

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 22-cv-2111

ROCKY MOUNTAIN GUN OWNERS,
NATIONAL ASSOCIATION FOR GUN RIGHTS,
BRYAN LAFONTE,
CRAIG WRIGHT, and
GORDON MADONNA

Plaintiffs,

v.

CITY OF LOUISVILLE, COLORADO

Defendant.

COMPLAINT

Plaintiffs submit the following Complaint against Defendant City of Louisville, Colorado (the “City”).

I. PARTIES

1. Plaintiff RMGO is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4). RMGO seeks to defend the right of all law-abiding individuals to keep and bear arms. RMGO has members who reside within the City. RMGO represents the interests of its members who reside in the City. Specifically, RMGO represents the interests of those who are affected by the City’s prohibition of commonly used firearms and magazines. In addition to their standing as citizens and taxpayers, those members’ interests include their wish to exercise their constitutionally protected right to keep and bear arms without being subjected to criminal prosecution and to continue to lawfully possess and/or

transfer property that they lawfully obtained. But for the City’s unlawful prohibition of commonly used arms and their reasonable fear of prosecution for violating these prohibitions, RMGO members would seek to acquire, keep, possess and/or transfer lawful arms for self-defense and other lawful purposes. For purposes of this Complaint, the term “Plaintiffs” is meant to include RMGO in its capacity as a representative of its members.

2. Plaintiff NAGR is a nonprofit membership and donor-supported organization qualified as tax-exempt under 26 U.S.C. § 501(c)(4). NAGR seeks to defend the right of all law-abiding individuals to keep and bear arms. NAGR has members who reside within the City. NAGR represents the interests of its members who reside in the City. Specifically, NAGR represents the interests of those who are affected by the City’s prohibition of commonly used firearms and magazines. In addition to their standing as citizens and taxpayers, those members’ interests include their wish to exercise their constitutionally protected right to keep and bear arms without being subjected to criminal prosecution and to continue to lawfully possess and/or transfer property that they lawfully obtained. But for the City’s unlawful prohibition of commonly used arms and their reasonable fear of prosecution for violating these prohibitions, NAGR members would seek to acquire, keep, possess and/or transfer lawful arms for self-defense and other lawful purposes. For purposes of this Complaint, the term “Plaintiffs” is meant to include NAGR in its capacity as a representative of its members.

3. Plaintiffs Bryan LaFonte, Craig Wright and Gordon Madonna are residents of the City and are law-abiding citizens of the United States. They currently own certain semi-automatic firearms that are putatively made illegal by the Code (defined below), and they currently own magazines capable of holding more than 10 rounds of ammunition. They have possessed this property lawfully for years. They seek to continue possessing their lawfully owned property,

acquire additional arms putatively made illegal by the Code, and lawfully transfer their property to others. But for the City's restrictions on commonly used arms, and their reasonable fear of criminal prosecution for violating these restrictions, they would continue to possess their lawfully owned arms, acquire additional arms, and/or transfer them to others.

4. Defendant City of Louisville, Colorado is a Colorado home rule municipal corporation with an address of 749 Main Street, Louisville, Colorado.

5. Defendant is or will enforce the unconstitutional provisions of the Code against Plaintiffs under color of state law within the meaning of 42 U.S.C. § 1983.

III. JURISDICTION AND VENUE

6. The Court has original jurisdiction of this civil action under 28 U.S.C. § 1331, because the action arises under the Constitution and laws of the United States. The Court also has jurisdiction under 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation, under color of the laws, ordinances, regulations, customs and usages of the State, of rights, privileges or immunities secured by the United States.

7. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys' fees is authorized by 42 U.S.C. § 1988.

8. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

IV. GENERAL ALLEGATIONS

9. The Second Amendment to the United States Constitution declares that "the right of the people to keep and bear arms shall not be infringed." U.S. CONST. amend. II; *see also D.C. v.*

Heller, 554 U.S. 570 (2008) (“*Heller*”); *McDonald v. City of Chicago*, 561 U.S. 742 (2010) (“*McDonald*”); and *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 2022 WL 2251305 (U.S. June 23, 2022) (“*Bruen*”).

10. The right to keep and bear arms recognized in the Second Amendment is made applicable to the states by the Fourteenth Amendment. *McDonald, supra*.

