

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ROANOKE

VIRGINIA CITIZENS DEFENSE LEAGUE, et al.,

PLAINTIFFS,

V.

THE CITY OF ROANOKE

and

SCOTT BOOTH, Chief of Police,

DEFENDANTS.

BRIEF OF THE UNITED STATES CONFERENCE OF MAYORS AS *AMICUS*
***CURIAE* IN SUPPORT OF DEFENDANTS**

INTEREST OF *AMICUS CURIAE*

The United States Conference of Mayors (“Conference”) is the official non-partisan organization of the more than 1,400 United States cities with populations of 30,000 or more. Its members suffer a disproportionate share of gun violence in the United States and have a common interest in maintaining the flexibility to address this problem in the manner local officials determine to be most effective and appropriate.¹

INTRODUCTION

State and local governments have long been empowered—and required—to solve novel problems across a host of issue areas. These solutions, adopted through democratic processes that reflect citizens’ views, protect constituents and serve as templates for jurisdictions at all levels of government. *See Arizona State Legislature v. Arizona Indep. Redistricting Comm’n*, 576 U.S. 787, 817 (2015) (noting that the Supreme Court has “long recognized the role of the States as laboratories for devising solutions to difficult legal problems” (internal quotation marks omitted)). As the Conference is keenly aware, cities and the officials who represent them have historically stood at the forefront of responding to societal issues that affect their communities. Local governments must have the ability to innovate to “deal with pressing social, economic, and environmental concerns.”² The City of Roanoke addressed just such a concern when, after a lengthy

¹ The Conference has sought and received consent to file this amicus brief from all parties in this case.

² Bruce Katz & Jeremy Nowak, *The New Localism* viii (2017).

public hearing, it enacted—by a 6-1 vote of its City Council—the ordinance that is at issue in this litigation.³

The City ably explains why Plaintiffs are unlikely to succeed on their claim under the Virginia Constitution, and it also explains why this Court need not look to federal Second Amendment law when analyzing the challenged ordinance. *See* City’s Br. 9–19.⁴ If the Court does look to federal Second Amendment law, however, it should hold that the ordinance is constitutional under the Supreme Court’s decisions in *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), and *District of Columbia v. Heller*, 554 U.S. 570 (2008). In addition to establishing a “history and tradition” test that the City discusses in its brief, *see* City’s Br. 19–31, these decisions recognized the importance of innovation and preserved flexibility for local governments to protect their constituents. As relevant here, *Bruen* reaffirmed the point, articulated previously by *Heller*, that our Nation has a “longstanding” tradition of “laws forbidding the carrying of firearms in sensitive places such as schools and government buildings.” *Bruen*, 142 S. Ct. at 2133 (quoting *Heller*, 554 U.S. at 626). *Bruen* added to that list “legislative assemblies, polling places, and courthouses,” and it explained that “courts can use analogies to those historical regulations of ‘sensitive places’ to determine that modern

³ *See* Eric Miller, *Roanoke City Council Votes to Ban Guns from Buildings and Parks*, WDBJ7.com (Mar. 15, 2021), <https://perma.cc/DMK4-433D>.

⁴ The City explains as well why Plaintiffs have failed to show irreparable harm and why the balance of equities and public interest favor upholding the challenged ordinance. *See* City’s Br. 5–6, 31–32.

regulations prohibiting the carry of firearms in *new* and analogous sensitive places are constitutionally permissible.” *Id.* (emphasis in original).

