

CM González– AMENDMENT 1 – Safe Storage of Firearms

Compared with the original bill presented on 6-13, this amendment would:

1. Allow the Court to determine whether to issue multiple fines for mass shootings.
2. Eliminate the SMC’s ability to issue citations and provide such authority to the City Attorney.
3. Eliminate the requirement that SPD conduct a survey to evaluate compliance with ordinance.
4. Require the City Auditor to coordinate with SPD and Seattle/King County Public Health on a report that identifies descriptive statistics on stolen guns and gun related injuries and deaths.
5. Reflect technical adjustments.

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to the safe storage of and access to firearms; adding a nechaw Chapter 10.79 to the Seattle Municipal Code.

..body

WHEREAS, gun violence is a public health and public safety crisis in the United States; and

WHEREAS, in 2016, the Centers for Disease Control and Prevention reported that the total

number of firearm deaths for all ages was 38,658, and the total number firearm deaths for

persons under 20 years old was 3,155;¹ and

WHEREAS, in 2015, 714 Washington State residents died from a firearm injury, including 39

children under the age of 18;² and

¹ www.cdc.gov/injury/wisqars

² <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/~media/depts/health/violence-injury-prevention/documents/firearm-facts.ashx>

1 WHEREAS, 78 percent of firearm deaths in Washington State between 2010 and 2017 were due
2 to suicide;³ and

3 WHEREAS, in 2015, a child or teen under the age of 17 was killed by gunfire in Washington
4 State every nine days, on average;⁴ and

5 WHEREAS, crime statistics show guns play a significant role in many crimes against persons in
6 Seattle, with crime reports indicating the involvement of a firearm in 66 percent of
7 homicides, 17 percent of robbery incidents, and nine percent of aggravated assaults from
8 2015 through 2017; and

9 WHEREAS, the Seattle Police Department has taken 3,153 firearms into custody between 2015
10 and 2017 through the course of its regular duties; and

11 WHEREAS, according to the federal Bureau of Justice Statistics, an average of at least 232,000
12 guns were stolen per year from 2005 to 2010;⁵ and

13 WHEREAS, in the City of Seattle, guns are stolen from homes and cars, including at least 250
14 guns that were reported stolen in the City of Seattle in 2017; and

15 WHEREAS, an estimated 150,000 adults in King County reported keeping a firearm unlocked in
16 their homes in 2015;⁶ and

17 WHEREAS, Seattle and King County have long taken a public health approach to reducing gun
18 violence, including the “LOK-IT-UP” initiative, which informs the public about the

³ <http://www.spokesman.com/stories/2018/mar/25/in-washington-78-percent-of-gun-deaths-are-suicide/#/0>

⁴ <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>

⁵ <https://www.bjs.gov/index.cfm?iid=4534&ty=pbdetail>

⁶ <https://www.kingcounty.gov/depts/health/violence-injury-prevention/violence-prevention/gun-violence/LOK-IT-UP/firearm-facts.aspx>

1 importance of safe storage and partners with firearm retailers to increase availability of
2 safe storage devices to their customers; and

3 WHEREAS, the Harborview Injury Prevention and Research Center and Seattle Children’s
4 Hospital have joined with Public Health—Seattle & King County and other community
5 partners to organize safe firearm storage giveaway events in Seattle and around
6 Washington State, and through such events have already given away 4,067 lock boxes to
7 the public, and anticipate continuing to organize such events; and

8 WHEREAS, across the nation, youth are organizing and leading the call for change to our gun
9 laws, including organizing the National School Walkout on March 14, 2018, and the
10 March for Our Lives on March 24, 2018, both of which were supported by The City of
11 Seattle and its residents; and

12 WHEREAS, a February 2018 *Politico*/Morning Consult poll found that 76 percent of registered
13 voters across America supported requiring that all gun owners store their guns in a safe
14 storage unit;⁷ and

15 WHEREAS, a study conducted at the Harborview Injury Prevention and Research Center found
16 that safe storage of guns decreased the risk of accidental firearm injuries and suicides to
17 youth by 73 percent; and

18 WHEREAS, available evidence, as compiled by the RAND Corporation, indicates that child
19 access prevention laws ~~and~~or safe storage laws reduce self-inflicted fatal or nonfatal
20 firearm injuries among youth and reduce unintentional firearm injuries or unintentional
21 firearm deaths among children;⁸ and

⁷ <https://www.politico.com/story/2018/02/28/gun-control-polling-parkland-430099>

⁸ https://www.rand.org/pubs/research_reports/RR2088.html

1 WHEREAS, requiring guns to be safely locked when not carried or in the control of a person in
2 no way violates an individual's Second Amendment rights or Washington State law; and

3 WHEREAS, this ordinance does not impose criminal penalties on any person for any act or
4 omission, and is not intended to regulate the registration, licensing, possession, purchase,
5 sale, acquisition, transfer, discharge, or transportation of firearms, or any other element
6 relating to firearms or parts thereof, including ammunition and reloader components; and

7 WHEREAS, a requirement of safe storage for firearms by The City of Seattle is an evidence-
8 based approach to addressing the public health and public safety crisis of gun violence
9 with a three-pronged impact of reducing stolen guns getting into the hands of criminals,
10 reducing accidental shootings by children, and reducing the risk of suicide; NOW,

11 THEREFORE,

12 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

13 Section 1. A new Chapter 10.79 is added to the Seattle Municipal Code as follows:

14 **Chapter 10.79 STORAGE OF FIREARMS**

15 **10.79.010 Definitions**

16 For purposes of this Chapter 10.79, the following definitions apply:

17 A. "At-risk person" means any person who has made statements or exhibited behavior
18 that indicates to a reasonable person there is a likelihood that the person is at risk of attempting
19 suicide or causing physical harm to oneself or others.

20 B. "Firearm" means a weapon or device from which a projectile or projectiles may be
21 fired by an explosive such as gunpowder, including but not limited to any machine gun, pistol,
22 rifle, short-barreled rifle, short-barreled shotgun, or shotgun as those terms are defined in RCW
23 9.41.010. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling

1 device, or a powder-actuated tool or other device designed solely to be used for construction
2 purposes.

3 C. “Lawfully authorized user” means any person who:

4 1. Is not in the unlawful possession of a firearm under RCW 9.41.040; and

5 2. Is not prohibited from possessing a firearm under any other state or federal law;

6 and

7 3. Has the express permission of the owner to possess and use the firearm.

8 D. “Locked container” includes any storage device approved of or meeting specifications
9 established by the Chief of Police by rule promulgated in accordance with Chapter 3.02.

10 E. “Minor” means a person under 18 years of age who is not authorized under RCW
11 9.41.042 to possess a firearm.

12 F. “Prohibited person” means any person who is not a lawfully authorized user.

13 **10.79.020 Safe storage of firearms**

14 It shall be a civil infraction for any person to store or keep any firearm in any premises unless
15 such weapon is secured in a locked container, properly engaged so as to render such weapon
16 inaccessible or unusable to any person other than the owner or other lawfully authorized user.

17 Notwithstanding the foregoing, for purposes of this Section 10.79.020, such weapon shall be
18 deemed lawfully stored or lawfully kept if carried by or under the control of the owner or other
19 lawfully authorized user.

20 **10.79.030 Unauthorized access prevention**

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

1 **10.79.040 Penalties**

2 A. A violation of Section 10.79.020 shall constitute a civil infraction subject to a civil
3 fine or forfeiture not to exceed \$500. For good cause shown, the court may provide for the
4 performance of community restitution, in lieu of the fine or forfeiture imposed under this
5 subsection 10.79.040.A.

6 B. A violation of Section 10.79.020 or 10.79.030 shall constitute a civil infraction subject
7 to a civil fine or forfeiture in an amount up to \$1,000 if a prohibited person, an at-risk person, or
8 a minor obtains a firearm as a result of the violation. For good cause shown, the court may
9 provide for the performance of community restitution, in lieu of the fine or forfeiture imposed
10 under this subsection 10.79.040.B.

11 C. A violation of Section 10.79.020 or 10.79.030 shall constitute a civil infraction subject
12 to a civil fine or forfeiture in an amount up to \$10,000 if a prohibited person, an at-risk person, or
13 a minor obtains a firearm and uses it to injure or cause the death of oneself or ~~another~~ others, or
14 uses the firearm in connection with a crime. A separate civil fine or forfeiture may be issued for
15 each instance that a person that is injured or killed as a result of a violation of Section 10.79.020
16 or 10.79.030.

17 D. A violation of Section 10.79.020 or 10.79.030 shall be prima facie evidence of
18 negligence per se in any civil proceeding if a prohibited person, an at-risk person, or a minor
19 obtains a firearm, and causes personal injury to or the death of oneself or another, or uses the
20 firearm in connection with a crime.

21 E. Nothing in this Chapter 10.79 shall be construed to alter any requirements, including,
22 but not limited to, any warrant requirements applicable under the Fourth Amendment to the
23 United States Constitution or Article I, Section 7 of the Washington State Constitution.

1 F. Sections 10.79.020 and 10.79.030 shall not apply to “antique firearms,” as defined in
2 RCW 9.41.010.

3 **10.79.050 - Notice of infraction—Issuance**

4 A. A peace officer has the authority to issue a notice of infraction:

- 5 1. when an infraction under this Chapter 10.79 is committed in the officer's presence;
6 2. if an officer has reasonable cause to believe that a person has committed an
7 infraction under this Chapter 10.79.

8 B. ~~A court~~ The City Attorney’s Office may issue a notice of infraction upon receipt of a
9 written statement of the officer that there is reasonable cause to believe that an infraction was
10 committed.

11 **10.79.060 - Response to notice of infraction—Contesting determination—Hearing—Failure**
12 **to appear**

13 —A. Any person who receives a notice of infraction shall respond to such notice as
14 provided in this section within fifteen days of the date the notice is personally served or, if the
15 notice is served by mail, within 18 days of the date the notice is mailed~~of the date of the notice.~~

16 B. If the person determined to have committed the infraction does not contest the
17 determination the person shall respond by completing the appropriate portion of the notice of
18 infraction and submitting it, either by mail or in person, or by responding via the internet or
19 phone to the Municipal Court of Seattle. A check or money order in the amount of the penalty
20 prescribed for the infraction must be submitted with the response, if responding by mail, or if
21 responding online or by phone, payment may be made using a credit card. When a response
22 which does not contest the determination is received, an appropriate order shall be entered in the
23 court's records.

1 C. If the person determined to have committed the infraction wishes to contest the
2 determination the person shall respond by completing the portion of the notice of infraction
3 requesting a hearing and submitting it, either by mail or in person, to the Municipal Court of
4 Seattle. The court shall notify the person in writing of the time, place, and date of the hearing,
5 and that date shall not be sooner than seven days from the date of the notice, except by
6 agreement.

7 D. If the person determined to have committed the infraction does not contest the
8 determination but wishes to explain mitigating circumstances surrounding the infraction, the
9 person shall respond by completing the portion of the notice of infraction requesting a hearing
10 for that purpose and submitting it, either by mail or in person, to the Municipal Court of Seattle.
11 The court shall notify the person in writing of the time, place, and date of the hearing.

12 E. In any hearing conducted pursuant to subsections C or D of this Section 10.79.060,
13 the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry
14 of its order, for up to one (1) year and impose conditions upon the defendant the court deems
15 appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate
16 for administrative processing. If at the end of the deferral period the defendant has met all
17 conditions and has not been determined to have committed another infraction under this Chapter
18 10.79, the court may dismiss the infraction. A person may not receive more than one deferral
19 within a seven-year period.

