



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of March 12, 2024

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Thomas Lloyd Smith, City Attorney *TLS*

SUBJECT: Adopt the Ordinance of the City Council of the City of Antioch, California, Adding Chapter 4 to Title 4 (Public Safety) of the Antioch Municipal Code Relating to Organizing or Advertising Street Racing, Sideshows, and Reckless Driving Exhibitions

RECOMMENDED ACTION

It is recommended that the City Council adopt the Ordinance adding Chapter 4 to Title 4 (Public Safety) to the Antioch Municipal Code, which prohibits organizing or advertising street racing, sideshows, and reckless driving exhibitions.

FISCAL IMPACT

There is no fiscal impact associated with the recommended action.

DISCUSSION

On November 14, 2023, the City Council considered, as a discussion item, a proposed Ordinance prohibiting spectators at illegal street races, sideshows, or reckless driving exhibitions on or in public highways or offstreet parking facilities within the City. During that discussion, the City Council provided direction that the Council did not want to criminalize the act of being a spectator at an illegal race, instead Council sought to focus on the actions of more culpable individuals, such as individuals who may directly organize or advertise such activities.

On February 27, 2024, the City Council introduced by title only and waived further reading of an Ordinance that would prohibit advertising or organizing various types of illegal street races, sideshows, or reckless driving exhibitions on or in public highways or offstreet parking facilities within the City.

At the March 12, 2024 meeting, the City Council will consider whether to adopt the Ordinance adding Chapter 4 to Title 4 (Public Safety) of the Antioch Municipal Code, which prohibits organizing or advertising street racing, sideshows, and reckless driving exhibitions.

Analysis

The California Vehicle Code (CVC) criminalizes engaging in motor vehicle speed contests, speed exhibitions, and reckless driving, including aiding and abetting these activities. Under state law, violators are guilty of a misdemeanor and face penalties including up to 90 days in jail, a fine of \$1,000, or both, 40 hours of community service, and suspension of a perpetrator's driver's license for three to six months. Increased penalties are imposed on repeat violators or violations resulting in serious bodily injury.

Despite law enforcement efforts to enforce the existing State regulations, the City's streets have been the site of continuing illegal sidseshows, speed contests, and exhibitions of speed over several years. These events attract spectators. The presence of spectators encourages street racing to continue, which creates a public nuisance that generates noise, air pollution, an increase in traffic accidents, property crimes and damage, personal injuries, deaths, and calls for law enforcement and emergency medical services. California DMV reported a significant increase in 2021 in the number of reckless driving citations statewide and an 80% increase in excessive speed violations. The California Highway Patrol has reported as of May 2023 that, in the past five years, 264 collisions statewide attributed to street racing and sidseshows, resulting in 30 fatalities and 124 serious injuries. Therefore, illegal street racing poses an imminent risk to the health and safety of participants, spectators, and the general public.

The Ordinance attempts to discourage illegal sidseshows, street races, and exhibitions of speed within the City, by regulating the organizing or advertising of such activities. The following activities would be specifically prohibited:

- Knowingly organizing a street race, sidseshow, reckless driving exhibition, or exhibition of speed conducted within the City on a public street, highway, or in an offstreet parking facility.
- Advertising, within the City, a street race, sidseshow, or exhibition of speed conducted or to be conducted in the City on a public street, highway, or in an offstreet parking facility.
- Advertising online, including on social media, a street race, sidseshow, or exhibition of speed conducted or to be conducted in the City on a public street, highway, or in an offstreet parking facility.

The Ordinance targets a clear, limited population and gives proper notice to individuals as to which activities are lawful and which activities are unlawful. Advertising illegal activity is not constitutionally protected speech. The Ordinance includes proper exclusions to prevent interference with or inhibition of any lawful exercise of constitutionally protected rights of freedom of press and freedom of speech.

