

STATE OF MICHIGAN
IN THE MACOMB COUNTY CIRCUIT COURT

MICHIGAN GUN OWNERS, INC.;
and LANCE ANTHONY DeVOOGHT,
an individual,

Case No. -CZ
Hon.

Plaintiffs,

v.

CITY OF EASTPOINTE, a
Chartered Michigan City,

Defendants,

James J. Makowski P62115
Attorney for Plaintiff
6528 Schaefer
Dearborn, MI 48126
313.434.3900

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

There is no other pending or resolved civil action arising out
of the transaction or occurrence alleged in the complaint.

NOW COME PLAINTIFFS, Michigan Gun Owners, Inc., and Lance Anthony
DeVooght, by and through their attorney James J. Makowski and for their Complaint states
as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Michigan Gun Owners, Inc. (MGO) is a Michigan nonprofit organization
created under the Michigan Nonprofit Corporation Act (Act 162 of 1982). Their

goals include educating the public on safe responsible gun ownership and preserving and defending the right to keep and bear arms as guaranteed by the Bill of Rights and Article I, section 6 of Michigan's Constitution. MGO has a presence in Macomb County and represents the interests of its member(s) having a case or controversy and preventing the occurrence.

2. Plaintiff Lance Anthony DeVooght (“**DeVooght**”) is a resident of the City of Eastpointe, Macomb County, State of Michigan.
3. Defendant City of Eastpointe (“**EASTPOINTE**”) is a Home Rule City as defined by Public Act 279 of 1909; and a local unit of government, pursuant to MCL 123.1101(a).
4. This action arises out of City of Eastpointe's enactment of Ordinance No. 1178 (“**The Ordinance**”).
5. Venue is proper in Macomb County.
6. This Court has jurisdiction pursuant to MCR 2.605(A)(2).
7. An actual and justifiable controversy exists between the parties.
8. It is necessary for this court to adjudicate and declare the rights of the parties as to future conduct and to preserve the legal rights of the Plaintiffs.
9. Declaratory relief will prevent a multiplicity of actions at law and prevent any future conflicts between the parties.

FACTS

10. Plaintiff **DeVooght** has the legal ability to possess firearms, including pistols.
11. The Ordinance in dispute in this case reads as follows:

Article VI. – OFFENSES AGAINST PUBLIC SAFETY

Sec. 28-147. – Storage of firearm in unlocked motor vehicle; prohibition

- (a) No person shall store or keep any pistol, revolver, rifle or shotgun in an unlocked motor vehicle unless such weapon is secured in the

trunk or locked in the glove box or other locked container, or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) Violations; penalties.

- (1) A first offense shall be a municipal civil infraction subject to a fine up to \$350.00.
- (2) A second or subsequent offenses shall constitute a misdemeanor punishable by a fine up to \$500.00 or up to 90 days in jail or both (**Exhibit 1**).

12. State law clearly preempts a local unit of government from regulating the possession and transportation of a firearm. MCL 123.1101(a) and MCL 123.1102. See also *Michigan Coalition for Responsible Gun Owners v. City of Ferndale*, 256 Mich App 401 (2003) and *Capitol Area District Library v Michigan Open Carry, Inc.*, 298 Mich App 220 (2013).
13. Upon information and belief, Defendant is actively enforcing this unlawful ordinance against residents and nonresidents of Eastpointe.
14. Plaintiff **DeVooght** is a resident of the **Eastpointe** and is subject to the penalties of this unlawful local ordinance.
15. Like Plaintiff **DeVooght**, the members of Plaintiff MGO are similarly situated in that they may live or travel in and through **Eastpointe** and be subject to the penalties of The Ordinance.

WHEREFORE, Plaintiffs Michigan Gun Owners, Inc. and LANCE ANTHONY DeVOOGHT hereby pray that this court grant the following relief:

- A. GRANT Plaintiffs a declaratory order enjoining the City of Eastpointe from promulgating and enforcing any policy that is preempted by state law;
- B. GRANT Plaintiffs reasonable costs and attorney's fees; and,
- C. GRANT any other relief that the court deems equitable, proper and just.

Dated December 2, 2019

James J. Makowski P62115
6528 Schaefer
Dearborn, MI 48126
313.434.3900
jm@makowskilegal.com

**MAKOWSKI
LEGAL GROUP, PLC.**
6528 SCHAEFER RD.
DEARBORN, MI 48126
PHONE (313) 434-3900
FACSIMILE (734) 638-6000
WWW.MAKOWSKILEGAL.COM

EXHIBIT 1

MAKOWSKI
LEGAL GROUP, PLC.
6528 SCHAEFER RD.
DEARBORN, MI 48126
PHONE (313) 434-3900
FACSIMILE (734) 638-6000
WWW.MAKOWSKILEGAL.COM