Nos. 126840 and 126849 (cons.)

IN THE SUPREME COURT OF ILLINOIS

GUNS SAVE LIFE, INC., and JOHN WILLIAM WOMBACHER III, Plaintiffs-Appellants, v. THE VILLAGE OF DEERFIELD, Defendant-Appellee.	Appeal from the Illinois Appellate Court, Second Judicial District, No. 2-19-0879 There Heard on Appeal from the Circuit Court of Lake County, Illinois, Chancery Division, No. 18 CH 427 The Honorable LUIS A. BERRONES, Judge Presiding.
DANIEL D. EASTERDAY, ILLINOIS STATE RIFLE ASSOCIATION, and SECOND AMENDMENT FOUNDATION, INC., Plaintiffs-Appellants, v. THE VILLAGE OF DEERFIELD, Defendant-Appellee.	Appeal from the Illinois Appellate Court, Second Judicial District, No. 2-19-0879 There Heard on Appeal from the Circuit Court of Lake County, Illinois, Chancery Division, No. 18 CH 498 The Honorable LUIS A. BERRONES, Judge Presiding.

BRIEF OF AMICUS CURIAE ATTORNEY GENERAL OF ILLINOIS IN SUPPORT OF DEFENDANT-APPELLEE

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E-FILED
6/29/2021 11:30 AM
Carolyn Taft Grosboll
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TABLE OF CONTENTS

Page(s)

INTEREST OF AMICUS CURIAE.....1

430 ILCS 65/13.1..... 1, 2

15 ILCS 205/4..... 2

ARGUMENT.....4

POINTS AND AUTHORITIES

I. The FOID Card Act Permits Home Rule Units To Exercise Concurrent Authority Over Assault Weapons Under Certain Circumstances. 4

A. Section 13.1 allowed home rule units to regulate assault weapons by acting before the expiration of the statutory grace period. 5

