



**CITY OF SALINAS
COUNCIL STAFF REPORT**

DATE: June 18, 2019

DEPARTMENT: OFFICE OF THE CITY ATTORNEY

FROM: CHRISTOPHER A. CALLIHAN, CITY ATTORNEY

TITLE: ORDINANCE PROHIBITING SPECTATORS AT STREET RACES
AND RECKLESS DRIVING EXHIBITIONS

RECOMMENDATION MOTION:

A motion to adopt an ordinance prohibiting spectators at street races and reckless driving exhibitions.

RECOMMENDATION:

It is recommended that the City Council adopt the proposed ordinance.

EXECUTIVE SUMMARY:

This proposed ordinance is being brought forward at the request of Council member Davis, with the support of Mayor Gunter.

Illegal speed contests are a rising concern in cities across the state due to the risk of injury and death to the participants and the spectators and to uninvolved innocent people. A long-time problem in larger cities, such as San Jose and Los Angeles, Salinas is beginning to realize a growth in the street racing subculture. In January 2019, the California Highway Patrol reported there were approximately forty (40) cars and one hundred (100) people on Iverson Street. While no arrests were made, seven tickets were issued, four cars were impounded, and warnings were given to both the spectators and the racers. California has laws in place (California Vehicle Code Section 23109 and 22651.6) to penalize the participants (drivers) involved in street racing (speed contests). Engaging in a speed contest is considered a misdemeanor which may be penalized by jail time, fines up to \$1000, community service, and suspension or restriction of a driver's license. The vehicle used for the speed contest may also be impounded for up to thirty (30) days. The penalties are greater if the speed contest results in injury. The State laws, however, do not contain provisions regulating the presence of spectators.

With sufficient state laws available to regulate speed contests, the proposed ordinance provides the Salinas Police Department with an additional tool to combat speed contests. By making it unlawful for a person to be a spectator at a speed contest or reckless driving exhibition, the

proposed ordinance is designed to curb speed contests by preventing a crowd of spectators from gathering. The intent is to prevent a crowd of spectators from forming to remove the incentive for drivers to engage in speed contests in the first place: if no one is watching, the speed contest becomes less interesting. Cities such as San Jose and Beverly Hills, for example, have adopted ordinances prohibiting the presence of spectators at speed contests.

DISCUSSION:

Salinas faces a growing problem with street racing, a problem which has resulted in many injuries and deaths across the state in recent years. Both participants and spectators have been injured or killed during street racing exhibitions. Street races in Salinas are becoming a more common occurrence, with streets being blocked off and the safety of the City's residents and visitors being put at risk by these events. In December 2018, the Salinas Police Department responded to multiple calls about street racing in the City, which resulted in their chasing and later arresting a Hollister gang member who was participating in the street racing. In November 2015, an 18-year old man from Half Moon Bay was arrested after a high-speed chase through Salinas. The individual, believed to have been a participant in a street race in Gonzales, was chased through Salinas at speeds of 80-100 mph before he was ultimately stopped and arrested near Ryan Ranch. In 2011, two Salinas men were arrested for an alleged street race that killed a 61-year old man. The two men were driving on North Davis Road near Westridge Parkway and during their street race reached speeds up to 80 mph toward the auto mall when one of the drivers hit and killed the 61-year old man who was crossing the street near Auto Center Drive.

More recently, on May 31, 2019, Salinas Police were engaged in a high-speed vehicle pursuit of an individual engaged in a reckless driving exhibition at the Auto Zone store on North Sanborn Road. Salinas Police initiated a traffic stop of the vehicle, but the driver sought to evade the stop by making several laps around the parking lot before travelling onto Boronda Road. The pursuit reached speeds of 90 mph with the suspect leaving and then re-entering the city limits. The pursuit crossed the city with speeds on surface streets reaching 80 mph and at one point the driver (a sixteen-year-old) drove against the flow of traffic, directly at oncoming Police vehicles in an attempt to stop them from chasing him. The pursuit lasted approximately seventeen minutes and covered almost twenty miles, with the driver lodged at Juvenile Hall and the vehicle impounded.

On May 24, 2019, there were two separate incidents involving speeds contests. One occurred on East Alvin Drive and involved a twenty-eight-year-old man who was not licensed to drive at the time and a twenty-year-old man. The second was in the downtown area, which resulted in several citations being issued and three vehicles being towed.