11. This action challenges the constitutionality of certain provisions of the City’s Ordinance No. 1831. A copy of the Ordinance is attached hereto as Exhibit A. The Ordinance was effective on July 12, 2022. The Ordinance added new provisions to the Louisville Municipal Code (the “Code”).

12. Section 9.80.010 of the Code defines the term “assault weapon.” Section 9.80.010 states that the term “illegal weapon” includes any “assault weapon.” Section 9.84.010(a) of the Code makes it illegal to possess, sell or otherwise transfer any “illegal weapon” in the City.

13. The term “assault weapon” as used in the Code is not a technical term used in the firearms industry or community for firearms commonly available to civilians. Instead, the term is a rhetorically charged political term meant to stir the emotions of the public against those persons who choose to exercise their constitutional right to possess certain semi-automatic firearms that are commonly owned by millions of law-abiding American citizens for lawful purposes. Plaintiffs refuse to adopt the City’s politically charged rhetoric in this Complaint. Therefore, for purposes of this Complaint, the term “Banned Firearm” shall have the same meaning as the term “assault weapon” in section 9.80.010 of the Code.

14. Section 9.86.010 of the Code provides an exception to the general illegality of Banned Firearms in the City. Under that section, a person who legally possessed a Banned Firearm on July 1, 2022, may apply to the Louisville Police Department for a certificate. If the Louisville

Police Department issues a certificate to a person and the person is later prosecuted for possession of a Banned Firearm, he may assert as a defense the fact that he has a certificate. No person in the City (including persons who have obtained a certificate) may acquire Banned Firearms or transfer a grandfathered Banned Firearm in the City, including to members of his own family. Any person who inherits a Banned Firearm must destroy it or remove it from the City.

15. Plaintiffs and/or their members currently own and possess Banned Firearms. Plaintiffs and/or their members desire to continue to possess the Banned Firearms in the City. Moreover, they wish to acquire more Banned Firearms, transfer their currently owned Banned Firearms to other persons in the City, and bequeath their Banned Firearms to their devisees.

16. The Second Amendment protects the right of law-abiding citizens to own weapons in common use by law-abiding citizens for lawful purposes. *Heller, supra*, at 627. This issue was addressed with respect to semi-automatic weapons such as the Banned Firearms made illegal in the Code and currently possessed by Plaintiffs in *Kolbe v. Hogan*, 849 F.3d 114 (4th Cir. 2017), abrogated by *Bruen, supra*. In his dissent (which, after *Bruen*, likely represents the correct interpretation of the law), Judge Traxler stated:

It is beyond any reasonable dispute from the record before us that a statistically significant number of American citizens possess semiautomatic rifles (and magazines holding more than 10 rounds) for lawful purposes. Between 1990 and 2012, more than 8 million AR- and AK- platform semiautomatic rifles alone were manufactured in or imported into the United States. In 2012, semiautomatic sporting rifles accounted for twenty percent of all retail firearms sales. In fact, in 2012, the number of AR- and AK- style weapons manufactured and imported into the United States was more than double the number of the most commonly sold vehicle in the U.S., the Ford F-150. In terms of absolute numbers, these statistics lead to the unavoidable conclusion that popular semiautomatic rifles such as the AR-15 are commonly possessed by American citizens for lawful purposes within the meaning of *Heller*.

Id., 849 F.3d at 153, Traxler, J. dissenting (internal citations and quotation marks omitted).

17. Millions of law-abiding citizens own and use for lawful purposes semi-automatic firearms such as the Banned Firearms currently possessed by Plaintiffs. The Code’s prohibition on the possession, sale, or other transfer of the Banned Firearms possessed by Plaintiffs and/or their members violates the Second Amendment. Moreover, the Code’s prohibition on carrying even Banned Firearms legally owned prior to July 1, 2022 violates the Second Amendment as elucidated in *Bruen*.

18. Section 9.80.010 of the Code defines the term “large-capacity magazine” to mean any firearm magazine capable of holding more than ten rounds of ammunition. Section 9.80.010 states that the term “illegal weapon” includes any “large-capacity magazine.” Section 9.84.010(a) of the Code makes it illegal to possess, sell or otherwise transfer any “illegal weapon.”

19. The Code again uses politically charged rhetoric to describe the arms it bans. The Code’s characterization of these magazines as “large capacity” is a misnomer. Magazines capable of holding more than 10 rounds are standard capacity magazines. Plaintiffs refuse to adopt the City’s politically charged rhetoric in this Complaint. Therefore, for purposes of this Complaint, the term “Banned Magazine” shall have the same meaning as the term “large-capacity magazine” in section 9.80.010 of the Code.

