

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

BRETT BASS, an individual; CURTIS
MCCULLOUGH, an individual; SWAN
SEABERG, an individual; THE SECOND
AMENDMENT FOUNDATION, INC., a
Washington non-profit corporation; and
NATIONAL RIFLE ASSOCIATION OF
AMERICA, INC.; a New York non-profit
association;

Plaintiffs,

v.

CITY OF EDMONDS, a municipality;
EDMONDS POLICE DEPARTMENT, a
department of the City of Edmonds,

Defendants.

No. 18-2-07049-31

**VERIFIED AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiffs, by and through their attorneys, allege the following Verified Amended
Complaint for declaratory and injunctive relief against Defendants City of Edmonds and the
Edmonds Police Department:

I. NATURE OF THE CASE

The City of Edmonds has passed an ordinance regulating the possession of firearms by
mandating how firearms must be stored within the city. However, the ordinance’s mandates are
illegal and legally unenforceable. The State of Washington has the exclusive right to regulate the

1 possession of firearms by occupation of the field of regulation because the right to possess
2 firearms is a constitutional matter of general concern within the state. Wash. Const. art. 11, § 11
3 (cities may regulate using police powers unless such regulation conflicts with state law). The state
4 legislature enacted express statutory preemption to make it clear cities may not enact local laws
5 or regulations related to the possession of firearms. RCW 9.41.290. Indeed, when considering
6 the Ordinance, the Edmonds City Council explicitly acknowledged the limits the preemption
7 statute places upon municipalities like Edmonds, but nevertheless passed the Ordinance knowing
8 that it undoubtedly violated the exclusive jurisdiction of the state's legislature and the preemption
9 statute and would be reversed in litigation. The rule of preemption could not be clearer: the City
10 of Edmonds (like any municipality in the State of Washington) is not permitted to pass laws that
11 target the possession of firearms through any means. Accordingly, Plaintiffs bring this action for
12 injunctive and declaratory relief, and ask this Court for an order that would require the Defendants
13 to follow the law.

14 II. PARTIES

15 1. Plaintiff Brett Bass is an individual residing in Edmonds, Washington. Mr. Bass
16 is a Sergeant in the Military Police field in the Individual Ready Reserve of the United States
17 Marine Corps. Mr. Bass is credentialed as a Chief Range Safety Officer, among other professional
18 credentials. Mr. Bass currently owns firearms and stores them in his home.

19 2. Plaintiff Curtis McCullough is an individual residing in Edmonds, Washington.
20 Mr. McCullough and his wife have valid Concealed Pistol Licenses. Mr. McCullough currently
21 owns firearms and stores them in his home. Mr. McCullough and his wife have two minor
22 children under the age of three.

23 3. Plaintiff Swan Seaberg is an individual residing in Edmonds, Washington. Mr.
24 Seaberg is a United States Marine Corps and Coast Guard veteran and was qualified as an expert
25

1 rifleman in the Marine Corps. Mr. Seaberg currently owns firearms and stores them in his home.

2 4. Plaintiff Second Amendment Foundation, Inc. (“SAF”) is a non-profit membership
3 organization incorporated under the laws of Washington with its principal place of business in
4 Bellevue, Washington. SAF has over 600,000 members and supporters nationwide, including
5 thousands in the state of Washington. The purposes of SAF include education, research,
6 publishing, and legal action focusing on the constitutional right to own and possess firearms. SAF
7 brings this action on behalf of itself and its members.

8 5. Plaintiff National Rifle Association of America, Inc. (“NRA”) is a non-profit
9 association incorporated under the laws of New York, with its principal place of business in
10 Fairfax, Virginia. NRA has over five million members, including members in the State of
11 Washington. NRA's purposes include protection of the right of citizens to have firearms for lawful
12 defense, hunting, and sporting use, and to promote public safety. NRA brings this action on behalf
13 of itself and its members.

14 6. Defendant City of Edmonds (“Edmonds” or “the City”) is a municipal corporation
15 and optional municipal code city organized under the laws of the State of Washington.

