

BILL NO. _____

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
AMENDING CHAPTER 9, ARTICLE 26 OF THE FRESNO
MUNICIPAL CODE TO ADD SECTION 9-2610,
“SIDESHOWS, STREET RACES, AND RECKLESS
DRIVING EXHIBITIONS,” PROHIBITING THE KNOWING
PARTICIPATION AS A DRIVER, PASSENGER, OR
SPECTATOR IN SIDESHOW, STREET RACES, OR
RECKLESS DRIVING EXHIBITIONS

WHEREAS, Sideshows, speed exhibitions, street racing, and other reckless driving activities performed for spectators pose a significant risk to public health and safety by endangering pedestrians, other motorists, and the surrounding community; and

WHEREAS, the Council desires to specifically define sideshows, speed exhibition, street racing, reckless driving activities, and the manner in which parties participate in such activities; and

WHEREAS, the Council further desires to prohibit the participation in the above activities either as a driver, passenger, or spectator by amending Chapter 9, Article 26 of the Fresno Municipal Code to add section 9-2610; and

WHEREAS, adding Section 9-2610 to the Fresno Municipal Code is not a project for the purposes of the California Environmental Quality Act pursuant to CEQA Guidelines 15378 because local prohibition of an activity that is currently prohibited by the California Vehicle Code will not have a direct or reasonably foreseeable indirect impact on the environment; and

1 of 10

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: TKB

Ordinance No.

WHEREAS, the Council finds that adoption of this ordinance is in the best interests of the City of Fresno.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9, Article 26, Section 9-2610 is added to the Fresno Municipal Code to read as follows:

Section 9-2610 SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITIONS.

(a) Definitions. For the purposes of this section, the following definitions shall apply:

(1) "Off-street Parking Facility" is defined in subdivision (c) of California Vehicle Code Section 12500, as may be amended.

(2) "Participant" means any individual driving a vehicle which is found to have engaged in a Reckless Driving Exhibition, as referred to in California Vehicle Code Section 23103.

(3) "Passenger" means any individual riding in a vehicle which is found to have engaged in a Reckless Driving Exhibition or Sideshow, as referred to in California Vehicle Code Section 23103.

(4) "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 Side Show, Street Race or Reckless Driving Exhibition.

(i) One or more motor vehicles and persons have arrived at a location on a public street or highway or in an Off-street Parking Facility for the purpose of participating in or

observing a Sideshow, Street Race or Reckless Driving Exhibition; and

(ii) One or more persons have gathered on, or adjacent to, a public street or highway for the purpose of participating in or observing a Sideshow, Street Race or Reckless Driving Exhibition; and

(iii) One or more persons have gathered in an Off-street Parking Facility for the purpose of participating in or observing a Sideshow, Street Race or Reckless Driving Exhibition; and

(iv) One or more persons have impeded the free public use of a public street, highway, or Off-street Parking Facility by acts, words or physical barriers for the purpose of participating in or observing a Sideshow, Street Race or Reckless Driving Exhibition; and

(v) One or more motor vehicles have lined up on a public street, highway, or Off-street Parking Facility with motors running for the purpose of participating in or observing a Sideshow, Street Race or Reckless Driving Exhibition; and

(vi) One or more drivers are revving a motor vehicle's engine or causing the motor vehicle's tires to spin; or

(vii) A person is standing or sitting in a location to act as a race starter.

(5) "Present" means a Spectator is within two hundred feet of the location of the Sideshow, Street Race or Reckless Driving Exhibition, or within two hundred feet of the site of the Preparations for either of these activities.

(6) "Reckless Driving Exhibition" shall mean any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.

(7) "Scene" shall mean the location of the Sideshow, Street Race or Reckless Driving Expedition or the location of the Preparations for the Sideshow, Street Race or Reckless Driving Expedition.

(8) "Sideshow" shall mean any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.

(9) "Spectator" shall mean any person who is present at a Sideshow, Street Race or Reckless Driving Exhibition, or the site of the Preparations for any 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.

(10) "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) Prohibition on Participation. It shall be unlawful for any person to:

(1) Intentionally participating as a driver at a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway; or in an Off-street Parking Facility including parking garages.

(2) Intentionally being present as a Passenger at a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway or in an Off-street Parking Facility including parking garages.

(3) Intentionally being present as a Spectator at a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway or in an Off-street Parking Facility including parking garages.

(4) Intentionally being present as a Spectator where Preparations are being made for a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street, highway, or in an Off-street Parking Facility including parking garages.

(5) Nothing in this Chapter prohibits peace officers, medical professionals, firefighters 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 any of these activities.

(6) Nothing in this Chapter prohibits uninvolved innocent bystanders from reporting these activities.

(7) Uninvolved innocent bystanders are not in violation of this ordinance even if they are within two hundred feet of these activities if they do not possess the requisite intent to Spectate, Street Race, participate in a Sideshow, or engage in Reckless Driving Exhibition.

(c) Considerations relevant to a violation. In establishing a violation of subsection (b), the following may be considered to the extent permissible by applicable law:

(1) Evidence of Prior Acts:

(i) That the person charged has previously participated in or been a Spectator at a Sideshow, Street Race or Reckless Driving Exhibition;

(ii) That the person charged has previously aided and abetted a Sideshow, Street Race, or Reckless Driving Exhibition;

(iii) That the person charged has previously attended a Sideshow, Street Race, or Reckless Driving Exhibition; or

(iv) 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.

(v) 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 mistake or accident, or propensity of the defendant to be present at or attend a Sideshow, Street Race, or Reckless Driving Exhibition if the prior act or acts occurred within three years of the presently charged offense. These prior acts may always be admissible to show knowledge on the part of the defendant that a Sideshow, Street Race or Reckless Driving Exhibition was taking place.

(2) The time of day;

(3) The nature and description of the Scene, including the number and configuration of traffic lanes;

(4) The number of people at the Scene;

(5) The location of the person charged in relation to any person or group of persons present at the Scene;

(6) The number and descriptions of motor vehicles at the Scene;

(7) That the motor vehicles at the Scene have been modified or altered to increase power, handling, or visual appeal;

(8) That the person charged drove or was transported to the Scene.

(d) Prohibition on Promotion.

(1) It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aide, or abet the gathering of persons as Spectators at a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway; or conducted on a public street or highway, or Off-street Parking facility including parking garages.

(2) It shall be unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aide, or abet the gathering of persons as Spectators where Preparations are being made for a Sideshow, Street Race or Reckless Driving Exhibition conducted on a public street or highway, or in an Off-street Parking Facility including parking garages.

(e) Violations.

(1) Any person who violates this Section is guilty of a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000.00, unless at the discretion of the City Attorney, the violation is reduced to an infraction.

(2) Any person who violates this Section or who aids in the violation of this Section is liable for the actual damages caused by said violation, in such amount as may be determined by a jury or a court sitting without a jury.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Talía Kolluri Date
Assistant City Attorney