Palm v. 2800 Lake Shore Drive Condo. Ass'n, 2013 IL 110505..... 5, 7

Ill. Const., art. VII, § 6..... 5, 6, 7

430 ILCS 65/13.1..... 5, 6, 7, 8

Kalodimos v. Village of Morton Grove, 103 Ill. 2d 483 (1984)..... 6

B. Section 13.1 did not "completely displace" home rule units' concurrent authority over assault weapons. 8

430 ILCS 65/13.1..... 8, 10, 11, 12

Ill. Const. art. VII, § 6..... 8, 9

Scadron v. City of Des Plaines, 153 Ill. 2d 164 (1992)..... 9

Palm v. 2800 Lake Shore Drive Condo. Ass'n, 2013 IL 110505..... 9

Murphy-Hylton v. Lieberman Mgmt. Servs., Inc.,
2016 IL 120394 9

225 ILCS 729/105 11

225 ILCS 745/175 11

220 ILCS 50/14 12

City of Chicago v. Roman,
184 Ill. 2d 504 (1998) 12

City of Chicago v. StubHub, Inc.,
2011 IL 111127 12

Schillerstrom Homes, Inc. v. City of Naperville,
198 Ill. 2d 281 (2001) 12

II. The Village's Ordinance Is A Permissible Exercise Of The Concurrent Authority Preserved By The FOID Card Act 13

430 ILCS 65/13.1 13

A. The Village properly amended its 2013 ordinance in 2018. 14

430 ILCS 65/13.1 ..... 14, 15, 16, 18

Palm v. 2800 Lake Shore Drive Condo. Ass'n,
2013 IL 110505 ..... 14, 15

Village of Park Forest v. Wojciechowski,
29 Ill. 2d 435 (1963) 16

City of Metropolis v. Gibbons,
334 Ill. 431 (1929) 16

Culver v. Third Nat. Bank of Chicago,
64 Ill. 528 (1871) 16

Athey v. Peru,
22 Ill. App. 3d 363 (3d Dist. 1974) 16, 17, 18, 19

65 ILCS 5/11-13-14 ..... 16, 17

AFM Messenger Serv., Inc. v. Dep't of Emp. Sec.,
198 Ill. 2d 380 (2001) 17

65 ILCS 5/11-13-2 17

65 ILCS 5/11-13-3.1 17

Scadron v. City of Des Plaines,
153 Ill. 2d 164 (1992) 18

B. Plaintiff's remaining arguments fail. 20

People v. Adams,
144 Ill. 2d 381 (1991) 20

430 ILCS 65/13.1 ..... 20, 22, 23

Iwan Reis & Co. v. City of Chicago,
2019 IL 124469 22

Murphy-Hylton v. Lieberman Mgmt. Servs., Inc.,
2016 IL 120394 22

CONCLUSION 23

SUPREME COURT RULE 341(c) CERTIFICATE OF COMPLIANCE

CERTIFICATE OF FILING AND SERVICE

INTEREST OF AMICUS CURIAE

In 2013, the General Assembly comprehensively revised the State's regulation of certain firearms and the circumstances under which residents can carry them. Among other things, the 2013 statute amended section 13.1 of the Firearm Owners Identification (FOID) Card Act, which sets out conditions under which Illinois home rule units can regulate the possession, licensing, and use of firearms. Section 13.1 generally preserves municipalities' home rule power to impose firearm regulations that are more restrictive than the baseline set by state law. But it provides for exclusive state authority over "the regulation of the possession or ownership of assault weapons," except for those home rule units that regulated assault weapons "on, before, or within 10 days after" the 2013 statute's effective date. 430 ILCS 65/13.1(c). A home rule unit that enacted such a regulation before the end of the statutory grace period could both continue to enforce that regulation and amend it to suit evolving local needs. *Id.*

This case concerns the proper interpretation of section 13.1. The Village of Deerfield enacted an ordinance regulating assault weapons shortly before the 2013 statute's effective date. In 2018, it amended that ordinance to more strictly regulate such weapons. Plaintiffs sued to challenge the 2018 amendment as preempted by the FOID Card Act, arguing that the Act withdrew all authority by home rule units to regulate assault weapons and that, even if it did not, the Village's ordinance was unlawful because the 2018

amendment did not truly "amend" the 2013 ordinance but instead imposed entirely new requirements. The appellate court rejected those arguments, holding that the Village's ordinance was not preempted by the FOID Card Act, and the plaintiffs appealed.

The Illinois Attorney General has a substantial interest in this case. As the State's chief law enforcement officer, the Attorney General has an interest in the proper interpretation of all state statutes, including the FOID Card Act. The Attorney General also represents the Illinois State Police, which enforces that Act, *see* 15 ILCS 205/4, and so has substantial and particular experience interpreting and applying the Act's provisions. Finally, the Attorney General has an interest in the allocation of regulatory authority over assault weapons, an issue that impacts the health and safety of all Illinois residents. In passing the FOID Card Act, the General Assembly chose to preserve regulatory authority over such weapons for those home rule units that acted within the statutory grace period. Plaintiffs' interpretation of the Act, though, would deprive home rule units of much or all of their authority to pass local measures that address local needs. And it would deprive many Illinois residents of the benefit of ordinances like the one at issue here, which was enacted to protect residents of the Village from gun violence. The Attorney General has an interest in safeguarding the careful balance struck by the General Assembly in enacting section 13.1(c) and, in doing so, preserving home rule units' ability to regulate assault weapons within the parameters set out in that section.

In sum, the Attorney General has a substantial interest in the proper interpretation of the FOID Card Act and can assist this Court by presenting ideas and insights not presented by the parties to this case who do not have the same institutional knowledge and experience.

ARGUMENT

The appellate court correctly rejected plaintiffs' challenge to the Village's ordinance. Although the General Assembly withdrew home rule units' authority to regulate assault weapons in most circumstances in the 2013 amendments to the FOID Card Act, it created a window during which those units could exercise concurrent authority to do so, and allowed any such unit to amend its regulations thereafter. The Village properly exercised that authority here. Plaintiffs' arguments to the contrary misread the FOID Card Act and rest on interpretive principles that find no support in this Court's caselaw. The decision below should be affirmed.[1]

I. The FOID Card Act Permits Home Rule Units To Exercise Concurrent Authority Over Assault Weapons Under Certain Circumstances.

Section 13.1 of the FOID Card Act established a grace period during which home rule units could exercise their concurrent authority over assault weapons so long as they enacted rules more restrictive than those imposed by the Act itself. Plaintiffs in *Guns Save Life* ("GSL") press a broader reading of the Act, one in which the General Assembly intended to altogether withdraw such authority from home rule units, but, as the appellate court correctly held, its arguments cannot be squared with the plain text of the statute.

[1] The Attorney General adopts the Village's argument that the appellate court had jurisdiction.

A. Section 13.1 allowed home rule units to regulate assault weapons by acting before the expiration of the statutory grace period.

Article VII of the 1970 Illinois Constitution is designed to balance authority between the State and "home rule units," such as the Village, within it. On the one hand, section 6(a) of that article reflects the understanding "that municipalities should be allowed to address problems with solutions tailored to their local needs" by allocating broad authority to home rule units to regulate on matters of local importance. *Palm v. 2800 Lake Shore Drive Condo. Ass'n*, 2013 IL 110505, ¶ 29; *see* Ill. Const., art. VII, § 6(a). But sections 6(h) and 6(i) permit the General Assembly to withdraw or limit that authority: Section 6(h) permits the Assembly to "provide specifically . . . for the exclusive exercise by the State of any power or function of a home rule unit," Ill. Const., art. VII, § 6(h), and section 6(i) provides for the concurrent exercise of authority between the State and its home rule units only "to the extent that the General Assembly by law does not specifically limit [that] exercise or specifically declare the State's exercise to be exclusive," *id.*, art. VII, § 6(i).

Section 13.1 of the FOID Card Act, as amended in 2013, regulates the circumstances under which home rule units can exercise authority over assault weapons. In so doing, section 13.1 "provide[s] specifically . . . for the exclusive exercise by the State" of regulatory authority over assault weapons in certain circumstances and "limit[s] the concurrent exercise" of such authority under

other circumstances. Ill. Const., art. VII, § 6(h)-(i). Section 13.1 does so by imposing several conditions on the exercise of that authority.

First, section 13.1(a), which predates the 2013 amendments to the Act, "limit[s]" home rule units' authority to concurrently regulate all firearms, Ill. Const. art. VII, § 6(i), by providing that the licensing requirements imposed by the FOID Card Act do not preempt municipal ordinances that "require[] registration or impose[] greater restrictions or limitations on the acquisition, possession and transfer of firearms than are imposed by this Act." 430 ILCS 65/13.1(a). Section 13.1(a) thus preempts those municipal ordinances that conflict with the FOID Card Act insofar as they impose *less* restrictive rules on the acquisition, possession, or transfer of firearms, but preserves home rule units' concurrent authority over those subjects to the extent that those units choose to impose *more* restrictive rules than are established by the Act. *See Kalodimos v. Vill. of Morton Grove*, 103 Ill. 2d 483, 506 (1984) (section 13.1(a) envisions "more stringent local control" over firearms).

Section 13.1(c), added in 2013, then alters that default rule with respect to assault weapons. That section provides that, "[n]otwithstanding subsection (a) . . . , the regulation of the possession or ownership of assault weapons are exclusive powers and functions of this State." 430 ILCS 65/13.1(c). The effect of this provision, as the appellate court explained, is to withdraw all authority

over the regulation of the possession and ownership of assault weapons from home rule units. App. 153-54.[2]

But Section 13.1(c) goes on to create a grace period for ordinances that were enacted "within 10 days after the effective date of this amendatory Act," 430 ILCS 65/13.1(c)—that is, on or before July 19, 2013. This provision acts to preserve concurrent regulatory authority over the possession and ownership of assault weapons for any home rule unit that enacted an ordinance regulating those subjects before or during the grace period if the ordinance complied with section 13.1(a) (by imposing conditions more restrictive than those imposed by the FOID Card Act, *see id.* 65/13.1(a)). Section 13.1(c) goes on to state that any such ordinance "may be amended." *Id.* 65/13.1(c).

Finally, section 13.1(e) states that section 13.1 operates as "a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution," 430 ILCS 65/13.1(e), thus satisfying the constitutional requirement that any abrogation or limitation of home rule authority be "specific[]," Ill. Const. art. VII, § 6(h)-(i). *See, e.g.*, *Palm*, 2013 IL 110505, ¶ 31 ("If the legislature intends to limit or deny the exercise of home rule powers, the statute must contain an express statement to that effect.").

[2] References to "App." are to the appendix in *Guns Save Life*, No. 126840; references to "GSL Br." are to the plaintiffs' brief in *Guns Save Life*; and references to "Easterday Br." are to the plaintiffs' brief in *Easterday*, No. 126849.

The net effect of these provisions is to preserve home rule units' ability to regulate the possession and ownership of assault weapons alongside the State if two conditions are met: The home rule unit's ordinance was enacted "on, before, or within 10 days after" July 9, 2013, 430 ILCS 65/13.1(c), and the ordinance imposes conditions more restrictive than those imposed by the FOID Card Act, *id.* 65/13.1(a). Any other attempt to regulate the possession or ownership of assault weapons is preempted.

B. Section 13.1 did not "completely displace" home rule units' concurrent authority over assault weapons.

GSL presses a broader reading of section 13.1, arguing that it "completely displace[s]" home rule units' authority to regulate assault weapons. GSL Br. 23. (Plaintiffs in *Easterday* ("Easterday") made a similar argument below, but have abandoned it before this Court, conceding that the Village had authority under the Act to regulate assault weapons in 2013. Easterday Br. 30.) As the appellate court held, however, App. 149-151, GSL's farfetched reading of the FOID Card Act is incorrect.

GSL's argument hinges entirely on subsection 13.1(e) of the Act, which states the General Assembly's intent that section 13.1 would operate as "a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution." 430 ILCS 65/13.1(e). In GSL's view, the General Assembly's citation to subsection 6(h) of Article VII, rather than subsection 6(i), demonstrates its intent that the authority to regulate assault weapons would be "*exclusive*[*ly*] exercise[d]," Ill. Const. art.

VII, § 6(h) (emphasis added), by the State. GSL Br. 26-27. But GSL identifies no authority imposing a magic-words rule of this sort on the General Assembly, and applying such a rule here would contravene both the "primary rule" in statutory interpretation cases, which "is to ascertain and give effect to the true intent and meaning of the legislature," *Scadron v. City of Des Plaines*, 153 Ill. 2d 164, 185 (1992), and the presumption that, absent an express statement by the legislature to the contrary, home rule units retain "the broadest powers possible," *Palm*, 2013 IL 110505, ¶ 30.

Here, even a cursory review of section 13.1's text makes clear that the General Assembly's "true intent," *Scadron*, 153 Ill. 2d at 185, was to permit home rule units like the Village to exercise concurrent authority over the possession and ownership of assault weapons as long as they did so under the conditions set out in the Act. *Supra* pp. 6-8. As the appellate court observed, any other reading of the Act "fails to give effect" to section 13.1(c)'s creation of 10-day grace period for home rule units that wished to regulate assault weapons in a manner consistent with section 13.1(a). App. 150. Were GSL correct that the General Assembly intended to fully withdraw home rule units' concurrent authority over assault weapons, it would not have included an exception for ordinances passed within ten days of the Act's effective date. The court's task in reading statutes is to "give[] a reasonable meaning" to "[e]ach word, clause, [or] sentence," *Murphy-Hylton v. Lieberman Mgmt.*

Servs., Inc., 2016 IL 120394, ¶ 25; here, GSL's reading of section 13.1(c) renders more than one-third of the subsection a nullity.[3] That cannot be right.

GSL has no effective response. GSL halfheartedly suggests that the appellate court's reading of section 13.1(c) "does more damage to the statute," GSL Br. 27, by ignoring that subsection's first sentence (which provides for "exclusive" state authority over regulation of assault weapons) and section 13.1(e) (which, as noted, cites Article VII, § 6(h) of the Constitution), *see* 430 ILCS 65/13.1(c), (e). But it makes sense that the General Assembly stated its intent to confer "exclusive" regulatory authority over assault weapons to the State, *id.* 65/13.1(c), because that is section 13.1(c)'s effect with respect to any home rule unit that did not exercise its concurrent authority over assault

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[3] Put differently, GSL's proposal would require rewriting the subsection as follows:

> Notwithstanding subsection (a) of this Section, the regulation of the possession or ownership of assault weapons are exclusive powers and functions of this State. Any ordinance or regulation, or portion of that ordinance or regulation, that purports to regulate the possession or ownership of assault weapons in a manner that is inconsistent with this Act, shall be invalid ~~unless the ordinance or regulation is enacted on, before, or within 10 days after the effective date of this amendatory Act of the 98th General Assembly~~. Any ordinance or regulation described in this subsection (c) ~~enacted more than 10 days after the effective date of this amendatory Act of the 98th General Assembly~~ is invalid. ~~An ordinance enacted on, before, or within 10 days after the effective date of this amendatory Act of the 98th General Assembly may be amended. The enactment or amendment of ordinances under this subsection (c) are subject to the submission requirements of Section 13.3.~~ For the purposes of this subsection, "assault weapons" means firearms designated by either make or model or by a test or list of cosmetic features that cumulatively would place the firearm into a definition of "assault weapon" under the ordinance.

weapons during the statutory grace period. In other words, section 13.1 *does* "den[y]" all home rule authority, *id.* 65/13.1(e), to any such home rule unit, leaving "exclusive" authority vested with the State, *id.* 65/13.1(c). Reading the statute that way, as the appellate court did, thus does not "rewrite[]" it, GSL Br. 27; to the contrary, it gives the statutory language its ordinary meaning.

GSL falls back in the end on its suggestion that the General Assembly was required to "invok[e] . . . Section 6(i)" of Article VII (which authorizes the legislature to "limit" home rule units' concurrent authority), not section 6(h) (which authorizes the legislature to provide for "exclusive" State authority) if it wanted to preserve any concurrent authority for home rule units. GSL Br. 26. Under GSL's view, then, if the General Assembly wants to make any exceptions to a law generally withdrawing concurrent authority from home rule units, it must cite section 6(i), not section 6(h). But GSL identifies no support for this purported rule. GSL asserts that the General Assembly has "[i]n countless statutes" recognized the distinction between sections 6(h) and 6(i). *Id.* at 25-26. But the fact that the General Assembly sometimes specifically cites section 6(i) in legislating does not mean that a citation to section 6(h) evinces the intent to withdraw authority across the board. To the contrary, the General Assembly often cites section 6(h) in enacting statutes that withdraw concurrent authority subject to certain exceptions.[4] That is

[4] *See, e.g.*, 225 ILCS 729/105 (home rule units "may not regulate or license petroleum equipment contractors" except insofar as certain units may "enter into contracts" with state fire marshal to do so); 225 ILCS 745/175 (home rule

presumably why the language used in such statutes—like the language used in section 13.1(e)—states that such provisions operate as a "*limitation* of home rule powers" as well as a "denial" of such powers, *see* 430 ILCS 65/13.1(e) (emphasis added).

This Court has never suggested any concern with such statutes, much less hinted at the rule that GSL would have the Court impose today. Although GSL cites a range of decisions that it claims support such a rule, GSL Br. 24-26, none in fact rests on this interpretive principle. These cases hold only that the General Assembly must "expressly state[]" its intent to preempt home rule authority, *e.g.*, *City of Chicago v. Roman*, 184 Ill. 2d 504, 517 (1998)—a rule was complied with here—and that the General Assembly's failure to include *any* express statement to that effect deprives the statute of preemptive force. *See, e.g.*, *City of Chicago v. StubHub, Inc.*, 2011 IL 111127, ¶ 25; *Schillerstrom Homes, Inc. v. City of Naperville*, 198 Ill. 2d 281, 287 (2001). But none of these cases suggest that the General Assembly's decision to cite section 6(h) rather than section 6(i), standing alone, means that it must have meant to categorically withdraw home rule authority. Indeed, this Court's opinion in *Roman*, on which GSL depends, treats the two subsections as largely interchangeable. *See* 184 Ill. 2d at 517 (observing that the General Assembly

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units "may not regulate the practice of professional geology" but may regulate geologists who seek to develop energy resources); 220 ILCS 50/14 (home rule units generally "may not regulate underground utility facilities and CATS facilities damage prevention," but units of a certain size may do so).

often gives preemptive effect to statutes "pursuant to section 6(h) or 6(i), or both"). GSL identifies no reason the Court should give greater weight to the General Assembly's choice of citation than that.

In sum, as the appellate court held, section 13.1 of the FOID Card Act created a window during which home rule units could permissibly regulate the possession and ownership of assault weapons as long their ordinances imposed conditions more restrictive than those imposed by the FOID Card Act itself. GSL's broader reading of the Act, under which the General Assembly wholly precluded *all* municipal regulation of assault weapons, cannot be squared with the statutory text, and the appellate court correctly rejected it.

II. The Village's Ordinance Is A Permissible Exercise Of The Concurrent Authority Preserved By The FOID Card Act.

The ordinance at issue here satisfies the two conditions set out in the FOID Card Act for the exercise of concurrent jurisdiction and accordingly is not preempted. The Village enacted an ordinance regulating assault weapons on July 1, 2013, roughly a week before the 2013 amendment's effective date. App. 107. And that ordinance "impose[d] greater restrictions" on possession and ownership of assault weapons than are imposed by the FOID Card Act, 430 ILCS 65/13.1(a)—namely, by requiring residents to maintain assault weapons under secure conditions, App. 111-12. The 2013 ordinance thus was a permissible exercise of the Village's concurrent authority.

Plaintiffs do not dispute that, presuming the FOID Card Act allowed home rule units to regulate assault weapons as long as they did so before the

statutory deadline, the 2013 ordinance was not preempted. *See* GSL Br. 14; Easterday Br. 30. Plaintiffs instead advance a grab-bag of arguments as to why the Village's 2018 *amendment* of that ordinance is preempted. As the appellate court explained, however, all of these arguments fail.

A. The Village properly amended its 2013 ordinance in 2018.

Plaintiffs' principal theory is that the 2018 ordinance did not "amend" the 2013 ordinance because the changes that it made to the original ordinance were too substantial to qualify as an "amendment." GSL Br. 14-19; Easterday Br. 33-41. But plaintiffs' novel limitation on the scope of home rule units' authority finds no support in the FOID Card Act or this Court's precedents.

As the appellate court explained, App. 148, section 13.1 expressly permits a home rule unit that *did* enact a timely ordinance regulating the possession or ownership of assault weapons to "amend[]" that ordinance consistent with the Act. *See* 430 ILCS 65/13.1(c). This provision's purpose is self-evident: It was meant to ensure that home rule units that *did* choose to regulate assault weapons did not forever lose their authority to alter those regulations as "their local needs" evolved, *Palm*, 2013 IL 110505, ¶ 29.

The Village properly exercised that option. It enacted an ordinance in 2013 that "regulat[ed] the ownership and possession of assault weapons," App. 108, by (a) preventing residents from "carry[ing] or possess[ing]" those weapons outside of their homes or places of business and (b) requiring them to maintain those weapons under secure conditions, App. 111-12. The Village

then amended that ordinance in 2018 to more comprehensively regulate the ownership of assault weapons, including by prohibiting all possession of assault weapons within the Village. App. 91-101. In support of that decision, the Village found that "since the enactment" of the 2013 ordinance, "assault weapons have been increasingly used in . . . mass shooting incidents," and that "amending" the ordinance "may increase the public's sense of safety" within the Village. App. 92-93. In other words, the Village made exactly the kind of local judgment that the General Assembly intended to allow it to make—that its "local needs," *Palm*, 2013 IL 110505, ¶ 29, required it to take a more aggressive approach to regulating assault weapons.

Given that section 13.1(c) expressly authorizes localities to "amend" ordinances passed before or during the statutory grace period, *see* 430 ILCS 65/13.1(c), plaintiffs cannot show that the Village's decision to do exactly that was somehow inconsistent with the Act. Apparently recognizing this, plaintiffs' primary argument is that this Court's cases set out a "substantive approach" for determining whether an amendment is truly an amendment (or instead operates to repeal the original ordinance), and that the 2018 amendment fails this test. GSL Br. 14-15; Easterday Br. 33-35. Plaintiffs are wrong several times over.

At the outset, this Court's cases do not establish any all-purpose test applicable in every circumstance to determine whether an amendment is truly an amendment, much less a test that rests on the General Assembly's use of

"amend[]" in section 13.1. Plaintiffs cite three cases that supposedly rely on an all-purpose approach, but none rests on any such rule. All three concern only the question whether a later-in-time ordinance impliedly repealed an earlier one, such that the earlier one can no longer be enforced. *See Village of Park Forest v. Wojciechowski*, 29 Ill. 2d 435, 438 (1963); *City of Metropolis v. Gibbons*, 334 Ill. 431, 434 (1929); *Culver v. Third Nat. Bank of Chicago*, 64 Ill. 528, 533 (1871). But the issue before this Court is not whether the 2013 ordinance is still in effect; it is whether the 2018 ordinance "amend[ed]" the 2013 one for section 13.1's purposes, *see* 430 ILCS 65/13.1(c). These cases do not speak to that question at all.

Plaintiffs also rely extensively on the appellate court's decision in *Athey v. Peru*, 22 Ill. App. 3d 363 (3d Dist. 1974). *See* GSL Br. 16-17; Easterday Br. 39-41. The question in *Athey* was whether a zoning ordinance qualified as an "amendment" of a prior ordinance for purposes of state zoning statutes, *see* 65 ILCS 5/11-13-14, or, instead, a new ordinance altogether. 22 Ill. App. at 365. The appellate court explained that the touchstone of that analysis was "the intent of the law making body," but that the legislative record before it was "ambiguous," insofar as (among other things) the ordinance "was referred to . . . both as a new ordinance and a comprehensive amendment, with the terms used interchangeably." *Id.* at 367. The appellate court thus applied what it termed the "general rule" that "an amendatory ordinance does not purport to repeal an ordinance as it previously existed but merely changes or alters the

original ordinance, or some of its provisions." *Id.* And because the ordinance in question was "entirely different from that of the previous ordinance," and its provisions "neither incorporate[d] nor intermingle[d] with" the prior one, the zoning ordinance was, in fact, a new ordinance rather than an amendment. *Id.* at 368.