16 7. Defendant Edmonds Police Department is an agency of the City of Edmonds,
17 which oversees the enforcement of Edmonds’s laws and promulgation of relevant regulations.

18 **III. JURISDICTION AND VENUE**

19 8. This Court has jurisdiction under RCW 2.08.010, RCW 7.24.010, and RCW
20 7.40.010.

21 9. Venue is properly in this Court under RCW 4.12.020(2) and RCW 4.12.025(1).

22 **IV. FACTUAL ALLEGATIONS**

23 10. Washington law states in no uncertain terms that the authority to regulate firearms
24 rests exclusively with the State. Washington law expressly states:
25

1 The state of Washington hereby fully occupies and preempts the entire field of
2 firearms regulation within the boundaries of the state, including the registration,
3 licensing, possession, purchase, sale, acquisition, transfer, discharge, and
4 transportation of firearms, or any other element relating to firearms or parts thereof,
5 including ammunition and reloader components. Cities, towns, and counties or
6 other municipalities may enact only those laws and ordinances relating to firearms
7 that are specifically authorized by state law, as in RCW 9.41.300, and are consistent
8 with this chapter.

9 RCW 9.41.290 (“Preemption Clause”).

10 11. The State of Washington has fully occupied the field of firearms regulation.
11 Neither the Washington State Constitution nor any controlling statutory provisions authorizes
12 cities, towns, counties, or other municipalities to enact laws and ordinances relating to the
13 possession, transportation, or regulation of firearms, unless specifically authorized under RCW
14 9.41.300.¹ Cities, towns, counties, or other municipalities have no constitutional authority to
15 regulate in fields that the State has fully occupied. *Brown v. City of Yakima*, 116 Wn.2d 556, 559,
16 807 P.2d 353, 354 (1991).

17 12. On July 24, 2018, the Edmonds City Council passed Ordinance 4120, titled “An
18 Ordinance relating to the safe storage of and access to firearms.” On July 29, 2018, Mayor Earling
19 approved and signed the Ordinance, making the Ordinance effective on August 23, 2018. The
20 Ordinance states that enforcement shall begin 180 days from the date of final passage.

21 13. Upon information and belief, on October 23, 2018 the City of Edmonds amended
22 Ordinance 4120, and extended the non-enforcement period of Ordinance 4120 to March 21, 2019.

23 14. The Ordinance added Chapter 5.26 to the Edmonds City Code, which states, in
24 part:
25

¹ RCW 9.41.300, which is referenced in the Preemption Clause, permits cities, towns, counties, and other municipalities to enact laws and ordinances restricting the discharge of firearms in certain locations and restricting the possession of firearms in a municipality-owned stadium or convention center. RCW 9.41.300(2). This statutory provision is inapplicable to the present case, which concerns city restrictions that have nothing to do with the discharge of firearms or the possession of firearms in stadiums or convention centers.

1 **5.26.020 Safe storage of firearms**

2 It shall be a civil infraction for any person to store or keep any firearm in any
3 premises unless such weapon is secured by a locking device, properly engaged so
4 as to render such weapon inaccessible or unusable to any person other than the
5 owner or other lawfully authorized user. Notwithstanding the foregoing, for
6 purposes of this Section 5.26.020, such weapon shall be deemed lawfully stored or
7 lawfully kept if carried by or under the control of the owner or other lawfully
8 authorized user.

7 **5.26.030 Unauthorized access prevention**

8 It shall be a civil infraction if any person knows or reasonably should know that a
9 minor, an at-risk person, or a prohibited person is likely to gain access to a firearm
10 belonging to or under the control of that person, and a minor, an at-risk person, or
11 a prohibited person obtains the firearm.

11 15. The Ordinance makes a violation of these provisions a civil infraction subject to a
12 penalty of up to \$10,000 per offense. Any “peace officer” is authorized to issue a notice of
13 infraction imposing the penalty.

14 16. Defendants have enacted and are required to enforce this regulation despite the fact
15 that the State of Washington has fully occupied the field of firearms regulation.

