

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT  
Case Type: Civil/Other

Minnesota Gun Owners Caucus

Court File No. 62-CV-25-9927

Judge Leonardo Castro

Plaintiff,

v.

**PLAINTIFF'S MEMORANDUM OF  
LAW IN OPPOSITION TO  
DEFENDANT'S MOTION  
TO DISMISS**

City of Saint Paul, Minnesota

Defendant.

**INTRODUCTION**

This case is a declaratory-judgment action under Minn. Stat. § 555.02 to determine the validity of an enacted municipal ordinance. Plaintiff challenges Saint Paul Ordinance 25–65 itself — an enacted, signed, codified penal ordinance — and asks whether the City exceeded the limits state law places on municipal authority and whether the Ordinance is unconstitutionally vague. Section 555.02 expressly authorizes a person whose rights, status, or other legal relations are affected by a municipal ordinance to obtain a declaration on a question of construction or validity arising under that ordinance.

The City's motion addresses a different theory. Plaintiff is not suing for damages under Minn. Stat. §§ 471.633 or 624.714, Plaintiff is not asking the Court to compel statutory enforcement, and Plaintiff does not ask the Court to announce a freestanding right to carry firearms in all public places. Plaintiff seeks a declaration, under Minn. Stat. ch. 555, determining whether the City exceeded its lawful authority by enacting and codifying Ordinance 25–65 and whether that Ordinance is valid as written.

Count I asks whether the City exceeded the limits § 471.633 places on municipal power. Count II identifies a separate preemption problem under §§ 624.714, subd. 23, 624.714, subd. 2(c), 624.717, and 624.7181. Count III challenges the Ordinance's undefined trigger and its self-revising "deemed conformed" clause.

The motion's justiciability argument fails for the same reason. Ordinance 25–65 is not an abstract proposal. The City Council passed it. The Mayor signed it. The City codified it. It creates criminal prohibitions, misdemeanor penalties, forfeiture consequences, and signage requirements. Am. Compl. ¶¶ 26–34, 43–56. Section 3 says the Ordinance "shall take effect and be in force thirty (30) days following its passage, approval, and publication." *Id.* ¶¶ 43, 79. Section 225A.02 simultaneously says Chapter 225A "shall not take effect, nor be enforced" until a future trigger occurs, and then becomes effective "immediately, without further action by the City Council," while "any language herein must be deemed conformed to the substantially similar state law to the extent required for consistency." *Id.* ¶¶ 44, 47–50, 80–84. That tension is not a reason to dismiss the case. It is the case.

The complaint alleges present injury from that enacted uncertainty. Plaintiff's members have already altered their conduct to come into compliance now because they cannot tell whether Chapter 225A is already operative, when it will become operative, who decides, or what the governing rule will be once the Ordinance is "deemed conformed" to later state law. *Id.* ¶¶ 12, 34A, 35–41, 55–56. Minnesota law does not require a plaintiff to wait for arrest or prosecution before seeking declaratory relief from a

present legal uncertainty created by enacted law. *McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 337–40 (Minn. 2011); *Minneapolis Fed'n of Men Teachers, Loc. 238 v. Bd. of Educ.*, 56 N.W.2d 203, 205–06 (1952).

At Rule 12, the question is whether the Amended Complaint states legally cognizable and presently justiciable claims. It does. The motion should be denied.

### STATEMENT OF FACTS

Minnesota law preempts local firearms regulation in plain terms. Minn. Stat. § 471.633 provides that the Legislature "preempts all authority" of cities and other political subdivisions "to regulate firearms, ammunition, or their respective components to the complete exclusion of any order, ordinance or regulation" by them, and declares that "[l]ocal regulation inconsistent with this section is void." Minn. Stat. § 471.633. Separately, §§ 624.714, subd. 2(c) and subd. 23, 624.717, and 624.7181 establish a statewide permit-to-carry regime, bar governmental units from limiting the exercise of that permit, and supersede local regulation of carrying or possessing pistols.

Against that backdrop, Saint Paul introduced Ordinance 25–65 on October 22, 2025. Am. Compl. ¶26. The City Council passed it on November 12, 2025, and the Mayor signed it on November 19, 2025. *Id.* ¶34. The Ordinance creates Chapter 225A of the Saint Paul Legislative Code and imposes criminal prohibitions on assault weapons, large-capacity magazines, binary triggers, ghost guns, and possession of firearms in designated "sensitive places" — broadly defined to include City-owned, -leased, or -controlled buildings and property open to the public, including parks, libraries,

recreation centers, arenas, and zoos. *Id.* ¶¶ 27–28, 71. Violations are misdemeanors. *Id.* ¶¶ 27, 78.

The Ordinance also contains the conflicting operative provisions at the center of this case. Section 3 says the Ordinance "shall take effect and be in force thirty (30) days following its passage, approval, and publication." *Id.* ¶¶ 43, 79. Section 225A.02 says the Chapter "shall not take effect, nor be enforced," unless and until either: "(a) The repeal of Minn. Stat. § 471.633; or (b) The passage of any Minnesota law that is substantially the same as any part of this ordinance or otherwise affirmatively authorizes municipalities to enact and enforce substantially similar regulations." *Id.* ¶¶ 32, 44, 47, 80. That same section then states: "Upon the occurrence of either condition, this Chapter and its constituent Ordinances shall be effective immediately, without further action by the City Council, and any language herein must be deemed conformed to the substantially similar state law to the extent required for consistency." *Id.* 34A, 44, 47–50, 80–84.

Plaintiff alleges that this enacted criminal scheme causes present injury now. MNGOC's members reside, work, and travel in Saint Paul and have already changed conduct and come into compliance rather than risk sudden criminal exposure under a penal ordinance whose operative status and operative text remain uncertain. *Id.* ¶¶ 10–12, 12(a)–(d), 35–41, 55–56.

### **STANDARD OF REVIEW**

A motion to dismiss under Minn. R. Civ. P. 12.02(e) tests the legal sufficiency of the pleading, not the weight of the evidence. Minnesota remains a notice-pleading state.

*Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603–05 (Minn. 2014). A claim survives dismissal if it is possible, on any evidence that might be produced consistent with the pleader's theory, to grant the relief demanded. *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). The Court must accept the facts alleged in the complaint as true and draw reasonable inferences in Plaintiff's favor. *Walsh*, 851 N.W.2d at 606.

To the extent the City invokes Rule 12.02(a), the question is whether the complaint presents a justiciable controversy under the Uniform Declaratory Judgments Act. Justiciability is reviewed de novo. *McCaughtry*, 808 N.W.2d at 337. An actual controversy exists when the claim "(1) involves definite and concrete assertions of right that emanate from a legal source, (2) involves a genuine conflict in tangible interests between parties with adverse interests, and (3) is capable of specific resolution by judgment rather than presenting hypothetical facts that would form an advisory opinion." *Onvoy, Inc. v. ALLETE, Inc.*, 736 N.W.2d 611, 617–18 (Minn. 2007). Standing requires a sufficient stake in that controversy, often shown through injury in fact. *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 624 (Minn. 2007).

The City's motion argues as though Rule 12 requires Plaintiff to prove the Ordinance unconstitutional beyond a reasonable doubt. Def.'s Mem. 15–16. That is not the Rule 12 standard. Presumptions of validity and ultimate burdens of proof govern the merits. At the pleading stage, the question is whether Plaintiff has stated legally cognizable claims for declaratory relief based on well-pleaded facts. The answer is yes.

## **ARGUMENT**

## I. PLAINTIFF PLEADS A PRESENT, JUSTICIABLE CONTROVERSY.

### A. The UDJA authorizes this suit.

The City's threshold argument treats Ordinance 25–65 as though it were not yet a proper subject for judicial review.<sup>1</sup> But the UDJA is written for enacted ordinances that presently affect legal relations. Section 555.02 provides that any person whose "rights, status, or other legal relations are affected by a ... municipal ordinance" may have determined "any question of construction or validity" arising under that ordinance. Minn. Stat. § 555.02. Section 555.12 says the chapter is "remedial," exists "to settle and to afford relief from uncertainty and insecurity," and is to be "liberally construed and administered." Minn. Stat. § 555.12.

*McCaughy* applies that text directly. The Minnesota Supreme Court held that the Declaratory Judgments Act "specifically provides for challenges to the validity of a municipal ordinance that 'affect[s]' the rights of a person," and that "a declaratory judgment action is proper to test the validity of a municipal ordinance, regardless of whether another remedy exists." 808 N.W.2d at 337. That is this case. Plaintiff's members' legal relations are affected by Ordinance 25–65. Plaintiff asks the Court to determine the Ordinance's validity. The City's effort to recast that straightforward § 555.02 action into some different kind of lawsuit should be rejected.

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<sup>1</sup> Even while denying interim relief under the *Dahlberg* standard, the Court did not accept the City's broader suggestion that the Ordinance presents no present legal problem before enforcement. The order acknowledged Plaintiff's arguments that the Ordinance's enactment creates legal uncertainty, chills protected conduct, and inflicts constitutional injury when a municipality legislates beyond delegated authority. *Order Denying Temporary Injunction* at 6–7 (Jan. 12, 2026)

Minnesota authority also treats disputes over present municipal authority and preemption as justiciable before all downstream consequences have occurred. In *Bicking v. City of Minneapolis*, the Supreme Court treated a dispute over present municipal authority and preemption as justiciable before any election occurred. 891 N.W.2d 304, 309, 312–15 (Minn. 2017). That framing fits here. Plaintiff asks whether Saint Paul had authority to enact and codify Ordinance 25–65 at all and whether the resulting ordinance is valid under Minn. Stat. § 555.02. *Bicking* arose under Minn. Stat. § 204B.44 and involved a proposed charter amendment; it nonetheless confirms that Minnesota courts do not treat present disputes over municipal power as advisory merely because all downstream effects have not yet occurred. That is a present dispute over municipal power, not a request for an advisory opinion about hypothetical future facts. See *McCaughtry*, 808 N.W.2d at 337–39; *Connor v. Twp. of Chanhassen*, 81 N.W.2d 789, 793–94 (1957).

The City insists there is no actual controversy because the Ordinance is "non-enforceable absent some future State legislative action." Def.'s Mem. 1, 7–9, 23–24. But declaratory judgment is not limited to laws already enforced to the last possible consequence. *McCaughtry* recognized the "preventative" purpose of declaratory judgment and reaffirmed that jurisdiction exists when a judicially protectible right is placed in jeopardy by the "ripe or ripening seeds of an actual controversy," even though "the status quo between the parties has not yet been destroyed or impaired" and even

though the only relief sought may be a declaration relieving "present uncertainty and insecurity." 808 N.W.2d at 339 (quotation omitted). That is the posture here.

**B. The complaint alleges concrete present injury, not speculative future fear.**

The City reduces Plaintiff's injury allegations to subjective fear of possible future enforcement. Def.'s Mem. 8–9. The complaint alleges more than that.

Plaintiff alleges that the Ordinance's passage, enactment, and codification already force members to make present decisions about acquisition, possession, transport, carrying, and disposal of firearms and accessories under a cloud of legal uncertainty. Am. Compl. ¶¶ 37–41. Plaintiff alleges that members have already altered their conduct and come into compliance now to avoid the risk of adverse law–enforcement encounters when the Ordinance's provisions are misunderstood or treated as operative. *Id.* ¶¶ 12(a)–(d), 39–41, 55–56. That present compliance burden is itself concrete: disposing of, transferring, storing, or otherwise arranging lawful alternatives for items the Ordinance purports to ban takes time, expense, and advance planning, and because members cannot reasonably know whether City agents will treat the Ordinance as enforceable now or at some later point, the only practical way to avoid criminal liability is to conform their conduct now. Those are concrete present injuries. The whole point of declaratory relief is to resolve such uncertainty before citizens must risk prosecution or other sanctions.

The City's invocation of *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), is misplaced. Minnesota standing still requires a sufficient stake in a justiciable controversy and an injury in fact. *Lorix*, 736 N.W.2d at 624. But the question before this Court is one

of Minnesota justiciability under the UDJA. See *McCaughtry*, 808 N.W.2d at 336–39. Plaintiff has pleaded that kind of present, concrete controversy here.

The Ordinance's own conflicting operative provisions make those allegations plausible on their face. A penal ordinance that appears operative under one section, dormant under another, and self-revising under both creates a present compliance dilemma even before a citation is issued. The injury is not just fear of a future arrest; it is the current need to conform conduct to an enacted criminal ordinance whose operative status and operative meaning are unclear. *McCaughtry*, 808 N.W.2d at 339–41.

The City's cited ripeness cases do not impose an across-the-board explicit-threat requirement for every declaratory-judgment action. *Baertsch* shows one way to establish ripeness; it does not hold that an enforcement letter is necessary in all cases. See *Baertsch v. Minn. Dep't of Revenue*, 518 N.W.2d 21, 25 (Minn. 1994). Here, by contrast, Saint Paul enacted, signed, codified, and now defends a penal ordinance that says it will become effective "immediately, without further action by the City Council" when a triggering condition occurs. The present injury alleged is not merely fear of a future arrest. It is the current compliance burden imposed by an enacted criminal ordinance whose operative status and operative text are uncertain now. Minnesota declaratory-judgment law exists to resolve controversies of sufficient immediacy and reality before regulated parties are forced into an untenable choice between altering conduct now and risking sanctions later. *Holiday Acres No. 3 v. Midwest Fed. Sav. & Loan Ass'n of Minneapolis*, 271 N.W.2d 445, 447–49 (Minn. 1978); *McCaughtry*, 808 N.W.2d at 339–41.

The City itself relied on *281 Care Comm. v. Arneson*, 638 F.3d 621 (8th Cir. 2011), through its citation in *Simon*, for the proposition that pre-enforcement injury requires a credible threat of prosecution. But *281 Care Comm.* recognized that behavioral modification — altering conduct to avoid the risk of enforcement under an enacted law — is itself a cognizable injury when the law has not been affirmatively disavowed. *Id.* at 627-628. That is precisely what Plaintiff's members have done. The City cannot invoke *281 Care Comm.* for the threat-of-prosecution threshold while ignoring its recognition that self-imposed compliance under legal uncertainty constitutes present harm.

**C. The City's no-threat cases do not fit an enacted, defended, self-activating ordinance.**

The City leans on *Poe*, *Simon*, and other no-threat cases to argue that the "mere existence" of a penal law is not enough. Def.'s Mem. 8–9. Those analogies fail. Unlike those cases, this is not a moribund statute left unenforced for decades, nor a situation where the government has disavowed the law's future operation. Saint Paul introduced this Ordinance in October 2025, passed it in November 2025, had it signed by the Mayor, codified it as Chapter 225A, and now vigorously defends it. Am. Compl. ¶¶ 26, 34, 51–54; Def.'s Mem. 1–24. The cases the City cites involved affirmative executive statements that the challenged law would not be enforced. A legislative contingency mechanism is categorically different: the Ordinance has not been repealed, the City has expressed no intent to repeal it, and under § 225A.02 the Ordinance becomes effective "immediately, without further action by the City Council" upon a condition the City does

not control and will not publicly announce. An executive officer saying "we will not prosecute" might be held to that statement. An automatic self-activation clause cannot.

The complaint therefore pleads both justiciability and standing. It alleges definite and concrete rights affected by an enacted ordinance, a genuine conflict with the City over that ordinance's validity and effect, and a dispute capable of resolution by declaratory judgment. *Onvoy*, 736 N.W.2d at 617–18. That is enough under Minnesota law, which permits declaratory relief to resolve present uncertainty in legal relations without awaiting enforcement or completed injury. *Holiday Acres*, 271 N.W.2d at 447–49; *McCaughtry*, 808 N.W.2d at 337–39.

## **II. COUNTS I AND II ARE PROPER DECLARATORY-JUDGMENT CLAIMS**

### **UNDER § 555.02.**

#### **A. Plaintiff does not seek to imply a private remedy under §§ 471.633 or 624.714.**

The City's central merits argument is that Plaintiff has "no right of action to enforce state statutes regarding the Ordinance" because §§ 471.633 and 624.714 provide no private cause of action. Def.'s Mem. 14–15. That argument would matter if Plaintiff had filed the kind of claim the City describes. Plaintiff did not.

Counts I and II do not seek damages under either statute, and they do not ask the Court to imply a private enforcement mechanism into either one. They invoke those statutes as rules of decision in a declaratory challenge to the validity of a municipal ordinance under § 555.02. The complaint says so explicitly. Count I is captioned "Declaratory Judgment (Minn. Stat. § 555.02) – Ordinance 25–65 Is *Ultra Vires* and Void

Under Minn. Stat. § 471.633." Am. Compl. at 19. Count II is captioned "Declaratory Judgment (Minn. Stat. § 555.02) – Permit-to-Carry Preemption – Ordinance 25–65 Is Void Under Minn. Stat. § 624.714, subd. 23." *Id.* at 22. Paragraph 87 makes the point unmistakably: "Declaratory relief is authorized under Minn. Stat. § 555.02 because Plaintiff's members' rights and legal relations are affected by a municipal ordinance and Plaintiff seeks a declaration regarding its validity." *Id.* 87.

The motion repeatedly describes Plaintiff as attempting to "enforce" §§ 471.633 and 624.714. But Plaintiff is not asking the Court to enforce those statutes against the City as though they were damages statutes. Plaintiff asks the Court to determine whether the City acted beyond the authority those statutes leave it when it enacted Ordinance 25–65. That is a different claim.

**B. The text of § 555.02 and *McCaughtry* reject the City's premise.**

The City says § 555.02 "does not distinguish between" ordinance challenges and other declaratory actions and therefore cannot sustain Counts I and II without some separate underlying cause of action. Def.'s Mem. 14–15. But § 555.02 does distinguish — by text. It expressly names "municipal ordinance" and authorizes affected persons to obtain a judicial determination of "any question of construction or validity" arising under that ordinance. Minn. Stat. § 555.02. The City's reading effectively deletes "municipal ordinance" and "validity" from the statute.

The City's private-cause-of-action argument also fails to account for what § 471.633 actually does. *Halva* is a private-right-of-action case. *Weavewood*, *Alliance*, and

*Hoelt* stand for the narrower proposition that declaratory judgment is procedural and cannot manufacture a substantive claim where none otherwise exists. This case does not ask the Court to imply a damages remedy into § 471.633. It asks the Court, under § 555.02, to determine the validity of an enacted municipal ordinance in light of a statute that expressly withdraws municipal authority and declares inconsistent local regulation void. Plaintiff is not asking this Court to privately enforce that statute as a damages remedy. Plaintiff is asking this Court to give effect to the Legislature's express declaration that inconsistent local regulation has no legal existence.<sup>2</sup> That is not implying a private remedy where none exists. It is applying a statutory rule of law that the Legislature made directly operative. Section 555.02's authorization of a validity determination as to municipal ordinances and § 471.633's command that inconsistent ordinances are void are not two separate problems requiring two separate causes of action — they are two halves of the same claim.

*McCaughtry* is entirely inconsistent with the City's premise. The Minnesota Supreme Court held that the Act "specifically provides for challenges to the validity of a municipal ordinance," 808 N.W.2d at 337, and quoted longstanding Minnesota law that a complainant "need not necessarily possess a cause of action (as that term is ordinarily used) as a basis for obtaining declaratory relief," so long as the complainant possesses a bona fide legal interest that has been, or is about to be, affected in a prejudicial manner.

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<sup>2</sup> Calling the Ordinance contingent does not answer the prior question whether Saint Paul had authority to enact and codify it in the first place. As the Court put it in the January 12 order, "[t]he principal issue this litigation raises is whether the City can enact and codify a law, which they are preempted from acting upon, but prevent it from taking effect until the preemption is lifted." *Order Denying Temporary Injunction* at 8 (Jan. 12, 2026).

*Id.* at 338 (quotation omitted). That sentence answers the City's effort to impose an "underlying cause of action" requirement in the form the City advances here.

Minnesota appellate courts also routinely adjudicate declaratory actions alleging that municipal ordinances are preempted by or otherwise inconsistent with state law. They do not treat those cases as failed attempts to imply private causes of action under the preempting statute. *See, e.g., Connor*, 81 N.W.2d at 793–94; *NSP v. City of Granite Falls*, 463 N.W.2d 541, 542–45 (Minn. App. 1990), rev. denied (Minn. Jan. 14 & 24, 1991); *Graco, Inc. v. City of Minneapolis*, 937 N.W.2d 756, 759–60 (Minn. 2020); *Minn. Chamber of Com. v. City of Minneapolis*, 944 N.W.2d 441, 446–47 (Minn. 2020). In each of those cases, the substantive law was the state-law limit on municipal authority, and the vehicle was declaratory or equivalent pre-enforcement review of ordinance validity. That is this case.

The City tries to distinguish *McCaughtry* by saying the ordinance challenge there rested on constitutional grounds, whereas Counts I and II rest on state statutes. Def.'s Mem. 14–15. But nothing in § 555.02 says an affected person may challenge the validity of a municipal ordinance only when the challenge sounds in constitutional law. And nothing in *McCaughtry* suggests that declaratory review of ordinance validity depends on whether a plaintiff can append a constitutional label to the claim. The City's theory would produce an odd result: a plainly *ultra vires* ordinance could be challenged under the UDJA if framed as constitutional, but not if framed as contrary to a statute that expressly

withdraws municipal authority and declares inconsistent local regulation void. Section 555.02 does not contain that limitation. Neither does *McCaughtry*.

The City also cites *Barron*, but *Barron* hurts the City more than it helps. The motion quotes *Barron* only for the proposition that declaratory relief is a remedy, not a source of substantive law. Def.'s Mem. 15. That is true and unhelpful to the City. Plaintiff's substantive law comes from the statutes limiting municipal power. *Barron*'s relevant contribution is the same one *McCaughtry* emphasizes: declaratory judgment is proper to test the validity of a municipal ordinance regardless of whether another remedy exists. *McCaughtry*, 808 N.W.2d at 337.

### **C. The City's remaining case citations do not control.**

The City's string cite to *Halva*, *Weavewood*, *Alliance*, and *Hoelt* does not change the analysis. Those cases addressed attempts to use declaratory judgment as a workaround when the underlying theory of relief fails or to imply a private cause of action where none exists. See *Halva v. Minn. State Colls. & Univs.*, 953 N.W.2d 496, 504–06 (Minn. 2021); *Weavewood, Inc. v. S. & P Home Inv., LLC*, 821 N.W.2d 576, 579 (Minn. 2012); *Alliance for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 915–16 (Minn. App. 2003); *Hoelt v. Hennepin Cnty.*, 754 N.W.2d 717, 722 (Minn. App. 2008). Plaintiff agrees with those propositions. But Plaintiff is not manufacturing a freestanding claim or privately enforcing a statute. Plaintiff seeks what § 555.02 expressly contemplates: a declaration testing the validity of a municipal ordinance that allegedly exceeds statutory limits on municipal authority. The City's cases do not answer whether

an affected person may use § 555.02 for that purpose. *McCaughtry* does, and it answers yes. 808 N.W.2d at 338–40.<sup>3</sup>

The City's reliance on *Christopher v. Ramsey County*, 621 F. Supp. 3d 972 (D. Minn. 2022), is equally misplaced. *Christopher* is nonbinding and arose from a State Agricultural Society rule rather than an enacted municipal ordinance. It did not analyze the text of § 555.02's authorization for challenges to "construction or validity" of a municipal ordinance, nor did it consider the Minnesota appellate decisions that frame this type of ordinance-validity suit. *See Connor*, 81 N.W.2d at 793–94; *McCaughtry*, 808 N.W.2d at 337–40; *NSP*, 463 N.W.2d at 542–45; *Graco*, 937 N.W.2d at 759–60; *Minn. Chamber of Com.*, 944 N.W.2d at 446–47. At most, *Christopher* stands for the proposition that declaratory judgment cannot manufacture a private cause of action — which Plaintiff does not seek.<sup>4</sup>

### **III. COUNT III STATES A VAGUENESS CLAIM.**

#### **A. The Ordinance fails to tell ordinary citizens when Chapter 225A applies, who decides, or what rule is in force.**

The City's vagueness section reduces Count III to a complaint that the phrase "substantially similar" is imprecise. Def.'s Mem. 19–22. Count III is more specific than

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<sup>3</sup> The City's cited cases address attempts to use declaratory judgment as a workaround when the underlying theory fails; this case asks the Court to decide whether the City had authority to enact the ordinance at all. Plaintiff invokes Minn. Stat. § 555.02 for the use the statute expressly contemplates: a present determination whether a municipal ordinance is valid and enforceable.

<sup>4</sup> The Court's prior order rejected the premise that the absence of a private damages remedy bars a declaratory challenge to municipal authority. The Court recognized that *McCaughtry* permits a municipal-ordinance validity challenge "regardless of whether another remedy exists," and that the UDJA supplies the procedural mechanism for determining whether a municipality acted within the bounds of its authority. *Order Denying Temporary Injunction* at 7–8 (Jan. 12, 2026).

that. The complaint alleges that the Ordinance fails to tell ordinary citizens three essential things: when the law applies, who decides that it applies, and what rule is in force when the City says the trigger has been met.<sup>5</sup> Am. Compl. ¶¶ 43–50, 78–84.

First, the Ordinance does not tell ordinary citizens when criminal liability attaches. Section 3 says the Ordinance "shall take effect and be in force" thirty days after passage, approval, and publication. Am. Compl. ¶¶ 43, 79. Section 225A.02 says it "shall not take effect, nor be enforced" unless and until a future trigger occurs. *Id.* ¶¶ 44, 80. The City says those provisions are easy to harmonize because Section 3 establishes a minimum 30–day delay and Section 225A.02 adds a later contingency. Def.'s Mem. 19. But that proposed harmonization proves the point. If the operative date must be reconstructed by post hoc argument, the text is not self–explanatory. And even on the City's reading, the public still has no way to know when the later contingency has been satisfied.