But *Athey* provides little guidance here. For starters, an appellate court opinion is, of course, "not binding on this court." *AFM Messenger Serv., Inc. v. Dep't of Emp. Sec.*, 198 Ill. 2d 380, 406 (2001). And the question whether one ordinance "amends" another for the purpose of one statute need not be the same for all statutes. The Illinois statute at issue in *Athey*, for instance, expressly distinguished between an amended ordinance (to which one set of procedural rules applied) and a new one (to which different rules applied). *Compare* 65 ILCS 5/11-13-2 (new ordinance), *with id.* 5/11-13-3.1, 14 (amendment). Section 13.1(c) of the FOID Card Act contains no similar distinction. So even if the Village's 2018 ordinance was somehow too sweeping to qualify as an "amendment" of the 2013 ordinance under *Athey* (and it was not), that ordinance could still qualify as an "amendment" under section 13.1(c). Put differently, because there is no evidence that the General Assembly meant to limit home rule units to making (in plaintiffs' words) "minor revision[s] or addition[s]" to existing ordinances, GSL Br. 14, it does not matter how "substantial" the changes wrought by the 2018 ordinance were, *id.* at 15. Because the Village acted within the grace period, it preserved

its ability to "amend" its assault weapons ordinance, *see* 430 ILCS 65/13.1(c), and it did that in 2018 by updating the content of that ordinance. No further analysis is needed.

In any event, even were the Court to follow *Athey*, plaintiffs are wrong to suggest that the Village's 2018 amendment is not a genuine "amendment" under the analytical approach employed in that case. To start, as the appellate court observed, the Village clearly intended to "amend" the 2013 ordinance: The 2018 ordinance's title describes it as "an ordinance amending" the relevant sections of the Village's municipal code; the Village used the word "amend" six times in the ordinance's text; and the ordinance recites extensive findings about the Village's intent to change the rules governing assault weapons it enacted in 2013—largely due to the use of those weapons in "mass shooting incidents" across the country. *See* App. 92-101. These textual indicia thus demonstrate the Village's "intent" to amend its existing laws, *Athey*, 22 Ill. App. 3d at 367—differentiating it from *Athey*, in which the municipality "interchangeably" referred to the second-in-time ordinance as both an "amendment" and a "new ordinance," *id.* Given that the Court's primary task in interpreting a legislative enactment is to ascertain the intent of the enacting body, *Scadron*, 153 Ill. 2d at 185, there is no need to go beyond these textual indicia of intent, as the appellate court correctly held, App. 159. Plaintiffs protest that the appellate court's analysis "elevated form over substance" and ignored "the substance of the operative clauses," GSL Br. 15, but that is not

correct: The appellate court simply examined the statute's text and correctly discerned the Village's intent to amend the 2013 ordinance.

And even if one were to go further and conduct a "comparative analysis" of the two ordinances, as in *Athey*, 22 Ill. App. 3d at 368, the result would be the same. The appellate court in *Athey* emphasized that the later-in-time ordinance must be viewed as "complete and independent" because it bore essentially no resemblance to the prior one: The prior ordinance contained 16 pages, whereas the new ordinance contained 115; the new ordinance had an "entirely different" format from the prior ordinance, with no provisions that "incorporate[d] []or intermingle[d]" with existing ones; the new ordinance, in other words, "totally displace[d]" the old one. *Id.* at 368. Unlike in *Athey*, here the 2018 ordinance simply expanded upon the basic framework that the Village established in 2013: It added provisions that "intermingle" with the old provisions in redline format, *id.*, and that total no more than two pages. And far from "totally displac[ing]" the old ordinance, *id.*, it simply shifted the Village's regulatory approach from one generally prohibiting public carry of assault weapons to one generally prohibiting possession of assault weapons. *See* App. 98-99. Nothing about that change is inconsistent with an intent to "amend" an existing ordinance.

In the end, GSL's real complaint is not that the 2018 ordinance did not truly "amend" the 2013 ordinance, but that the 2018 ordinance imposed a restriction with which it disagrees as a policy matter. *See, e.g.*, GSL Br. 8-9

(reciting the policy reasons that gun owners might prefer to use the weapons prohibited by the ordinance); App. 72-76 (same in *GSL* complaint). But the General Assembly determined that home rule units like the Village should be allowed to impose local regulations that fit local needs, and to amend those regulations when those needs change. The Village did exactly that here.

B. Plaintiffs' remaining arguments fail.

Plaintiffs advance several additional arguments against the Village's ordinance, but these largely repackage their basic theory that the Village was not entitled to enact a "substantial" revision of its 2013 ordinance. GSL Br. 15; Easterday Br. 27. Plaintiffs' variations on this basic theme are no more successful.

