



SEATTLE CITY COUNCIL

Legislative Summary

CB 119267

Record No.: CB 119267

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125621

In Control: City Clerk

File Created: 05/23/2018

Final Action: 07/20/2018

Title: AN ORDINANCE relating to the reporting of lost or stolen firearms; increasing the maximum penalty for failure to report a lost or stolen firearm; adding legal presumptions and defenses regarding compliance or failure to comply with Section 10.78.010 of the Seattle Municipal Code; amending Section 10.78.010 of the Seattle Municipal Code; and adding new Sections 10.78.020, 10.78.030, and 10.78.040 to the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: González

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: adam.schaefer@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	05/24/2018	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	05/24/2018	sent for review	Council President's Office			
Action Text: The Council Bill (CB) was sent for review. to the Council President's Office							
Notes:							
1	Council President's Office	05/30/2018	sent for review	Gender Equity, Safe Communities, New Americans, and Education Committee			

Action Text: The Council Bill (CB) was sent for review. to the Gender Equity, Safe Communities, New Americans, and Education Committee

Notes:

1 City Council 06/04/2018 referred Gender Equity,
Safe
Communities,
New Americans,
and Education
Committee

1 Gender Equity, Safe 06/13/2018 discussed
Communities, New
Americans, and
Education Committee

Action Text: The Council Bill (CB) was discussed in Committee.

Notes:

1 Gender Equity, Safe 06/27/2018 pass as amended Pass
Communities, New
Americans, and
Education Committee

Action Text: The Committee recommends that City Council pass as amended the Council Bill (CB).

In Favor: 2 Chair González , Member Johnson

Opposed: 0

2 City Council 07/09/2018 passed Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 9 Councilmember Bagshaw, Councilmember González , Council
President Harrell, Councilmember Herbold, Councilmember Johnson,
Councilmember Juarez, Councilmember Mosqueda, Councilmember
O'Brien, Councilmember Sawant

Opposed: 0

2 City Clerk 07/12/2018 submitted for Mayor
Mayor's signature

2 Mayor 07/18/2018 Signed

Action Text: The Council Bill (CB) was Signed.

Notes:

2 Mayor 07/20/2018 returned City Clerk

2 City Clerk 07/20/2018 attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE

125621

COUNCIL BILL

119267

AN ORDINANCE relating to the reporting of lost or stolen firearms; increasing the maximum penalty for failure to report a lost or stolen firearm; adding legal presumptions and defenses regarding compliance or failure to comply with Section 10.78.010 of the Seattle Municipal Code; amending Section 10.78.010 of the Seattle Municipal Code; and adding new Sections 10.78.020, 10.78.030, and 10.78.040 to the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 10.78.010 of the Seattle Municipal Code, enacted by Ordinance 124834, is amended as follows:

10.78.010 Reporting theft or loss of firearm required

A. If a firearm is lost or stolen, the person who owned or was in possession of the firearm shall report the theft or loss to the Seattle Police Department. The report shall be made within 24 hours after the theft or loss is first discovered, and shall include to the extent known:

1. The firearm's caliber, make, model, manufacturer, and serial number;
2. Any other distinguishing number or identification mark on the firearm; and
3. The circumstances of the loss or theft, including the date, place, and manner.

B. On receipt of a report of a stolen or lost firearm under this section, the Seattle Police Department shall enter into the National Crime Information Center Database the following information, to the extent known:

1. The firearm's caliber, make, model, manufacturer, and serial number; and
2. Any other distinguishing number or identification mark on the firearm.

C. The failure to comply with subsection 10.78.010.A shall constitute a civil infraction subject to a civil fine or forfeiture not to exceed \$1,000.

1 D. If a lost or stolen firearm is used by a third party to injure or kill another:

2 1. The failure to comply with subsection 10.78.010.A is prima facie evidence of
3 negligence per se; and

4 2. The proper use of measures to safely store or keep a firearm by securing it in a
5 locked container, properly engaged so as to render such weapon inaccessible or unusable to any
6 person other than the owner or other lawfully authorized user, when coupled with timely
7 compliance with subsection 10.78.010.A, is an affirmative defense to a claim of negligence. For
8 purposes of this subsection 10.78.010.D.2, "lawfully authorized user" means any person who:

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

10 b. Is not prohibited from possessing a firearm under any other state or
11 federal law; and

12 c. Has the express permission of the owner to possess and use the firearm.

13 Section 2. A new Section 10.78.020 is added to the Seattle Municipal Code as follows:

14 **10.78.020 Notice of infraction—Issuance**

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

16 1. When an infraction under this Chapter 10.78 is committed in the officer's
17 presence;

18 2. If an officer has reasonable cause to believe that a person has committed an
19 infraction under this Chapter 10.78.

20 B. The City Attorney's Office may issue a notice of infraction upon receipt of a written
21 statement of the officer that there is reasonable cause to believe that an infraction was
22 committed.