20. In his dissent in *Kolbe v. Hogan*, Judge Traxler also addressed magazines such as the Banned Magazines. He stated:

The record also shows unequivocally that magazines with a capacity of greater than 10 rounds are commonly kept by American citizens, as there are more than 75 million such magazines owned by them in the United States. These magazines are so common that they are standard on many firearms: On a nationwide basis most pistols are manufactured with magazines holding ten to 17 rounds. Even

more than 20 years ago, fully 18 percent of all firearms owned by civilians were equipped with magazines holding more than ten rounds.”

Id., 849 F.3d at 154, Traxler, J. dissenting (internal citations and quotation marks omitted).

21. Law-abiding citizens own literally tens of millions of Banned Magazines such as those owned and possessed by Plaintiffs and/or their members. The Code’s prohibition on the possession, sale, or other transfer of the Banned Magazines owned by Plaintiffs and/or their members violates the Second Amendment.

22. On July 22, 2022, this Court entered an order in *Rocky Mountain Gun Owners v. The Town of Superior*, Case No. 22-cv-1685, in which it restrained enforcement of certain provisions of a Town of Superior, Colorado ordinance (the “Superior Order”).

23. In the Superior Order, this Court held there was a strong likely that the plaintiffs in that case would prevail on the merits of their constitutional challenge to the Superior ordinance provisions banning so-called assault weapons and large capacity magazines. Those restrained ordinance provisions are substantially identical to the ordinance provisions challenged in this action.

24. There is an actual and present controversy between the parties. The Code infringes on Plaintiffs’ right to keep and bear arms under the Second Amendment by generally prohibiting the possession of arms that are commonly possessed by millions of Americans for lawful purposes. Defendant denies these contentions. Plaintiffs desire a judicial declaration that the Code sections identified above, facially and/or as applied to them, violate their constitutional rights. Plaintiffs should not be forced to choose between risking criminal prosecution and exercising their constitutional rights. This is true even if certain provisions of the Code provide affirmative defenses to criminal prosecution. The risk of criminal prosecution on account of

exercising a constitutionally protected right unlawfully chills the exercise of that right and thus violates the Constitution even if the criminal defendant ultimately prevails.

25. Plaintiffs are or will be injured by Defendant's enforcement of the Code sections identified above insofar as those provisions violate Plaintiffs' rights under the Second Amendment by precluding the acquisition, possession, transfer and use of arms that are "typically possessed by law-abiding citizens for lawful purposes" nationwide. If not enjoined by this Court, Defendant will enforce the Code in derogation of Plaintiffs' constitutional rights. Plaintiffs have no plain, speedy, and adequate remedy at law. Damages are indeterminate or unascertainable and, in any event, would not fully redress any harm suffered by Plaintiffs because they are unable to engage in constitutionally protected activity due to Defendant's present or contemplated enforcement of these provisions.

V. FIRST CLAIM FOR RELIEF
Right to Keep and Bear Arms
U.S. Const., amends. II and XIV

26. Paragraphs 1-25 are realleged and incorporated by reference.

27. The Code's definition of "illegal weapon" includes many firearms and firearms magazines that are "typically possessed by law-abiding citizens for lawful purposes" nationwide. The Code, therefore, generally prohibits residents of the City, including Plaintiffs, from acquiring, keeping, possessing, and/or transferring arms protected by the Second Amendment. There are significant penalties for violations of the Code.

28. These restrictions infringe on the right of the people of the City, including Plaintiffs, to keep and bear arms as guaranteed by the Second Amendment and made applicable to Colorado and its political subdivisions by the Fourteenth Amendment.

29. The Code’s prohibitions extend into Plaintiffs’ homes, where Second Amendment protections are at their zenith.

30. Defendant cannot satisfy its burden of justifying these restrictions on the Second Amendment right of the People, including Plaintiffs, to bear, acquire, keep, possess, transfer, and use arms that are in common use by law-abiding adults throughout the United States for the core right of self-defense in the home and other lawful purposes.

VI. PRAYER FOR RELIEF

Plaintiffs pray that the Court:

31. Enter a declaratory judgment pursuant to 28 U.S.C. § 2201 that the Code sections identified herein are unconstitutional on their face or as applied to the extent their prohibitions apply to law-abiding adults seeking to acquire, use, transfer, or possess arms that are in common use by the American public for lawful purposes;

32. Enter preliminary and permanent injunctive relief enjoining Defendant and its officers, agents, and employees from enforcing the unconstitutional Code sections identified above;

33. Award remedies available under 42 U.S.C. § 1983 and all reasonable attorneys’ fees, costs, and expenses under 42 U.S.C. § 1988, or any other applicable law; and

34. Grant any such other and further relief as the Court may deem proper.

Respectfully submitted this 18th day of August, 2022.

/s/ Barry K. Arrington

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EXHIBIT A

Second Reading Amendments

Ordinance No. 1831, Series 2022 is revised to read as follows (amendments are shown in **bold underline** and ~~**bold-strikeout**~~):

ORDINANCE NO. 1831 SERIES 2022

AN ORDINANCE AMENDING TITLE 9, ARTICLE VIII OF THE LOUISVILLE MUNICIPAL CODE BANNING THE SALE AND POSSESSION OF ASSAULT WEAPONS, LARGE-CAPACITY MAGAZINES AND RAPID-FIRE TRIGGER ACTIVATORS, AND ESTABLISHING A MINIMUM AGE TO POSSESS FIREARMS

WHEREAS, the City of Louisville (the “City”), is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City of Louisville Home Rule Charter (the “City Charter”); and

WHEREAS, gun violence poses a grave public safety threat in the City of Louisville. Statewide in Colorado, guns are the leading cause of death for children ages 1–17 and cause the deaths of nearly 2/3 of women who are killed by intimate partners; and

WHEREAS, Colorado has the 18th-highest gun death rate among the 50 states and saw elevated levels of mass shootings in 2020 and early 2021, when a mass shooter killed 10 people at King Soopers in Boulder using an assault weapon and large-capacity magazines; and

WHEREAS, assault weapons are semiautomatic firearms with large ammunition capacities and specific features that are useful in military and criminal applications yet are unnecessary in shooting sports or self-defense. These weapons include semiautomatic assault rifles that have the ability to accept large-capacity magazines holding up to 100 rounds, and with features that enhance concealability, control, and the ability to fire many dozens of rounds without pause. They also include assault pistols and high-capacity “combat” shotguns; and

WHEREAS, assault weapons are semiautomatic versions of firearms. Although these semiautomatic versions of military firearms are marketed to civilians, they are military-grade weapons: the U.S. military calls semiautomatic rifle fire the “most important firing technique during fast-moving, modern combat” and “most accurate technique of placing a large volume of fire.” These rifles fire bullets with a velocity three times greater than 9mm handguns, leaving “softball-sized exit wounds” much more likely to kill than to incapacitate victims; and

WHEREAS, perpetrators of the five deadliest shootings in modern U.S. history—Las Vegas, Orlando, Sandy Hook, Sutherland Springs, and El Paso—used assault rifles with military-style features. Colorado’s deadliest mass shooters have also used assault rifles or pistols, including the Aurora movie theater shooter, who used an assault rifle and a 100-round drum magazine; and the King Soopers shooter, who used an AR-style pistol that an ATF expert described as “made for the military and designed for short-range combat”; and

WHEREAS, researchers have found that firearm purchasers with criminal histories are more likely to buy assault weapons, and that probability was even higher if purchasers have more serious criminal histories. These weapons are regularly used in violent crime beyond mass shootings, including violence against police officers; and

WHEREAS, assault weapons are inappropriate for civilian use due to their unique features that allow shooters to rapidly fire a large number of rounds—more than is ever needed for lawful self-defense—while maintaining control of the firearm in order to accurately target and kill more victims. Specific features that allow an assault weapon to perform this way are:

Detachable magazine: Firearms that can accept detachable magazines allow a shooter to attach magazines of any size available for the firearm and quickly reload the weapon with pre-filled magazines. In some cases, magazines can hold as many as 100 rounds, but even smaller detachable magazines can greatly increase firepower.

Pistol grip: To counteract the movement that occurs during rapid fire, assault weapons are typically equipped with features that allow the shooter to steady the weapon. A pistol grip, not typically found on a sporting rifle or shotgun (which would be fired from the shoulder), allows the shooter to control the firearm more accurately—and lethally—by maneuvering the weapon or shooting from the hip during rapid fire;

Thumbhole stock: As with a pistol grip, a thumbhole stock allows the shooter to control the firearm during rapid fire;

Folding or telescoping stock: A folding or telescoping stock folds or collapses to make the weapon easier to conceal and transport;

Flash Suppressor: A flash suppressor enables a shooter to mask their location by reducing the visible signature of the firearm when it fires; and

Barrel shroud: As with a pistol grip and thumbhole stock, a barrel shroud allows the shooter to steady the firearm during rapid fire. The shroud encircles the barrel of the firearm and allows the shooter to hold it without getting burned; and

WHEREAS, in addition to military-style assault rifles, gun manufacturers have also begun marketing AK-style and AR-style pistols with the same features that enable a shooter to continue shooting the weapon numerous times without losing control over it. These pistols are also designed to fire rifle rounds capable of penetrating body armor, but which are concealable like handguns; and

WHEREAS, AK-style and AR-style pistols pose a similar if not identical threat to public safety as do short-barreled rifles, because of their short length and ability to fire rifle rounds that can penetrate ballistic resistant vests worn by patrol officers. Because their lethality is on par with highly restricted short-barreled rifles, yet they have almost entirely evaded regulation, armor-piercing, concealable firearms have been used in murders across the country, including at the 2021 King Soopers shooting and at the 2019 mass shooting in Dayton, Ohio; and

WHEREAS, high-capacity “tactical” or “combat” shotguns are assault weapons modeled after firearms originally used for riot control by foreign law enforcement. After the Armsel Striker, popular in South Africa and marketed in the U.S. as the Street Sweeper, was designated a “destructive device” under the National Firearms Act, gunmakers designed workaround weapons as powerful as the Street Sweeper that inflict catastrophic injuries by rapidly firing a dozen or more shotgun slugs. These weapons are unfit for lawful sporting or self-defense uses; and

WHEREAS, at the 2017 Mandalay Bay shooting in Las Vegas, Nevada, the shooter modified semiautomatic assault rifles with bump stocks so they could fire at speeds approaching fully automatic machine guns. Bump stocks, as well as binary triggers, burst triggers, rotating trigger cranks, and other after-market rapid-fire trigger activators enable firing many rounds per second and serve no lawful self-defense function; and

WHEREAS, several years after the Las Vegas shooting drew attention to the dangers of bump stocks that give shooters automatic firepower, the ATF adopted a federal rule effectively banning their possession. However, legal challenges to the federal bump stock rule are still pending and state and local action is needed to restrict other rapid-fire trigger activators; and

WHEREAS, large-capacity magazines are ammunition feeding devices that hold more than 10 rounds and may hold as many as 100 rounds of ammunition. Mass shootings that involve large-capacity magazines result in nearly five times as many people shot compared to mass shootings that do not involve high capacity magazines. These magazines increase the number of victims injured and killed by enabling shooters to fire more rounds before reloading—a critical moment when many criminal shooters are stopped before they can further increase their death tolls; and

WHEREAS, large-capacity magazines also make gun violence far more lethal in situations other than mass shootings, including interpersonal gun violence and shootings by organized crime or street groups. Firearms equipped with large-capacity magazines account for 22 to 36% of crime guns in most places, and research shows upwards of 40% of crime guns used in serious violent crimes, including murders of police officers, are equipped with large-capacity magazines; and

WHEREAS, City Council is unaware of any reported incidents where someone engaged in self-defense fired more than 10 rounds of a large-capacity magazine to fend off an attack. Despite analyzing several decades of evidence about defensive shootings, gun-rights groups raising legal challenges to magazine restrictions in other jurisdictions have been unable to identify a single incident anywhere in the nation during which someone needed to fire more than ten rounds at once in lawful self-defense. Conversely, numerous high-profile mass shootings nationally and within Colorado have been carried out with LCMs, including the King Soopers shooting and the Aurora movie theater shooting. Nationally, the five deadliest mass shootings of the last decade all involved the use of LCMs holding more than 10 rounds of ammunition; and

WHEREAS, in 1994, a federal ban on the manufacture, transfer, and possession of assault weapons and the transfer and possession of large-capacity magazines was enacted. The law included a ten-year sunset provision. In 2004, Congress allowed the law to expire; and