Second, the Ordinance does not tell citizens who decides whether the § 225A.02(b) trigger has occurred. The City says the trigger is the passage of "any Minnesota law that is substantially the same as any part of this ordinance or otherwise affirmatively authorizes municipalities to enact and enforce substantially similar regulations." *Id.* ¶¶ 44, 47, 80. But the Ordinance identifies no City official, body, or process responsible for making that comparison. *Id.* ¶34A. It provides no procedure for deciding whether the comparison standard is met. *Id.* ¶¶ 48–49, 82–84. It requires no

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<sup>5</sup> The Court's January 12 order strongly reinforces that theory. Although it denied temporary injunctive relief overall, it stated that "[t]he vagueness associated with the language of 'substantially the same' and 'substantially similar' cannot be overstated," and concluded that, as to § 225A.02(b), the vagueness factor favored an injunction. *Order Denying Temporary Injunction* at 9–10 (Jan. 12, 2026). That is not a merits holding, but it is a direct rejection of the City's current suggestion that Count III is insubstantial as a matter of law

public announcement. *Id.* The central judgment that turns Chapter 225A from inert to criminal is thus left entirely unstated.

Third, the Ordinance does not tell citizens what text governs once the City claims the trigger has been satisfied. Section 225A.02 says that once the condition occurs, "any language herein must be deemed conformed to the substantially similar state law to the extent required for consistency." *Id.* ¶¶ 47–50, 80–84. That means the Ordinance not only becomes effective automatically; it rewrites itself automatically. Citizens are therefore not merely guessing about when the law applies. They are also guessing about what the City thinks the law now says.

This third defect is the most serious. A penal ordinance that silently rewrites its own substantive prohibitions upon an undefined triggering event is not merely unclear about when it applies — it is unclear about what it says. The constitutional requirement of fair notice in penal law is not satisfied when citizens must independently analyze unspecified future state legislation, determine whether Saint Paul considers it "substantially the same" as Chapter 225A, and then infer what Chapter 225A's text has "deemed" itself to become in light of that legislation — all before knowing whether they are in violation of a criminal ordinance. *State v. Bussmann*, 741 N.W.2d 79, 83 (Minn. 2007), states the rule directly: a penal law must provide persons of ordinary intelligence a reasonable opportunity to know what is prohibited. The "deemed conformed" clause forecloses that opportunity entirely, because the operative text of the ordinance is, by design, unknown until after the self–revision occurs.

These are due-process defects in a penal ordinance.

**B. Minnesota vagueness law condemns this standardless trigger.**

Minnesota law is clear on what due process requires. A penal law is void for vagueness if it fails to define the offense with sufficient definiteness that ordinary people can understand what conduct is prohibited, or if it fails to establish minimal guidelines sufficient to prevent arbitrary and discriminatory enforcement. *In re Welfare of B.A.H.*, 845 N.W.2d 158, 163–64 (Minn. 2014). The second defect is often the more important one. *Id.* at 163. A law is unconstitutionally vague when it leaves enforcers free to decide, without legally fixed standards, what is prohibited "in each particular case." *Id.* at 163–64 (quotation omitted).

*State v. Newstrom* is the closest Minnesota analogue to what Saint Paul did here. There, the Minnesota Supreme Court held that the phrase "essentially equivalent" was unconstitutionally vague because it implied a judgment without indicating who would make that judgment or what criteria would govern it. 371 N.W.2d 525, 528–29 (Minn. 1985). Section 225A.02(b) presents the same defect in each of the dimensions *Newstrom* identified as required. First, what judgment is implied? — whether a future state law is "substantially the same as any part of this ordinance" or "affirmatively authorizes municipalities to enact and enforce substantially similar regulations." That is a compound qualitative comparison with no defined standard. Second, who makes the judgment? — the Ordinance is silent. No City official, department, body, or process is identified. Third, by what criteria is the judgment made? — the Ordinance is silent. No factors, thresholds,

or procedures are specified. Fourth, how will the public know when the judgment has been made? — the Ordinance is silent. No notice mechanism exists. The Ordinance becomes criminal "immediately, without further action by the City Council." *Newstrom* held that the phrase "essentially equivalent" was unconstitutionally vague in a criminal setting because it implied a judgment without indicating who would make it or what criteria would govern it, while providing no guidance to citizens or enforcement officials. 371 N.W.2d at 528–29. Section 225A.02(b) suffers from the same defect.

The City says there is no vagueness problem because the Ordinance's substantive prohibitions are themselves clearly defined and therefore provide "a ready and clear comparator" against any future state law. Def.'s Mem. 20. That is not a defense.<sup>6</sup> *Newstrom* did not hold that a vague trigger becomes constitutional merely because the underlying subject matter is otherwise described in detail. It held the opposite: a law is defective when it turns liability on an undefined judgment with no identified decisionmaker or governing criteria. 371 N.W.2d at 528–29. The "clear comparator" argument only restates the very question due process requires the Ordinance itself to answer: who compares what to what, by what standard, and with what public notice?

The City's reliance on general statements about qualitative standards does not help. Def.'s Mem. 19–20. The problem is not that the law contains a nonnumeric term. The problem is that the City made an undefined, standardless similarity judgment the event

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<sup>6</sup> The City's "clear comparator" argument does not resolve the pleaded defect. Due process asks not only whether the ordinance's substantive prohibitions can be understood in the abstract, but also who decides whether a future state law is "substantially the same," by what criteria, through what process, and with what public notice before municipal criminal consequences attach. On the City's theory, those points remain unstated. See Def.'s Mem. 20.

that triggers automatic municipal criminal liability. That is not cured by observing that some legal standards are qualitative.

That is why cases tolerating flexible descriptors in otherwise operative statutes do not answer this case. The defect here is not the mere presence of a qualitative phrase. It is the absence of any decisionmaker, any legally fixed criteria, any procedure, and any public-notice mechanism for the judgment that triggers immediate municipal criminal effect. See *B.A.H.*, 845 N.W.2d at 163–64; *State v. Newstrom*, 371 N.W.2d 525, 528–29 (Minn. 1985).

**C. Future state legislation does not supply the notice the Ordinance omits.**

The motion says future state legislative action would itself provide "substantial notice" of the triggering event. Def.'s Mem. 20. No, it would not.

Notice that the Legislature passed a firearm-related bill is not notice that Saint Paul's criminal ordinance has become operative. It is not notice that Saint Paul believes the bill is "substantially the same as any part" of Chapter 225A. It is not notice that Saint Paul believes the Legislature has "affirmatively authorize[d]" municipalities to enact and enforce "substantially similar regulations." And it is not notice of what Saint Paul believes its own ordinance now says after the "deemed conformed" clause has rewritten it "to the extent required for consistency."<sup>7</sup> Am. Compl. ¶¶ 47–50, 80–84.

**D. One clear trigger does not save the vague trigger.**

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<sup>7</sup> Notice that the Legislature passed a bill is not notice that Saint Paul believes its ordinance has become operative, who made that determination, or what text Saint Paul believes has been "deemed conformed" into effect. The City's argument assumes ordinary citizens must not only monitor future state legislation, but infer, unguided, how Saint Paul will treat it under local criminal law. See Def.'s Mem. 20.