Speed contests generally occur late at night or early in the morning and at times hundreds of street racers and spectators gather on public streets and off-street parking facilities and residential neighborhoods. The gatherings are facilitated by social media where street races are organized, and participants and spectators invited. The individuals block the streets with their cars, preventing

both vehicular and pedestrian traffic. They set up improvised racetracks, with spectators lining the improvised racetrack. When either the street race is over or is interrupted by the Salinas Police Department, the participants and the spectators leave the area, driving at high rates of speed, to another location, causing traffic congestion and danger to other drivers and to pedestrians.

To help combat the rising trend in Salinas, recently, nineteen Salinas Police Officers and two Police Sergeants received training from the California Highway Patrol (an eight-hour course) on how to enforce against street racers including how to identify vehicles that have been modified for racing purposes. And, the Department continues to conduct roll-call training for street racing and side show enforcement. With this training and the proposed ordinance, the Salinas Police Department will have additional tools to address the problem of street racing and to continue to protect the safety of the City.

CEQA CONSIDERATION:

The action of adopting the proposed ordinance is not subject to environmental review under the California Environmental Quality Act (CEQA) [CEQA Guidelines Section 15378 and Section 15060(c)(2), (3)].

STRATEGIC PLAN INITIATIVE:

The City Council's adoption of the proposed urgency interim ordinance supports the City Council's goals and objectives of improving the Quality of Life for all of its residents and promoting a Safe and Livable Community (2016-2019 Strategic Plan).

FISCAL AND SUSTAINABILITY IMPACT:

The City Council's adoption of the proposed ordinance would not have an impact on the City's General Fund, Measure E, or Measure G.

DEPARTMENTAL COORDINATION

Implementation and enforcement of the proposed ordinance will require coordination among several City departments including the Police Department and the City Attorney's Office. The Police Department reviewed the proposed ordinance prior to its consideration by the City Council and supports the proposed ordinance as presented.

ATTACHMENTS:

Proposed Ordinance

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE TO PROHIBIT SPECTATORS AT STREET RACES AND RECKLESS DRIVING EXHIBITIONS

City Attorney Impartial Analysis

This ordinance imposes penalties on spectators at speed contests and reckless driving exhibitions. This ordinance is focused on a clear, limited population of people and gives proper notice to individuals as to what activities are lawful and what activities are unlawful. In discouraging spectators, the act of organizing and participating in illegal street races will be discouraged.

WHEREAS, pursuant to California Vehicle Code Section 23109 motor vehicle speed contests and exhibitions of speed conducted on public streets and roadways are illegal; and

WHEREAS, streets within Salinas have been the site of continuing and escalating illegal street racing; and

WHEREAS, street racing threatens the health and safety of the public, interferes with pedestrian and vehicular traffic, creates a public nuisance, and interferes with the right of private business owners to enjoy the use of their property and for patrons to enjoy the use of the private businesses; and

WHEREAS, racers and spectators gather on the streets late at night and early in the morning hours, blocking the streets and the sidewalks to oncoming traffic, placing bets, forming a racetrack area, and otherwise encouraging, aiding, and abetting the street racing process; and

WHEREAS, illegal street racers accelerate to high speeds without regard to oncoming traffic, pedestrians, or vehicles parked or moving nearby. The racers drive quickly from street to street, race for several hours, and then move to other locations upon the arrival of the police. Those who participate in this illegal activity are sophisticated, using cell phones, police scanners, and other electronic devices to communicate with each other to avoid arrest. They use the internet and social media to provide information on where to race and give advice on how to avoid detection and prosecution. In most cases, illegal street races attract hundreds of spectators. The mere presence of spectators at these events fuels the illegal street racing and creates an environment in which these illegal activities can flourish; and

WHEREAS, thousands of people are killed each year due to illegal street racing, including spectators who can be injured or killed when the driver of a vehicle engaged in a speed contest loses control of the vehicle and enters the crowd of spectators; and

WHEREAS, the National Highway Traffic Safety Administration (NHTSA) reported that motor vehicle accidents are the leading cause of death between the ages of 16 and 20; and

WHEREAS, the City Council of Salinas finds it necessary and appropriate to take additional steps to protect the public's health and safety, beyond the imposition of penalties on spectators at speed contests; and

WHEREAS, the City Council finds that this Ordinance is not a project subject to environmental review pursuant to the California Environmental Quality Act (CEQA) [CEQA Guidelines Section 15378 and Section 15060(c)(2), (3)].

