



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia

**SUBJECT: PROHIBIT SPECTATORS AT STREET
RACES AND RECKLESS DRIVING
EXHIBITIONS**

DATE: April 17, 2019

Approved

Date

4/18/19

RECOMMENDATION

Approve an ordinance amending Title 10 of the San José Municipal Code to include Chapter 10.50 which prohibits spectators at Street Races and Reckless Driving Exhibitions.

OUTCOME

Approving this ordinance would make it unlawful to attend an illegal street race and reckless driving exhibition as a spectator, providing the Police Department with an additional tool to enforce against the dangerous practice of street racing and reckless driving exhibitions in San Jose.

BACKGROUND

San Jose has had a long history of illegal street racing and reckless driving exhibitions on City streets. These contests, known as Street Racing or Sideshows (involving activities such as drifting, burnouts, and donuts) are held throughout the city on a weekly basis. They pose a threat to the safety of San José streets as well as residents' quality of life.

In the late night and early morning hours, hundreds of illegal street racers and spectators converge on various public streets and off-street parking facilities in both commercial and residential neighborhoods. These juveniles and adults block the streets with their cars, set up improvised racetracks and exhibition areas for reckless driving complete with individuals acting as race starters and spectators acting as human guard rails. When patrol cars descend on an illegal sideshow site, the racers and spectators jump back into their cars and caravan to other locations, where they race until the police catch up with them. The racers, traveling at high speeds from location to location, cause traffic congestion and danger to other drivers. The high speeds and reckless driving that characterize street racing and reckless driving exhibitions endanger both participants and members of the public.

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In October of 2018, an alleged street race ended in tragedy when one of the participants struck a passing vehicle, killing an innocent bystander. This is not an isolated incident; street racing predictably causes injuries and deaths. Illegal street racing attracts other criminal activity such as juvenile curfew violations, gambling, fights and disturbances, littering, drinking in public, urinating in public, trespassing, and vandalism, including graffiti and destruction of property.

In the past, the San José Police Department has adopted a variety of staffing strategies to combat this dangerous activity, including enforcement from on-duty personnel, overtime staff and grant funded positions. Currently, the Department enforces against street racing and reckless driving exhibitions only with on-duty personnel. The Department's DragNet and Racing Enforcement Detail (RED team) are active in suppressing racing activity and pursuing suspects under current laws. California Vehicle Code Section 23109(a) prohibits motor vehicle speed contests on public highways, where speed contests are defined as one vehicle racing against another vehicle or against a clock. Section (b) prohibits aiding or abetting such activity, while section (c) prohibits motor vehicle speed exhibitions. California Vehicle Code Section 23103 (a) prohibits a person to drive upon a highway with wanton disregard for the safety of persons or property. Section (b) prohibits a person to drive upon an off-street parking facility with wanton disregard for the safety of persons or property.

Street racing and sideshows attract spectators as well as participants. Sizable crowds will gather to watch races or side shows, where participants exhibit automotive stunts, such as driving in tight circles known as donuts. Spectators will often take video of these events and post them on social media. This behavior can expose street racing to a broader audience and potentially perpetuate the activity and increase its popularity.



In this still from an online video entitled "San Jose Street Racing" a car does donuts in an intersection surrounded by spectators

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In addition to providing an audience for street racing and advertising it on social media, spectators can also help to directly facilitate it. Crowds of spectators can block off intersections and streets from traffic to clear open stretches of road where racing can occur or where automotive stunts can be performed. As they block off intersections or line streets, spectators place themselves in close proximity to speeding vehicles, endangering their own safety as they enable an activity that can endanger others.



Social Media Post encouraging spectators to attend an illegal sideshow in San Jose.

ANALYSIS

The ordinance proposed under this item will provide the Department with an additional tool to discourage street racing. State law provides ample basis to enforce against participants in street racing, but the Department currently struggles to enforce against spectators. Given the important role spectators play in encouraging, popularizing and facilitating these events, discouraging their participation would be an important step in combating the problem. Staff's proposed ordinance would make it illegal to knowingly be a spectator at a street racing event or reckless driving exhibition, either while it is under way or while preparations are being made for it to begin.

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Agencies throughout California have dealt with illegal street racing. Southern California jurisdictions have seen particularly serious problems. In response to these problems, many large jurisdictions have adopted spectator ordinances similar to the one proposed here by staff. The following jurisdictions have adopted such ordinances:

- The City of Los Angeles
- The County of Los Angeles
- The City of Ontario
- The City of San Diego
- The City of Sacramento

Given the threat to safety, commitment to the City's Vision Zero Action Plan and policy capacity in the Department, the Department was able to use these ordinances to craft the proposed ordinance. The proposed ordinance has been drafted to narrowly target only those individuals who knowingly participate as street racing spectators. The ordinance defines a "spectator" as "any person who is present at an illegal motor vehicle speed contest or exhibition of speed for the purpose of viewing, observing, watching, or witnessing the event as it progresses." A spectator is present at a street racing event if they are within 200 feet of the location where the event is being held or where preparations are being made for it to begin.

The ordinance lists types of evidence that would be admissible in proving an individual to be a spectator. Evidence could include description of the scene where street racing is taking place, including the time of day, the number of people at the scene, the location of the person charged in relation to any other people at the scene, the number and description of vehicles at the scene, and the presence of motor vehicles that have been modified or altered to increase power, handling or visual appeal. An individual's past history with street racing can also serve as evidence, including whether they have previously participated in, aided and abetted, or attended an illegal speed contest or speed exhibition.

The Police Department will enforce this ordinance with individuals that are actively blocking streets, access to off-street parking facilities, frustrating law enforcement from contacting reckless driving participants and/or are placing themselves in dangerous situations to film a street race or sideshow. Individuals who violate this ordinance will be guilty of a misdemeanor and can be punished by a fine up to one thousand dollars or by imprisonment in the county jail for a period not exceeding six months, or by both a fine and imprisonment.

Council's approved San Jose's Vision Zero Action Plan notes that "one traffic death is one too many." In laying out San Jose's strategy to eliminate traffic fatalities and significantly reduce serious injury crashes, it identifies an important role for traffic enforcement, noting that "illegal behavior and poor judgment by roadway users contribute to many of the fatal crashes in San Jose." Enforcement is an important strategy to encourage individuals to make better choices. The Department is committed to ensuring that the public is safe on San Jose streets. While the proposed ordinance will not end street racing on its own, in concert with the Department's other enforcement strategies it will be a powerful tool to suppress this dangerous practice.

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EVALUATION AND FOLLOW-UP

The Police Department will follow-up with an implementation informational memorandum in 6 months to a year.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the April 30, 2019, Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

There is no City commission recommendation for this proposed ordinance.

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/
EDGARDO GARCIA
Chief of Police

For questions, please contact Brian Anderson, Police Lieutenant, at (408) 277-4102.