Sensitive-place regulations are a critical tool for local governments to address a range of risks posed by firearms. As the locations identified by *Heller* and *Bruen* indicate, a place can be classified as sensitive when “the people found there or the activities that take place there” are particularly susceptible to the risks of gun violence. *See United States v. Class*, 930 F.3d 460, 465 (D.C. Cir. 2019) (internal quotation marks omitted), *abrogated on other grounds by Bruen*, 142 S. Ct. 2111. A place can be deemed sensitive, for example, when it is frequented by vulnerable populations, like schoolchildren, who are less able to defend themselves against an armed attack. *See Antonyuk v. Chiumento*, 89 F.4th 271, 339–41 (2d Cir. 2023), *petition for cert. filed sub nom. Antonyuk v. James*, No. 23-910 (U.S. Feb. 20, 2024). A place can also be deemed sensitive when the presence of firearms would impede a core civic function or the exercise of other constitutional rights, as might happen at a legislative assembly or polling place. *See* Darrell A. H. Miller, *Constitutional Conflict and Sensitive Places*, 28 Wm. & Mary Bill Rts. J. 459, 466 (2019). Moreover, when a location is owned and operated by the government, the government has greater authority to restrict firearms because “[t]he government often has more flexibility to regulate when it is acting as a proprietor . . . than when it is acting as a sovereign.” *See Bonidy v. U.S. Postal Serv.*, 790 F.3d 1121, 1126 (10th Cir. 2015), *abrogated on other grounds by Bruen*, 142 S. Ct. 2111.

As the City explains, these principles support the designation of public parks as sensitive places. *See* City’s Br. 10–13. In addition, *Bruen* made clear that “cases

implicating unprecedented societal concerns . . . may require a more nuanced approach” to the “history and tradition” test. 142 S. Ct. at 2132. This aspect of *Bruen* has particular significance to the more than 1,400 cities represented by the Conference, including the Nation’s largest cities. Even aside from their rich historical pedigree, *see* City’s Br. 21–31, firearms restrictions in public parks are independently justified by recent rises in the risks posed by guns. Mass shootings, in particular, have caused communities across the Nation to experience previously unknown forms of tragedy and terror. And the widespread presence of firearms in public places has come to deter people from exercising their fundamental rights and engaging in civic life. *Bruen* explicitly recognized that, for governments to adapt to these “novel modern conditions,” 142 S. Ct. at 2134 (quoting *Heller v. District of Columbia*, 670 F.3d 1244, 1275 (D.C. Cir. 2011) (Kavanaugh, J., dissenting)), they must have latitude to fashion regulatory responses “to circumstances beyond those the Founders specifically anticipated,” *id.* at 2132. Consistent with history, *Bruen* preserved the rights of cities to exercise legislative flexibility to address emerging societal threats. *See* Saul Cornell & Nathan DeDino, *A Well Regulated Right: The Early American Origins of Gun Control*, 73 Fordham L. Rev. 487, 516 (2004) (explaining that “local regulation” of firearms “was quite common in pre-Civil War America”); *cf. McDonald v. City of Chicago*, 561 U.S. 742, 785 (2010) (plurality opinion) (“[S]tate and local experimentation with reasonable firearms regulations will continue under the Second Amendment.” (internal quotation marks omitted)). Without this latitude, our local governments will be paralyzed in the face of a growing epidemic of gun violence, and all of our communities will suffer the harms.

ARGUMENT

I. The Rise of Mass Shootings Demands a Flexible Government Response

Mass shootings were essentially unknown for the first two centuries of this Nation's history. According to expert evidence introduced in recent Second Amendment cases, America's first mass shooting resulting in double-digit fatalities did not occur until 1949. *See* Supplemental Declaration of Louis Klarevas ¶ 10, *Duncan v. Bonta*, No. 3:17-cv-01017-BEN-JLB (S.D. Cal. Nov. 10, 2022), ECF No. 118-6. This shooting was followed by a second similar incident in 1966, a third in 1975, and a fourth in 1982. *See id.* In other words, these tragedies were initially non-existent, and then they occurred roughly once a decade.

The frequency and intensity of massacres plaguing our cities have since increased by an order of magnitude. Whereas the first four mass shootings resulting in 10 or more deaths occurred over more than three decades, the same number of double-digit killings took place in the two-year period from 2022 to 2023 alone.⁵ These included, within 10 days, the racially motivated killing of 10 Black victims at Tops Friendly Markets in Buffalo, New York, and the murder of 19 children and two teachers at Robb Elementary

⁵ *See Mass Murders in 2023*, Gun Violence Archive, <https://www.gunviolencearchive.org/reports/mass-murders?year=2023> (last visited May 21, 2024); *Mass Murders in 2022*, Gun Violence Archive, <https://www.gunviolencearchive.org/reports/mass-murders?year=2022> (last visited May 21, 2024).

School in Uvalde, Texas.⁶ And these are just the most fatal incidents; when all mass shootings are accounted for, they now occur nearly *twice a day*, and they killed over 1,300 people during the same two-year period.⁷

Mass shootings inflict unique and devastating harms on victims and their communities. In addition to the incalculable costs of lost lives, survivors of gun violence “face a long ordeal of pain and medical care that collectively costs patients, hospitals, and governments billions of dollars each year.”⁸ These include not only initial medical payments, but also ongoing expenses to manage physical and psychological pain, and the costs of “diminished quality of life for victims and their families.”⁹ The harms wrought also include decreased educational attainment in children exposed to gun violence, increased expenditures on security, and depressed business and housing price growth in

⁶ See *A Partial List of Mass Shootings in the United States in 2022*, N.Y. Times (Jan. 24, 2023), <https://perma.cc/7GAP-8LA5>.

⁷ See *Past Summary Ledgers*, Gun Violence Archive, <https://www.gunviolencearchive.org/past-tolls> (last visited May 21, 2024) (655 mass shootings in 2023 and 644 in 2022). Mass shootings here are defined as when “four or more people are shot or killed in a single incident, not including the shooter.” *General Methodology*, Gun Violence Archive, <https://www.gunviolencearchive.org/methodology> (last visited May 21, 2024).

⁸ Patrick Boyle, *The Cost of Surviving Gun Violence: Who Pays?*, AAMC (Oct. 18, 2022), <https://perma.cc/GG7P-BWUD>.

⁹ *Id.*

local economies.¹⁰ When the losses borne by survivors, families, communities, employers, and taxpayers are taken together, gun violence costs the U.S. \$557 billion annually, or about 2.6 percent of gross domestic product.¹¹ And these costs are most acute in mass shootings.¹²

For those living in cities—which are densely populated and provide target-rich environments—mass shootings are particularly dangerous. The Conference knows this all too well. In December 2022, the Conference sent a letter to Senators Schumer and McConnell urging the Senate to pass gun safety legislation that would have banned assault weapons and expanded background checks.¹³ The letter was written on behalf of mayors of cities that had experienced a mass shooting in 2022. Despite that limitation on signatories, the letter was signed by nearly 70 *mayors*. Since then, the Conference and its members—including large, bipartisan groups of mayors—have written multiple letters to

¹⁰ See Joint Econ. Comm. Democrats, *The Economic Toll of Gun Violence* 1, <https://perma.cc/8CUF-75EN>. Even indirect exposure to gun violence is associated with psychological harm in young children and adolescents. See Heather A. Turner et al., *Gun Violence Exposure and Posttraumatic Symptoms Among Children and Youth*, 32 J. Traumatic Stress 881, 887 (2019).

¹¹ See *The Economic Cost of Gun Violence*, Everytown Research & Policy (July 19, 2022), <https://perma.cc/T8Z4-QYF9>.

¹² See Boyle, *supra* note 8 (“Injuries from mass shootings are especially severe and costly.”); see also Zara Abrams, *Stress of Mass Shootings Causing Cascade of Collective Traumas*, Am. Psych. Assoc. (Sept. 1, 2022), <https://perma.cc/8TAV-VW3V>.

¹³ See Letter from U.S. Conf. Mayors to Charles Schumer, Majority Leader, U.S. Senate, and Mitch McConnell, Republican Leader, U.S. Senate (Dec. 5, 2022), <https://perma.cc/YX6U-HYJW>.