GSL's alternative argument is that because the Village's 2013 ordinance regulated only the "possession" of assault weapons, and not the "ownership" of those weapons, the Village's "authority to ban ownership has lapsed." GSL Br. 19-23. This argument fails on multiple levels. For one, GSL identifies no authority imposing such a rule. As GSL concedes, "the legislature . . . is not required to solve all the evils of a particular wrong in one fell swoop," *People v. Adams*, 144 Ill. 2d 381, 391 (1991), and that maxim has particular force here, given the General Assembly's decision to expressly preserve home rule units' ability to "amend" their ordinances regulating assault weapons, 430 ILCS 65/13.1(c). And GSL's invented rule would have troubling consequences: Under GSL's view, a home rule unit that initially chose to prohibit

"ownership" of assault weapons would be prohibited from ever revising its ordinance to regulate only the conditions under which residents could "possess" those weapons. There is no reason to read the FOID Card Act to limit local discretion in this manner.

In any event, the 2013 ordinance did regulate both the "ownership" and the "possession" of assault weapons within the Village, as the appellate court held, App. 155-56. The ordinance barred the owners of assault weapons from carrying those weapons in public except under certain conditions and required them to store those weapons safely in their homes or places of business. *Id.* at 111-12. Echoing the dissenting justice below, GSL characterizes these terms as regulation of "possession," not ownership, GSL Br. 20, but that distinction is artificial: One could as easily characterize these as conditions of ownership, insofar as one was (under the 2013 ordinance) not permitted to own an assault weapon in the Village unless one complied with the storage and public-carry regulations. GSL's view seems to be that only a *ban* on ownership qualifies as a regulation of "ownership," but governmental entities frequently enact rules that condition ownership on compliance with certain conditions, just as the Village did here.[5] One could with equal ease characterize the Village's 2018

[5] For this reason, GSL and the dissenting justice are wrong to suggest that a hypothetical ordinance requiring city residents to park trucks in garages is "obviously" not a "regulation of [truck] ownership," GSL Br. 21; App. 173; such a rule could easily be characterized as a condition on truck ownership, insofar as one could not lawfully own a truck without complying with the parking rule.

amendment as simply imposing a total ban on possession within the Village, rather than a ban on ownership (given that a Village resident can still *own* an assault weapon today, providing that he or she does not keep it in the Village); indeed, the ordinance itself uses the word "possess," not the word "own," App. 98. In any event, the ease with which one can characterize many rules as either regulations of possession or conditions on ownership, as the appellate court observed, App. 157, counsels against any attempt to distinguish between the two for the purposes of the preemption analysis.

Easterday separately argues, citing this Court's opinion in *Iwan Reis & Co. v. City of Chicago*, 2019 IL 124469, that the General Assembly "intended to allow home rule units ten days to ban assault weapons," Easterday Br. 29, and that the Village lost the authority to do so once it enacted an ordinance imposing lesser restrictions. But Easterday's argument effectively reads the statutory language authorizing home rule units to "amend" their regulations of assault weapons, 430 ILCS 65/13.1(c), out of section 13.1(c), in contravention of the interpretive principle that one must "give[] a reasonable meaning" to "[e]ach word, clause, [or] sentence" of a statute, *Murphy-Hylton*, 2016 IL 120394, ¶ 25. *Iwan Reis* proves the point: The statute there, unlike section 13.1(c), flatly prohibited home rule units from imposing certain taxes "on [or] after" a date certain, *Iwan Reis*, 2019 IL 124469, ¶ 23, and did not expressly authorize home rule units to amend existing ordinances. *Iwan Reis* is therefore inapposite.

Here, the Village enacted an ordinance regulating the possession and ownership of assault weapons before the statutory grace period elapsed, and then "amend[ed]" that ordinance in the manner contemplated by the General Assembly. 430 ILCS 65/13.1(c). Plaintiffs' challenges to the Village's exercise of its home rule authority should be rejected.

CONCLUSION

For these reasons, the Court should affirm the judgment below.

Respectfully submitted,

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June 23, 2021

SUPREME COURT RULE 341(c)
CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service is 23 pages.

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CERTIFICATE OF FILING AND SERVICE

I certify that on June 23, 2021, I electronically filed the foregoing Brief of Amicus Curiae Attorney General of Illinois with the Clerk of the Court for the Supreme Court of Illinois, using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and thus will be served via the Odyssey eFileIL system.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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