The City separately argues that Plaintiff's facial vagueness claim fails because the first trigger — the repeal of Minn. Stat. § 471.633 — is objectively verifiable and therefore the Ordinance is not vague in all its applications. Def.'s Mem. 21–22. That argument fails because it ignores the claim Plaintiff actually pleaded.

Plaintiff expressly alleges that § 225A.02(a)'s repeal trigger is objectively verifiable and contrasts that clarity with the standardless comparison required by § 225A.02(b). Am. Compl. ¶48. Count III is directed to the second trigger and the automatic "deemed conformed" mechanism. *Id.* ¶¶ 48–50, 82–84. Even if the first trigger is clear, the second remains independently vague. A criminal ordinance does not become immune from vagueness review merely because one pathway to liability is clearer than another. The motion's attempt to use the clearer trigger to defeat the pleaded challenge to the separate vague trigger should be rejected.

Moreover, even on the City's own terms, the repeal trigger does not fully save the Ordinance because the "deemed conformed" clause applies regardless of which trigger is satisfied. Even if § 471.633 is repealed — the objectively verifiable trigger the City claims cures the vagueness problem<sup>8</sup> — § 225A.02 still provides that "any language herein must be deemed conformed to the substantially similar state law to the extent required for consistency." If a repeal is accompanied by new firearms legislation, the "deemed conformed" clause would still silently revise Chapter 225A's operative text. The

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<sup>8</sup> The Ordinance's text appears to reinforce its fair-notice problems: § 225A.10(a) contains the sensitive-places ban, but § 225A.10(b) imposes misdemeanor liability for violating 'section 11(a)'—the signage provision in § 225A.11(a), not the ban itself. In a penal ordinance, that internal mis-citation further illustrates the uncertainty Count III identifies.

City's "one clear trigger" defense therefore does not solve the due process problem even as to the trigger it calls clear. It only answers when the ordinance activates — not what the ordinance says when it does.

The City's invocation of the "all applications" standard under *Enyeart* does not change the analysis. That standard asks whether a challenged provision is vague in every factual scenario to which it applies — not whether some other provision of the same enactment is clearer. See *Village of Hoffman Estates v. Flipside*, 455 U.S. 489, 497 (1982). Section 225A.02(b) is vague in all of its applications. No person — regardless of which substantive prohibition is at issue, which firearm or accessory is involved, or where in the City the person is located — can determine when § 225A.02(b)'s trigger has been satisfied, who makes that determination, or what text governs after the "deemed conformed" clause operates. The repeal trigger in § 225A.02(a) does not supply a "clear application" of § 225A.02(b); it supplies a clear application of a different provision with a different operative condition.<sup>9</sup>

#### **E. The City's "not self-executing" theory reinforces Count III.**

The City's repeated characterization of the Ordinance as "not self-executing" does not defeat the vagueness claim — it sharpens it. If the Ordinance becomes operative automatically once § 225A.02(b)'s condition is satisfied, the public must be able to know when that condition has been met, yet the Ordinance provides no definition, no

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<sup>9</sup> The Court's prior order recognized the same distinction. It treated the repeal trigger and the "substantially the same/substantially similar" trigger differently, and concluded that the latter presented a serious vagueness problem. *Order Denying Temporary Injunction* at 9–10 (Jan. 12, 2026). Even if a clear pathway to operation existed, it does not save a separate pathway that turns criminal effect on an undefined qualitative judgment.

decisionmaker, no process, and no notice mechanism. If instead some further municipal judgment is required, then the City concedes the defect Plaintiff pleaded: the Ordinance does not itself establish the rule by which its criminal prohibitions become operative.<sup>10</sup> Either way, Count III survives.

**F. At Rule 12, Count III survives.**

The City closes its vagueness section by invoking presumptions of validity and the ultimate burden of proving unconstitutionality beyond a reasonable doubt. Def.'s Mem. 15–16, 22. Those merits burdens do not erase the Rule 12 standard. At this stage, Plaintiff need not prove Count III; Plaintiff need only plead it.

Plaintiff has done so. The complaint alleges that the Ordinance is penal; that Section 3 and § 225A.02 conflict as to when it takes effect; that § 225A.02(b) turns immediate effectiveness on an undefined "substantially the same/substantially similar" judgment; that the Ordinance identifies no decisionmaker, no process, and no public–notice mechanism; that it rewrites itself through a "deemed conformed" clause; and that members are presently injured because they have already changed conduct to avoid uncertain enforcement. Am. Compl. ¶¶ 34A, 43–50, 55–56, 78–84. Under *B.A.H.* and *Newstrom*, that states a due–process claim. The motion should be denied at minimum as to Count III.

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<sup>10</sup> The City's current position also sits awkwardly with the Ordinance's own text. If Chapter 225A becomes effective "immediately, without further action by the City Council," then the City has already completed the legislative act it claims is harmless. If, instead, some further municipal determination is required before anyone can know whether the ordinance applies, that only confirms the notice and standards problem Count III pleads. Either way, "not self-executing" is not an escape hatch; it is either an *ultra vires* enactment waiting for borrowed authority or a penal scheme waiting for undisclosed judgment.

#### **IV. COUNT II STATES A SEPARATE PREEMPTION CLAIM UNDER § 624.714.**

##### **A. The complaint does not plead a free-floating right to carry in any public place.**

The City's Count II argument starts from a premise the complaint does not adopt. The motion says Plaintiff "asserts that the MCPA not only created a defense to a criminal possession of a firearm charge but further created an affirmative right for permit holders to carry a firearm in any public place in Minnesota." Def.'s Mem. 22. That is not what the complaint says.

The complaint pleads a narrower and more straightforward point. It alleges that the Legislature made the permit-to-carry regime statewide and exclusive, that a permit under § 624.714 "is a state permit and is effective throughout the state," that no governmental unit may "limit the exercise of a permit to carry," that § 624.717 supersedes local regulation of carrying or possessing pistols, and that § 624.7181 separately exempts permit holders from that public-place rifle/shotgun offense. Am. Compl. ¶¶ 21–25. Count II then alleges that § 225A.10 "purports to prohibit Caucus members who hold a valid permit to carry from carrying firearms in 'sensitive places' where state law otherwise permits them to do so" and that this constitutes an attempt by a governmental unit to "limit the exercise of a permit to carry" in violation of § 624.714, subd. 23. *Id.* ¶¶ 71–75.

That is a statutory preemption claim. It is not a constitutional claim to carry everywhere. The City's effort to restate Count II more broadly than pleaded should be rejected.

##### **B. Subdivision 23 bars local limits on permit exercise.**

The City next says the Ordinance "does not address permits at all" and therefore cannot violate subdivision 23. Def.'s Mem. 22. Again, the statute answers the point.