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

SECTION 1. Article X is hereby added to Chapter 5 of the Salinas Municipal Code, is titled "Spectators at Speed Contests and Reckless Driving Exhibitions," and reads as follows:

Sec. 5-10.01. Definitions.

The following terms, used in this Article, shall have the meanings set forth in this Section:

(a) "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 the same may be amended from time-to-time.

(b) "Reckless Driving Exhibition" means any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as the same may be amended from time-to-time.

(c) "Offstreet parking facility" is defined in subdivision (c) of California Vehicle Code Section 12500, as the same may be amended from time-to-time.

(d) "Spectator" means any person who is present at a Street Race or Reckless Driving Exhibition, or the site of the Preparations for either 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.

(e) A person is "present" at the Street Race or the Reckless Driving Exhibition if that person is within two hundred (200) feet of the location of the Street Race or the Reckless Driving Exhibition, or within two hundred (200) feet of the site for the Preparations for either of these activities.

(f) "Preparations" for any Street Race or Reckless Driving Exhibition include, but are not limited to, any of the following acts done for the purpose of a Street Race or Reckless Driving Exhibition:

(1) One 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) One or more persons have gathered on, or adjacent to, a public street or highway;
- (3) One or more persons have gathered on, or adjacent to, a public street or highway;
- (4) One or more persons have impeded the free public use of a street, highway, or Offstreet Parking Facility by acts, words, or physical barriers;
- (5) One or more motor vehicles have lined up on a public street, highway, or Offstreet Parking Facility with motors running;
- (6) One or more drivers is revving a motor vehicle's engine or causing the motor vehicle's tires to spin; or
- (7) A person is standing or sitting in a location to act as a race starter.

Sec. 5-10.02. Spectators Prohibited at Street Races and Reckless Driving Exhibitions.

(a) It shall be unlawful for any person to:

- (1) Be knowingly present as a Spectator at a Street Race conducted on a public street or highway; or
- (2) Be knowingly present as a Spectator at a 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) Be knowingly present as a Spectator where Preparations are being made for a Street Race conducted on a public street or highway; or
- (2) Be knowingly present as a Spectator where Preparations are being made for a Reckless Driving Exhibition conducted on a public street or highway or in an Offstreet Parking Facility.

(c) Nothing in this Section prohibits peace officers or their agents who are acting in the course of their official duties from being Spectators at a Street Race or a Reckless Driving Exhibition or Spectators at the location of Preparations for either of these activities.

Sec. 5-10.03. Relevant Circumstances to Prove a Violation.

(a) Notwithstanding any other provision of law, to prove a violation of this Article, admissible evidence may include, but is not limited to, any of the following:

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

(2) That the person charged has previously aided and abetted Street Racing;

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

(4) That the person charged was previously present at a location where Preparations were being made for a Street Race or Reckless Driving Exhibition, or where a Street Race or Reckless Driving Exhibition was in progress.

(5) 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 an accident, or propensity of the defendant to be present at or attend a Street Race or Reckless Driving Exhibition 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 Article, admissible evidence may also include, but is not limited to, any of the following:

(1) The time of day;

(2) The nature and the description of the scene, including the number and the configuration of traffic lanes;

(3) The number of people at the scene;

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

(5) The number and descriptions of motor vehicles at the scene;

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

(7) That the person charged drove or was transported to the scene.

(c) For purposes of subsection (b), above, the term “scene” refers to the location of the Street Race or Reckless Driving Exhibition.

Sec. 5-10.04. Penalties for Violation.

A violation of this article shall be a misdemeanor and may be prosecuted criminally or administratively pursuant to the provisions of the Salinas Municipal Code. If the violation is prosecuted criminally, the maximum penalty shall be a fine up to \$1,000 and/or up to six (6) months in jail. If the violation is prosecuted administratively, the penalties for a violation of this article shall be as follows:

(a) The first violation of this article shall be subject to a fine of \$250.

(b) The second violation of this article within a twelve-month period shall be subject to a fine of \$500.

(c) The third and subsequent violations of this article within a twelve-month period shall be subject to a fine of \$1,000.

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause, and phase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. Effective Date. This Ordinance will take effect thirty (30) days from and after its adoption.

PASSED AND ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney