



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER WANG

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 10.74 (SIDESHOWS) TO: (1) INCREASE PENALTIES FOR SIDESHOW PARTICIPANTS AND SPECTATORS; (2) BROADEN THE DEFINITION OF MOTOR VEHICLES; (3) STRENGTHEN IMPOUNDMENT AUTHORITY; AND (4) CREATE ENFORCEMENT EXEMPTIONS FOR CERTAIN MEMBERS OF THE PUBLIC, LAW ENFORCEMENT AND MEDIA PERSONNEL

WHEREAS, Sideshows, reckless driving exhibitions, and similar activities pose severe threats to public safety, including collisions, serious injuries, and fatalities; and

WHEREAS, in Oakland, sideshows have been repeatedly associated with firearms and gun violence, creating extraordinary risks to participants, spectators, bystanders, and first responders; and

WHEREAS, Facilitators and promoters are primarily responsible for recruiting drivers and drawing large crowds, while spectators contribute by encouraging the conduct, forming blockades, and amplifying the activity; and

WHEREAS, ATVs, dirt bikes, and off-highway motorbikes are increasingly used in illegal ride-outs and stunt events on Oakland streets, creating dangers comparable to automobile-based sideshows; and

WHEREAS, Vehicles used in sideshows are frequently borrowed, leased, or registered to parties other than the driver, creating a loophole that undermines deterrence; and

WHEREAS, the City incurs substantial public safety costs from sideshows, including police overtime, fire department deployment, emergency medical services, and public works cleanup; and

WHEREAS, to protect Oakland residents and recover costs, the City must impose higher civil penalties, broaden the ordinance to cover additional vehicles, and strengthen impoundment authority; and

WHEREAS, existing civil penalties under Oakland Municipal Code Chapter 10.74 have not provided adequate deterrence, and the City Council finds it necessary to increase penalties for sideshow participants, facilitators, and promoters; and

WHEREAS, the City Council finds it appropriate to strengthen vehicle impoundment authority to cover all motor vehicles used in sideshow violations, regardless of whether the operator is the registered owner, and to establish joint and several liability among participants for costs and damages; and

WHEREAS, the City Council finds it necessary to establish clear exemptions for law enforcement officials acting in the course and scope of their duties, members of the media engaged in news coverage, and members of the public who are merely observing or reporting on events without participating in or facilitating them; and

WHEREAS, the City Council further finds it necessary to require annual reporting on enforcement activity, demographic data, fiscal transparency, and community impact in order to monitor the effectiveness and equity of this Chapter's implementation; and

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

SECTION 1. Recitals. The City Council of the City of Oakland hereby determines that the preceding recitals are true and correct and an integral part of the Council's decision to enact this legislation, and hereby adopts and incorporates them into this Ordinance.

SECTION 2. Amendment of Oakland Municipal Code Section 10.74.030 (Definitions). Oakland Municipal Code 10.74.030 is hereby amended as set forth below (additions are shown as double underline and deletions are shown as ~~striketrough~~).

10.74.030 Definitions.

~~The following terms are defined for use~~ As used in this Chapter:

- A. "Motor Vehicle" for purposes of this chapter shall include, but not be limited to, automobiles, trucks, motorcycles, all-terrain vehicles (ATVs), dirt bikes, off-highway vehicles, and motorized scooters, whether or not such vehicles are registered for lawful operation on public streets.
- B. "Offstreet Parking Facility" is defined in subdivision (c) of California Vehicle Code Section 12500, as may be amended.
- C. "Preparations for," "Organizing, or "Facilitating" 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. 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 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. One (1) or more drivers is demonstrating or performing automotive stunts including, but not limited to, spinning doughnuts, vehicles swerving back and forth, burning rubber, spinning cars, racing or obstructing any public street, highway or in an offstreet parking facility.
 8. A person is standing or sitting in a location to act as a race starter.
- D. 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 without lawful purpose.
- E. "Reckless Driving Exhibition" shall mean any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.
- F. "Sideshow" means an event in which two (2) 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.
- G. "Spectator" shall mean any person present, as "present" is defined herein, at a sideshow, street race or reckless driving exhibition and assembling to obstruct the public right of way or private property without the owner's consent, calculated to enable a sideshow, street race or reckless driving exhibition.
- H. "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.

SECTION 3. Amendment of Oakland Municipal Code Section 10.74.040 (Organizing or facilitating sideshows, street races and reckless driving exhibitions prohibited). Oakland Municipal Code 10.74.040 is hereby amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

10.74.040 Organizing or facilitating sideshows, street races and reckless driving exhibitions prohibited.

- A. It shall be unlawful for any person to (1) 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 immediately following:
 - 1. A sideshow or street race or the gathering of persons at a sideshow or street race conducted on a public street or highway; or
 - 2. A sideshow or reckless driving exhibition or the gathering of persons 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) 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 immediately following:
 - 1. Preparations for a sideshow or street race or the gathering of persons where preparations are being made for a sideshow or street race conducted on a public street or highway; or
 - 2. Preparations for a sideshow or reckless driving exhibition or the gathering of persons 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. Geographic proximity to a sideshow, street race or reckless driving exhibitions alone is insufficient evidence to meet the criteria to be found guilty of organizing or facilitating in violation of this Chapter.

SECTION 4. Amendment of Oakland Municipal Code Section 10.74.050 (Relevant circumstances to prove a violation). Oakland Municipal Code 10.74.050 is hereby amended as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

10.74.050 Relevant circumstances to prove a violation; Standard of proof.

A. Notwithstanding any other provision of law, to prove a violation of this Chapter, a preponderance of admissible evidence may include, but is not limited to, any of the following:

1. That the person ~~charged~~ cited has previously participated in or organized, promoted, instigated, assisted, facilitated, aided, or abetted at a sideshow, street race or reckless driving exhibition;
2. That the person ~~charged~~ cited has previously aided and abetted street racing;
3. That the person ~~charged~~ cited 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.
4. 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, 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 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 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.

SECTION 5. Amendment of Oakland Municipal Code Section 10.74.060 (Penalties and violations). Oakland Municipal Code 10.74.060 is hereby amended as set forth below (additions are shown as double underline and deletions are shown as ~~strike through~~)

10.74.060 Enforcement, administrative assessment, other remedies.

- A. A violation of this Section shall be subject to enforcement through criminal prosecution and/or civil fines, penalties and/or assessments, as provided herein.
 1. Violation a Misdemeanor. A person who violates this Chapter shall be guilty of a misdemeanor punishable by imprisonment in the County jail not exceeding six (6) months or by fine not exceeding one thousand dollars (\$1,000.00), or by both. Each violation shall be deemed a distinct and separate offense that may be charged by the District Attorney.

~~B.— Civil Penalties. The City may seek civil injunctions or assess penalties for violations of this Chapter pursuant to state and local law.~~

~~1. The City may assess the following penalties for violations of this Chapter:~~

~~a. One thousand dollars (\$1,000.00) for the first violation;~~

~~b. Two thousand five hundred dollars (\$2,500.00) for the second violation; and~~

~~c. Five thousand dollars (\$5,000.00) for the third violation and for each subsequent —violation committed within a calendar year.~~

~~2. The City may recover damages caused by any violation of this Section.1.~~

B. The City may administratively assess fines as follows:

1. Spectators.

Any person who is present at, aids, or encourages a sideshow shall be subject to a civil fine of:

a. \$1,500 for a first offense.

b. \$3,000 for a second offense within three (3) years of the first offense.

c. \$5,000 for a third or subsequent offense within three (3) years of either the first or subsequent offense.

2. Promoters and Facilitators.

a. Any person who organizes, promotes, or facilitates a sideshow shall be subject to a civil fine of not less than \$10,000 and not more than \$20,000 per violation.

b. Any person who organizes, promotes, or facilitates a sideshow within three (3) years of a single violation of this section shall be subject to a civil fine of not less than \$20,000 and not more than \$30,000 per violation.

c. Any person who organizes, promotes, or facilitates a sideshow within three (3) years of a second or subsequent violation of this section shall be subject to a civil fine of not less than \$30,000 and not more than \$50,000 per violation.

C. Cost Recovery.

In addition to the fines above, the City may impose a cost-recovery fee in accordance with the current Master Fees Schedule to recover expenses incurred by the City as a result of the sideshow, including but not limited to police, fire, emergency medical services, and public works cleanup.

D. Appeal of Fines or Fees.

Any person cited and assessed a fee or fine under this Chapter may file an appeal in accordance with procedures established by the City Administrator.

E. Civil Actions.

The City Attorney is authorized to bring civil actions for damages, injunctions, restitution, and penalties against offenders under this chapter.

F. Vehicle Impoundment.

In accordance with California Vehicle Code Section 23109.2:

1. Any motor vehicle used in violation of this Chapter shall be subject to impoundment for up to thirty (30) days, regardless of whether the operator is the registered owner.
2. The registered owner shall be responsible for all towing and storage fees, unless the registered owner demonstrates by a preponderance of the evidence that:
 - a. The vehicle was used without the owner's knowledge or consent; or
 - b. The vehicle was reported stolen prior to the violation.
3. Any registered owner who knowingly permits or consents to the use of their vehicle for a sideshow or reckless driving exhibition shall be jointly liable for civil penalties and costs imposed under this Chapter.
4. The registered owner of a vehicle impounded under this chapter may file an appeal in accordance with the procedures established by the Oakland Police Department.

G. Joint and Several Liability. Any person who violates this Chapter is jointly and severally liable with any other person who participates for all costs, damages, penalties, and attorneys' fees related to the illegal sideshow event.

SECTION 7.

Addition of Oakland Municipal Code Section 10.74.65. Oakland Municipal Code 10.74.065 is hereby added to the Municipal Code as set forth below (additions are shown as double underline~~strikethrough~~).

10.74.65 Exemptions

Sections 10.74.020, 10.74.030, 10.74.040, 10.74.050 and 10.74.060 of this Chapter shall not apply to:

- A. Law enforcement officials engaged in the course and scope of their duties;
- B. Members of the media engaged in the course and scope of their duties; and
- C. Members of the public who are merely observing and/or reporting on the sideshow, street race or reckless driving exhibition, provided they are not refusing to disperse, otherwise obstructing, or aiding and abetting in the organization or promotion of the sideshow, street race or reckless driving exhibition.

SECTION 8. The City Administrator shall submit a written informational report to the City Council every year beginning August 2027, which shall contain the following information: (1) Law Enforcement Activity, documenting the total number of fines assessed and collected under this ordinance; (2) demographic information for individuals arrested or cited by race/ethnicity, gender identity, age, and home city; (3) Fiscal Transparency, detailing the total dollar amount of fines assessed, and the costs associated with collections attempts; (4) Community Impact & Equity Review to identify any unintended consequences or disparities that may require future policy adjustment. This annual report should also assess the overall impact on number and frequency of sideshow events.

SECTION 9. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 10. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

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

3471999/JB

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 10.74 (SIDESHOWS) TO: (1) INCREASE PENALTIES FOR SIDESHOW PARTICIPANTS AND SPECTATORS; (2) BROADEN THE DEFINITION OF MOTOR VEHICLES; (3) STRENGTHEN IMPOUNDMENT AUTHORITY; AND (4) CREATE ENFORCEMENT EXEMPTIONS FOR CERTAIN MEMBERS OF THE PUBLIC, LAW ENFORCEMENT AND MEDIA PERSONNEL

This ordinance would amend Oakland Municipal Code Chapter 10.74 by increasing the civil penalties that can be assessed against sideshow participants and spectators (as they are defined), broadening the definition of covered vehicles to include those with fewer than 4 wheels and off-road or all-terrain vehicles (ATVs), strengthening impoundment authority in alignment with California Vehicle Code Section 23109.2, and by creating exemptions from the ordinance for law enforcement and certain members of the public and media personnel engaged in lawful activities proximate to a sideshow.