Subdivision 23 does not merely forbid local governments from altering permit-issuance criteria. It contains two commands. First, it says no governmental unit may "change, modify, or supplement" the statutory criteria or procedures for permits to carry. Second, it says no governmental unit may "limit the exercise of a permit to carry." Minn. Stat. § 624.714, subd. 23. The City's reading collapses the second command into the first and deprives the phrase "or limit the exercise of a permit to carry" of independent meaning.

Section 225A.10 limits the exercise of a permit to carry in the most practical way possible: it makes possession of a firearm a misdemeanor in broad categories of public places throughout Saint Paul. If a permit holder may otherwise carry under statewide law but becomes subject to local criminal liability when he enters a Saint Paul library, park, recreation center, arena, or zoo, the City has limited the exercise of that permit. A law need not use the word "permit" to limit permit exercise. It is enough that the law criminalizes the conduct the permit would otherwise authorize statewide.

The Legislature's word choice confirms this reading. Subdivision 23 uses three distinct terms in sequence: local governments may not "change, modify, or supplement" the criteria and procedures for permits, and may not "limit the exercise" of a permit. The first set of verbs addresses administration — the issuance process. The Legislature used the separate and distinct word "exercise" for the second command because it was

addressing conduct — the act of carrying pursuant to a permit. If the Legislature intended only to protect the administrative permitting process, it would have used "issuance" or "procedures" again. It did not. "Exercise" means the practical deployment of the legal authorization the permit confers. A local ordinance that makes that deployment a misdemeanor in broad swaths of the city limits the exercise of the permit in the most direct way possible.

That is why Count II does not depend on proving an affirmative "right" to carry in every public place. The statute itself does not use the word "right." It uses the phrase "limit the exercise of a permit to carry," and it directs that command at local governments. Whether one describes the permit as an authorization, a defense, a license, or something else, subdivision 23 expressly bars local governments from limiting its exercise.

The City's attempt to recharacterize the permit as merely a "defense to liability" under subdivision 1a (Def.'s Mem. 22–23) does not change that analysis; subdivision 23's prohibition on limiting the *exercise* of a permit applies regardless of how the underlying authorization is labeled.

The City's analysis of subdivision 1a is thus beside the point. Count II does not ask the Court to announce some freestanding right to carry everywhere in public. It asks the Court to apply the text the Legislature **actually enacted** in subdivision 23.

**C. Sections 624.717 and 624.7181 reinforce the same preemption problem.**

The complaint also pleaded that § 624.717 and § 624.7181 reinforce the statewide nature of firearm–carry regulation. Am. Compl. ¶¶ 21–25. The City's Count II section largely ignores those provisions.

Section 624.717 says that §§ 624.711 to 624.716 supersede municipal or county regulation of "the carrying or possessing of pistols." Minn. Stat. § 624.717. Section 624.7181 defines "carry" in a way that excludes "the carrying of a ... rifle, or shotgun by a person who has a permit under section 624.714." Minn. Stat. § 624.7181, subd. 1(b)(3). Those provisions matter because § 225A.10 reaches "firearms" broadly, not merely one subtype. As to pistols, § 624.717 directly confirms statewide supersession of local carry regulation. As to rifles and shotguns, § 624.7181 confirms that a permit under § 624.714 matters outside the pistol context too. Read together with subdivision 23 and subdivision 2(c), these statutes underscore that the Legislature chose statewide uniformity in the scope and exercise of permit–based carry, not a city–by–city patchwork of local misdemeanor zones.

The City's silence on § 624.717 is effectively a concession on a textually independent ground. Section 624.717 does not require the Court to interpret "limit the exercise of a permit to carry" under subd. 23. It states on its face that §§ 624.711 through 624.716 "supersede municipal or county regulation of the carrying or possessing of pistols." Minn. Stat. § 624.717. The Ordinance's § 225A.10 criminalizes the carrying of pistols by permit holders in broad categories of public places throughout Saint Paul. That is municipal regulation of the carrying of pistols, which § 624.717 directly supersedes.

No analysis of subd. 23's scope is required to reach that conclusion. The City's motion does not address § 624.717. That silence has no answer.

That is the point Count II makes. It identifies another preemption defect the City did not solve by writing a contingency clause keyed only to § 471.633. Am. Compl. ¶74.

#### **D. The contingency clause does not cure Count II.**

The complaint specifically alleges that the contingency clause in § 225A.02 "has no bearing on the illegality of Section 225A.10 under Minn. Stat. § 624.714, subd. 23" and that the carry prohibition "would remain void even if Minn. Stat. § 471.633 were repealed." Am. Compl. ¶74. The motion never answers that point.

Count II is therefore independently sufficient even on the City's own terms. Even if the Court were to accept the City's theory about the general firearms–preemption clause, the City would still face the separate problem that it wrote a sweeping local "sensitive places" carry ban into an ordinance without accounting for the Legislature's separate and express bar on local limits to permit exercise. The motion should be denied as to Count II.

### **V. THE ORDINANCE'S CONTINGENCY CLAUSE DOES NOT DEFEAT COUNT I.**

#### **A. Section 471.633 addresses the City's authority to enact this ordinance now.**

The City's final merits theory is that because the Ordinance is supposedly "not self-executing," it does not presently "occupy the field" and therefore does not violate §

471.633 or § 624.714. Def.'s Mem. 23–24. That argument collapses authority into enforceability.

Section 471.633 does not say municipalities may enact firearm ordinances so long as they delay enforcement. It says the Legislature "preempts all authority" of cities and other local entities "to regulate firearms, ammunition, or their respective components to the complete exclusion of any order, ordinance or regulation" by them, subject to narrow exceptions not relevant here. Minn. Stat. § 471.633. It then says: "Local regulation inconsistent with this section is void." *Id.* Those are words of power and validity, not merely timing of enforcement.

Contingency addresses timing, not power. Minnesota law is clear that a city may not enact local regulation that conflicts with state law or invades a field the Legislature has preempted. See *Bicking*, 891 N.W.2d at 312–15; *Graco*, 937 N.W.2d at 759–60; *Minn. Chamber of Com.*, 944 N.W.2d at 446–47; *NSP*, 463 N.W.2d at 542–45. So even if contingent ordinances can exist in some settings, contingency cannot cure an enactment that conflicts with existing state law when adopted. If Saint Paul lacked authority under Minn. Stat. § 471.633 when it enacted and codified Chapter 225A, later state action may create authority to legislate then; it does not retroactively validate the prior enactment.

Count I therefore challenges the City's enactment and codification of Ordinance 25–65 now. That is the *ultra vires* act Plaintiff alleges. The complaint does not rest on a theory that the City must first arrest someone before the Court can test whether the City had authority to pass the ordinance in the first place. Am. Compl. ¶¶ 59–68.

