Cmwlth. 2009).
36. In *Clarke v. House of Representatives*, 957 A.2d 361 (Pa. Cmwlth. Ct. 2008), the Commonwealth Court dealt with seven ordinances enacted by the City of Philadelphia and found *all* of them to be preempted by Section 6120. The ordinances included: (1) limit of one handgun per month and prohibition on straw purchaser sales; (2) reporting of lost or stolen firearms; (3) requiring a license to acquire a firearm in Philadelphia or bring a firearm into Philadelphia; (4) requiring annual renewal of a gun license; (5) permitting confiscation of firearms from someone posing a risk of harm; (6) prohibiting the possession or transfer of

assault rifles; and (7) requiring any person selling ammunition to report the purchase and purchase to the police department.

37. In *Dillon v. City of Erie*, 83 A.3d 467, 473 (Pa. Cmwlth. 2014), the Commonwealth Court found that the City of Erie’s ordinance precluding firearms in city parks violated Article 1, Section 21 and Section 6120.
38. In *Firearm Owners Against Crime, et al. v. Lower Merion Township*, 151 A.3d 1172 (Pa. Cmwlth. Ct. 2016)(*petition for allocatur denied July 11, 2017*), the Commonwealth Court held that Lower Merion Township’s ordinance prohibiting discharge of firearms violated Article 1, Section 21 and Section 6120.

CITY PROPOSALS/ORDINANCES AT ISSUE

Proposal 2018-1218

39. Proposal 2018-1218⁷ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by repealing Chapter 607: Firearms, Ammunition and Other Weapons in its entirety, and enacting and adding Article XI: Weapons to the Pittsburgh Code of Ordinances in order to meet the public safety needs of residents.” An initial draft copy of 2018-1218, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit C.

Proposal 2018-1219

⁷ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

40. Proposal 2018-1219⁸ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances by enacting and adding Article XI: Weapons, Chapter 1104: prohibition on the Use of Certain Accessories, Ammunition, and Modifications, and Chapter 1105: Authorized Prohibition of Large Capacity Magazines.” An initial draft copy of 2018-1219, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit D.

Proposal 2018-1220

41. Proposal 2018-1220⁹ is titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article XI: Weapons, by adding Chapter 1106: Prevention of Extreme Risk to Children and Chapter 1107: Extreme Risk Protection Orders.” An initial draft copy of 2018-1220, plus its twice amended and final form, is attached hereto and incorporated herein as Exhibit E.

STATEMENT OF FACTS

Facts Related to Introduction of Proposals and Erection of Unlawful Signage

42. Defendants informally announced an intent on or about December 14, 2018 to formally introduce three proposals regulating firearms, ammunition, and firearm

⁸ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

⁹ See, <https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

accessories. See, <https://triblive.com/local/allegheeny/14405721-74/pittsburgh-gun-safety-measures-would-include-assault-weapons-ban>

43. In informally announcing the proposals, Mayor Peduto acknowledged that he and City Council lacked the authority to enact the proposals and that such would require that they “change the laws in Harrisburg.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit F.
44. This was echoed in another article on December 14, 2018, declaring that “City leaders, joined by Pennsylvania Gov. Tom Wolf, said Friday they plan to rally support for similar gun control measures in cities and towns across the state, with the ultimate goal of changing state gun laws.” A copy of the article is attached hereto and incorporated herein as Exhibit G.
45. Even more directly on point, Pittsburgh City Councilwoman Erika Strassburger stated that “[t]he inability for municipal governments to enact their own common-sense gun control measures defies this core principle.” A copy of the article quoting Councilwoman Strassburger is attached hereto and incorporated herein as Exhibit H.
46. Thereafter, Mayor Peduto declared “I think it has been very clear over the last several years that there needs to be more that is done at the local level, and that requires the changes of laws at a state and federal level.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit I.
47. On December 17, 2018, on behalf of Plaintiff FOAC, the undersigned submitted a letter to Pittsburgh Mayor Bill Peduto and Pittsburgh City Council addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and

18 Pa.C.S. § 6120, and demanding that the proposals not be formally introduced.

A copy of the letter is attached hereto and incorporated herein as Exhibit J.

48. On December 18, 2018, the three proposals (hereinafter “Proposals”) were filed with the City Clerk.

49. Later on December 18, 2018, ignoring the undersigned’s letter, the Pittsburgh City Council formally introduced the Proposals, as 2018-1218,¹⁰ 2018-1219,¹¹ and 2018-1220.¹² *See*,

<https://pittsburgh.legistar.com/MeetingDetail.aspx?ID=661577&GUID=6F6DF698-E9C1-4E51-9A7C-7A8EFC9A5253&Options=info&Search=> and

http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415

50. Proposal 2018-1218 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by repealing the existing language of Chapter 607: Firearms, Ammunition, and Other Weapons, in its entirety and replacing it with a new Chapter 607: General Firearm Conduct, to update existing laws to meet the public safety needs of residents.” *See*, Exhibit C.

¹⁰ *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784415&GUID=FB5A2159-21FF-4848-BE1F-99A4F53D873E&Options=&Search=>

¹¹ *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784416&GUID=235A3F50-F3F7-419E-8968-95B2D46BBFD5&Options=&Search=>

¹² *See*,
<https://pittsburgh.legistar.com/LegislationDetail.aspx?ID=3784417&GUID=188CB67E-3B8B-4F62-9754-C99965B6F493&Options=&Search=>

51. Proposal 2018-1219 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 610: Ban on Specified Firearm Accessories, Ammunition, and Modifications, to place a prohibition on certain firearm accessories, ammunition, and modifications.” *See*, Exhibit D.
52. Proposal 2018-1220 was initially titled “An Ordinance amending and supplementing the Pittsburgh Code of Ordinances at Title VI: Conduct, Article I: Regulated Actions and Rights, by adding Chapter 603: Extreme Risk Protection Orders, to provide for appropriate injunctive actions for the preservation of public safety in extreme circumstances.” *See*, Exhibit E.
53. On January 2, 2019, the City of Pittsburgh erected a sign outside of the City-County Building declaring that it was unlawful to possess a firearm within the City-County Building. A photo of the signage is attached hereto and incorporated herein as Exhibit K. *See also*, <https://triblive.com/local/alleggheny/14462062-74/pittsburgh-warns-city-hall-visitors-for-a-first-time-that-guns-are>.
54. As a result, on January 3, 2018, on behalf of Plaintiff FOAC, the undersigned submitted another letter to Mayor Peduto and City Council addressing the unlawful nature of the signage, as it does not comply with 18 Pa.C.S. § 913(d), which requires that any signage notify individuals that lockers must be made available within the building for the individual to secure his/her firearm or other dangerous weapon. A copy of the letter is attached hereto and incorporated herein as Exhibit L.

55. Thereafter, Mayor Peduto himself declared that firearms are “not permitted in the building. They’re permitted in the street, or the portico, the open carry laws will be recognized.” A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit M and a copy of the video of Mayor Peduto stating such can be seen here - <https://pittsburgh.cbslocal.com/2019/01/03/gun-rights-advocates-pittsburgh-city-county-building-rally-preparations>.
56. On January 7, 2019, City Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” A copy of the article quoting Councilwoman Strassburger is attached hereto and incorporated herein as Exhibit N.
57. On January 9, 2019, Allegheny County District Attorney Stephen Zappala sent a letter to City Council informing City Council, *inter alia*, “City Council does not have the authority to pass such legislation” and that “the legislation currently before Council, if passed, will be found unconstitutional.” *See*, Exhibit B.
58. On January 15, 2019, after City Council acknowledged receipt of District Attorney Zappala’s letter, Councilman Corey O’Connor told reporters that “[DA Zappala] has every right to his own opinion, we are still going to move forward” and “[a]t this point we are going to pass our bills, move forward. Whatever happens after that we will find out.” A copy of the article quoting Councilman O’Connor is attached hereto and incorporated herein as Exhibit O and the video

of Councilman O'Connor stating such can be seen here –

<https://pittsburgh.cbslocal.com/2019/01/15/allegheeny-county-district-attorney-pittsburgh-city-council-gun-legislation-letter>.

59. Later on January 15, 2019, Mayor Peduto, after receiving and reviewing District Attorney Zappala's letter, told reporters that "[i]f [DA Zappala] wants to be city solicitor, he has to move into the city and apply, and I'd consider his resume. Otherwise, he should be a district attorney." A copy of the article quoting Mayor Peduto is attached hereto and incorporated herein as Exhibit P. and the video of Mayor Peduto stating such can be seen here – <https://www.wtae.com/article/da-zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756>.
60. Upon information and belief, City Solicitor Yvonne Hilton, concurring with District Attorney Zappala's conclusions, refused participate in reviewing and revising the Proposals.
61. As a result of Solicitor Hilton's refusal, Councilmembers O'Connor and Strassburger procured Attorney Daniel Booker of Reed Smith, LLP, to review and revise the Proposals.
62. On March 20, 2019, Pittsburgh City Councilmembers Kraus, Coghill, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to amend the original Proposals with the amendments drafted by Attorney Booker. Copies of the amended proposals 2018-1218, 2018-1219, and 2018-1220 are included in Exhibits C, D, and E, respectively.

63. On March 26, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted in favor of enacting the Proposals.
64. On April 2, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to amend, for a second time, the Proposals, with the amendments drafted by Attorney Booker. Copies of the twice amended proposals 2018-1218, 2018-1219, and 2018-1220 are included in Exhibits C, D, and E, respectively
65. On April 2, 2019, Pittsburgh City Councilmembers Kraus, O'Connor, Lavelle, Gross, Strassburger, and Burgess voted to enact the Proposals, as amended.
66. On April 9, 2019, Mayor Peduto signed the Proposals, enacting them into law.

Facts Related to Violations of the City Council Rules

67. Article VII., Section 1., of the Pittsburgh City Council "Rules of Council" declares that:

SECTION 1. No bill shall be introduced in Council unless deposited with the Clerk of Council by 12:00 noon Friday prior to the regular meeting of Council; but any member may present any bill or paper notwithstanding said rule, with the consent of the majority of members present at any meeting of Council. All bills deposited with the Clerk from the Mayor, City Council Members or department of the City must have accompanying documentation as to purpose, history and fiscal impact in a manner prescribed by Ordinance, the City Council Budget office, and the president of Council.

A copy of the Rules of Council is attached hereto and incorporated herein as Exhibit Q.

68. Article III., Section 4., subsection C., of the Pittsburgh City Council "Rules of Council" declares, in pertinent part, that:

ii. After the comment period in a Council meeting has ended, if a resolution or ordinance is added to the agenda or amended to make its substance differ, residents or taxpayers shall be provided an additional opportunity to comment on the addition or amendment before a final vote is taken.

See, Exhibit Q.

69. Proposals 2018-1218, 2018-1219, and 2018-1220 were not filed with the Clerk of Council until the day they were formally introduced on December 18, 2018.
70. The Proposals filed with the Clerk of Council did not have attached or otherwise accompanying them any “documentation as to purpose, history and fiscal impact.”
71. To this day, documentation as to “history and fiscal impact” in relation to the Proposals has never been filed with the Clerk of Council.
72. To the best of Plaintiff’s information, knowledge and belief, no documentation as to the “history and fiscal impact” even exists in relation to the Proposals as of the time of filing of this Complaint.
73. The Proposals were not introduced by a Member of City Council, but rather, by the City Clerk. *See*,
http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415
74. No vote, including a vote to waive the requirement of Section 1 that the Proposals be filed by noon on Friday, December 14, 2018, was taken in relation to the Proposals on December 18, 2018.
75. Furthermore, on March 20, 2019 and April 2, 2019, the substance of the Proposals were amended (*see*, Exhibits G, H, I) and on April 2, 2019 the amended Proposals were enacted.

76. At no time after the public hearing on January 24, 2019 and prior to the final vote, was the public provided an additional public hearing to comment on the amendments. In fact, the last amendments to the Proposals occurred only minutes before the City Council enacted the Proposals.

Facts Related to Violations of the Home Rule Charter

77. Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter” declares that:

310. POWERS OF COUNCIL – Council shall have the following additional powers:

...

- (e) to exercise other powers conferred by this charter, by law or ordinance, consistent with the provisions of this charter.

A copy of the Home Rule Charter is attached hereto and incorporated herein as Exhibit R.

78. Neither the Pennsylvania Constitution nor the laws of Pennsylvania confer any power upon the City Council to propose, consider, and enact Proposals 2018-1218, 2018-1219 and 2018-1220.
79. To the contrary, the Pennsylvania Constitution and the laws of Pennsylvania explicitly prohibit City Council from proposing, considering, and enacting Proposals 2018-1218, 2018-1219 and 2018-1220.

Facts Related to Violations of the Municipal Powers of Cities of the Second Class

80. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds \$300.00, per occurrence.

81. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds \$100.00, per occurrence.
82. Proposals 2018-1218 and 2018-1219 specify a penalty of “\$1000 and costs for each offense.” *See*, Exhibit C and D.
83. 53 Pa.C.S. § 2962(c)(2) provides

Prohibited powers. A municipality shall not: ... (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.
84. Subsection 2962(g) provides

Regulation of firearms.--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms
85. Proposals 2018-1218, 2018-1219 and 2018-1220 regulate the transfer, ownership, transportation and possession of firearms.

Facts Related to Violations of the Pennsylvania Constitution

86. District Attorney Zappala and City Solicitor Hilton informed City Council that the Proposals, if enacted, would, *inter alia*, be held unconstitutional, pursuant to Article 1, Section 21. *See*, Exhibit B.
87. Article 2, Section 1 of the Pennsylvania Constitution vests all power to legislate in the General Assembly.
88. No bill was proposed and offered by City Council nor could a bill be proposed and offered by City Council, as neither it nor its members are Members of the Pennsylvania General Assembly.

89. The Proposals, as evidenced by their explicit terms, constitute proposed ordinances. *See*, Exhibits C, D, and E.
90. Neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals.
91. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the Proposals were never considered on three different days in each House.
92. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, no member of the Pennsylvania House of Representatives nor the Senate voted in favor of the Proposals.
93. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the presiding officer of each house never signed the Proposals.

Facts Related to Violations of 18 Pa.C.S. § 913(d)

94. 18 Pa.C.S. § 913 provides, in pertinent part

(d) Posting of notice.--Notice of the provisions of subsections (a) and (e) shall be posted conspicuously at each public entrance to each courthouse or other building containing a court facility and each court facility, and no person shall be convicted of an offense under subsection (a)(1) with respect to a court facility if the notice was not so posted at each public entrance to the courthouse or other building containing a court facility and at the court facility unless the person had actual notice of the provisions of subsection (a).

(e) Facilities for checking firearms or other dangerous weapons.--Each county shall make available at or within the building containing a court facility by July 1, 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 or for the checking of other dangerous weapons

that are not otherwise prohibited by law. Any individual checking a firearm, dangerous weapon or an item deemed to be a dangerous weapon at a court facility must be issued a receipt. Notice of the location of the facility shall be posted as required under subsection (d).

95. The signage erected by the City of Pittsburgh in front of the City-Council Building does not advise individuals of their rights specified in Section 913(e), including, but not limited to, that lockers must be made available in the City-Council Building at no charge or cost to secure their firearms and other dangerous weapons. *See*, Exhibit K.
96. As of the date of filing this Complaint, the Defendants have failed to remove the unlawful signage or otherwise correct it by complying with the requirements of Section 913(d).

Facts Related to Defendant City of Pittsburgh

97. Defendant City is a municipal corporation duly organized, existing and operating under and pursuant to the applicable laws of the Commonwealth of Pennsylvania, currently a City of the Second Class, pursuant to 53 P.S. § 22101, *et seq.*, located within the County of Allegheny, Pennsylvania.
98. Defendant City is a municipality as defined by 18 Pa.C.S. § 6120.
99. At all relevant times, Defendant City owns, manages, operates, directs and controls the Pittsburgh Police Department and all City officials, agents, and employees.
100. On or about December 17, 2018, Defendant City received the December 17, 2018 letter of the undersigned, on behalf of FOAC, addressing the unlawful nature of

- the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
101. On or about January 3, 2019, Defendant City received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
102. On or about January 9, 2019, Defendant City received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
103. On April 2, 2019 Pittsburgh City Council passed the Proposals, which were signed into effect by Mayor Peduto on April 9, 2019.
104. Defendant City intends to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual who is in violation of the enacted Proposals.

Facts Related to Defendant Mayor Peduto

105. Defendant Mayor Peduto is an adult, who at all times relevant was the Mayor of the City of Pittsburgh.
106. At all relevant times, Mayor Peduto was a policymaker with decision-making authority and was responsible for executing, implementing and enforcing policies, regulations and ordinances of the City of Pittsburgh, including execution, implementation and enforcement of Proposals 2018-1218, 2018-1219, and 2018-1220.

107. In informally announcing the proposals, Mayor Peduto acknowledged that he and City Council lacked the authority to enact the proposals and that such would require that they “change the laws in Harrisburg.” *See*, Exhibit F.
108. On or about December 17, 2018, Mayor Peduto received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
109. On or about January 3, 2019, Defendant City received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
110. Thereafter, Mayor Peduto declared that firearms are “not permitted in the building. They’re permitted in the street, or the portico, the open carry laws will be recognized.” *See*, Exhibit M and the video of Mayor Peduto stating such can be seen here - <https://pittsburgh.cbslocal.com/2019/01/03/gun-rights-advocates-pittsburgh-city-county-building-rally-preparations>.
111. On or about January 9, 2019, Mayor Peduto received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
112. Later on January 15, 2019, Mayor Peduto, after receiving and reviewing District Attorney Zappala’s letter, told reporters that “[i]f [DA Zappala] wants to be city solicitor, he has to move into the city and apply, and I’d consider his resume. Otherwise, he should be a district attorney.” *See*, Exhibit P and the video of Mayor Peduto stating such can be seen here – <https://www.wtae.com/article/da->

[zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756](https://www.pittsburgh-courier.com/story/news/politics/2019/04/09/zappala-pittsburgh-city-council-does-not-have-authority-to-pass-gun-legislation-restricting-types-weapons/25902756).

113. Mayor Peduto willfully and unlawfully signed Proposals 2018-1218, 2018-1219, and 2018-1220 into effect on April 9, 2019, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
114. Prior to and on the date Mayor Peduto signed Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.
115. Mayor Peduto intends to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual who is in violation of the enacted Proposals.

Facts Related to Defendant Councilman Kraus

116. Defendant Councilman Kraus is an adult, who at all times relevant was the councilmember for District 3 of the City of Pittsburgh.
117. On or about December 17, 2018, Councilman Kraus received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.

118. On or about January 3, 2019, Councilman Kraus received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
119. On or about January 9, 2019, Councilman Kraus received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
120. On April 2, 2019, Councilman Kraus voted willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
121. Prior to and on the date Councilman Kraus voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman O'Connor

122. Defendant Councilman O'Connor is an adult, who at all times relevant was the councilmember for District 5 of the City of Pittsburgh.
123. On or about December 17, 2018, Councilman O'Connor received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.

124. On or about January 3, 2019, Councilman O'Connor received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
125. On or about January 9, 2019, Councilman O'Connor received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
126. On January 15, 2019, after City Council acknowledged receipt of District Attorney Zappala's letter, Councilman Corey O'Connor told reporters that "[DA Zappala] has every right to his own opinion, we are still going to move forward" and "[a]t this point we are going to pass our bills, move forward. Whatever happens after that we will find out." *See*, Exhibit O and the video of Councilman O'Connor stating such can be seen here – <https://pittsburgh.cbslocal.com/2019/01/15/allegheeny-county-district-attorney-pittsburgh-city-council-gun-legislation-letter>.
127. On April 2, 2019 Councilman O'Connor willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
128. Prior to and on the date Councilman O'Connor voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman Lavelle

129. Defendant Councilman Lavelle is an adult, who at all times relevant was the

- councilmember for District 6 of the City of Pittsburgh.
130. On or about December 17, 2018, Councilman Lavelle received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
 131. On or about January 3, 2019, Councilman Lavelle received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
 132. On or about January 9, 2019, Councilman Lavelle received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
 133. On April 2, 2019, Councilman Lavelle willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
 134. Prior to and on the date Councilman Lavelle voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilwoman Gross

135. Defendant Councilwoman Gross is an adult, who at all times relevant was the councilmember for District 7 of the City of Pittsburgh.

136. On or about December 17, 2018, Councilwoman Gross received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
137. On or about January 3, 2019, Councilwoman Gross received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
138. On or about January 9, 2019, Councilwoman Gross received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
139. On April 2, 2019, Councilwoman Gross willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.
140. Prior to and on the date Councilwoman Gross voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, she was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilwoman Strassburger

141. Defendant Councilwoman Strassburger is an adult, who at all times relevant was the councilmember for District 8 of the City of Pittsburgh.

142. On December 14, 2018, Councilwoman Strassburger declared that “[t]he inability for municipal governments to enact their own common-sense gun control measures defies this core principle.” *See*, Exhibit H.
143. On or about December 17, 2018, Councilwoman Strassburger received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. *See*, Exhibit J.
144. On or about January 3, 2019, Councilwoman Strassburger received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. *See*, Exhibit L.
145. On January 7, 2019, Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” *See*, Exhibit N.
146. On or about January 9, 2019, Councilwoman Strassburger received the January 9, 2019 letter of District Attorney Stephen Zappala. *See*, Exhibit B.
147. On April 2, 2019, Councilwoman Strassburger willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.

148. Prior to and on the date Councilwoman Strassburger voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, she was aware that the Proposals were unlawful and prohibited by state law.

Facts Related to Defendant Councilman Burgess

149. Defendant Councilman Burgess is an adult, who at all times relevant was the councilmember for District 9 of the City of Pittsburgh.

150. On or about December 17, 2018, Councilman Burgess received the December 17, 2018 letter of the undersigned, on behalf of Firearm Owners Against Crime, addressing the unlawful nature of the proposals, including pursuant to Article 1, Section 21 and 18 Pa.C.S. § 6120, and demanding that the Proposals not be formally introduced. See, Exhibit J.

151. On or about January 3, 2019, Councilman Burgess received the January 3, 2019 letter of the undersigned, on behalf of Plaintiff FOAC addressing the unlawful nature of the signage. See, Exhibit L.

152. On or about January 9, 2019, Councilman Burgess received the January 9, 2019 letter of District Attorney Stephen Zappala. See, Exhibit B.

153. On April 2, 2019, Councilman Burgess willfully and unlawfully voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1220, knowing that the Proposals were unlawfully enacted and prohibited by the Pennsylvania Constitution and Pennsylvania law.

154. Prior to and on the date Councilman Burgess voted in favor of Proposals 2018-1218, 2018-1219, and 2018-1219, he was aware that the Proposals were unlawful and prohibited by state law

Facts Related to FOAC

155. FOAC is a statewide, non-partisan PAC, which actively works to defend, preserve, and protect constitutional and statutory rights of lawful firearm owners, including through Article 1, Sections 21 and 25 of the Pennsylvania Constitution and the Second Amendment to the U.S. Constitution.

156. FOAC actively educates and informs its members, the General Assembly, and the public on all issues pertaining to firearms, firearm safety, constitutional provisions, statutes, case law and all other issues related to or intersecting with Article 1, Sections 21 and 25 of the Pennsylvania Constitution, the Second Amendment of the U.S. Constitution, and firearms and ammunition in general.

157. FOAC was formed in 1993, formally becoming a statewide PAC in 1994, as a result of the City of Pittsburgh's illegal firearm and ammunition ban.

158. FOAC has 1,789 members within the Commonwealth, including in Allegheny County, who, under information and belief, may legally possess firearms under Federal and State law.

159. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FOAC and at all times can and lawfully do possess firearms under Federal and State law.

160. FOAC's members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.

161. FOAC fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances.

Facts Related to FPC

162. FPC is a 501(c)(4) non-profit organization incorporated under the laws of Delaware.

163. FPC serves its members and the public through direct advocacy, grassroots advocacy, legal efforts, research, education, operation of a Hotline, and other programs.

164. The purposes of FPC include defending the United States Constitution and the People's rights, privileges, and immunities deeply rooted in the Nation's history and tradition, especially the fundamental right to keep and bear arms.

165. FPC has members and supporters within the Commonwealth, including in Allegheny County and the Individual Plaintiffs in this case, who, under information and belief, may legally possess firearms under Federal and State law.

166. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FPC.

167. FPC members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.

168. FPC fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances.

Facts Related to FPF

169. FPF is a 501(c)(3) non-profit organization incorporated under the laws of Delaware.
170. FPF's mission is to protect and defend the Constitution of the United States and the People's rights, privileges and immunities deeply rooted in this Nation's history and tradition, especially the inalienable, fundamental, and individual right to keep and bear arms, through charitable and educational activities as permissible under law.
171. FPF has members and supporters within the Commonwealth, including in Allegheny County and the Individual Plaintiffs in this case, who, under information and belief, may legally possess firearms under Federal and State law.
172. Plaintiffs Mr. Boardley, Mr. Averick, Mr. Rak are members of FPF.
173. FPF members have raised concern over the threat of prosecution by Defendants, as a result of the consideration and enactment of the Proposals.
174. FPF fears that the Defendants, pursuant to the Proposals/Ordinances, will unlawfully prosecute its members, based on the statements made by the Defendants that they will enforce the Ordinances

Facts Related to Plaintiff Matthew Boardley

175. Mr. Boardley is a resident of Avella, Washington County, Pennsylvania, who works as Security Area Director at Heinz Field, Stage AE, and the AJ Palumbo Center in the City of Pittsburgh and is a member of Plaintiffs FOAC, FPC, and FPF.

176. As a result of his employment in the City of Pittsburgh, he is subject to the Local Earned Income Tax of Chapter 245¹³ of City of Pittsburgh’s Code of Ordinances.
177. Mr. Boardley may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, firearm accessories and firearm modifications under State and Federal law.
178. As defined or categorized by the Proposals, Mr. Boardley lawfully owns, possess, utilizes, transports, carries and/or stores “ammunition”,¹⁴ “armor or metal penetrating ammunition”,¹⁵ “firearms”,¹⁶ “assault weapons”,¹⁷ “large capacity magazines”,¹⁸ and “rapid fire devices”.¹⁹
179. As a result of his employment, his personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, in public places within the City of Pittsburgh, he possess, utilizes, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.
180. Those firearms include, but are not limited to:

¹³ *See*, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T_ITTWOFI_ARTVIIBURETA_CH245EAINTA; *see also*, <http://pittsburghpa.gov/finance/taxes/index.html>.

¹⁴ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

¹⁵ Proposal 2018-1219 – Section 1104.01(B).

¹⁶ Proposal 2018-1218 – Sections 1101.01(D).

¹⁷ Proposal 2018-1218 – Sections 1102.01(B).

¹⁸ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

¹⁹ Proposal 2018-1219 – Section 1104.01(F).

- a. A semiautomatic AR-15 short-barreled rifle with an overall length of 30 inches, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, which is registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives, and which has installed within it a binary trigger and has installed on it a folding stock, pistol grip, flash suppressor, and a silencer, which is also registered with the Bureau of Alcohol, Tobacco, Firearms and Explosives;
- b. A semiautomatic Sig Sauer P226 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned; and,
- c. A semiautomatic Sig Sauer P320 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned and into which, Mr. Boardley intends to install a threaded barrel, as soon as he is able to procure one.

181. Mr. Boardley has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

182. On May 18, 2019, Mr. Boardley, as part of his employment as Security Area Director at Heinz Field, will be in the City of Pittsburgh at the Garth Brooks Concert ensuring the protection of the signer and attendees and as such will be possessing, utilizing, transporting, carrying, and storing in his vehicle and on his

- person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals, as mentioned *supra*.
183. Further, as part of his employment as Security Area Director at Heinz Field, Mr. Boardley will be in the City of Pittsburgh at Heinz Field for every home game of the Pittsburgh Steelers²⁰ ensuring the protection of the players and attendees and as such will be possessing, utilizing, transporting, carrying, and storing in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals, as mentioned *supra*
184. Mr. Boardley frequents, at least on an average bi-weekly basis, the City of Pittsburgh, Allegheny County, for business purposes and during which, he possess, utilizes, transports, carries and/or stores “ammunition”,²¹ “armor or metal penetrating ammunition”,²² “firearms”,²³ “assault weapons”,²⁴ “large capacity magazines”,²⁵ and “rapid fire devices”,²⁶ in public places.
185. Mr. Boardley frequents, at least on an average bi-weekly basis, the City of Pittsburgh, Allegheny County, for recreational purposes and during which, he possess, transports, carries and/or stores “ammunition”,²⁷ “armor or metal

²⁰ The schedule for the Pittsburgh Steelers can be found here – <https://www.steelers.com/schedule>.

²¹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

²² Proposal 2018-1219 – Section 1104.01(B).

²³ Proposal 2018-1218 – Sections 1101.01(D).

²⁴ Proposal 2018-1218 – Sections 1102.01(B).

²⁵ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

²⁶ Proposal 2018-1219 – Section 1104.01(F).

²⁷ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

- penetrating ammunition”,²⁸ “firearms”,²⁹ “assault weapons”,³⁰ “large capacity magazines”,³¹ and “rapid fire devices”,³² in public places.
186. Mr. Boardley fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.
187. With the past 180 days, Mr. Boardley has purchased one, or more, firearms.
188. Mr. Boardley fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,³³ as a result of Defendants statements that they will enforce the enacted Proposals.
189. Mr. Boardley fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of his possession, use, and control of firearms for employment,³⁴ as a result of Defendants statements that they will enforce the enacted Proposals.

Facts Related to Plaintiff Saadyah Averick

190. Mr. Averick is a resident of the City of Pittsburgh, Allegheny County, and a member of Jewish Community in Squirrel Hill and of Plaintiffs FOAC, FPC, and

²⁸ Proposal 2018-1219 – Section 1104.01(B).

²⁹ Proposal 2018-1218 – Sections 1101.01(D).

³⁰ Proposal 2018-1218 – Sections 1102.01(B).

³¹ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

³² Proposal 2018-1219 – Section 1104.01(F).

³³ Proposal 2018-1220 – Section 1107.05(C).

³⁴ Proposal 2018-1220 – Section 1107.05(C).

FPF.

191. As a result of his residence and employment in the City of Pittsburgh, Mr. Averick is subject to the Local Earned Income Tax of Chapter 245³⁵ of City of Pittsburgh's Code of Ordinances, the Home Rule Tax of Chapter 246,³⁶ the Occupational Privilege Tax of Chapter 251,³⁷ and the Local Services Tax of Chapter 252.³⁸
192. Mr. Averick may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, and firearm accessories under State and Federal law.
193. As defined or categorized by the Proposals, Mr. Averick lawfully owns, possess, transports, carries, stores and/or desires to manufacture or procure "ammunition",

³⁵ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_TITTWOFI_ARTVIIBURETA_CH245EAINTA; see also, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁶ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_TITTWOFI_ARTVIIBURETA_CH246HORUTA; see also, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁷ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_TITTWOFI_ARTVIIBURETA_CH251OCPRTA; see also, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁸ See, https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_TITTWOFI_ARTVIIBURETA_CH252LOSETA; see also, <http://pittsburghpa.gov/finance/taxes/index.html>.

³⁹ “armor or metal penetrating ammunition”, ⁴⁰ “firearms”, ⁴¹ “assault weapons”,
⁴² “large capacity magazines”, ⁴³ and “rapid fire devices”. ⁴⁴

194. For purposes of his personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, in public places within the City of Pittsburgh, he possess, uses, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.

195. Those firearms include, but are not limited to:

- a. A semiautomatic IWI Tavor rifle with an overall length of less than 30 inches, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and which has installed on it a flash suppressor;
- b. An AR-15 AERO M4E1 receiver, which he wishes to build into an AR-15 rifle, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and within which he desires to install a binary trigger and installed on which he intends to install a flash suppressor and folding or telescopic stock;
- c. A semiautomatic Glock 19 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for

³⁹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁴⁰ Proposal 2018-1219 – Section 1104.01(B).

⁴¹ Proposal 2018-1218 – Sections 1101.01(D).

⁴² Proposal 2018-1218 – Sections 1102.01(B).

⁴³ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

⁴⁴ Proposal 2018-1219 – Section 1104.01(F).

which the slide completely encircles the barrel and prevents the user's hands from being burned, and which is a semiautomatic version of the fully automatic Glock 18 pistol; and,

- d. A semiautomatic Sig Sauer P320 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned.

196. Mr. Averick has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

197. As Mr. Averick resides in the City of Pittsburgh, Allegheny County, on a daily basis, he possess, uses, transports, carries and/or stores “ammunition”,⁴⁵ “armor or metal penetrating ammunition”,⁴⁶ “firearms”,⁴⁷ “assault weapons”,⁴⁸ and “large capacity magazines”,⁴⁹ in public places.

198. Mr. Averick desires to manufacture and thereafter, possess, use, transport, carry and/or store, in the City of Pittsburgh, an AR-15 rifle from his lawfully owned and possessed AR-15 AERO M4E1 receiver; whereby, the AR-15 rifle would be capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and within which he desires to install a binary trigger and installed on which he intends to install a flash suppressor and folding or telescopic stock.

⁴⁵ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁴⁶ Proposal 2018-1219 – Section 1104.01(B).

⁴⁷ Proposal 2018-1218 – Sections 1101.01(D).

⁴⁸ Proposal 2018-1218 – Sections 1102.01(B).

⁴⁹ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

199. Mr. Averick desires to procure a “rapid fire device”⁵⁰ and install it in his AR-15.
200. Mr. Averick fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.
201. With the past 180 days, Mr. Averick has purchased one, or more, firearms.
202. Mr. Averick fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,⁵¹ as a result of Defendants statements that they will enforce the enacted Proposals.

Facts Related to Plaintiff Fred Rak

203. Mr. Rak is a resident of the City of Pittsburgh, Allegheny County, who is a USCCA firearms instructor, and a member of FOAC, FPC, and FPF.
204. As a result of his residence and employment in the City of Pittsburgh, Mr. Rak is subject to the Local Earned Income Tax of Chapter 245⁵² of City of Pittsburgh’s Code of Ordinances, the Home Rule Tax of Chapter 246,⁵³ the Occupational Privilege Tax of Chapter 251,⁵⁴ and the Local Services Tax of Chapter 252.⁵⁵

⁵⁰ Proposal 2018-1219 – Section 1104.01(F).

⁵¹ Proposal 2018-1220 – Section 1107.05(C).

⁵² *See,*

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T ITTWOFI ARTVIIBURETA_CH245EAINTA; *see also,* <http://pittsburghpa.gov/finance/taxes/index.html>.

⁵³ *See,*

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T

205. Mr. Rak may and lawfully does possess, use, transport, carry and store firearms, ammunition, armor or metal penetrating ammunition, magazines that have a capacity of more than 10 rounds of ammunition, and firearm accessories under State and Federal law.
206. As defined or categorized by the Proposals, Mr. Rak lawfully owns, possess, transports, carries, stores and/or desires to manufacture or procure “ammunition”,⁵⁶ “armor or metal penetrating ammunition”,⁵⁷ “firearms”,⁵⁸ “assault weapons”,⁵⁹ and “large capacity magazines”.⁶⁰
207. For purposes of his firearms training, as well as, personal protection and his rights as guaranteed by the U.S. and Pennsylvania Constitutions and laws, he possess, uses, transports, carries, and stores in his vehicle and on his person, both concealed and unconcealed, numerous firearms, ammunition and magazines that are regulated by the enacted Proposals.
208. Those firearms include, but are not limited to:

[ITTWOFI_ARTVIIBURETA_CH246HORUTA](http://pittsburghpa.gov/finance/taxes/index.html); *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁴ *See*,

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T_ITTWOFI_ARTVIIBURETA_CH251OCPRTA; *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁵ *See*,

https://library.municode.com/pa/pittsburgh/codes/code_of_ordinances?nodeId=COOR_T_ITTWOFI_ARTVIIBURETA_CH252LOSETA; *see also*,
<http://pittsburghpa.gov/finance/taxes/index.html>.

⁵⁶ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁵⁷ Proposal 2018-1219 – Section 1104.01(B).

⁵⁸ Proposal 2018-1218 – Sections 1101.01(D).

⁵⁹ Proposal 2018-1218 – Sections 1102.01(B).

⁶⁰ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

- a. A semiautomatic AR-15 rifle, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and which has installed on it a flash suppressor;
- b. Two 80% AR-15 receiver blanks, which he wishes to build into AR-15 rifles, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and installed on which he intends to install a flash suppressor and folding or telescopic stock; and,
- c. A semiautomatic Beretta 96A1 pistol, capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, for which the slide completely encircles the barrel and prevents the user's hands from being burned.

209. Mr. Rak has numerous magazines for the firearms specified *supra*, which have a capacity of more than 10 rounds.

210. As Mr. Rak resides in the City of Pittsburgh, Allegheny County, on a daily basis, he possess, use, transports, carries and/or stores “ammunition”,⁶¹ “armor or metal penetrating ammunition”,⁶² “firearms”,⁶³ “assault weapons”,⁶⁴ and “large capacity magazines”,⁶⁵ in public places.

211. Mr. Rak desires to manufacture, and thereafter, in public places in the City of Pittsburgh, possess, use, transport, carry and/or store, two AR-15 rifles from his lawfully owned and possessed 80% AR-15 receiver blanks; whereby, the AR-15

⁶¹ Proposal 2018-1218 – Sections 1101.01(B); Proposals 2018-1219 – Section 1104.01(B).

⁶² Proposal 2018-1219 – Section 1104.01(B).

⁶³ Proposal 2018-1218 – Sections 1101.01(D).

⁶⁴ Proposal 2018-1218 – Sections 1102.01(B).

⁶⁵ Proposal 2018-1218 – Section 1101.01 (C); Proposal 2018-1219 – Section 1104.01(D).

rifles would be capable of accepting detachable magazines that have a capacity of more than 10 rounds of ammunition, and on which he intends to install a flash suppressor and folding or telescopic stock.

212. Mr. Rak fears prosecution by Defendants pursuant to the enactment of the Proposals, as the Defendants have stated that they will enforce the enacted Proposals.

213. With the past 180 days, Mr. Rak has purchased one, or more, firearms.

214. Mr. Rak fears being subjected to an extreme risk protection order and being divested of his firearms and licenses, merely because of the exercise of his U.S. and Pennsylvania constitutional rights – *i.e.* purchasing of a firearm – within the past 180 days,⁶⁶ as a result of Defendants statements that they will enforce the enacted Proposals.

Statement of Facts of All Plaintiffs

215. The foregoing paragraphs are incorporated herein as if set forth in full.

216. The City is a municipality against which 18 Pa.C.S. § 6120 applies.

217. Plaintiffs own, possess, use, and bear firearms for all lawful purposes, including, but not limited to, self-defense, hunting, firearms training/education, and target shooting.

218. Plaintiffs bring this action as a result of the City's illegal enacted Proposals, which in addition to violating Sections 6120 and 2962, deprive them of their rights pursuant to the Pennsylvania Constitution.

⁶⁶ Proposal 2018-1220 – Section 1107.05(C).

219. Accordingly, Plaintiffs are “person[s] adversely affected” by the Defendants illegally enacted Proposals.
220. In an egregious and direct violation of Sections 6120 and 2962, the Defendants have promulgated, enacted, seek to enforce, and seek to continue enforcement of the Proposals and their associated penalties.
221. Although the undersigned and District Attorney Zappala informed the Defendants of their violations of state law and afforded them an opportunity, prior to filing this action, not to enact these Proposals, Defendants enacted the Proposals and expressed their intent to enforce them against everyone who violates them, including Plaintiffs.
222. In absolute defiance of the constitutional and statutory laws prohibiting the enactment of these Proposals, Councilwoman Strassburger declared “My council colleagues and the mayor and I are aware of the state laws that are on the books, and we happen to strongly disagree with them [referring to Pennsylvania’s preemption law prohibiting municipalities from regulating firearms]. If there’s not political will to make change, we’re ready and willing to make changes through the court system.” *See*, Exhibit N.
223. Each of these Proposals regulate firearms and ammunition and are patently unenforceable, unconstitutional, illegal, violate statewide preemption and clearly established precedent of the Supreme Courts of Pennsylvania in *Ortiz*.
224. In defiance of clearly established rights of the citizens, the Defendants have promulgated, enacted, ratified, condoned and enforced these gun control Proposals knowing that they have no authority to pass such Proposals, and

knowing that such are violating the Pennsylvania Constitution, statutory law and the established precedent of the Commonwealth Courts, specifically the Supreme and Commonwealth Courts, which have issued binding precedent on the courts of this Commonwealth that the City of Pittsburgh has no authority or power to regulate firearms or ammunition.

225. Plaintiffs assert that their rights under Article 1, Sections 21 and 25 of the Pennsylvania Constitution are now unconstitutionally rendered illegal, curtailed and burdened by the passage and enforcement, or threat thereof, of these Proposals, which has resulted in a chilling effect upon their rights.
226. Plaintiffs are likely to face criminal charging, prosecution and penalties, for violating the Defendants enacted Proposals.

**COUNT I: DECLARATORY RELIEF – 18 PA.C.S. § 6120 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220**
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

227. The foregoing paragraphs are incorporated herein as if set forth in full.
228. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
229. 18 Pa.C.S. § 6120(a) provides

General rule.--No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.

230. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, including as twice amended, which are attached, respectively, as Exhibits C, D. and E.
231. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
232. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
233. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
234. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.
235. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.

236. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania
237. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
238. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
239. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
240. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-

1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.

241. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.

242. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.

243. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large

capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

244. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violates 18 Pa.C.S. § 6120;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and
- f. Such other relief as the Court deems just and equitable.

COUNT II: INJUNCTIVE RELIEF – 18 PA.C.S. § 6120 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

245. The foregoing paragraphs are incorporated herein as if set forth in full.
246. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
247. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
248. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
249. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.
250. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution and Sections 5301 and 6120 of the Crimes Code.

251. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
252. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
253. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT III: DECLARATORY RELIEF – ARTICLE 1, SECTION 21 OF THE
PENNSYLVANIA CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220**

254. The foregoing paragraphs are incorporated herein as if set forth in full.

255. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.
256. Article 1, Section 21 of the Pennsylvania Constitution provides:
- Right to bear arms.** The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.
257. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, which are attached, respectively, as Exhibits C, D, and E.
258. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
259. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
260. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
261. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.

262. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.
263. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania
264. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
265. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
266. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.

267. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs' otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.
268. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants' statements that they will enforce enacted Proposals.
269. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.

270. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

271. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate Article 1, Section 21 of the Pennsylvania Constitution;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;

- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

**COUNT IV: INJUNCTIVE RELIEF – ARTICLE 1, SECTION 21 OF THE
PENNSYLVANIA CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)**

- 272. The foregoing paragraphs are incorporated herein as if set forth in full.
- 273. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
- 274. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
- 275. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
- 276. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a

firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.

277. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution and Sections 5301 and 6120 of the Crimes Code.
278. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
279. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
280. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally

liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

e. Such other relief as the Court deems just and equitable.

COUNT V: DECLARATORY RELIEF – 53 PA.C.S. § 2962 –
PROPOSALS 2018-1218, 2018-1219, and 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

281. The foregoing paragraphs are incorporated herein as if set forth in full.

282. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

283. 53 Pa.C.S. § 2962(c)(2) provides

Prohibited powers. A municipality shall not: . . . (2) Exercise powers contrary to or in limitation or enlargement of powers granted by statutes which are applicable in every part of this Commonwealth.

284. 53 Pa.C.S. § 2962(g) provides

Regulation of firearms.--A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms

285. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220, which are attached, respectively, as Exhibits C, D. and E.

286. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.

287. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order

any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.

288. Proposal 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. §§ 6106, 6109, as it prohibits individuals who are licensed to carry firearms from carrying firearms in the City in public places.
289. Proposal 2018-1218 and 2018-1219 are in direct conflict with, *inter alia*, 18 Pa.C.S. § 2707.1, 34 Pa.C.S. §§ 2505 - 2507, as they generally prohibit discharge of firearms, which the Commonwealth Court in *Firearm Owners Against Crime v. Lower Merion Township* already found to be preempted by Article 1, Section 21 of the Pennsylvania Constitution and Section 6120.
290. Proposals 2018-1218 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants term “assault weapons” and “large capacity magazines,” which the General Assembly, in relation to numerous proposed bills to prohibit the possession, purchase, and use of what Defendants term “assault weapons” and “large capacity magazines”, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania.
291. Proposal 2018-1219 is in direct conflict with, *inter alia*, 18 Pa.C.S. § 908, as it regulates what Defendants categorize as “binary triggers”, “multi-burst trigger activators” and “rapid fire devices,” which the General Assembly, in relation to numerous proposed bills to prohibit such categories of devices, has steadfastly refused, as such would violate the constitutional rights of the citizens of Pennsylvania

292. Proposal 2018-1220 is in direct conflict with, *inter alia*, 50 P.S. § 7101, *et seq.*, and 23 Pa.C.S. § 6101, *et seq.*, as the General Assembly has already enacted two statutes that address individuals who are a present danger to themselves or others.
293. Even if the General Assembly had prohibited the conduct specified in the enacted Proposals, which it has not, Defendants are prohibited from promulgating, enacting, or enforcing any ordinance *consistent* with such law, pursuant to Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the Commonwealth Court’s holdings in *NRA v. City of Philadelphia* and *Clarke v. House of Representatives*.
294. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
295. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge, transport, transfer, carry, store and possess firearms, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days (*see*, Section 1107.05(C) of enacted Proposal 2018-1220), in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, and the binding precedent.
296. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large

- capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.
297. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.
298. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.
299. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate the 53 Pa.C.S. § 2962;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT VI: INJUNCTIVE RELIEF – 53 PA.C.S. § 2962 –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

300. The foregoing paragraphs are incorporated herein as if set forth in full.

301. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.

302. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme

- risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
303. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
304. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.05(C) of enacted Proposal 2018-1220.
305. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, and 53 Pa.C.S. § 2962.
306. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
307. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
308. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT VII: DECLARATORY RELIEF – LIMITATIONS ON POWERS OF
SECOND CLASS CITIES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220**
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

309. The foregoing paragraphs are incorporated herein as if set forth in full.

310. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

311. 53 P.S. § 23158 restricts all Cities of the Second Class from enacting any general Ordinance where the penalty exceeds \$300.00, per occurrence.

312. Due to their length, Plaintiffs incorporate by reference the text of Proposals 2018-1218, 2018-1219, and 2018-1220 which are attached, respectively, as Exhibits C, D, and E.
313. The Proposals were promulgated, enacted, enforced and continue to be enforced by Defendants.
314. Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting individuals, including, but not limited to, the Plaintiffs, who are in violation of the enacted Proposals.
315. In violation of 53 P.S. § 23158, Proposals 2018-1218, 2018-1219, and 2018-1220 specify a penalty of “\$1000 and costs for each offense,” when the maximum penalty that may be imposed, as limited by Section 23158, is “three hundred dollars (\$300) for any one offense.” *See*, Exhibit C, D, and E.
316. 53 P.S. § 24586 restricts all Cities of the Second Class from enacting any unhealthful condition Ordinance where the penalty exceeds \$100.00, per occurrence.
317. In violation of 53 P.S. § 24586, Proposals 2018-1218, 2018-1219, and 2018-1220 specify a penalty of “\$1000 and costs for each offense,” when the maximum penalty that may be imposed, as limited by Section 24586, is “one hundred dollars.” *See*, Exhibit C, D, and E.
318. A present controversy exists, as Defendants have publicly stated their intention to enforce the Proposals.
319. The current enforcement of these enacted Proposals has a chilling effect on the Plaintiffs’ otherwise lawful, and constitutionally protected, right to use, discharge,

sell, transport, transfer, carry, store and possess firearms, in violation of Article 1, Section 21 of the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, 53 P.S. § 23158, 53 P.S. § 24586, and the binding precedent.

320. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”, “multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over their possible charging and prosecution, because of the Defendants’ statements that they will enforce enacted Proposals.
321. Members of FOAC, FPC, and FPF, who lawfully, in public places in the City of Pittsburgh, possess and use firearms and ammunition pursuant to State and Federal law, including ones living in the City of Pittsburgh, have raised concern with FOAC, FPC, and FPC over being subjected to extreme risk protection orders, *inter alia*, merely because of their purchase of a firearm within the past 180 days.
322. FOAC, FPC, and FPF fear prosecution of their members, especially those who lawfully, in public places in the City of Pittsburgh, use, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications – including what the Defendants have categorized as “assault weapons”, “ammunition”, “armor or metal penetrating ammunition”, “binary triggers”,

“multi-burst trigger activators”, “rapid fire devices”, “trigger cranks”, “large capacity magazines” – because of the Defendants statements that they will enforce enacted Proposals, against anyone in violation of enacted Proposals, including, but not limited to, the Plaintiffs.

323. FOAC, FPC, and FPF fear that their members will be subject to extreme risk protection orders, *inter alia*, merely because the member purchased a firearm within the past 180 days or because the member possesses, uses, or controls a firearm as part of his/her employment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 violate 53 P.S. §§ 23158, 24586;
- b. Declaring that the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

f. Such other relief as the Court deems just and equitable.

**COUNT VIII: INJUNCTIVE RELIEF – LIMITATIONS ON POWERS OF
SECOND CLASS CITIES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220**
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

324. The foregoing paragraphs are incorporated herein as if set forth in full.
325. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
326. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
327. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
328. Enforcement of the enacted Proposals 2018-1218, 2018-1219, and 2018-1220 will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications.
329. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and 53 P.S. §§ 23158, 24586.

330. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting Proposals 2018-1218, 2018-2019, and 2018-1220.
331. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
332. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law
333. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- b. Requiring that Defendants repeal enacted Proposals 2018-1218, 2018-1219, and 2018-1220;
- c. Ordering that Defendants pay reasonable expenses;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

e. Such other relief as the Court deems just and equitable.

COUNT IX: DECLARATORY RELIEF – CITY OF PITTSBURGH
HOME RULE CHARTER –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

334. The foregoing paragraphs are incorporated herein as if set forth in full.

335. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

336. Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter” declares that:

310. POWERS OF COUNCIL – Council shall have the following additional powers:

. . .
to exercise other powers conferred by this charter, by law or ordinance, consistent with the provisions of this charter.

337. In violation of Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter,” the Proposals violate the powers of the Council, as no law, as acknowledged by Defendants, grants or otherwise confers the Council with power to enact the Proposals and when the law, pursuant to Article 1, Section 21, 18 Pa.C.S. § 6120, and 53 Pa.C.S. § 2962(g), specifically precludes the Council from enacting the Proposals.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate the City of Pittsburgh's Home Rule Charter;
- b. Declaring that the enacted Proposals are unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;
- d. Ordering that Defendants pay reasonable expenses;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT X: INJUNCTIVE RELIEF – CITY OF PITTSBURGH
HOME RULE CHARTER –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

338. The foregoing paragraphs are incorporated herein as if set forth in full.
339. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
340. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
341. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.

342. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 630.03(B).(6.) of enacted Proposal 2018-1220.
343. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and Article III, Section 310(i), of the City of Pittsburgh’s “Home Rule Charter.”
344. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
345. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
346. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT XI: DECLARATORY RELIEF – CITY OF PITTSBURGH CITY
COUNCIL RULES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)**

347. The foregoing paragraphs are incorporated herein as if set forth in full.

348. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

349. Article VII., Section 1., of the Pittsburgh City Council “Rules of Council”

declares that:

SECTION 1. No bill shall be introduced in Council unless deposited with the Clerk of Council by 12:00 noon Friday prior to the regular meeting of Council; but any member may present any bill or paper notwithstanding said rule, with the consent of the majority of members present at any meeting of Council. All bills deposited with the Clerk from the Mayor, City Council Members or department of the City must have accompanying documentation as to purpose, history and fiscal impact in a manner prescribed by Ordinance, the City Council Budget office, and the president of Council.

See, Exhibit Q.

350. Article III., Section 4., subsection C., of the Pittsburgh City Council “Rules of Council” declares, in pertinent part, that:

ii. After the comment period in a Council meeting has ended, if a resolution or ordinance is added to the agenda or amended to make its substance differ, residents or taxpayers shall be provided an additional opportunity to comment on the addition or amendment before a final vote is taken.

See, Exhibit Q.

351. The Proposals were not filed with the Clerk of Council until the day they were formally introduced on December 18, 2018.

352. The Proposals filed with the Clerk of Council did not have attached or otherwise accompanying them any “documentation as to purpose, history and fiscal impact.”

353. The Proposals were not introduced by a Member of City Council, but rather, by the City Clerk. *See*,

http://pittsburgh.granicus.com/MediaPlayer.php?view_id=2&clip_id=2938&meta_id=237415

354. No vote, including a vote to waive the requirement of Section 1 that the Proposals be filed by noon on Friday, December 14, 2018, was taken in relation to the Proposals on December 18, 2018.

355. In violation of Article VII., Section 1., of the Pittsburgh City Council “Rules of Council,” the Proposals were not filed with the Clerk of Council until December 18, 2018, no vote was taken on December 18, 2018 to waive the requirement that the Proposals be filed Friday, December 14, 2018, and the Proposals that were filed with the Clerk of Council on December 18, 2018 did not include “documentation as to purpose, history and fiscal impact.”

356. In fact, to this day, documentation as to “history and fiscal impact” in relation to the Proposals has never been filed with the Clerk of Council.
357. To the best of Plaintiff’s information, knowledge and belief, no documentation as to the “history and fiscal impact” even exists in relation to the Proposals as of the time of filing of this Complaint.
358. Furthermore, on March 20, 2019 and April 2, 2019, the substance of the Proposals were amended (*see*, Exhibits C, D, E) and on April 2, 2019, the amended Proposals were enacted.
359. At no time after the public hearing on January 24, 2019 and prior to the final vote, was the public provided an additional public hearing to comment on the amendments. In fact, the last amendments to the Proposals occurred only minutes before the City Council enacted the Proposals.
360. In violation of Article III., Section 4., Subsection C., of the Pittsburgh City Council “Rules of Council,” the residents and taxpayers were not offered an opportunity for additional public hearing in relation to the amendments.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals were enacted in violation of Article VII., Section 1., of the Pittsburgh City Council “Rules of Council;”
- b. Declaring that the enacted Proposals are therefore unlawful;
- c. Enjoining Defendants from enforcing the enacted Proposals;

- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT XII: INJUNCTIVE RELIEF – CITY OF PITTSBURGH CITY COUNCIL
RULES –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS V. ALL DEFENDANTS)

- 361. The foregoing paragraphs are incorporated herein as if set forth in full.
- 362. Plaintiffs’ injuries are imminent and immediate and will not be adequately redressed through money damages.
- 363. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
- 364. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
- 365. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could

be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.

366. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, 53 Pa.C.S. § 2962, and Articles III, Section 4., subsection C., and VII., Section 1., of the Pittsburgh City Council “Rules of Council;”
367. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.
368. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.
369. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;

- c. Ordering that Defendants pay reasonable expenses, including attorney fees and cost;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT XIII: DECLARATORY RELIEF – ARTCLE 2, SECTION 1 AND
ARTICLE III, SECTIONS 1, 4, AND 8 OF THE PENNSYLVANIA
CONSTITUTION –
PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)**

370. The foregoing paragraphs are incorporated herein as if set forth in full.

371. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

372. Article 2, Section 1 of the Pennsylvania Constitution provides:

Legislative power. “The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.”

373. Article 3, Section 1 of the Pennsylvania Constitution provides:

Passage of laws. “No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.”

374. Article 3, Section 4 of the Pennsylvania Constitution provides:

Consideration of bills. Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill and before the final vote is taken, upon written request addressed to the presiding officer of either House by at least 25% of the members elected to that House, any bill shall be read at length in that House. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.

375. Article 3, Section 8 of the Pennsylvania Constitution provides:

Signing of bills. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the General Assembly, after their titles have been publicly read immediately before signing; and the fact of signing shall be entered on the journal.

376. No bill was proposed and offered by City Council nor could a bill be proposed and offered by City Council, as neither it nor its members are Members of the Pennsylvania General Assembly.

377. The Proposals, as evidenced by their explicit terms, constitute proposed ordinances.

378. Neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals.

379. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the Proposals were never considered on three different days in each House.

380. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, no member of the Pennsylvania House of Representatives nor the Senate voted in favor of the Proposals.

381. As neither the Pennsylvania House of Representatives nor the Senate ever considered the Proposals, the presiding officer of each house never signed the Proposals.
382. In violation of Article 2, Section 1, the Proposals constitute legislation, which can only be considered and enacted by the General Assembly and then only in compliance with Article 3 of the Pennsylvania Constitution.
383. In violation of Article 3, Sections 1, 4, and 8, the Proposals were never enacted in compliance with the Constitutional requirements for any legislation.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that the enacted Proposals violate Article 2, Section 1 and Article 3, Sections 1, 4, and 8 of the Pennsylvania Constitution;
- b. Declaring that the Proposals are unlawful;
- c. Enjoining Defendants from enforcing the Proposals;
- d. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- f. Such other relief as the Court deems just and equitable.

COUNT XIV: INJUNCTIVE RELIEF – ARTICLE 2, SECTION 1 AND ARTICLE III, SECTIONS 1, 4, AND 8 OF THE PENNSYLVANIA CONSTITUTION – PROPOSALS 2018-1218, 2018-1219, AND 2018-1220
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

384. The foregoing paragraphs are incorporated herein as if set forth in full.
385. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
386. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the enacted Proposals, as Defendants City and Mayor Peduto have expressed their intent to enforce the enacted Proposals by prosecuting or subjecting to an extreme risk protection order any individual, including, but not limited to, the Plaintiffs, who is in violation of the enacted Proposals.
387. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
388. Enforcement of the enacted Proposals will have a chilling effect on the otherwise lawful right to use, discharge, sell, transport, transfer, carry, store and possess firearms, ammunition, accessories and modifications, as well as, those who could be subject to an extreme risk protection order, because they merely acquired a firearm in the past 180 days. *See*, Section 1107.04(C) of enacted Proposal 2018-1220.
389. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21, Article 2,

Section 1, and Article 3, Sections 1, 4, and 8 of the Pennsylvania Constitution, Sections 5301 and 6120 of the Crimes Code, and 53 Pa.C.S. § 2962.

390. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants enacting the Proposals.

391. An injunction is the appropriate method to stay the enforcement of a law enacted in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.

392. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the enacted Proposals;
- b. Requiring that Defendants repeal the enacted Proposals;
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

**COUNT XV: DECLARATORY RELIEF – 18 PA.C.S. § 913(d) –
UNLAWFUL SIGNAGE**
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

393. The foregoing paragraphs are incorporated herein as if set forth in full.

394. Plaintiffs may “have determined any question of . . . validity arising under . . . statute [or] ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder” in accordance with 42 Pa.C.S.A. § 7533.

395. 18 Pa.C.S. § 913 provides, in pertinent part

(d) Posting of notice.--Notice of the provisions of subsections (a) and (e) shall be posted conspicuously at each public entrance to each courthouse or other building containing a court facility and each court facility, and no person shall be convicted of an offense under subsection (a)(1) with respect to a court facility if the notice was not so posted at each public entrance to the courthouse or other building containing a court facility and at the court facility unless the person had actual notice of the provisions of subsection (a).

(e) Facilities for checking firearms or other dangerous weapons.--Each county shall make available at or within the building containing a court facility by July 1, 2002, lockers or similar facilities at no charge or cost for the temporary checking of firearms by persons carrying firearms under section 6106(b) or 6109 or for the checking of other dangerous weapons that are not otherwise prohibited by law. Any individual checking a firearm, dangerous weapon or an item deemed to be a dangerous weapon at a court facility must be issued a receipt. Notice of the location of the facility shall be posted as required under subsection (d).

396. The signage erected by the City of Pittsburgh in front of the City-Council Building does not advise individuals of their rights specified in Section 913(e), including, but not limited to, that lockers must be made available in the City-Council Building at no charge or cost to secure their firearms and other dangerous weapons.

397. As of the date of filing this Complaint, the Defendants have failed to remove the unlawful signage or otherwise correct it by complying with the requirements of Section 913(d).

398. Thus, in violation of 18 Pa.C.S. § 913(d), the signage erected by the City of Pittsburgh in front of the City-Council Building fails to advise individuals that secure lockers must be made available within the City-Council Building for the individual to secure his/her firearm or other dangerous weapon.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Finding that erected sign violates 18 Pa.C.S. § 913(d);
- b. Declaring that the erected sign is unlawful;
- c. Enjoining Defendants from utilizing the erected sign;
- d. Directing Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
- e. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- f. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- g. Such other relief as the Court deems just and equitable.

COUNT XVI: INJUNCTIVE RELIEF – 18 PA.C.S. § 913(d) –
UNLAWFUL SIGNAGE
(ALL PLAINTIFFS VS. ALL DEFENDANTS)

399. The foregoing paragraphs are incorporated herein as if set forth in full.
400. Plaintiffs' injuries are imminent and immediate and will not be adequately redressed through money damages.
401. Plaintiffs have a well-grounded fear of imminent prosecution for violation of the erected sign, as Defendants City and Mayor Peduto has expressed, after receipt of the undersigned's letter, that it is unlawful to possess a firearm or other dangerous weapon in the City-Council Building.
402. Violations of constitutional and statutory rights are *per se* injuries, which, in this case, result in criminal liability of the Defendants.
403. Enforcement of the erected sign will have a chilling effect on the otherwise lawful right to secure, free of charge, one's firearms and other dangerous weapons in a locker within the City-Council Building.
404. Greater injury would result to Plaintiffs than to Defendants, as Plaintiffs will face criminal charging and prosecution, whereby Plaintiffs will be deprived of their constitutional and statutory rights, in violation of Article 1, Section 21, Sections 5301 and 6120 of the Crimes Code, and 18 Pa.C.S. § 913(d).
405. If the injunction is granted, Plaintiffs and Defendants will remain in the position they were prior to the wrongful conduct of the Defendants erecting the sign.
406. An injunction is the appropriate method to stay the enforcement of a sign erected in contravention of the Pennsylvania Constitution and state law and is the minimum action necessary.

407. An injunction will not be adverse to the public interest, as it will enjoin Defendant from enforcing a law enacted in contravention of Pennsylvania Constitution and state law

WHEREFORE, Plaintiffs respectfully request that this Honorable Court issue an Order granting relief as follows:

- a. Enjoining the Defendants from enforcing the erected sign;
- b. Ordering Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
- c. Ordering that Defendants pay reasonable expenses, including attorney fees and costs;
- d. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,
- e. Such other relief as the Court deems just and equitable.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that judgment be entered against the Defendants as follows:

- a. Declaring that Defendant's actions in promulgating, enacting and enforcing the Proposals were contrary to Article 1, Sections 21 and 25 of

the Pennsylvania Constitution, 18 Pa.C.S. § 6120, 53 Pa.C.S. § 2962, the Home Rule Charter of Pittsburgh, and the Pittsburgh City Council Rules and thus are null and void;

- b. Declaring that the erected sign in front of the City-Council Building violates 18 Pa.C.S. § 913(d);
- c. Permanently enjoining Defendants, including all officials, agents and employees, and their successors, as follows:
 - i. Enjoining Defendants from enforcing the enacted Proposals and erected sign;
 - ii. Requiring Defendants repeal the enacted Proposals;
 - iii. Ordering Defendants to immediately remove the erected sign and if Defendants deem it appropriate to re-erect signage at the City-Council Building that any signage be in conformance with Section 913(d);
 - iv. Enjoining Defendant from implementing any other proposal, ordinance, law, or rule that regulates, in any manner, firearms and ammunition;
- d. Awarding Plaintiffs reasonable expenses, including attorney fees and costs;
- e. Ordering that the individual Defendants indemnify the City of Pittsburgh for all fees and costs assessed against it and be held jointly and severally liable, so the taxpayers are not required to pay for the knowing and willful acts in violation of the law by the individual Defendants; and,

- f. Awarding Plaintiffs any additional or further relief this court finds appropriate, equitable, or just.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Joshua Prince". The signature is written in a cursive style and is positioned above a horizontal line.

Joshua Prince, Esq.

Attorney ID No. 306521

Civil Rights Defense Firm, P.C.

646 Lenape Rd

Bechtelsville, PA 19505

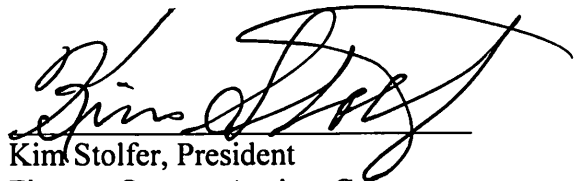
888-202-9297 ext. 81114

610-400-8439 (fax)

Joshua@CivilRightsDefenseFirm.com

VERIFICATION


I, Kim Stolfer, President of Firearm Owners Against Crime verify that I am authorized to make this Verification on behalf of Firearm Owners Against Crime and that all the information contained in the foregoing is true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Kim Stolfer, President
Firearm Owners Against Crime

VERIFICATION

I, Brandon Combs, President of Firearms Policy Coalition, Inc., and Chairman of Firearms Policy Foundation, verify that I am authorized to make this Verification on behalf of Firearm Policy Coalition, Inc. and Firearms Policy Foundation and that all the information contained in the foregoing is true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



Brandon Combs
President, Firearm Policy Coalition
Chairman, Firearms Policy Foundation

VERIFICATION

I, Matthew Boardley, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.


Matthew Boardley

VERIFICATION

I, Saadyah Averick, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.



Saadyah Averick

VERIFICATION

I, Fred Rak, subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, hereby certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.



Fred Rak