ATTACHMENTS

- A. Ordinance

ORDINANCE NO. __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH, CALIFORNIA, ADDING CHAPTER 4 TO TITLE 4 (PUBLIC SAFETY) OF THE ANTIOCH MUNICIPAL CODE RELATING TO ORGANIZING OR ADVERTISING STREET RACING, SIDESHOWS, AND RECKLESS DRIVING EXHIBITIONS

WHEREAS, motor vehicle speed contests and exhibitions of speed, more commonly referred to as “street races,” and common acts of reckless driving often occur during, or when preparations are being made for, such illegal street races. This includes pre-race events referred to as “sideshows” or motorcycle “stunting” in which groups of people block streets and sidewalks to form sideshow or stunt areas in conjunction with street races;

WHEREAS, street races, sideshows, and motorcycle stunting pose an immediate threat to the health and safety of the public, interfere with pedestrian and vehicular traffic, create a public nuisance, and inhibit private business owners from enjoying the use of their property within the City;

WHEREAS, groups of racers, sideshow participants, stunters, and spectators gather on the streets and in off-street parking facilities and, among other things, block traffic on the streets and sidewalks in order to form a racetrack, sideshow or stunt area, and otherwise encourage, aid, and abet the street racing process;

WHEREAS, illegal street racers accelerate to high speeds, which increases the risk of harm to oncoming traffic, pedestrians, or other vehicles, and the racers drive quickly from street to street, race for several hours, and then move to different locations upon the arrival of law enforcement;

WHEREAS, these activities often result in an increase in traffic accidents, property crimes and damage, personal injuries, deaths, and calls for law enforcement and emergency medical service;

WHEREAS, these illegal street racing activities pose an imminent risk to the health and safety of participants, spectators, and the general public;

WHEREAS, pursuant to California Vehicle Code sections 23103, *et seq.*, and 23109, *et seq.*, motor vehicle speed contests, reckless driving, exhibitions of speed conducted on public streets and highways, and reckless driving conducted on public streets, highways, and off-street parking facilities, as well as aiding and abetting in some of these violations, are already illegal under California law;

WHEREAS, the City’s streets have been the site of continuing illegal sideshows, speed contests, and exhibitions of speed over several years, despite law enforcement efforts to prevent and abate these illegal events through the enforcement of existing traffic laws;

WHEREAS, illegal street racing, sideshows, and motorcycle stunting attract many spectators, and the presence of spectators at these events encourages street racing to continue and creates an environment in which illegal activities can flourish;

WHEREAS, illegal street racing, sideshows, and motorcycle stunting can generate revenue for organizers and advertisers;

WHEREAS, advertising illegal activity is not constitutionally protected speech; and

WHEREAS, the City desires to discourage illegal sideshows, street races, and exhibitions of speed by criminalizing the organizing or advertising of such activities within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ANTIOCH DOES ORDAIN AS FOLLOWS:

Section 1. INCORPORATION OF RECITALS. The foregoing recitals are true, correct, and incorporated by reference as if set forth in full herein.

Section 2. PURPOSE. The purpose of this Ordinance is to discourage and prevent street racing, sideshows, reckless driving exhibitions, and related activities by prohibiting persons from organizing or advertising such events, and providing appropriate enforcement measures to protect the public and deter this criminal activity.

Section 3. ADDITION OF CHAPTER 4. Chapter 4 is hereby added to Title 4 (Public Safety) of the Antioch Municipal Code to read as follows:

“Chapter 4”

Street Racing, Sideshows, and Reckless Driving Exhibitions

- 4-4.101 Findings and Purpose**
- 4-4.102 Definitions**
- 4-4.103 Nonexclusive Remedy**
- 4-4.104 Organizing or Advertising Sideshows, Street Races, and Reckless Driving Prohibited**
- 4-4.105 Relevant Circumstances to Prove a Violation**
- 4-4.106 Enforcement**

4-4.101 Purpose and Incorporation of Recitals

- (A) The streets within the City have been the site of continuing illegal sideshows, speed contests, and exhibitions of speed over several years despite law enforcement efforts to prevent and abate these illegal events through the enforcement of existing traffic laws. Illegal motor vehicle sideshows, speed contests and exhibitions of speed are fueled

by the activities of organizers and advertisers and create an environment in which these, as well as other, illegal activities can flourish. Often, such events generate profit for their organizers and advertisers. The intent and purpose of this Chapter is to discourage the organization and advertising of illegal vehicle sideshows, speed contests, and exhibitions of speed in the City. This Chapter targets a clear, limited population and gives proper notice to individuals as to which activities are lawful and which activities are unlawful. The dangers associated with spectating and participating in illegal sideshows, street races, and exhibitions of speed will be discouraged in part by discouraging organization and advertising of such events in the City.