Congress and the Executive urging action on gun safety legislation and regulation.¹⁴

Sensitive-place laws are a critical tool for addressing the unprecedented rise of mass shootings. The canonical sensitive places recognized by *Heller*—schools and government buildings—are frequent shooting sites.¹⁵ And analogous places that state and local governments have recognized as sensitive, including parks,¹⁶ are often targets as well.¹⁷ To give just a few recent examples, a pregnant woman was killed last summer,

¹⁴ See Letter from U.S. Conf. Mayors to U.S. Cong. (Apr. 19, 2023), <https://perma.cc/7Z6V-BWSZ> (reiterating message of December 2022 letter); *U.S. Conference of Mayors Applauds Senate Floor Action on Assault Weapons Ban Bill*, U.S. Conf. Mayors (Dec. 5, 2023), <https://perma.cc/4QKQ-TGRP>; *Nation’s Mayors Urge Department of Justice to Finalize Rule Preventing Firearm Transfers to Prohibited Purchasers*, U.S. Conf. Mayors (Dec. 6, 2023), <https://perma.cc/SQN8-PWNJ>; Letter from U.S. Conf. Mayors to Michael Johnson, Speaker, U.S. House, Hakeem Jeffries, Democratic Leader, U.S. House, Charles Schumer, Majority Leader, U.S. Senate, and Mitch McConnell, Republican Leader, U.S. Senate (Feb. 9, 2024), <https://perma.cc/MN25-SCHY> (urging Congress to reauthorize the Undetectable Firearms Act).

¹⁵ In May 2021, the FBI published a report that summarized 20 years’ worth of data on active shooter incidents, defined as incidents with “one or more individuals actively engaged in killing or attempting to kill people in a populated area.” Fed. Bureau of Investigation, U.S. Dep’t of Just., *Active Shooter Incidents 20-Year Review, 2000-2019*, at 2 (2021), <https://perma.cc/E2VW-MJEV>. Nearly one-fifth of those incidents occurred at schools or institutes of higher education, and nearly one-tenth occurred at government or military properties. *See id.* at 7.

¹⁶ See, e.g., Cal. Penal Code § 26230(a)(12); Haw. Rev. Stat. Ann. § 134-9.1(a)(9); N.J. Stat. Ann. § 2C:58-4.6(a)(10); N.Y. Penal Law § 265.01-e(2)(d); Montgomery, Md., Code §§ 57-1, 57-11(a).

¹⁷ See Fed. Bureau of Investigation, U.S. Dep’t of Just., *Active Shooter Incidents in the United States in 2022*, at 20 (2023), <https://perma.cc/XG8Y-S2C2> (nearly half of active shooter incidents in 2022 occurred in “open space locations,” including parks).

and four others were injured, at a birthday party in a Houston park.¹⁸ Not long before that, two people were killed, and four more were wounded, in a shooting at a park in Louisville.¹⁹ And before that, a teenager went on a rampage in Raleigh, including along a greenway trail, that left five dead and two injured.²⁰

Plaintiffs acknowledge that armed individuals threaten parkgoers, *see* Plaintiffs’ Br. 13, but they maintain that cities’ hands are tied in responding to these tragedies. Plaintiffs misread history, however, and they fail to appreciate the need for flexibility that *Bruen* contemplates. The Conference and its partners have previously explained that “cities have adopted a range of approaches to confront the particular threats of gun violence that their communities face,” and “[t]his range puts in sharp focus ‘the theory and utility of our federalism as the States perform their role as laboratories for experimentation to devise various solutions where the best solution is far from clear.’”²¹ This flexibility is particularly critical where cities face “novel” and “unprecedented societal concerns,” like those posed by mass shootings. *Bruen*, 142 S. Ct. at 2132, 2134

¹⁸ See Meredith Deliso, *Pregnant Woman Killed, 4 Others Injured in Shooting at Houston Park*, ABC News (July 22, 2013), <https://perma.cc/P5EJ-R7FX>.

¹⁹ See Emily Mae Czachor, *2 Dead, 4 Wounded in Mass Shooting at Crowded Park in Louisville*, CBS News (Apr. 16, 2023), <https://perma.cc/386Y-2ALM>.

²⁰ See Hannah Schoenbaum, *Raleigh Mass Shooting Suspect Faces 5 Murder Charges as His Case Moves to Adult Court*, AP News (Oct. 4, 2023), <https://perma.cc/T2UZ-U4NH>.

²¹ Brief of *Amici Curiae* Major American Cities, the United States Conference of Mayors, and Legal Community Against Violence in Support of Petitioners at 11, *D.C. v. Heller*, 554 U.S. 570 (2008) (No. 07-290) (alterations omitted) (quoting *United States v. Lopez*, 514 U.S. 549, 581 (1995) (Kennedy, J., concurring)).