16 17. Defendants’ refusal to recognize the State’s basic preemption principle will cause
17 irreparable harm to citizens who are hindered in their ability to exercise a basic constitutional right
18 of possessing a firearm in the City of Edmonds.

18 Individual Plaintiff Brett Bass

19 18. Mr. Bass currently owns a firearm that he keeps unlocked for self-defense when
20 he is at home.

21 19. Mr. Bass stores several firearms in a gun safe.

22 20. Mr. Bass stores a firearm in his home, unsecured and ready for self-defense, when
23 he is in his home. This firearm is not in a safe and does not have trigger locks or other locking
24 mechanisms when Mr. Bass is home.
25

1 21. The firearm that Mr. Bass stores unsecured in his home is stored in a manner that
2 violates the Ordinance when they are not under his control or possession, *e.g.*, when no authorized
3 users are in the room where the unsecured firearm is stored.

4 22. Mr. Bass has a strong desire to continue having a firearm in an unlocked and usable
5 state in his home as his training and experience tell him that a person cannot be reasonably
6 expected to access a locked firearm under the time and pressure imposed by a home invasion.

7 23. Mr. Bass intends on keeping his firearm in an unlocked and usable state when he
8 is home after the effective date of the Ordinance. Mr. Bass fears enforcement of the Ordinance
9 after it goes into effect. Mr. Bass fears that the Ordinance will chill the valid exercise of self-
10 defense rights by the citizens of the City.

11 24. Mr. Bass is a member of the Second Amendment Foundation and the National
12 Rifle Association.

13 Individual Plaintiff Curtis McCullough

14 25. Mr. McCullough currently owns firearms that he keeps unlocked in his home for
15 self-defense and defense of his family, including two minor children who live in his home.

16 26. Mr. McCullough currently stores several firearms in a gun safe.

17 27. Mr. McCullough stores two firearms in a concealed place in his home, unsecured
18 and ready for self-defense, at all times. These firearms are both located in a single room in Mr.
19 McCullough's home. The firearms are not in a safe and do not have trigger locks or other locking
20 mechanisms.

21 28. Mr. McCullough keeps these two firearms stored, unsecured and ready for self-
22 defense, even when neither he nor his wife are home.

23 29. Mr. McCullough keeps these two firearms stored, unsecured and ready for self-
24 defense, even when neither he nor his wife are in the room when the firearms are stored.
25

1 30. Mr. McCullough additionally keeps a daily-carry firearm, which is often in his
2 possession. When at home, however, Mr. McCullough often does not carry that firearm and places
3 it somewhere in his home. Mr. McCullough's daily-carry firearm is usually not stored in his safe
4 and is never secured with a trigger lock or other locking mechanisms. When at home, Mr.
5 McCullough's daily-carry firearm is often stored, unsecured and ready for self-defense, in a room
6 where neither he nor his wife are located.

7 31. The firearms that Mr. McCullough stores unsecured in his home are stored in a
8 manner that violates the Ordinance when they are not under the control or possession of an
9 authorized user. The firearms are often not under the control or possession of an authorized user,
10 e.g., when neither authorized user is home, and when neither authorized user is in the room where
11 the firearms are stored.

12 32. Mr. McCullough has a strong desire to continue having his firearms in an unlocked
13 and usable state in his home. Mr. McCullough does not believe that a person can reasonably be
14 expected to access a locked firearm under the time and pressure imposed by a home invasion.

15 33. Mr. McCullough intends on keeping his firearms in an unlocked and usable state
16 in his home, even when not in his possession, after the effective date of the Ordinance. Mr.
17 McCullough fears enforcement of the Ordinance after it goes into effect.

18 34. Mr. McCullough is a member of the Second Amendment Foundation and the
19 National Rifle Association.

20 Individual Plaintiff Swan Seaberg

21 35. Mr. Seaberg lives in a two-floor home. Mr. Seaberg currently owns firearms that
22 he keeps unlocked in his home for self-defense.

23 36. Mr. Seaberg currently owns a small gun safe, in which he stores several firearms.

24 37. Mr. Seaberg currently stores several long guns in concealed places in his home,
25

1 unsecured and ready for self-defense, at all times. These long guns are located in various
2 concealed spaces in Mr. Seaberg's home. These long guns are not in a safe and do not have trigger
3 locks or other locking mechanisms.