**B. Saint Paul already exercised the legislative power § 471.633 withdraws.**

The City says it has "not entered into any restricted area of law" because the Ordinance is contingent. Def.'s Mem. 24. But Saint Paul already exercised municipal legislative power in the very field § 471.633 withdraws from it. The City introduced the Ordinance, passed it, had it signed, and codified it as Chapter 225A. Am. Compl. ¶¶ 26, 34, 51–54. The Ordinance creates criminal prohibitions, misdemeanor penalties, forfeiture consequences, and signage requirements. *Id.* 27. That is legislation — not a hypothetical future action, but a present exercise of the very municipal authority § 471.633 withdraws.

**C. The Ordinance's own text does not help the City.**

The City's "not self-executing" label also collides with the Ordinance's text. Section 225A.02 says that once a triggering event occurs, the Chapter becomes effective "immediately, without further action by the City Council." Am. Compl. ¶¶ 44, 47–50, 80–84. If that language means what it says, then the City has already done its legislating now and means for the Ordinance to take effect later automatically. In that event, the City's current lack of authority is a present problem, because the City has already adopted and codified the ordinance it wants to spring to life later.

If, on the other hand, the City means the Ordinance is not truly self-executing because some further governmental act or interpretation is necessary before anyone can know when it applies, then the City is conceding the due-process defect discussed above.

Either way, the label does not save the Ordinance. It either confirms present *ultra vires* legislation or confirms present vagueness.<sup>11</sup>

**D. A void ordinance cannot spring to life later by automatic contingency.**

The complaint's core Count I theory is straightforward: what the City could not lawfully enact today, it could not pre-enact today and have automatically become valid tomorrow "without further action by the City Council." Am. Compl. ¶¶ 65–67. That is a natural reading of § 471.633's command that local firearms regulation inconsistent with the statute "is void." Minn. Stat. § 471.633.

A void ordinance is not a valid legal shell waiting to be activated. If the City lacked authority to enact Chapter 225A when it passed and codified the Ordinance, the City cannot cure that defect simply by declaring that the ordinance will spring to life later if state law changes. If future state law one day authorizes local regulation in this field, then Saint Paul may legislate then, if and when it has power to do so. What it cannot do is legislate now, in a field from which it is currently excluded, and then claim that later state action will retroactively validate the earlier *ultra vires* enactment.

The word "void" in § 471.633 is not a timing word. Under longstanding principles of law, a legislative act that is "void" — as distinguished from "voidable" — is a nullity from the moment of its enactment and cannot acquire validity retroactively. *Norton v. Shelby County*, 118 U.S. 425, 442 (1886) ("An unconstitutional act is not a law; it confers

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<sup>11</sup> The City's position points in either of two directions. If it has already completed the legislative steps necessary for Chapter 225A to become effective automatically later, then the present enactment is the act that must be tested against Minn. Stat. § 471.633. If some further step is required before the ordinance can operate, then the Ordinance does not tell ordinary people what that step is, who performs it, or how the public is to know it occurred.

no rights; it imposes no duties; it affords no protection; it creates no office; it is, in legal contemplation, as inoperative as though it had never been passed." The Legislature's choice of the word "void" rather than "unenforceable" or "voidable" carries that established meaning. See Minn. Stat. § 645.08(1).

What § 471.633 does not authorize is legislating first and borrowing authority later—especially where § 225A.02 says the Chapter will become effective “immediately, without further action by the City Council” and will be “deemed conformed” to later law. Am. Compl. ¶¶ 47–50, 80–84. If and when a future state law one day authorizes municipalities to enter the field of firearms regulation, Saint Paul may legislate then.

**E. *Sullivan* and *Molly* do not require dismissal.**

*Sullivan* involved the sovereign Legislature conditioning its own law on a later local acceptance event. *State ex rel. Hagestad v. Sullivan*, 67 Minn. 379, 382–84, 69 N.W. 1094, 1095–96 (1897). This case is the inverse: a subordinate municipality conditioning a local ordinance on the sovereign later granting it authority it currently lacks. Section 471.633 presently withdraws "all authority" from municipalities in this field, yet the Ordinance says it becomes effective "immediately, without further action by the City Council." Am. Compl. ¶¶ 47–50, 80–84.

*In re Disposition of Molly*, 712 N.W.2d 567, 570–71 (Minn. App. 2006), held that a non-self-executing dangerous-dog statute could not be enforced by a city that had never adopted enabling legislation or procedures. If anything, *Molly* underscores that where legislation is necessary, it must exist before enforcement — it does not authorize a

municipality to pre-enact a penal ordinance in a field from which it is currently excluded. At most, these cases show that contingent laws can exist in some settings. They do not establish that a city may enact now what § 471.633 presently declares void, and have it take effect later without further council action.

#### **F. Count I survives.**

Count I does not require the Court to decide every aspect of future state-law hypotheticals. It asks a narrower and present question: whether Saint Paul had authority to enact and codify Ordinance 25–65 when it did so. Section 471.633 says the Legislature "preempts all authority" to regulate firearms to the "complete exclusion" of local ordinances and that inconsistent local regulation "is void." Minn. Stat. § 471.633. The complaint alleges that Ordinance 25–65 is such a local regulation, that it is not identical to state law, that it does not fall within the narrow discharge exception, and that the City nonetheless enacted and codified it. Am. Compl. ¶¶ 59–67. Those allegations state an *ultra vires* claim for declaratory relief.

The City's contrary argument depends on transforming a statute about authority and voidness into a statute only about future enforcement. The text does not support that transformation. Count I should survive.

#### **CONCLUSION**

The motion does not meaningfully engage the claims Plaintiff actually pleaded. It replaces them with broader or different claims and then attacks the replacement. The Court should decide the motion on the complaint before it. When the claims are read as

pleaded, this is a straightforward § 555.02 challenge to the validity of an enacted municipal ordinance. The Amended Complaint states a present, justiciable controversy; Counts I and II are cognizable declaratory claims under the UDJA; Count III states a vagueness claim; and the City's contingency theory does not defeat any count.

Finally, the City's brief applies the wrong legal standard at multiple points, invoking presumptions of validity and burdens that govern merits adjudication, not pleading sufficiency. At Rule 12, this Court asks only whether it is possible, on any evidence consistent with the complaint, to grant the relief demanded. *DeRosa*, 936 N.W.2d at 346. Plaintiff need not prove any count at this stage. It need only have pleaded each count. It has done so. The motion's conflation of the pleading standard with the merits burden is not an accident — it reflects the weakness of the City's position that any of these counts fails as a matter of law before a single factual record is developed.

The motion should be denied in full.

Dated: March 31, 2026

Respectfully submitted,

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