(internal quotation marks omitted). In addressing this problem, “data from cities and their varying approaches to municipal firearms regulation . . . show that cities need flexibility to craft locally tailored solutions to the particular threats and costs of gun violence that their residents face.”²²

If cities lose the flexibility to devise regulatory responses, mayors and other local officials will be hamstrung in their ability to ensure public safety, while being left to manage the fallout of mass shootings when they inevitably occur. Mass shootings place substantial demands on cities’ resources beyond the incalculable human toll that they exact. These resources are necessarily diverted from “essential public goods like education, workforce development, and . . . building healthier, safer, more sustainable communities.”²³ A ruling in Plaintiffs’ favor would impair the ability of the Conference’s members not only to protect their communities, but also to govern the cities for which they are responsible.

II. The Widespread Presence of Firearms Chills Constitutionally Protected Expression and Deters Civic Engagement

Even when firearms are not in active use, their presence deters people from participating in public life. At protests and parades, individuals with guns “are

²² *Id.* at 12.

²³ Thoughts and Prayers Are Not Enough: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Fin. Servs., 117th Cong. 1 (2022) (written testimony of Sarah Burd-Sharps, Senior Dir. Rsch., Everytown for Gun Safety Support Fund), <https://perma.cc/67SG-WJLS>.

increasingly using open-carry laws to intimidate opponents and shut down debate.”²⁴

Recent years have also seen a swell of armed activity at civic institutions like polling places, vote-count centers, and public board meetings.²⁵ This activity chills people from exercising their freedom of speech and assembly and from engaging in other core democratic functions, like voting and petitioning their government. And it harms not only the individuals who withdraw out of fear, but also the communities that lose their participation.

With respect to parks specifically, people are less likely to visit or bring their families if they know that firearms are present. A recent study measured the chilling effect that firearms have on people’s feelings of safety regarding several categories of public places, including parks.²⁶ The authors found that most respondents were likely to recommend that a friend with children spend time in a local public park, whereas only a minority were likely to make such a recommendation if guns were allowed in public spaces.²⁷ Notably, there was a statistically significant chilling effect for respondents who

²⁴ Mike McIntire, *At Protests, Guns Are Doing the Talking*, N.Y. Times (Nov. 26, 2022), <https://www.nytimes.com/2022/11/26/us/guns-protests-open-carry.html>.

²⁵ See, e.g., Jacob Knutson, *Election Officials: Armed “Vigilantes” Near Ballot Drop Box in Arizona*, Axios (Oct. 23, 2022), <https://perma.cc/CC7L-W565>; Danyelle Khmara & Clara Migoya, *Anti-Mask Protesters Storm Tucson School Board Meeting*, Ariz. Daily Star (Apr. 29, 2021), <https://perma.cc/Z6G7-BRJU>.

²⁶ See Darrell A.H. Miller et al., *Technology, Tradition, and “The Terror of the People,”* Notre Dame L. Rev. (forthcoming) (manuscript at 20-30), <https://ssrn.com/abstract=4521030> (last visited May 21, 2024).

²⁷ See *id.* at 21–23.

lived in gun-owning and non-gun-owning houses alike.²⁸

If state and local governments cannot regulate firearms in parks, their constituents will hesitate before engaging in a host of recreational and cultural activities. In Roanoke, people will think twice before attending significant community events like Roanoke Pride or the Local Colors Festival—both of which take place in Elmwood Park²⁹—and they will be less likely to bring their kids to outdoor movie nights or enroll them in park summer camps.³⁰ *See* City’s Br. 30 (describing important cultural events that take place in Roanoke parks). The City’s leaders, and city leaders more generally, will be forced to stand by as their local institutions are weakened and their communities’ connections are frayed.

Parks are also important centers of First Amendment expression. *See Perry Educ. Ass’n v. Perry Loc. Educators’ Ass’n*, 460 U.S. 37, 45 (1983) (describing parks as “quintessential public forums” that have long “been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions” (internal quotation marks omitted)). The presence of guns in the park would deter people from engaging in protected speech that occurs in that space. According to the study mentioned

²⁸ *See id.* at 22.