WHEREAS, studies show that the federal assault weapon ban resulted in a marked decrease in the use of assault weapons and large-capacity magazines in crime. One study found that in several major cities, the share of recovered crime guns that were assault weapons declined by 32% to 40% after the federal ban was adopted. Another study in Virginia found a clear decline in the percentage of crime guns that were equipped with large-capacity magazines after the federal ban was enacted. The percentage of guns seized by Virginia police reached a low of 10% in 2004 and then steadily climbed after Congress allowed the ban to expire; by 2010, the percentage was close to 22%; and

WHEREAS, the federal law restricting assault weapon and large-capacity magazines also had a significant protective effect in lowering mass shooting fatalities. During the 10-year period the law was in effect, mass shooting fatalities were 70% less likely to occur compared to when the ban wasn't in effect. In addition, the number of high-fatality mass shootings fell by 37%, and the number of people dying in such shootings fell by 43%. After the ban lapsed, there was a 183% increase in high-fatality mass shootings and a 239% increase in deaths from such shootings; and

WHEREAS, state-level prohibitions on large-capacity magazines have been shown to reduce the frequency and lethality of the deadliest mass shootings—strong evidence that regional and local legislation can be effective even absent a federal ban. A peer-reviewed study published in the American Journal of Public Health found that “states without an LCM ban experienced significantly more high-fatality mass shootings and a higher death rate from such incidents,” seeing more than double the number of such shootings and three times the number of deaths from high-fatality mass shootings, as compared to states that ban large-capacity magazines; and

WHEREAS, survey data and gun-industry supplied statistics suggest that, at most, only a small fraction of U.S. gun owners possess semiautomatic assault rifles and private ownership of these weapons is concentrated in the hands of super-owners who have 10 or more firearms. Similar claims about the ubiquity of large-capacity magazines is contradicted by the fact that most magazines for handguns—the “quintessential self-defense weapon,” *see District of Columbia v. Heller*, 554 U.S. 570, 629 (2008)—hold 10 rounds or fewer; and

WHEREAS, because assault weapons, trigger activators, and large-capacity magazines are designed for and have repeatedly been used to inflict mass casualties and enable other violent crimes, and the fact that these weapons and accessories are ill-suited to and unnecessary for responsible self-defense, and are not chosen or used by most law-abiding gun owners for this purpose, City Council finds that it is in the best interests of the health, safety, and welfare of Louisville residents to prohibit the possession, sale, manufacture, and transfer of assault weapons, rapid-fire trigger activators, and large-capacity magazines; and

WHEREAS, this ordinance recognizes the enactment of Senate Bill 21-256 and is intended to be consistent with that law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 9, Article VIII of the Louisville Municipal Code (Weapons) is hereby amended by a new Chapter 9.80 to read as follows:

Chapter 9.80

General Provisions

Sec. 9.80.010 Definitions.

For the purposes of this Article the following terms, phrases, words, and their derivatives shall have the meanings given in this section:

About the person means sufficiently close to the person to be readily accessible for immediate use.

Assault weapon means:

(a) All semi-automatic center-fire rifles that have the capacity to accept a detachable magazine and that have any of the following characteristics:

- (1) A pistol grip or thumbhole stock;
- (2) A folding or telescoping stock;
- (3) A flash suppressor; or
- (4) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearms with the non-trigger hand without being burned, but excluding a slide that encloses the barrel.

(b) All semi-automatic center-fire pistols that have any of the following characteristics:

- (1) A threaded barrel;
- (2) A secondary protruding grip or other device to allow the weapon to be stabilized with the non-trigger hand;
- (3) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel;
- (4) A flash suppressor;
- (5) The capacity to accept a detachable ammunition feeding device at some location outside of the pistol grip;
- (6) A manufactured weight of 50 ounces or more when unloaded;
- (7) A buffer tube, arm brace, or other part that protrudes horizontally under the pistol grip; or
- (8) A fixed magazine that has the capacity to accept more than 10 rounds.

(c) All semi-automatic shotguns that have any of the following characteristics:

- (1) A pistol grip or thumbhole stock;
- (2) A folding or telescoping stock;
- (3) A fixed magazine capacity in excess of five rounds; or
- (4) The capacity to accept a detachable magazine.

(d) Any firearm which has been modified to be operable as an assault weapon as defined herein.

(e) Any part or combination of parts designed or intended to convert a firearm into an assault weapon, including any combination of parts from which an assault weapon may be readily assembled if those parts are in the possession or under the control of the same person.

Constructive knowledge means knowledge of facts or circumstances sufficient to cause a reasonable person to be aware of the fact in question.

