

ORDINANCE O2024-17

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANTECA, STATE OF CALIFORNIA, AMENDING CHAPTER 9.54 "SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITIONS" OF THE MANTECA MUNICIPAL CODE TO AUTHORIZE THE SEIZURE OF VEHICLES USED IN A SIDESHOW, STREET RACE, OR RECKLESS DRIVING EXHIBITION

WHEREAS, the Manteca Municipal Code (MMC), Chapter 9.54 "Sideshows, Street Races, and Reckless Driving Exhibitions" prohibits individuals from planning, observing, or participating in a sideshow, street race, or reckless driving exhibition; and

WHEREAS, sideshows, street races, and reckless driving exhibitions are a threat to public safety and the City of Manteca (City) is committed to ensuring safe streets and roadways for its residents; and

WHEREAS, the proposed amendment will allow the City to seize vehicles used in a sideshow, street race, or reckless driving exhibition in violation of Chapter 9.54, and will provide the procedure and circumstances in which the Manteca Police Department may seize such vehicles; and

WHEREAS, California Vehicle Code Section 23109.2 authorizes a peace officer to seize a vehicle when the vehicle is involved in any of the circumstances prohibited by Chapter 9.54.

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

SECTION 1: Chapter 9.54 "Sideshows, Street Races, and Reckless Driving Exhibitions" is hereby amended as follows:

Chapter 9.54
SIDESHOWS, STREET RACES, AND RECKLESS DRIVING EXHIBITIONS

§ 9.54.010 Definitions.

The definitions in this section apply to the following terms as used in this chapter:

"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.

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

"Sideshow" means any exhibition of reckless driving referred to in California Vehicle Code Section 23103, as may be amended.

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

"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.

"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.

"Spectator" shall mean 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.

"Scene" shall mean the location of the street race or reckless driving exhibition or the location of the preparations for the street race or reckless driving exhibition.

A person is "present" at the street race or reckless driving exhibition if that person is within two hundred feet of the location of the street race or reckless driving exhibition, or within two hundred feet of the site of the preparations for either of these activities.

"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 off-street 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 in an off-street parking facility;
4. 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;
5. One or more motor vehicles have lined up on a public street, highway, or off-street 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; and/or
7. A person is standing or sitting in a location to act as a race starter.

§ 9.54.020 Passengers and spectators prohibited at street races and reckless driving exhibitions.

- A. It is unlawful for any person to:
 - 1. Be knowingly present as a spectator or passenger at a street race or reckless driving exhibition conducted on a public street or highway or in an off-street parking facility; or
 - 2. Be knowingly present as a spectator where preparations are being made for a street race or reckless driving exhibition conducted on a public street or highway or in an off-street parking facility.
- B. 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 reckless driving exhibition or spectators at the location of preparations for either of these activities.

§ 9.54.030 Promoting, organizing, or facilitating spectators to gather at street races and reckless driving exhibitions prohibited.

- A. It is unlawful for any person to knowingly encourage, promote, instigate, assist, facilitate, aide, or abet the gathering of persons as spectators at a street race or reckless driving exhibition conducted on a public street or highway, or in an off-street parking facility.
- B. It is 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 street race or reckless driving exhibition conducted on a public street or highway, or in an off-street parking facility.

§ 9.54.040 Relevant circumstances to prove a violation.

- A. Notwithstanding any other provision of law, to prove a violation of this chapter, 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;
 - 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; or
 - 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 accident, or propensity of the defendant to be

present at or attend a street race or a 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 street race or a reckless driving exhibition was taking place.

- B. In addition to the circumstances set out immediately above in subsection A, 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 time of day;
 2. The nature and description of the scene, including the number and 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; or
 7. That the person charged drove or was transported to the scene.

§ 9.54.050 Seizure and Forfeiture of Vehicles.

A. Nuisance Vehicles.

Any vehicle used as part of a sideshow, street race, or in violation of California Vehicle Code Section 23103 relating to reckless driving shall be declared a nuisance and may be seized and subject to forfeiture as specified in this chapter.

B. Declaration by Court.

Upon proof that the vehicle was used as part of a sideshow, street race, or reckless driving, a court may declare the vehicle a nuisance and order that it be forfeited, sold, and the proceeds distributed as provided by this chapter.

C. Right, Title and Interest in Property.

All right, title, and interest in any vehicle that constitutes a nuisance under this chapter shall vest in the City.

D. Procedure for Seizure of Vehicle.

1. Vehicles subject to forfeiture under this chapter may be seized by a peace officer upon process issued by a court having jurisdiction over the vehicle.

Seizure without a court order may be made if any of the following situations exist:

- a. The seizure is incident to an arrest or a search under a valid search warrant;
 - b. There is probable cause to believe that the vehicle was used in violation of this chapter.
2. A peace officer seizing a vehicle shall complete a receipt in accordance with Section 1412 of the Penal Code and deliver it to the person out of whose possession such vehicle was seized.
 3. An investigation shall be made by the public agency making the seizure as to any potential claimant to a vehicle whose right, title, interest or lien is of record in the Department of Motor Vehicles of this or any other state or appropriate federal agency. If the public agency finds that any person, other than the registered owner, is the legal owner, and the ownership did not arise subsequent to the date and time of arrest or seizure of the vehicle or notification of the forfeiture proceedings, it shall within three business days of the vehicle's seizure, send a notice of seizure and notice of a hearing to the legal owner at his or her address appearing on the records of the Department of Motor Vehicles of this or any other state or any appropriate federal agency.
 4. Where appropriate, a vehicle seized pursuant to this chapter may be held as evidence in any proceeding brought by the prosecuting agency.

§ 9.54.060 Penalties.

- A. Any person who violates this chapter is guilty of a misdemeanor subject to a maximum of six months in jail and a fine of one thousand dollars, unless at the discretion of the city attorney or district attorney, the violation is reduced to an infraction.
- B. Any person who violates this chapter or who aids in the violation of this chapter 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, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 3: Effective Date. This Ordinance shall become effective thirty (30) days

following adoption.

City of Manteca, a municipal corporation

MAYOR: 
GARY SINGH

ATTEST: 
CASSANDRA CANDINI-TILTON
CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF SAN JOAQUIN } SS:
CITY OF MANTECA }

I, Cassandra Candini-Tilton, City Clerk of the City of Manteca, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 20th day of August, 2024, and had its second reading and was adopted and passed during the public meeting of the City Council on the 3rd day of September, 2024, by the following vote:

AYES: Breitenbucher, Halford, Morowit, Nuño, Singh

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: 
CASSANDRA CANDINI-TILTON
City Clerk