²⁹ *See* Local Colors, <https://perma.cc/QMG7-97WU>; Roanoke Pride, <https://perma.cc/7F5N-N9DE>.

³⁰ *See Kids to Parks Day: Elmwood Movie Night*, Roanoke Parks & Recreation, <https://perma.cc/RR47-VSDK>; *Outdoor Exploration Camp*, Roanoke Parks & Recreation, <https://perma.cc/YM2L-TMS5>.

above, firearms had a statistically significant chilling effect on participation in political protests.³¹ And another recent study “found that participants were far less likely to attend a protest, carry a sign, vocalize their views, or bring children to protests if they knew firearms would be present.”³² This was true regardless of participants’ political ideology or whether they themselves owned a gun.³³

People’s reluctance to exercise their constitutional rights is a predictable response to the widespread presence of firearms in public places. A recent study of armed and unarmed demonstrations found that “the presence of an armed person is correlated to more . . . violence and destruction, and is a detriment to public safety and the right to organize, compared to demonstrations with unarmed participants.”³⁴ To put numbers on

³¹ See Miller et al., *supra* note 26, at 24–27.

³² Diana Palmer & Timothy Zick, *The Second Amendment Has Become a Threat to the First*, Atlantic (Oct. 27, 2021), <https://perma.cc/A98W-ZRVS>.

³³ See *id.*; see also Timothy Zick & Diana Palmer, *The Next Fight Over Guns in America*, Atlantic (June 23, 2022), <https://perma.cc/65VB-RF37> (“When asked if they would attend a local rally on a topic they cared about if they knew some protest participants would be carrying firearms, 71 percent of survey participants said they were unlikely or very unlikely to attend.”).

³⁴ Armed Conflict Location & Event Data Project & Everytown for Gun Safety, *Armed Assembly: Guns, Demonstrations, and Political Violence in America* 4 (2021), <https://perma.cc/A9QL-WK3E>. For recent examples of armed protests in parks that turned violent, see Doug Livingston, *Two Arrested After Protesters and Supporters Clashed at Wadsworth Drag Queen Story Hour*, Akron Beacon J. (Mar. 11, 2023), <https://perma.cc/SA4L-N8Y5>; OPB Staff, *1 Dead, 5 Injured in Shooting Near Normandale Park in Northeast Portland*, OPB (Feb. 20, 2022), <https://perma.cc/3ZLZ-FTDB>. And for a salient example of the risks firearms pose for public gatherings more generally, see Tim Stelloh et al., *At Least 1 Killed in Shooting at Kansas City Chiefs Super Bowl Celebration*, NBC News (Feb. 14, 2024), <https://perma.cc/727T-UH5A>.

it, “armed demonstrations are nearly six times as likely to turn violent or destructive compared to unarmed demonstrations.”³⁵ Armed demonstrations are also more deadly: “A fatality was reported at approximately one out of every 2,963 demonstrations where no firearm was identified, compared to about one out of every 62 demonstrations where there was a firearm identified.”³⁶ And this increased violence is attributable not just to those who are armed, but also to *unarmed* individuals, indicating that “the presence of firearms at a demonstration can serve to escalate tensions in contentious contexts, *indirectly* contributing to a more dangerous environment.”³⁷ It is no wonder that people are worried about showing up at protests where guns may be present.

The risks that firearms pose at protests and other public events show no signs of abating. To the contrary, intensifying polarization,³⁸ surging political violence,³⁹ and rising domestic extremism⁴⁰ all heighten the risks that violent confrontations will occur

³⁵ *Armed Assembly*, *supra* note 34, at 2 (emphasis omitted).

³⁶ *Id.* at 3.

³⁷ *Id.* at 4.

³⁸ See Yascha Mounk, *The Doom Spiral of Pernicious Polarization*, Atlantic (May 21, 2022), <https://perma.cc/9MLS-DEBP>.

³⁹ See Rachel Kleinfeld, *The Rise of Political Violence in the United States*, 32 J. Democracy 160, 160 (2021); Ned Parker & Peter Eisler, *Political Violence in Polarized U.S. at Its Worst Since 1970s*, Reuters (Aug. 9, 2023), <https://perma.cc/X4HG-SKWK>; Nicholas Riccardi, *U.S. Grapples with Rising Threats of Political Violence as 2024 Election Looms*, PBS (Aug. 12, 2023), <https://perma.cc/EB4F-5Z3P>.

⁴⁰ See Laura Barrón-López & Saher Khan, *Far-Right Violence a Growing Threat and Law Enforcement’s Top Domestic Terrorism Concern*, PBS (Sept. 5, 2023), <https://perma.cc/25UH-5QUT>.

and that public participation will be deterred. This Court should afford the City the leeway that it needs to address these risks.

CONCLUSION

This Court need not rely on federal Second Amendment case law to rule in the City's favor. If the Court does look to cases like *Bruen* and *Heller*, however, it should hold that they support the constitutionality of the challenged ordinance. The ordinance passes the federal "history and tradition" test, as the City explains in its brief. In addition, *Bruen* and *Heller* contemplated that state and local governments would retain the flexibility they need to confront "unprecedented societal concerns." *Bruen*, 142 S. Ct. at 2132. Mass shootings and the chilling effects of widespread carriage are two such concerns that are particularly salient to the Conference and its members. Without the ability to regulate firearms in sensitive locations like parks, city leaders cannot fully protect the safety and civic life of their communities. The Conference urges this Court to bear in mind that local officials require certain regulatory tools if they are to stand a chance against the "novel modern conditions" they face. *Id.* at 2134 (internal quotation marks omitted).

Dated: May 23, 2024

Respectfully submitted,



Rupa Bhattacharyya (VSB #38877)
Mary B. McCord (*pro hac vice* forthcoming)
INSTITUTE FOR CONSTITUTIONAL
ADVOCACY & PROTECTION
Georgetown University Law Center
600 New Jersey Avenue NW
Washington, DC 20001
(202) 661-6607
rb1796@georgetown.edu

Ben Gifford (*pro hac vice* forthcoming)
INSTITUTE FOR CONSTITUTIONAL
ADVOCACY & PROTECTION
Georgetown University Law Center
PO Box 211178
Brooklyn, NY 11221
(202) 662-9835
bg720@georgetown.edu

*Attorneys for Amicus Curiae the United States
Conference of Mayors*

CERTIFICATE OF SERVICE

I certify that on May 23, 2024, I emailed a copy of the foregoing to:

Gilbert Ambler (VSB #94325)
AMBLER LAW OFFICES, LLC
20 South Braddock Street
Winchester, VA 22601
gilbert@amblerlawoffices.com

Robert J. Olson (VSB #82488)
William J. Olson (VSB #15841)
WILLIAM J. OLSON, P.C.
114 Creekside Lane
Winchester, VA 22602
wjo@mindspring.com

David O. Browne (VSB #65306)
SPIRO & BROWNE, PLC
6802 Paragon Place, Suite 410
Richmond, VA 23230
dbrowne@sblawva.com

Erin B. Ashwell (VSB #79538)
Casey E. Lucier (VSB #80363)
Morgan V. Maloney (VSB #98283)
Rhea Shahane (*pro hac vice* pending)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
eashwell@mcguirewoods.com
clucier@mcguirewoods.com
mmaloney@mcguirewoods.com
rshahane@mcguirewoods.com

Douglas N. Letter (*pro hac vice* pending)
Shira Lauren Feldman (*pro hac vice* pending)
Jenna Tersteegen (*pro hac vice* pending)
BRADY CENTER TO PREVENT GUN VIOLENCE
840 First Street NE, Suite 400
Washington, DC 20002
dletter@bradyunited.org
sfeldman@bradyunited.org
jklein@bradyunited.org

Timothy R. Spencer (VSB #26532)
City Attorney
Jennifer Crook (VSB #87433)
Assistant City Attorney
464 Municipal Building
215 Church Avenue
Roanoke, VA 24011
timothy.spencer@roanokeva.gov
jennifer.crook@roanokeva.gov



Rupa Bhattacharyya (VSB #38877)