

# OAKLAND CITY COUNCIL

## ORDINANCE \_\_\_\_\_ C.M.S.

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### **ORDINANCE ADDING CHAPTER 10.74 TO THE OAKLAND MUNICIPAL CODE IMPOSING FINES AND PENALTIES AGAINST ORGANIZERS AND BY-STANDER PARTICIPANTS**

**WHEREAS**, “sideshow” means an event in which two or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators; and

**WHEREAS**, participants in a sideshow include drivers or passengers of the involved vehicles, and any pedestrians, drivers, or passengers who barricade or prevent access to a highway or other property where the motor vehicle sideshow is being performed, and an aider or abettor to a motor vehicle sideshow includes any person who organizes, facilitates, encourages, or promotes a sideshow; and

**WHEREAS**, existing law makes it a crime to engage in a motor vehicle speed contest on a highway, reckless driving on a highway, reckless driving in an off-street parking facility, or an exhibition of speed on a highway, and existing law allows a peace officer to arrest a person and seize the motor vehicle of the person if the peace officer determines that the person was engaged in these activities, and existing law allows a vehicle seized for these purposes to be impounded for up to 30 days; and

**WHEREAS**, sideshows cause significant damage to city infrastructure by destroying intersection markings, street signs, poles, and other equipment that requires replacement after a sideshow event that diverts resources from other critical safety improvements; and

**WHEREAS**, sideshows require extraordinary police response costs that divert officers from responding to other emergencies at a time when violent crime rates are high and typically occur during times when the police department is already addressing high call volumes; and

**WHEREAS**, sideshows create an unsafe environment for the communities in which they occur due to participants driving recklessly, often under the influence of drugs and alcohol, and

have often been associated with the discharge of firearms, resulting in a higher violent crime rates; and

**WHEREAS**, sideshows drastically impact the quality of life in the communities where they occur by causing damage to vehicles and private property, reduced air quality due to the smoke released by burning rubber tires, noise pollution, and unmanageable crowds that leave behind garbage; and

**WHEREAS**, promoters of sideshows attract hundreds of people from outside of Oakland that have no stake in the community and typically plan events in frontline neighborhoods that already suffer from poverty, higher crime rates, historic disinvestment and the resulting poor equity indicators; and

**WHEREAS**, the City has a responsibility to prioritize its resources to serve those communities, to reduce the trauma associated with historic injustice that is further inflamed by sideshow events,

**THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 1: Title 10, Chapter 10.74 of the Oakland Municipal Code is hereby added to read as follows (additions are shown in underline; deletions are shown as ~~striketrough~~):

**Sections:**

**10.74.010      Title.**

This chapter shall be known as the Oakland sideshow ordinance.

**10.74.020      Purpose.**

This chapter establishes the elements necessary for spectators and organizers of Sideshows, Street Races and Reckless Driving Exhibitions to be held accountable.

**10.74.030      Definitions.**

As used in this chapter:

- A. “Street Race” 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.
- B. “Reckless Driving Exhibition” shall mean any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.
- C. “Sideshow” means an event in which two or more persons block or impede traffic on a highway or other public place open to vehicle traffic, or access private property

without the consent of the owner, operator, or agent thereof, for the purpose of performing motor vehicle stunts, motor vehicle speed contests, motor vehicle exhibitions of speed, or reckless driving, for spectators

- D. “Offstreet Parking Facility” is defined in subdivision (c) of California Vehicle Code Section 12500, as may be amended.
- E. “Spectator” shall mean any person who is present at a Sideshow, Street Race or Reckless Driving Exhibition, or the site of the Preparations for either of these activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses. A “Spectator” includes any person at the location of the event without regard to the means by which the person arrived.
- F. A person is “present” at the Sideshow, Street Race or Reckless Driving Exhibition if that person is within two hundred (200) feet of the location of the Sideshow, Street Race or Reckless Driving Exhibition, or within two hundred (200) feet of the site of the Preparations for either of these activities.
- G. “Preparations” for any Sideshow, Street Race or Reckless Driving Exhibition include, but are 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. One (1) or more persons have gathered on, or adjacent to, a public street or highway;
  3. One (1) or more persons have gathered in an Offstreet Parking Facility;
  4. One (1) or more persons have impeded the free public 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.

#### **10.74.040 Spectators Prohibited at Street Races and Reckless Driving Exhibitions**

- A. It shall be unlawful for any person to:
1. Be knowingly present as a Spectator at a Sideshow or Street Race

conducted on a public street or highway; or

2. Be knowingly present as a Spectator at a Sideshow or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.

B. It shall be unlawful for any person to:

1. Be knowingly present as a Spectator where Preparations are being made for a Side show or Street Race conducted on a public street or highway; or

2. Be knowingly present as a Spectator where Preparations are being made for a Sideshow or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.

C. Nothing in this Section prohibits peace officers or their agents who are acting in the course of their official duties from being Spectators at a Sideshow, Street Race or Reckless Driving Exhibition or Spectators at the location of Preparations for either of these activities.

**10.74.050 Encouraging Spectators to Gather at Street Races and Reckless Driving Exhibitions Prohibited**

- A. It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aid, or abet:
1. The gathering of persons as Spectators at a Sideshow or Street Race conducted on a public street or highway; or
  2. The gathering of persons as Spectators at a Sideshow or Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.
- B. It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aid, or abet:
1. The gathering of persons as Spectators where Preparations are being made for a Street Race conducted on a public street or highway; or
  2. The gathering of persons as Spectators where Preparations are being made for a Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.

**10.74.060 Relevant Circumstances to Prove a Violation**

- A. Notwithstanding any other provision of law, to prove a violation of this Chapter, admissible evidence may include, but is not limited to, any of the following:
1. That the person charged has previously participated in or been a Spectator at a Sideshow, Street Race or Reckless Driving Exhibition;
  2. That the person charged has previously aided and abetted Street Racing;
  3. That the person charged has previously attended a Street Race or Reckless Driving Exhibition; or
  4. That the person charged was previously present at a location where Preparations were being made for a Sideshow, Street Race or Reckless Driving Exhibition, or where a Sideshow, Street Race or Reckless Driving Exhibition was in progress.
  5. Evidence of these prior acts may be admissible, to the fullest extent permissible by law, to show the opportunity, intent, plan, knowledge, identity, or the absence of a mistake or accident, or propensity of the defendant to be present at or attend a Street Race or a Reckless Driving Exhibition if the prior act or acts occurred within three (3) years of the presently charged offense. These prior acts may always be admissible to show knowledge on the part of the defendant that a Street Race or a Reckless Driving Exhibition was taking place.
- 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 time of day;
  2. The nature and description of the Scene, including the number and configuration of traffic lanes;
  3. The number of people at the Scene;
  4. The location of the person charged in relation to any person or group of persons present at the Scene;
  5. The number and descriptions of motor vehicles at the Scene;
  6. That the motor vehicles at the Scene have been modified or altered to increase power, handling, or visual appeal;
  7. That the person charged drove or was transported to the Scene.
- C. For purposes subsection B., above, “Scene” refers to the location of the Sideshow, Street Race or Reckless Driving Exhibition or the location of the Preparations for the Sideshow, Street Race or Reckless Driving Exhibition.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT  
FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST:

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ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

**NOTICE AND DIGEST**

**ORDINANCE ADDING CHAPTER 10.74 TO THE OAKLAND MUNICIPAL  
CODE IMPOSING FINES AND PENALTIES AGAINST ORGANIZERS AND  
BY-STANDER PARTICIPANTS**

This Ordinance will add Oakland Municipal Code Chapter 10.74 (the Sideshow Ordinance) to attach penalties to anyone who organizes, promotes, supports, attends or otherwise participates in sideshows in Oakland, California.