Firearm means any handgun, automatic revolver, pistol, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges. This definition does not include an antique firearm as defined in 18 U.S.C. § 921(a)(16).

Illegal weapon means an assault weapon, large-capacity magazine, rapid-fire trigger activator, blackjack, gas gun, metallic knuckles, gravity knife or switchblade knife.

Large-capacity magazine means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

- (a) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.
- (b) A 22-caliber tube rim-fire ammunition feeding device.
- (c) A tubular magazine that is contained in a lever-action firearm.

Locked container means a secure container which is enclosed on all sides and locked by a padlock, key lock, combination lock, or similar device, but does not include the utility compartment, glove compartment, or trunk of a motor vehicle.

Minor means a person under twenty-one years of age.

Pistol Grip means a grip that protrudes conspicuously beneath the action of the weapon and that allows for a pistol style grasp in which the web of the trigger hand (between the thumb and index finger) can be placed below the top of the exposed portion of the trigger while firing.

Provide means to give, lend, sell, or to place in an unsecured location where a minor, an unauthorized person or an incompetent person could foreseeably gain access to a firearm.

Rapid-Fire Trigger Activator means:

- (a) A device that attaches to a firearm to allow the firearm to discharge two or more shots in a burst when the device is activated; or
- (b) A manual or power-driven trigger-activating device that, when attached to a firearm, increases the rate of fire of that firearm.

Semi-automatic means a firearm that fires a single round for each pull of the trigger and automatically chambers a new round immediately after a round is fired.

Sec. 9.80.020 Matters of local and mixed concern.

It is the intention of the City Council that those ordinances and provisions contained in this Article that deal with matters of “local” concern supersede the laws of the State of Colorado to the extent that they conflict and that those that deal with matters of “mixed” concern apply concurrently with the laws of the State of Colorado. No provision of this code on a matter of “mixed” concern is to be construed expressly or by implication to permit conduct that is illegal under the laws of the State of Colorado. The provisions of this code are to be construed to apply to ~~misdemeanors and other minor and petty offenses only and are not to be interpreted to apply to~~ conduct ~~that is defined as a felony under the laws of the State of Colorado~~ subject to the jurisdiction of the City of Louisville.

Sec. 9.80.030 Affirmative defense.

It is an affirmative defense to any charge of a violation of this Article relating to carrying firearms that the defendant was carrying the firearm in a private ~~automobile~~ motor vehicle or other private means of conveyance for lawful protection of such person or another person or property or for hunting while traveling in, into or through the City, as permitted by § 18-12-105.6, C.R.S.

Sec. 9.80.040 Exemptions.

Nothing in this Article shall be construed to forbid the following persons from having in their possession, displaying, concealing or discharging such

weapons as are necessary in the authorized and proper performance of their official duties:

- (1) United States Marshals, any sheriffs, constables and their deputies,
- (2) Any regular or ex officio police officer,
- (3) Any government agent, officer, or employee, any other peace officer, or Members of the United States Armed Forces, Colorado National Guard or Reserve Officer Training Corps, ~~to the extent such person is otherwise authorized to acquire or possess an assault weapon and/or large capacity magazine, and does so within the scope of his or her~~ acting in the course and scope of their duties.

Section 2. Title 9, Article VIII of the Louisville Municipal Code (Weapons) is hereby amended by a new Chapter 9.84 to read as follows:

Chapter 9.84

Illegal Weapons

Sec. 9.84.010 Possession and sale of illegal weapons.

- (a) No person shall knowingly possess or sell or otherwise transfer an illegal weapon.
- (b) Nothing in this section shall be construed to forbid any person:
 - (1) Holding a Federal Firearms License issued by the United States Government from possession of any firearm authorized pursuant to such license;
 - (2) From possessing a firearm for which the United States Government has issued a stamp or permit pursuant to the National Firearms Act; or
 - (3) Selling an illegal weapon to a person identified in Section 9.80.030 of this Code, "Exemptions from this Article."
- (c) Nothing in this section shall be deemed to apply to any firearm that has been modified either to render it permanently inoperable or to permanently make it not an assault weapon.
- (d) Nothing in this section shall be deemed to restrict a person's ability to travel with a firearm in a private ~~automobile~~ motor vehicle or other private means of conveyance for lawful hunting, for lawful competition, or for lawful protection of a person or another person or property while traveling into, though, or within, the City of Louisville, regardless of the number of times the person stops in the City of Louisville.
- (e) It is a specific defense to a charge of violating this Section:

- (1) That the person had a valid permit for such weapon pursuant to federal law at the time of the offense; or
- (2) That the illegal weapon was an assault weapon accompanied by a certificate of ownership, under Section 9.86.010(c), issued by the Louisville Police Department.

Section 3. Title 9, Article VIII of the Louisville Municipal Code (Weapons) is hereby amended by a new Chapter 9.86 to read as follows:

Chapter 9.86

Assault Weapons

Sec. 9.86.010 Assault weapons.

(a) Any person who, prior to July 1, 2022, was legally in possession of an assault weapon or large capacity magazine shall have until December 31, 2022 to obtain a certificate for the assault weapon as provided in subsection (c) of this section.

(b) Any person who, prior to July 1, 2022, was legally in possession of a rapid-fire trigger activator shall have until August 1, 2022 to do any of the following without being subject to prosecution:

- (1) Remove the rapid-fire trigger activator from the City of Louisville; or
- (2) Surrender the rapid-fire trigger activator to the Louisville Police Department for destruction.

(c) Any person seeking to certify an assault weapon that he or she legally possessed prior to July 1, 2022, ~~unless they obtained a certificate of ownership under previous ordinances~~, must comply with the following requirements:

- (1) Submit to a background check conducted by the appropriate law enforcement agency to confirm that he or she is not prohibited from possessing a firearm pursuant to 18 U.S.C. § 922 or C.R.S § 18-12-108; and
- (2) Unless the person is currently prohibited by law from possessing a firearm, prior to December 31, 2022 apply for a certificate for the assault weapon from the Louisville Police Department.

(d) All persons who obtain a certificate pursuant to subsection (c) of this section shall:

- (1) Safely and securely store the assault weapon pursuant to the regulations adopted by the appropriate law enforcement agency;
- (2) Possess the assault weapon only on property owned or immediately controlled by the person, or while on the premises of a licensed gunsmith for the purpose of lawful repair, or while engaged in the legal use of the assault weapon at a duly licensed firing range, or while traveling to or from these locations, provided that the assault weapon is stored unloaded in a locked container during transport. The term “locked container” does not include the utility compartment, glove compartment, or trunk of a motor vehicle; and
- (3) Report the loss or theft of a certified assault weapon to the appropriate law enforcement agency within 48 hours of the time the discovery was made or should have been made.

(e) If a certified assault weapon is used in the commission of a crime, the owner shall be civilly liable for any damages resulting from that crime. The liability imposed by this subsection shall not apply if the assault weapon was stolen and the certified owner reported the theft of the firearm to law enforcement within 48 hours of the time the discovery was made or should have been made.

(f) Certified assault weapons may not be purchased, sold or transferred in the City of Louisville, except for transfer to a licensed gunsmith for the purpose of lawful repair, or transfer to the appropriate law enforcement agency for the purpose of surrendering the assault weapon for destruction.

(g) Persons acquiring an assault weapon by inheritance, bequest, or succession shall, within 90 days of acquiring title, do one of the following:

- (1) Modify the assault weapon to render it permanently inoperable;
- (2) Surrender the assault weapon to the Louisville Police Department for destruction;
- (3) Transfer the assault weapon to a firearms dealer who is properly licensed under federal, state and local laws; or
- (4) Permanently remove the assault weapon from the City of Louisville.

(h) The owner of a certified assault weapon may not possess in the City of Louisville any assault weapons purchased after July 1, 2022.

(i) The City Manager shall charge a fee for each certificate sufficient to cover the costs of administering the certificate program. The City Manager shall issue to qualified applicants two original copies of each certificate issued.

The City of Louisville shall not maintain any records of certificates issued. The person who received the certificate shall keep one copy with the weapon certified and the second copy in a secure place to replace the certificate maintained with the weapon.

Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 7. Any person convicted of violating this ordinance may be punished as set forth in 1.28.010 of the Louisville Municipal Code, as may be amended but which currently provides violations shall be punished by a fine of not more than \$2,650.00, as shall be adjusted for inflation on January 1, 2014 and on January 1 of each year thereafter, or by imprisonment not to exceed 364 days, or by both such fine and imprisonment.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this ____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of _____, 2022.

Ashley Stolzmann, Mayor

ATTEST:

Meredyth Muth, City Clerk