4 38. Mr. Seaberg keeps these long guns stored, unsecured and ready for self-defense,
5 even when he is not home.

6 39. Mr. Seaberg keeps these long guns stored, unsecured and ready for self-defense,
7 even when he is in his home on a different floor.

8 40. Mr. Seaberg keeps these long guns stored, unsecured and ready for self-defense,
9 even when he is in a different room in his home.

10 41. The long guns that Mr. Seaberg stores unsecured in his home are stored in a manner
11 that violates the Ordinance when they are not under the control or possession of an authorized
12 user. The long guns are often not under the control or possession of an authorized user, *e.g.*, when
13 Mr. Seaberg is not at home, and when Mr. Seaberg is in a different room or different floor of his
14 home from the concealed long guns.

15 42. Mr. Seaberg has a strong desire to continue having his long guns in an unlocked
16 and usable state in his home as his training and experience tell him that a person cannot be
17 reasonably expected to access a locked firearm under the time and pressure imposed by a home
18 invasion.

19 43. Mr. Seaberg fears enforcement of the Ordinance were he to continue storing his
20 long guns in an unlocked and usable state in his home.

21 44. Mr. Seaberg does not own a safe that is large enough to store the unsecured long
22 guns. Mr. Seaberg would be required to purchase a new safe, locking mechanisms, or other
23 equipment in order to comply with the Ordinance.
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Organizational Plaintiffs

45. The storage methods proscribed by the Ordinance does not comport with the best practices for safe storage as outlined and recommended by the NRA and SAF.

46. Upon information and belief, the SAF's and NRA's other members located in the City of Edmonds also possess firearms and plan to do so in the future. If the Ordinance becomes effective, members who store firearms unsecured and ready for self-defense when not in possession will be in violation of the Ordinance and will be forced to choose between complying with the Ordinance or subjecting themselves to enforcement.

47. Upon information and belief, the SAF and NRA have members who do not reside in Edmonds, but who travel to and stay in Edmonds with their firearm, and plan to do so in the future. If the Ordinance becomes effective, such members who store firearms unsecured and ready for self-defense when not in possession will be in violation of the Ordinance and will be forced to choose between complying with the Ordinance or subjecting themselves to enforcement.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION: DECLARATORY RELIEF

-Against All Defendants-

48. Plaintiffs repeat and reallege paragraphs 1 through 47 as if fully set forth herein.

49. A present controversy exists concerning whether Defendants have legal authority to regulate the possession of firearms by regulating the manner in which firearms are possessed. The Plaintiffs' statutory right to be free from local interference with the possession of firearms is affected by this controversy. In addition, the rights of the individual Plaintiffs and the rights of the Edmonds members of the organizational Plaintiffs to possess firearms in Edmonds is affected by this controversy, and the protection of those rights is germane to the organizational Plaintiffs' purposes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

50. Plaintiffs are entitled, under RCW 7.24 and CR 57, to an accelerated judicial declaration that:

a. The Ordinance violates Washington statutory and constitutional law and is therefore null and void;

b. Defendants lack legal authority to enact any ordinance, law, or rule that regulates the manner in which firearms are stored; and

c. Defendants may not enforce the Ordinance.

51. Such declaration will conclusively terminate the controversy giving rise to this proceeding.

SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF

- Against All Defendants -

52. Plaintiffs repeat and reallege paragraphs 1 through 51 as if fully set forth herein.

53. The Plaintiffs' statutory rights to be free from local interference with the possession of firearms is in jeopardy of immediate invasion, causing actual and substantial injuries without any adequate remedy at law.

54. The Plaintiffs' right to be free from local regulation due to the State of Washington fully occupying the field of firearms regulation is in jeopardy of immediate invasion, causing actual and substantial injuries without any adequate remedy at law.

55. In addition, the individual Plaintiffs' and the organizational Plaintiffs' Edmonds members' rights to possess firearms in Edmonds is in jeopardy of immediate invasion, causing actual and substantial injuries without any adequate remedy at law.

56. Irreparable harm is faced by those individual Plaintiffs and members who require a firearm to be unlocked and usable in their home.

57. Plaintiffs are entitled, under RCW 7.40 and CR 65, to an injunction as enjoining

1 Defendants from enforcing the Ordinance.

2
3 **VI. REQUEST FOR RELIEF**

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


5 a. Declaring that Defendants’ actions in enacting and enforcing the Ordinance
6 were contrary to law and the Ordinance is null and void;

7 b. Awarding Plaintiffs’ fees, costs, and disbursements incurred in this action
8 as the Court deems just and equitable; and

9 c. Awarding any additional or further relief which the Court finds appropriate,
10 equitable, or just.

11 DATED this 6th day of December, 2018.

12 CORR CRONIN LLP

13 
14 _____
15 Steven W. Fogg, WSBA No. 23528
16 Eric A. Lindberg, WSBA No. 43596
17 1001 Fourth Avenue, Suite 3900
18 Seattle, Washington 98154
19 (206) 625-8600 (Phone)
20 sfogg@corrchronin.com
21 elindberg@corrchronin.com
22 *Attorneys for Plaintiffs*

VERIFICATION

STATE OF WASHINGTON)

) ss.

VERIFICATION OF BRETT BASS


COUNTY OF SNOHOMISH)

Brett Bass, on oath, states:

1. I am one of the individual plaintiffs in this action.
2. I have read the foregoing Verified Amended Complaint.
3. I have personal knowledge regarding paragraph 1 and the paragraphs in the subsection titled "Individual Plaintiff Brett Bass." I know the contents of these paragraphs, and I believe them to be true.
4. I am united in interest in this action with my co-plaintiffs.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 6th day of December, 2018, at BELLEVUE WA, _____.



Brett Bass

VERIFICATION

STATE OF WASHINGTON)

) ss.

VERIFICATION OF CURTIS MCCULLOUGH

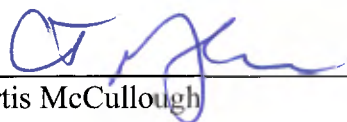
COUNTY OF SNOHOMISH)

Curtis McCullough, on oath, states:

- 1. I am one of the individual plaintiffs in this action.
- 2. I have read the foregoing Verified Amended Complaint.
- 3. I have personal knowledge regarding paragraph 2 and the paragraphs in the subsection titled "Individual Plaintiff Curtis McCullough." I know the contents of these paragraphs, and I believe them to be true.
- 4. I am united in interest in this action with my co-plaintiffs.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 6th day of December, 2018, at Seattle, WA.



 Curtis McCullough

1 VERIFICATION

2 STATE OF WASHINGTON)

3) ss.

VERIFICATION OF SWAN SEABERG

4 COUNTY OF SNOHOMISH)

5 Swan Seaberg, on oath, states:

6 1. I am one of the individual plaintiffs in this action.

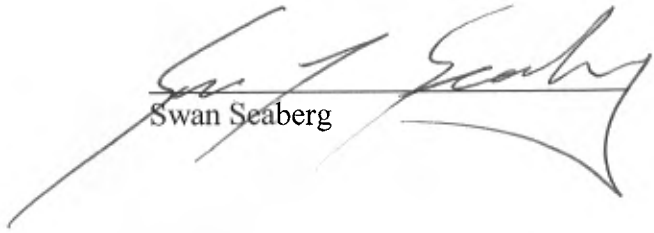
7 2. I have read the foregoing Verified Amended Complaint.

8 3. I have personal knowledge regarding paragraph 3 and the paragraphs in the
9 subsection titled "Individual Plaintiff Swan Seaberg." I know the contents of these paragraphs,
10 and I believe them to be true.

11 4. I am united in interest in this action with my co-plaintiffs.

12 I declare under penalty of perjury under the laws of the State of Washington that the
13 foregoing is true and correct.

14 DATED this 6 day of December, 2018, at Edmonds, WA.

15
16 
17 Swan Seaberg
18
19
20
21
22
23
24
25