ORDINANCE NO. 2017

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING A NEW CHAPTER 10.06 ("SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS AND RECKLESS DRIVING EXHIBITIONS") TO TITLE 10 ("VEHICLES AND TRAFFIC") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA"

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, pursuant to California Vehicle Code section 23109, motor vehicle speed contests (more commonly referred to as street racing or drag racing) conducted on public streets and highways are illegal;

WHEREAS, pursuant to California Vehicle Code section 23103, operating a motor vehicle with willful or wanton disregard for the safety of persons or property (such as at events commonly referred to as "sideshows") constitutes illegal reckless driving;

WHEREAS, such speed contests and reckless driving exhibitions threaten the health and safety of the public, interfere with pedestrian and vehicular traffic, create a public nuisance, and interfere with the right of private business owners to enjoy the use of their property within the City;

WHEREAS, streets and areas within the City of Santa Clara have been the site of continuing illegal speed contests and reckless driving exhibitions;

WHEREAS, racers and spectators tend to gather on these streets, blocking the streets and sidewalks to traffic, forming a racetrack area, video recording the activity for publication whether on social media or otherwise, and in other manner encouraging, advertising, aiding and abetting the racing process;

//

//

WHEREAS, the mere presence of spectators at these events fuels the illegal street racing and reckless driving activities and creates an environment in which these illegal activities can flourish;

WHEREAS, this Ordinance is focused on a clear and limited population of people, and provides proper notice as to what activities are unlawful;

WHEREAS, it is the City Council's purpose and intent in adopting this Ordinance to discourage the act of organizing and participating in illegal speed contests and reckless driving exhibitions, by discouraging attendance and spectating at such events; and

WHEREAS, the City Council finds it necessary in the exercise of its powers to protect the health, safety and welfare of the residents of the City, to prohibit spectating at illegal speed contests and reckless driving exhibitions, as described below.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That a new Chapter 10.06 ("Spectators Prohibited at Illegal Speed Contests and Reckless Driving Exhibitions") is added to Title 10 ("Vehicles and Traffic") of "The Code of the City of Santa Clara, California" to read as follows:

"Chapter 10.06

SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS AND RECKLESS DRIVING EXHIBITIONS

Sections:

10.06.010 Definitions.
10.06.020 Spectators Prohibited at Speed Contests and Reckless Driving Exhibitions.
10.06.030 Relevant Circumstances to Prove a Violation.
10.06.040 Enforcement.

10.06.010 Definitions.

The definitions in this Section apply to the following terms as used in this

Chapter:

(a) "Offstreet Parking Facility" is defined in subdivision (c) of California Vehicle Code Section 12500, as may be amended.

(b) "Preparations" for any Speed Contest or Reckless Driving Exhibition include, but are not limited to, any of the following acts done for the purpose of organizing, conducting, participating in, or acting as a spectator at, a Speed Contest or Reckless Driving Exhibition:

(1) Two (2) 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, or in an Offstreet Parking Facility;

(3) Two (2) or more persons have impeded the free public use of a public street, highway, or Offstreet Parking Facility by acts, words or physical barriers, in furtherance of the event;

(4) Two (2) or more motor vehicles have lined up on a public street, highway, or Offstreet Parking Facility with motors running;

(5) One (1) or more drivers is revving a motor vehicle's engine or causing the motor vehicle's tires to spin (e.g. sideshow activity and/or speed contest); or

(6) A person is present to act as a race starter.

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

(d) "Spectator" shall mean any person who is present at a Speed Contest or Reckless Driving Exhibition, or at the site of the Preparations for either of these activities,

knowingly and deliberately 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. A person is "present" at the Speed Contest or Reckless Driving Exhibition if that person is within two hundred (200) feet of the location of the Speed Contest or Reckless Driving Exhibition, or within two hundred (200) feet of the site of the Preparations for either of these activities.

(e) "Speed Contest" means any motor vehicle speed contest or motor vehicle exhibition of speed referred to in California Vehicle Code Section 23109, as may be amended.

10.06.020 Spectators Prohibited at Speed Contests and Reckless Driving Exhibitions.

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

(1) Be knowingly present as a Spectator at a Speed Contest 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 Off-street Parking Facility; or

(3) Be knowingly present as a Spectator where Preparations are being made for a Speed Contest conducted on a public street or highway; or

(4) 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 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 Speed Contest or Reckless

Driving Exhibition or Spectators at the location of Preparations for either of these activities.

10.06.030 Relevant Circumstances to Prove a Violation.

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:

(a) The nature of and circumstances surrounding the incident, and the nature of a subject individual's participation in or spectating at an incident, including such factors as the time of day, description of the scene, number of people and/or vehicles present, location of the individual charged relative to the involved vehicles, and actions taken by the individual charged (including photography or videography, reporting to authorities, etc.); or

(b) That the person charged has previously participated in, or been a Spectator at, a Speed Contest or Reckless Driving Exhibition; or

(c) That the person charged has previously aided and abetted a Speed Contest or Reckless Driving Exhibition; or

(d) That the person charged was previously present at a location where Preparations were being made for a Speed Contest or Reckless Driving Exhibition; or

(e) 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 as a Spectator at a Speed Contest or a 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 Speed Contest or a Reckless Driving Exhibition was taking place at the time of the presently charged offense. Prior acts are not limited to those that occurred within the City of Santa Clara.

10.06.040 Enforcement.

(a) