

## **PROPOSAL 1**

### **Summary – Special Curfew**

- Imposes special curfew for juveniles found by a court to have violated gun laws.
- Prevents juveniles who have shown a disregard for gun laws from becoming involved in nighttime gun violence.
- Provides police a tool to intervene with a juvenile who has shown disregard for gun laws when the child is out in public during times of increased gun misuse.
- Create incentive for State prosecution of juvenile firearm offenses.

### **Mechanism: Amend PCC 14A.80.010 (Curfew) to Read as Follows (new language underlined):**

- A. It is unlawful for any minor to be in or upon any public property or public right of way between the hours specified in this Section, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by the law to have care and custody of the minor, or unless such minor is then engaged in a school activity or lawful employment that makes it necessary to be in or upon any city property or public right of way during the hours specified in this Section. For minors under the age of 14 years who have not begun high school, curfew is between 9:15 p.m. and 6 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 10:15 p.m. and 6 a.m. of the following morning. For children 14 years of age or older who have begun high school, curfew is between 10:15 p.m. and 6 a.m. of the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the City, curfew is between 12 midnight and 6 a.m. of the following morning. For minors who have been found by a court to have possessed, purchased, used, transferred or transported a firearm unlawfully, curfew is between 9:15 p.m. and 6 a.m. of the following morning.

## **PROPOSAL 2**

### **Summary – Create New City Crime of Failure to Control Access to Firearm by a Child**

- Under Oregon preemption law, City law can not address the sale, acquisition, transfer, ownership, possession, storage, transportation or use of firearms, their components or ammunition.
- This proposed City Code provision addresses only management of access to firearms.
- Addresses significant danger to children and community caused by improper management of access to firearms.
- Provides increasing penalties as danger to community increases.

### **Mechanism: Adopt New City Code Provision:**

PCC 14C.xx.xxx (Endangering A Child By Allowing Access To A Firearm):

- A.** A person commits the offense of endangering a child if a person fails to prevent access to a firearm by a child when the person knew or reasonably should have known that a child could gain access to the firearm under the following circumstances:
1. A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a child gains access to the firearm without the permission of the person, a parent or guardian.
  2. A person possesses or controls an operable firearm, whether loaded or unloaded, within premises under the person's custody or control and a child gains access to the firearm without the permission of the person, a parent or guardian and the child carries the firearm off the premises.
  3. Violation of subsection (a) is punishable by incarceration for not more than X days and a fine of not more than \$X.
  4. Violation of subsection (b) is punishable by incarceration for not more than X+Y and a fine of not more than \$X+Y.
  5. Violation of subsection (b) is punishable by incarceration for not more than X+Y+Z and a fine of not more than \$X+Y+Z if the firearm is carried by the child off premises to any school, school-sponsored or school-related event.
- B. Defenses:** This section shall not apply if any one of the following circumstances exists:
1. The child obtains the firearm as a result of an illegal entry into any premises by any person.

2. The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.
3. The firearm is locked with a device that has rendered the firearm inoperable.
4. The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person or persons.
5. The person who possesses or controls the firearm has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

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### **PROPOSAL 3**

#### **Summary - Create New City Crime of Failure to Report Theft or Loss of Firearm**

- State law does not prevent a City from imposing this responsibility.
- Addresses community's need for information when tracking the history of stolen or found firearms used in crimes.
- Reduces value of stolen firearms.
- Increases risk of possessing or using a stolen or found firearm.

#### **Mechanism: Create New Code Section:**

PCC 14C.xx.xxx (Failure to Report Theft or Misplacement of a Firearm):

- A. Any person who possesses, owns or controls a firearm in the City of Portland shall report the theft or misplacement of the firearm, providing a description of the firearm including serial number, within 48 hours of knowing, or having reason to know, the firearm is stolen or cannot be located through reasonable effort.
- B. A person who possesses, owns or controls a firearm in the City of Portland and fails to provide the serial number of the firearm when reporting the firearm is stolen or cannot be located is subject to a \$200 administrative fee.
- C. Violation of subsection (A) is punishable by a fine of \$500.

## **PROPOSAL 4**

### **Summary -Increase Penalty for Possession of Loaded Firearms in Public Places**

- Creates meaningful penalty that is more proportionate to danger the behavior poses to the community.
- Recognizes the particularly grave danger posed by loaded firearms illegally possessed in vehicles.
- Availability of a significant sanction increases likelihood of prosecution.

### **Mechanism: Amend Current Code Section With an Enhanced and Progressive Penalty Structure (new language underlined):**

PCC 14A.60.010 Possession of a Loaded Firearm in a Public Place.

- A. It is unlawful for any person to knowingly possess or carry a firearm, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the firearm.
- B. It is unlawful for any person to knowingly possess or carry a firearm and that firearms clip or magazine, in or upon a public place, including while in a vehicle in a public place, recklessly having failed to remove all the ammunition from the clip or magazine.
- C. The following are exceptions and constitute affirmative defenses to a violation of this Section:
  1. A police officer or other duly appointed peace officers, whether active or honorably retired.
  2. A member of the military in the performance of official duty.
  3. A person licensed to carry a concealed handgun.
  4. A person authorized to possess a loaded firearm while in or on a public building under ORS 166.370.
  5. A government employee authorized or required by his or her employment or office to carry firearms.
  6. A person summoned by a police officer to assist in making arrests or preserving the peace, while such person is actually engaged in assisting the officer.
  7. A merchant who possesses or is engaged in lawfully transporting unloaded firearms as merchandise.

8. Organizations which are by law authorized to purchase or receive weapons from the United States or from this state.
  9. Duly authorized military or civil organizations while parading, or their members when going to and from the places of meeting of their organization.
  10. A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.
  11. Persons travelling to and from an established target range, whether public or private, for the purpose of practicing shooting targets at the target ranges.
  12. Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.
  13. A person authorized by permit of the Chief of Police to possess a loaded firearm, clip, or magazine in a public place in the City of Portland.
  14. A security guard employed at a financial institution insured by the Federal Deposit Insurance Corporation while the security guard is on duty.
- D.** It is unlawful for any person who possesses a firearm, clip or magazine in or upon a public place, or while in a vehicle in a public place, to refuse to permit a police officer to inspect that firearm after the police officer has identified him or herself as a police officer. This Section does not apply to law enforcement officers or members of the military in the performance of official duties, nor persons licensed to carry a concealed handgun or persons authorized to possess a loaded firearm, clip or magazine while in or on a public building or court facility.

**E. Penalty**

- 1.** In the absence of the aggravating factors listed in E(2), the court may impose a sentence of up to 6 months imprisonment and a fine not to exceed \$500 for violation of this section.
- 2.** When this offense is committed by carrying a loaded firearm containing ammunition that employs gunpowder as a propellant in a vehicle, including a transit vehicle, the court must impose a mandatory minimum sentence of 30 days for violation of this section.

## **PROPOSAL 5**

**Summary – Excludes people found by a court to have violated firearms use or possession laws from areas of the City in which illegal use of firearms is markedly greater than other areas. Exclusions to be enforced through arrest for trespass, but with many variances available for necessary and non-harmful activities.**

- Protects communities suffering from the illegal use of firearms by restricting the presence of people who have shown disregard for firearms use or possession laws.
- Provides law enforcement a tool for contacting and removing people who have shown disregard for firearms use or possession laws when they are present in an area disproportionately affected by firearms crime.
- Prevents people who have shown disregard for firearms use or possession laws from participating in activities that can lead to gun violence events in areas disproportionately affected by firearms crime.

### **Mechanism: Create New Code Section:**

PCC 14B.30 (Illegal Firearms Use Hotspots)

#### **14B.30.010 Illegal Firearms Use Hotspots - Definitions**

- A. For the purposes of this chapter, the following definitions apply:
1. Essential needs: food, physical care, and medical attention.
  2. Reside: to occupy one's principal dwelling; including transient occupancy in a hotel or motel.
  3. Travel: the movement on foot or within or upon a vehicle within a gun violence zone from one point to another without delay other than to obey traffic control devices.
- B. Illegal Firearms Use Hotspots are those areas of the City as designated by the City Council under Chapter 14B.30 of this Code, which are areas where the number of firearms-related crimes or illegal discharges for a twelve (12) month period within the eighteen (18) months preceding its designation is significantly higher than that for other similarly sized geographic areas of the City.

#### **14B.30.020 Designation of Illegal Firearms Use Hotspots**

- A. If the City Council designates an area meeting the criteria of Section 14B.30.010 of this Code to be an Illegal Firearms Use Hotspot, Council shall do so by ordinance. The designation shall be valid for a period of three (3) years.
- B. The office of the Chief of Police of the Portland Police Bureau is directed to report to City Council at least ninety (90) days before the end of the period

referred to in section 14B.30.020 A., as to whether there is a need to re-configure an Illegal Firearms Use Hotspot enumerated in 14B.30.070.

**14B.30.030 No Trespassing in Illegal Firearms Use Hotspots**

**A.** A person is subject to exclusion under the process described in this chapter for the duration of a sentence of probation or the duration of juvenile court jurisdiction over the person for that offense from any public right of way and park within an Illegal Firearms Use Hotspot designated in Code Chapter 14B.30 if that person has been found by a court to have committed any of the following offenses:

1. Any state firearm use or possession crime
2. Any City firearm use crime

**B.**

**C.** A person excluded from Illegal Firearms Use Hotspots under authority of this Section may not enter a Hotspot except to travel to and from and be present at the events and locations listed below:

1. Attend a meeting with an attorney;
2. Attend a scheduled initial interview with a social service provider;
3. Comply with court-or corrections-ordered obligations;
4. Contact criminal justice personnel at a criminal justice facility;
5. Attend any administrative or judicial hearing relating to an appeal of:
  - a. the person's notice of exclusion; or
  - b. the denial, revocation, or amendment of the person's variance;
6. Travel through a hotspot on a Tri-Met vehicle;
7. Travel through a Hotspot on the I-5, I-84, I-205 or I-405 freeways within its boundaries;
8. Reside in a dwelling or facility;
9. Satisfy, or attempt to satisfy an essential need by accessing a public or private place that provides an essential need or service when the essential need cannot reasonably be satisfied by the excluded person without entering a Hotspot;
10. Obtain social services when:
  - a. the excluded person is in need of social services;



- B. At the time a person is issued a notice of exclusion, the Chief of Police and/or designees may discuss with the excluded person whether the person has a plausible need for a variance and may issue a variance pursuant to the process described in 14B.30.060 B.
- C. The notice of exclusion shall be in writing and a copy delivered to the excluded person. The notice of exclusion shall include the following:
  - 1. A description of the area(s) designated as Illegal Firearms Use Hotspots in Section 14B.30.070 from which that person is excluded;
  - 2. Information concerning the right to appeal the exclusion to the Code Hearings Officer as provided in Chapter 22.10 of this Code; and

**14B.30.060 Appeal, Review and Variances**

- A. APPEAL. A person to whom a notice of exclusion is issued shall have a right to appeal as follows:
  - 1. Appeals shall be made to the Code Hearings Officer of the City of Portland. Any hearings regarding such appeals shall be conducted in accordance with Chapter 22.10 of this Code.
  - 2. Copies of documents in the City’s control which are intended to be used at the hearing shall be made available, upon request, to the appellant.
  - 3. An appeal must be filed, in writing, by 5:00 p.m. of the fifth business day following entry of the judgment on which the exclusion is based.
  - 4. An appeal of:
    - a. a denial of a request for a variance; or
    - b. a denial of a request for an amendment to a variance; or
    - c. a revocation or amendment of a variance must be filed, in writing, by 5:00 p.m. of the fifth business day following the action regarding the variance.
  - 5. An exclusion under this Section shall take effect upon satisfaction of the requirements of subsection 14B.30.050 and, notwithstanding an appeal of the exclusion, shall remain in effect unless the Code Hearings Officer issues a contrary decision.
  - 6. At the hearing on an appeal of an exclusion, the City shall have the burden to show by a preponderance of the evidence that a court found the appellant committed one of the offenses enumerated in Subsection 14B.30.030 A..

7. At the hearing on an appeal of a denial of a request for a variance as provided in 14B.30.060 C.5.a., the City shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this Section.
8. At the hearing on an appeal of a denial of a request for an amendment to a variance as provided in 14B.30.060 C.5.b., the City shall have the burden to show by a preponderance of the evidence that the amendment was in accordance with this section.
9. At the hearing on an appeal of a revocation or amendment of a variance as provided in 14B.30.060 C.5.c., the City shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this Section supporting revocation or amendment existed at the time of revocation or amendment.

**B. VARIANCES.** Variances modify an exclusion, and shall be granted, denied, amended, or revoked in accordance with the following provisions:

1. All variances shall be in writing and shall state the purpose for which they are granted and the period of time during which they are effective. A variance that does not describe its period of effectiveness is effective for the duration of the exclusion. A variance allows relief from an exclusion only for travel to and from specified locations, activities or events, and presence at specified locations, activities and events within an Illegal Firearms Use Hotspot.
2. All Police Bureau Precincts shall receive and process requests for variances during regular business hours if they are otherwise open to the public. This capability will be maintained at the main precinct station or at a sub-station.
3. Variance. The Chief of Police and/or designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in 14B.30.050 B., the Chief of Police and/or designees shall grant an appropriate variance to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this Subsection allows travel within an Illegal Firearms Use Hotspot only in accordance with the terms specified in the variance. The Chief of Police or designees will ask a person requesting a variance to provide and update an address through which the person can be reached for the duration of the variance in the event the City determines there is a need to amend or revoke the variance.

C. REVOCATION OR AMENDMENT OF VARIANCES. Variances may be revoked or amended for the following reasons and in the following manner:

1. The excluded person provided false information in order to obtain the variance;
2. If the circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof;
3. If the person has new circumstances that would support amending the variance; or
4. A revocation or amendment of a variance becomes effective at 5:00 p.m. of the fifth business day following mailing of notice of the action to the excluded person at the address provided pursuant to 14B.30.060 B.1. unless the excluded person appeals the determination by following the procedures in 14B.30.060 A.5.c.

**14B.30.070 Listing Of Illegal Firearms Use Hotspots**

The following descriptions shall comprise the boundaries of the Illegal Firearms Use Hotspots listed, and the Illegal Firearms Use Hotspots shall include the entire area on and within the listed boundaries.

A.

B.