- (B) This Chapter is not intended to interfere with or inhibit any exercise of constitutionally protected rights of freedom of press and freedom of speech such as (but not limited to) peaceful expressions of political or religious opinions, not involving offensive personal conduct. The City Council finds and declares that advertisements for illegal events such as street racing, motor vehicle sideshows, speed contests, and exhibitions of speed are not legally protected speech.
- (C) This Chapter is intended to compliment state laws governing the regulation of speed contests, exhibitions of speed, and sideshows. This Chapter is not intended to preempt state laws governing the regulation of illegal motor vehicle sideshows, speed contests, and exhibitions of speed events.

4-4.102 Definitions

For purposes of this Chapter, unless a word's context clearly requires otherwise, the following definitions apply:

A. "Advertise" means to promote, publish, announce, or declare the occurrence or fact of an event, for the purpose of either: (i) increasing attendance by participants or spectators at such event or future events of a substantially similar nature; or (ii) soliciting payment, funds, contributions, donations, entry fees, or other consideration. Advertising may be done in writing or orally, by sign, card, or notice, whether electronically or via physical media.

B. "Driver" means any person who drives a motor vehicle.

C. "Event" means an illegal motor vehicle speed contest, exhibition of speed, or sideshow, as those terms are defined in the California Vehicle Code.

D. "Exhibition of speed" means any unlawful motor vehicle exhibition of speed as defined by California Vehicle Code Section 23109(c), as may be amended,

whether or not the exhibition of speed is attended by persons other than the drivers performing such unlawful activity.

E. “Motor vehicle” means a vehicle as defined in California Vehicle Code Section 670, as may be amended.

F. “Motor vehicle speed contest” means any unlawful motor vehicle speed contest, as defined by California Vehicle Code Section 23109(a), as may be amended, whether or not the race is attended by persons other than the drivers racing the vehicles on City streets.

G. “Offstreet parking facility” has the same meaning as set forth in subdivision (c) of California Vehicle Code Section 12500, as may be amended, and includes any public or private parking facility open and accessible to members of the public.

H. “Person” includes any natural person and any legal person, including but not limited to a corporation, partnership, or limited liability company.

I. “Preparations for,” or “Organizing,” any sideshow, street race or reckless driving exhibition includes, but is not limited to, any of the following acts done for the purpose of a sideshow, street race or reckless driving exhibition:

1. One (1) or more motor vehicles and persons have arrived at a predetermined location on a public street or highway or in an offstreet parking facility;
2. Two (2) or more persons have gathered on, or adjacent to, a public street or highway;
3. Two (2) or more persons have gathered in an offstreet parking facility;
4. One (1) or more persons have impeded the free use of a public street, highway, or offstreet parking facility by acts, words, or physical barriers;
5. One (1) or more motor vehicles have lined up on a public street, highway, or offstreet parking facility with motors running;
6. One (1) or more drivers is revving a motor vehicle’s engine or causing the motor vehicle’s tires to spin; or
7. A person is standing or sitting in a location to act as a race starter.

J. “Reckless driving exhibition” means any exhibition of reckless driving as defined in Vehicle Code Section 23103, as may be amended.

K. “Sideshow” means an event in which two or more persons block or impede traffic on a highway for the purpose of performing motor vehicle stunts, street racing, or reckless driving for spectators referred to in subdivision (i)(2)(A) of the California Vehicle Code Section 23109, as may be amended.

L. “Street race” or “street racing” means any motor vehicle speed contest or motor vehicle exhibition of speed referred to in subdivisions (a) and (c) of California Vehicle Code Section 23109, as may be amended.

4-4.103 Nonexclusive Remedy

This Chapter is not the exclusive regulation of nor penalty for participation in a motor vehicle speed contest, exhibition of speed, stunting, sideshow, reckless driving exhibition, or similar illegal activity. This Chapter supplements and is in addition to any other regulatory codes, statutes, and ordinances heretofore or hereinafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

4-4.104 Organizing or Advertising Street Races, Sideshows, and Reckless Driving Exhibitions Prohibited

A. It shall be unlawful for any person to knowingly organize a street race, sideshow, reckless driving exhibition, or exhibition of speed conducted within the City on a public street, highway, or in an offstreet parking facility.

B. It shall be unlawful for any person to advertise, within the City, a street race, sideshow, or exhibition of speed conducted or to be conducted in the City on a public street, highway, or in an offstreet parking facility.

C. It shall be unlawful for any person to advertise online, including on social media, a street race, sideshow, or exhibition of speed conducted or to be conducted in the City on a public street, highway, or in an offstreet parking facility.

D. Exceptions. This Section shall not apply in any of the following instances:

1. Where its application would result in an interference with or inhibition of any lawful exercise of constitutionally protected rights of freedom of press and freedom of speech. Speech promoting or encouraging imminent lawless conduct is not protected speech.
2. Nothing in this section prohibits law enforcement officers or their agents from sharing information about known or suspected events in which an illegal street race, sideshow, reckless driving exhibition, and/or exhibition of speed occurred, may occur, or may be occurring.
3. Geographic proximity to a street race, sideshow, reckless driving exhibition, or exhibition of speed alone is insufficient evidence to meet the criteria to be found guilty of organizing.

4-4.105 Relevant Circumstances to Prove a Violation

A. Notwithstanding any other provision of law, factors to consider in determining if a violation of this Chapter has occurred may include, but are not limited to, any of the following:

1. The person charged has previously participated in, advertised, organized, promoted, or facilitated a street race, sideshow, exhibition of speed, or reckless driving exhibition;
2. The person charged has previously aided and abetted street racing, sideshows, exhibitions of speed, or reckless driving exhibitions;
3. To the fullest extent permissible by law, evidence of prior act(s) may be considered to show the plan, opportunity, intent, knowledge, identity, and/or propensity of the person charged to organize or advertise a street race, sideshow, or a reckless driving exhibition if the prior act(s) occurred within three (3) years of the presently charged offense.

B. In addition to the circumstances set out in subsection (A), above, and notwithstanding any other provision of law, to prove a violation of this Chapter, admissible evidence may also include, but is not limited to, any of the following:

1. The nature and description of the scene, including the number and configuration of traffic lanes;
2. The number of people at the scene;
3. The number and descriptions of motor vehicles at the scene.

C. For purposes of subsection (B), above, "Scene" refers to the location of a sideshow, street race, reckless driving exhibition, or exhibition of speed, or the location of preparations for such an event.

4-4.106 Enforcement

Any person who violates this chapter is guilty of a misdemeanor subject to a maximum of six (6) months in jail, a fine of \$1,000, or both, unless at the discretion of the district attorney or a court of competent jurisdiction, the violation is reduced to an infraction. The City may seek compliance with this chapter by any remedy allowed under this Code and any other remedy allowed by law, including but not limited to the administrative citation procedures set forth in Antioch Municipal Code § 1-5. The amount of the administrative fine is \$1,000 for each violation."

Section 4. CEQA COMPLIANCE. The City Council finds that the adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the

Ordinance may have a significant effect on the environment, under CEQA Guidelines section 15064(e), which exempts purely economic regulations, and under Public Resources Code Section 21080(b)(4) regarding actions to mitigate or prevent an emergency.

Section 5. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 6. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after its adoption by the City Council.

Section 7. CERTIFICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted as prescribed by law.

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I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 27th day of February 2024, and passed and adopted at a regular meeting thereof, held on the 12th day of March 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**LAMAR A. HERNANDEZ-THORPE
MAYOR OF THE CITY OF ANTIOCH**

ATTEST:

**ELIZABETH HOUSEHOLDER
CITY CLERK OF THE CITY OF ANTIOCH**