23 Section 3. A new Section 10.78.030 is added to the Seattle Municipal Code as follows:

10.78.030 Response to notice of infraction—Contesting determination—Hearing—Failure to appear

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

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

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

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

1 E. In any hearing conducted pursuant to subsections 10.78.030.C or 10.78.030.D, the
2 court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of
3 its order for up to one year and impose conditions upon the defendant the court deems
4 appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate
5 for administrative processing. If at the end of the deferral period the defendant has met all
6 conditions and has not been determined to have committed another infraction under this Chapter
7 10.78, the court may dismiss the infraction. A person may not receive more than one deferral
8 within a seven-year period.

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

10 1. Fails to respond to the notice of infraction as provided in subsection 10.78.030.B;
11 or

12 2. Fails to appear at a hearing requested pursuant to subsections 10.78.030.C or
13 10.78.030.D;

14 the court shall enter an appropriate order assessing the monetary penalty prescribed for
15 the infraction and any other penalty authorized by this Chapter 10.78.

16 Section 4. A new Section 10.78.040 is added to the Seattle Municipal Code as follows:

17 **10.78.040 Hearing—Contesting determination that infraction committed—Appeal**

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

20 B. The court may consider the notice of infraction and any other written report made
21 under oath submitted by the officer who issued the notice or whose written statement was the
22 basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The

1 person named in the notice may subpoena witnesses, including the officer, and has the right to
2 present evidence and examine witnesses present in court.

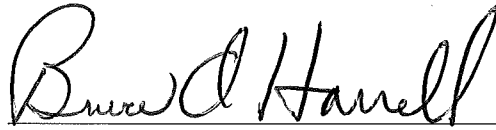
3 C. The burden of proof is upon the City to establish the commission of the infraction
4 by a preponderance of the evidence.

5 D. After consideration of the evidence and argument, the court shall determine whether
6 the infraction was committed. Where it has not been established that the infraction was
7 committed, an order dismissing the notice shall be entered in the court's records. Where it has
8 been established that the infraction was committed, an appropriate order shall be entered in the
9 court's records.

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

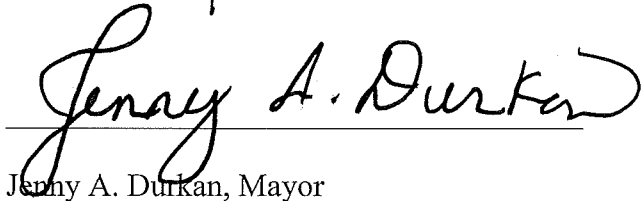
Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 9th day of July, 2018,
and signed by me in open session in authentication of its passage this 9th day of
July, 2018.

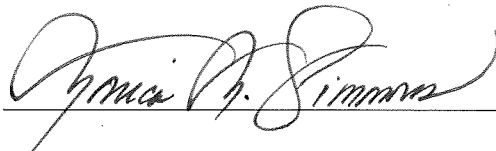


President _____ of the City Council

Approved by me this 10th day of July, 2018.


Jenny A. Durkan, Mayor

Filed by me this 20th day of July, 2018.



Monica Martinez Simmons, City Clerk

(Seal)

STATE OF WASHINGTON -- KING COUNTY

--SS.

364412

No. 125618,619,620,621

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

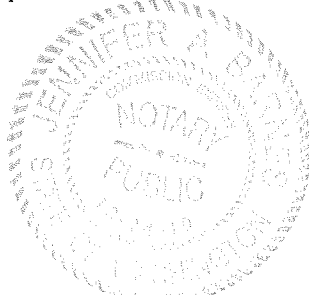
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCES

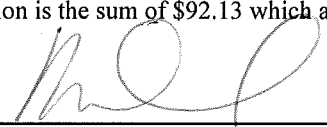
was published on

07/30/18

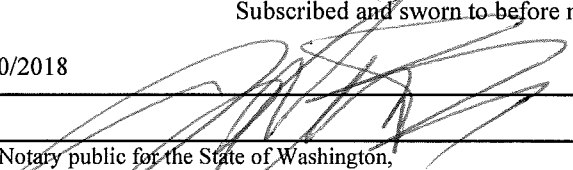
The amount of the fee charged for the foregoing publication is the sum of \$92.13 which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on

07/30/2018


Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on July 09, 2018, and published below by title only, will be mailed upon request, or can be accessed at <http://seattle.legistar.com>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Ordinance 125618

Council Bill 119274

AN ORDINANCE amending Ordinance 125475, which adopted the 2018 Budget, including the 2018-2023 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 125619

Council Bill 119276

AN ORDINANCE amending Ordinance 125207, which adopted the 2017 Budget, including the 2017-2022 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 125620

Council Bill 119266

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

Ordinance 125621

Council Bill 119267

AN ORDINANCE relating to the reporting of lost or stolen firearms; increasing the maximum penalty for failure to report a lost or stolen firearm; adding legal presumptions and defenses regarding compliance or failure to comply with Section 10.78.010 of the Seattle Municipal Code; amending Section 10.78.010 of the Seattle Municipal Code; and adding new Sections 10.78.020, 10.78.030, and 10.78.040 to the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, July 30, 2018.

7/30(364412)