




AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Joe DeVries
Deputy City Administrator

SUBJECT: Sideshow Promoter and By-Stander
Participant Ordinance

DATE: November 1, 2022

City Administrator Approval 

Date: Nov 4, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Adding Chapter 10.74 To The Oakland Municipal Code Imposing Fines And Penalties Against Organizers And By-Stander Participants Of Sideshows

EXECUTIVE SUMMARY

Sideshows and related dangerous driving behaviors including “donuts” are a significant safety and quality of life concern for Oakland residents – as well as the region, are impacting City streets, and are a vexing challenge for local governments. The City of Oakland has been working with agencies throughout the region to develop, test and implement strategies to mitigate this growing concern. One of the strategies implemented in San Jose, CA is a Sideshow Organizer and By-Stander Ordinance. This report and recommendation are for the City Council to adopt a similar ordinance which specifically targets those who use social media to attract large numbers of people to Oakland’s neighborhoods for these events, and the people who assist the promoters in blocking off the street to allow the event to occur. Adoption of the proposed ordinance will add Chapter 10.74 to the Oakland Municipal Code and provide the Oakland Police Department (OPD) with an additional tool to address these dangerous events more effectively.

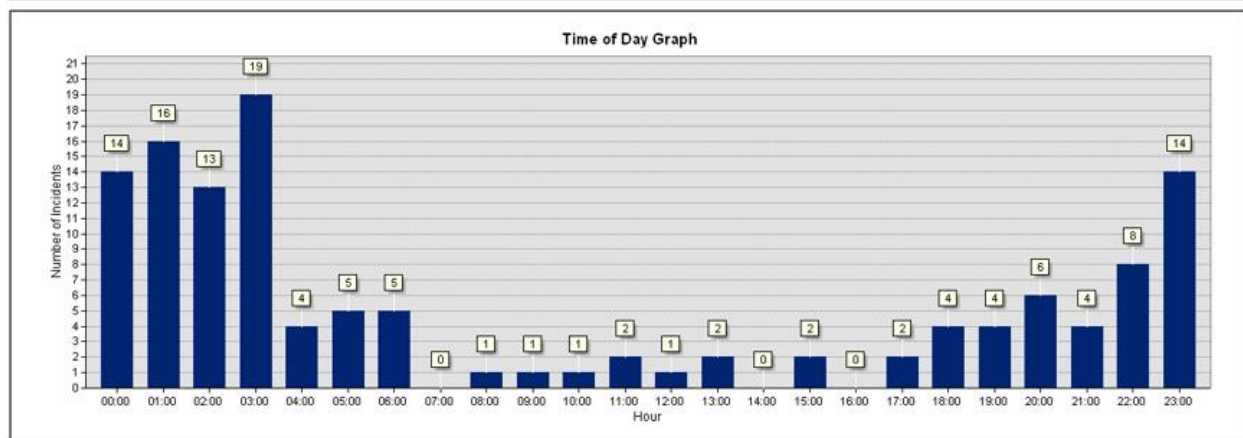
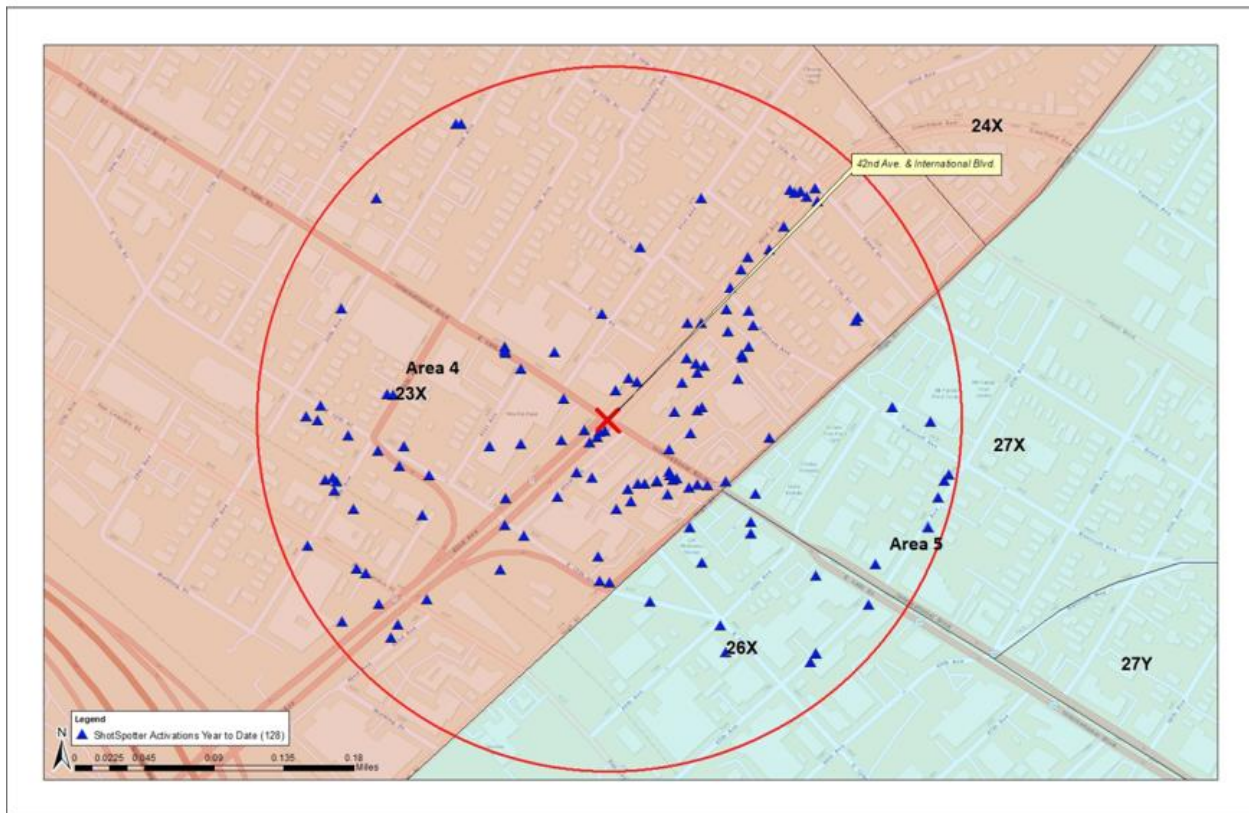
BACKGROUND / LEGISLATIVE HISTORY

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 higher violent crime rates. sideshows drastically impact the quality of life in the communities where they occur by causing damage to nearby vehicles and private property, reduced air quality due to the smoke released by burning rubber tires, trauma-inducing noise pollution, and unmanageable crowds that leave behind trash and litter. The cumulative impact on families in these communities, especially young children and seniors, is immeasurable. the City has a responsibility to prioritize its resources to serve those communities, to reduce the trauma associated with historic racial injustice that is further inflamed by sideshow events.

Public Safety Committee
November 14, 2022

Promoters of sideshows often attract hundreds of people, many from outside of Oakland that may 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.

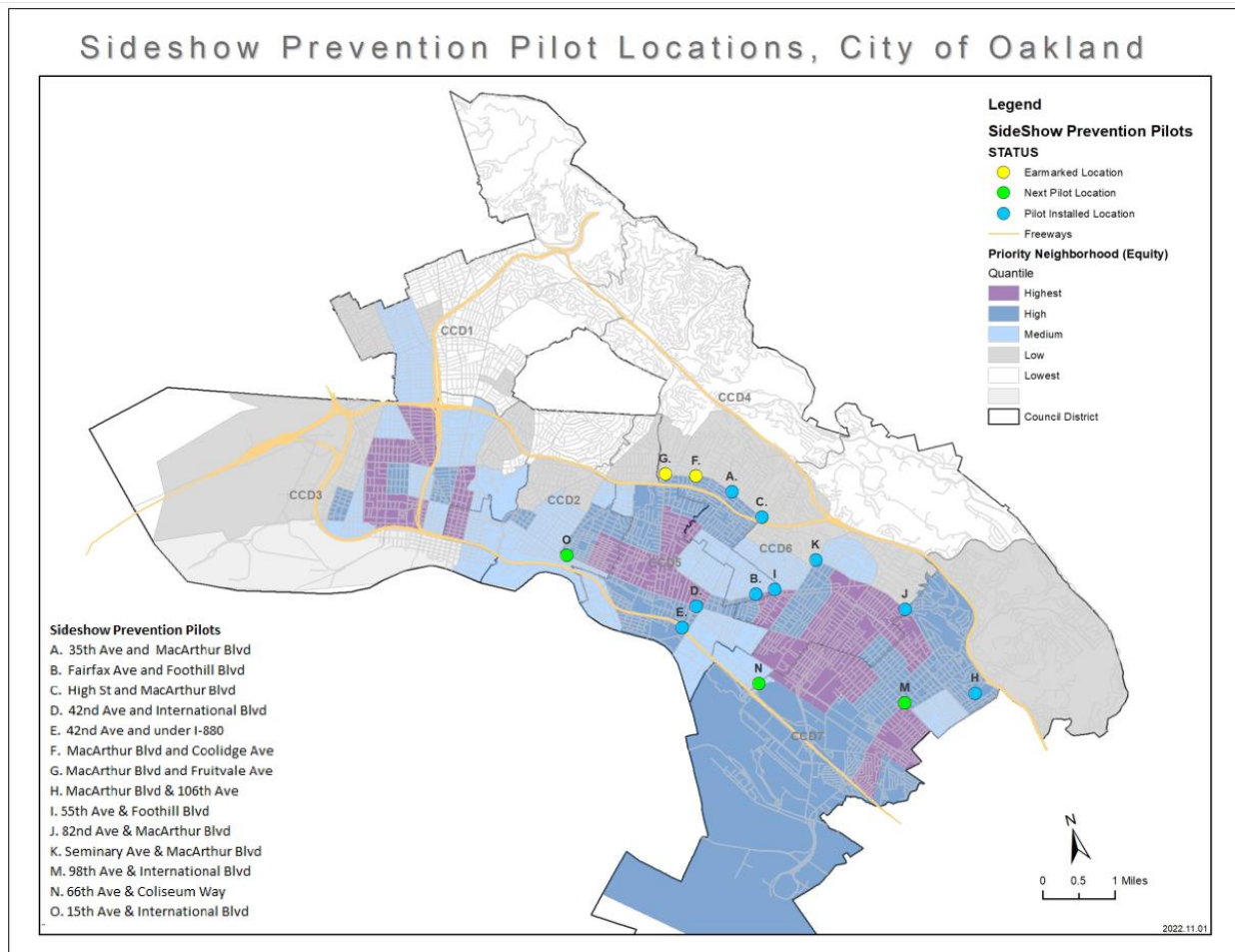
The map below depicts a ShotSpotter analysis of an area 1/6th of a mile around one of the most problematic Sideshow areas, commonly referred to as “The Pit.” It demonstrates significant gun activity in the area. The graph below displays a time-of-day analysis demonstrating a significant majority of the gunshots are during the hours of 11pm to 3am, when sideshows typically occur in the area.



Impacted Neighborhoods

Because there are no established best-practice strategies to prevent sideshows, the City has embarked on an inter-departmental pilot led by OPD and the City Administrator's Office (CAO) with support from the Oakland Department of Transportation (OakDOT) to implement engineering strategies to support enforcement efforts at some of the most impacted intersections in Oakland. OPD has identified 12 priority intersections that have or will receive treatments in this budget cycle with funding from the Sideshow Prevention Pilot funds, in addition to two intersections identified for treatments via earmarks from the District 4 Council Office. For more information about those efforts, please visit <https://www.oaklandca.gov/topics/sideshow-prevention-efforts>.

The map below depicts where OakDOT treatments are being deployed and demonstrates that every location is one of the City's Highest Priority or High Priority Equity Neighborhoods. These are neighborhoods with the largest racial inequities. Very High Priority Neighborhoods are depicted in light purple while High Priority Neighborhoods are depicted in darker blue. The Pilot (blue and green) locations were identified by OPD as the most impacted locations. The Earmarked locations were identified by the District 4 Council office. the treatments include items such as "Bots-Dots" and hardened or raised centerlines, and traffic diverters that are installed to make it more difficult to spin tires and perform doughnuts, making the intersections less attractive for sideshows.



City staff hear from residents throughout the Highest Priority Equity Neighborhoods on a regular basis, asking for attention to their corner to help reduce the impact of sideshows on their families. OPD lists the following as the top six intersections with the largest and most frequent sideshow events in 2021 with total participants typically ranging from 100 to as many as 900 at a single event:

- 42nd Ave & International Blvd.
- 98th Ave & International Blvd.
- MacArthur Blvd. & 106th Ave
- 35th Ave & MacArthur Blvd.
- 15th Ave & International Blvd.
- 66th Ave & Coliseum Way

Participants

Arrest and citation data for sideshows shows a relatively small number of persons are either cited or arrested and this is in large part due to the challenging nature of sideshow events. Officers struggle to gain access to the center of a sideshow and participants typically flee and continue to exhibit reckless driving behavior to avoid police. Therefore, OPD will attempt to follow-up after-the-fact by visiting the addresses where the vehicles are registered.

From January of 2021 to September 2022 there were approximately 57 arrests and/or citations issued. Of those arrested or cited:

66% were Hispanic (38/57)
15% were African American (9/57)
14% were White/Other (8/57)
33%, or 19 of 57, were Oakland residents.

The fact that two thirds of participants in Oakland sideshows are not from Oakland is an example of how Oakland is shouldering an unfair burden of criminal activity perpetrated by outsiders.

Fiscal Costs of Sideshows

The outsized financial burden of sideshows to the public is evident in the significant damage to city infrastructure they cause by destroying intersection markings, street signs, poles, and other equipment that requires replacement after a sideshow event. This diverts resources from other critical safety improvements. Sideshows also represent an outsized impact on police resources.

OakDOT Support

OakDOT estimates the cost of the damage caused by sideshow activity at a typical intersection averages \$16,000 per intersection to repair damages to pavement markings. The City Council allocated \$650,009 in the FY2021-23 Budget Cycle to sideshow prevention efforts that target the most impacted locations identified by OPD with the above-mentioned intersection treatments, in addition to \$150,000 earmarked by District 4 for the MacArthur/Coolidge and MacArthur/Fruitvale intersections.

OPD Support

Sideshows also represent extraordinary police response costs that divert officers from responding to other emergencies at a time when violent crime rates are high. The events typically occur on weekend evenings during times when OPD is already addressing high call volumes, impacting public safety and response times even further.

OPD deploys small teams which minimally take 17 personnel (1 lieutenant, 2 sergeants, and 16 officers) and cost an average of \$18,496 per operation, or standard teams which minimally take 28 personnel (1 lieutenant, 3 sergeants, 24 officers) with average cost of \$27,116 per operation. Due to the size of some sideshows, each team often needs supplementing with an additional sergeant and 4 additional officers, at an average cost of \$6,109 per operation.

Small teams staffing levels have a nominal impact on sideshow crowds due to officer safety concerns when they grow above 50 people, which Sideshows often do. Additionally, OPD struggles to fill standard teams consistently due to staffing shortages and competing urgent patrol needs.

The department ran one team each Saturday and Sunday, for a total of 8 teams per month from March 2022 through November 2022. Based on the average cost of each operation, OPD budgets \$1.8 million annually for its sideshow, however the sideshow detail's related expenditures may exceed \$1.8 million for 2022. This is in-part due to the added cost of the helicopter unit that often is diverted to large sideshow events to provide aerial support.

The combined costs of OakDOT engineering solutions described above and OPD enforcement costs far exceed \$2 million annually. It is unrealistic for the City to expect to be able to treat every intersection and it is essential that police officers refocus their efforts on other safety priorities.

The proposed Sideshow Organizer and By-Stander Ordinance (Ordinance) would give the City new enforcement tools to target those who are most responsible for these events; the promoters and those that aid them in preparing for and spectating at a sideshow. This includes seeking injunctions to prevent the organizer from using social media and penalties for bystanders who use their vehicles to block intersections to allow the event to occur.

ANALYSIS AND POLICY ALTERNATIVES

The California Vehicle Code makes it a crime to engage in a motor vehicle speed contest on a highway, drive recklessly on a highway, drive recklessly in an off-street parking facility, or exhibit speed on a highway. The California Vehicle Code also allows a peace officer to arrest a person and seize their motor vehicle if the peace officer determines that the person engaged in these activities. Police can impound the vehicle for up to 30 days.

The proposed Sideshow Organizer and By-Stander Ordinance would add a new enforcement tool to the existing code by prohibiting the promotion, preparation for, and participation in sideshows. The Ordinance would allow OPD to take action against the small number of individuals who are causing the largest and most dangerous sideshow events. The new law would rely on state vehicle and nuisance law. After working up a record showing the illegal behavior, courts will be asked to impose anything from civil injunctions to fines and penalties based upon the harm or injury established by the record. This would allow intelligence-based

policing to target specific individuals by gathering evidence that is to some extent readily available on social media.

The Ordinance would also allow police to take enforcement action against those who park their own vehicles in a manner to block the intersection and set the stage for a sideshow. These “by-standers” are an integral part of the production and now could have their cars seized. The Ordinance provides clear definitions of what activity would be considered and relies heavily on evidence of past involvement in sideshows to establish a pattern of violations.

The Ordinance’s definition of a by-stander or spectator applies to those who are found within 200 feet of the location of a sideshow, street race, or the site of the preparations for these activities, for the purpose of viewing, observing, watching, or witnessing the event as it progresses.

The Ordinance requires evidence that includes “preparations” for any sideshow, street race or reckless driving exhibition, including when persons have arrived at a predetermined location on a public street, highway, or in an off-street parking facility, and have impeded the free use of a public street, highway, or off-street parking facility. Impediments of the free use of a public street include acts, words, or physical barriers, or lining up vehicles on a public street. The Ordinance also requires the person charged previously aided and abetted street racing, previously attended a street race or reckless driving exhibition, or was previously present at a location where preparations were being made for a sideshow, street race or reckless driving exhibition, or where a sideshow event was in progress.

This narrow focus will allow OPD to only pursue those most involved in creating these events while protecting those persons who may have innocently been found to be in the location of a sideshow by happenstance. Most importantly, the evidence that the person has been at a prior sideshow (which OPD could track through warnings that have been issued at prior events) will provide a compelling case to cite a participant.

The City Council must weigh the cost of increased criminal penalties and the associated consequences on the small number of individuals promoting and preparing sideshows with the cost to the greater Black Indigenous People of Color (BIPOC) community which is overwhelmingly where these events take place. The above-mentioned costs to local government, the health and environmental impact, the trauma and stress created by the noise and air pollution, and the damage to private property, homes, and vehicles all weigh on these neighborhoods.

The map and intersection analysis earlier in this report demonstrate that every location impacted by large scale sideshow events are in one of the City’s highest priority or high priority equity neighborhoods. These are neighborhoods with the largest inequities according to the OakDOT Equity Toolbox Analysis conducted in 2018.

The Council should decide that the cost of sideshows to the wider community is of greater impact to the City’s overall equity score than the cost of the enforcement actions against the few who are organizing these illegal gatherings.

Adoption of the proposed ordinance advances the Citywide priorities of:

1. Holistic community safety by reducing the incidence of these dangerous events.

3. Vibrant sustainable infrastructure by reducing the damage caused by sideshows to the intersections where they occur.
4. Responsive trustworthy government by implementing new strategies to address a problem that residents have voiced concern about for many years.

FISCAL IMPACT

Adoption of the proposed ordinance would not create any new costs, but it would create new enforcement tools that would require OPD and City Attorney staff time. If successful in reducing large-scale sideshows, this ordinance could contribute to savings due to fewer OPD deployments and a reduced need to spend OakDOT resources installing sideshow deterrents and repairing intersections.

PUBLIC OUTREACH / INTEREST

The topic of sideshows is consistently raised as a priority problem at Neighborhood Council Meetings due to the impact on the neighborhoods where they occur. In 2021 during an OakDOT Town Hall on its Safe Oakland Streets Initiative, a strong public desire was expressed for the City to take more action to curb sideshow activity citywide.

COORDINATION

The City Administrator's Office, OakDOT, OPD, and the Office of the City Attorney work in coordination implementing ongoing sideshow efforts. In researching this ordinance, staff consulted with representatives from San Jose's Police Department and City Attorney's Office about drafting and implementation since San Jose implemented similar measures in 2020 with successful outcomes.

SUSTAINABLE OPPORTUNITIES

Economic: Reducing sideshows will create a safer and more attractive environment for business investment and growth. Commercial storefront properties in the impacted neighborhoods will be more likely to stay open and attract customers if people feel they can frequent these areas without being caught in a sideshow. Business will avoid the damage sustained by these events and be able to reinvest those dollars in job creation and business expansion.

Environmental: Reducing the incidence of sideshows will reduce the air pollution generated by the burning tires when a car spins donuts which will have an immediate effect on air quality in the vicinity of the activity. Reducing the debris left behind by spectators and when sideshows cause vehicles to lose control and crash will avoid pollutant run-off into the storm water system. Reducing the noise pollution of these events will reduce the health impact on people and animals in the surrounding area.

Race & Equity: Reducing the number of sideshows in frontline communities will reduce the harm that they cause and improve public safety, economic activity, and the physical environment for those residents.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt An Ordinance Adding Chapter 10.74 To The Oakland Municipal Code Imposing Fines And Penalties Against Organizers And By-Stander Participants Of Sideshows

For questions regarding this report, please contact Joe DeVries, Deputy City Administrator, at (510) 238-3083.

Respectfully submitted,



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