



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Joe DeVries  
Deputy City Administrator

**SUBJECT:** SUPPLEMENTAL Sideshow Promoter  
and By-Stander Participant Ordinance

**DATE:** December 13, 2022

City Administrator Approval

Date: Dec 15, 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 Facilitators Of Sideshows**

## **REASON FOR SUPPLEMENTAL**

The City Council considered this ordinance at its meeting on December 6, 2022 but tabled its decision to its December 20, 2022 meeting, citing concerns raised by Councilmember Kalb about the specificity of the language in the draft ordinance. Of primary concern was the use of the word "Spectator" and a lack of clarity as to when a person could be charged with either promoting or assisting in the creation of a sideshow. Councilmember Kalb convened a working session with Councilmember Gallo and staff from the Oakland Police Department (OPD), the City Attorney's Office, and the City Administrator and crafted an amended ordinance for the City Council to consider.

### Key Changes:

The amended ordinance removes any reference to a "Spectator" or a "Bystander Participant" and instead refers to "Facilitators." This removes any doubt that one could be criminally cited for merely being present at a sideshow whether willingly, deliberately, or by chance.

The amended ordinance maintains the definition of "Organizing" a sideshow but adds the act of facilitating those actions to the definition of what actions are punishable under the law. Specifically, the amended ordinance states that (1) it shall be unlawful for any person to knowingly organize, promote, instigate, assist, facilitate, aid, or abet, or (2) knowingly impede, obstruct, or delay peace officers in performance of their duties before, at or following a sideshow. The addition of (2) is important to allow OPD to cite those who use their vehicle or a human blockade to impede officers from performing their duties. This clarifies that it takes specific acts either before, during, or after a sideshow that impede police before an individual can be cited.

The amended ordinance also adds a section regarding criminal and civil penalties. Violating any portion of the municipal code is already considered a misdemeanor punishable by

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imprisonment for up to six months or by a fine not exceeding one thousand dollars (\$1,000.00), or by both. The ordinance now states that.

The amended ordinance also now contains a section on civil penalties. The City's strategy has always included the possibility of pursuing civil action against violators including seeking injunctions against those using social media to create large scale events. This is an area that other cities have found effective.

This amended ordinance preserves the ability for the City to take action against those most responsible for these events while ensuring that people who are merely spectators will not be cited.

### **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 Facilitators Of Sideshows.

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

Respectfully submitted,



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Joe DeVries,  
Deputy City Administrator

Reviewed by:

William Febel, Lieutenant,  
Oakland Police Department

Tricia Shafie, Deputy City Attorney  
Office of the City Attorney