20 F. If any person issued a notice of infraction:

21 1. Fails to respond to the notice of infraction as provided in subsection B of this
22 Section 10.79.060; or

1 2. Fails to appear at a hearing requested pursuant to subsections C or D of this
2 Section 10.79.060; the court shall enter an appropriate order assessing the monetary penalty
3 prescribed for the infraction and any other penalty authorized by this Chapter 10.79.

4 **10.79.070 - Hearing—Contesting determination that infraction committed—Appeal**

5 A. A hearing held for the purpose of contesting the determination that an infraction has
6 been committed shall be without a jury.

7 B. The court may consider the notice of infraction and any other written report made
8 under oath submitted by the officer who issued the notice or whose written statement was the
9 basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The
10 person named in the notice may subpoena witnesses, including the officer, and has the right to
11 present evidence and examine witnesses present in court.

12 C. The burden of proof is upon the City to establish the commission of the infraction
13 by a preponderance of the evidence.

14 D. After consideration of the evidence and argument, the court shall determine whether
15 the infraction was committed. Where it has not been established that the infraction was
16 committed, an order dismissing the notice shall be entered in the court's records. Where it has
17 been established that the infraction was committed an appropriate order shall be entered in the
18 court's records.

19 E. An appeal from the court's determination or order shall be to the Superior Court.
20 The decision of the Superior Court is subject only to discretionary review pursuant to Rule 2.3 of
21 the Rules of Appellate Procedure.

22 Section 2. The Chief of Police shall promulgate the rules required under subsection
23 10.79.010.D within 30 days of the effective date of this ordinance.

1 Section 3. ~~The City Council requests that, within 90 days of the effective date of this~~
2 ~~ordinance, the Chief of Police devise a plan to conduct a survey to determine the level of~~
3 ~~compliance with Sections 10.79.020 and 10.79.030, and that the survey be completed within one~~
4 ~~year two years from the effective date of this ordinance.~~

5 The City Council ~~further~~ requests that the City Auditor, in collaboration with the Chief of
6 Police and Public Health – Seattle and King County, within 12 months of the effective date of
7 this ordinance, and annually for the next five years thereafter, ~~assess the impacts of the~~
8 ~~provisions of this ordinance on gun injuries and deaths in Seattle, including the numbers of~~
9 ~~overall deaths, youth deaths, overall injuries, youth injuries, overall suicides, and youth suicides.~~
10 provide a report that describes conditions after implementation of this ordinance including, at a
11 minimum, descriptive statistics of the most currently available data on the number and rate of
12 firearm-related hospitalizations and deaths in Seattle, including the number and rate of: stolen
13 guns reported by or recorded by SPD, overall deaths, youth deaths, overall injury-related
14 hospitalizations, youth injury-related hospitalizations, and deaths due to suicide for the overall
15 population and among youth.

16 The City Auditor ~~and the Chief of Police~~ shall provide a each report ~~of each assessment~~
17 ~~and survey~~ to the City Council’s Gender Equity, Safe Communities, New Americans and
18 Education Committee or its successor within 60 days of each’s completion.

19 Section 4. The provisions of this ordinance are declared to be separate and severable. The
20 invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance,
21 or the invalidity of its application to any person or circumstance, does not affect the validity of
22 the remainder of this ordinance or the validity of its application to other persons or
23 circumstances.

1 Section 5. Section 1 of this ordinance shall take effect 180 days after the effective date of
2 this ordinance.

1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2018,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2018.

7 _____

8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2018.

10 _____

11 Jenny A. Durkan, Mayor

12 Filed by me this _____ day of _____, 2018.

13 _____

14 Monica Martinez Simmons, City Clerk

15 (Seal)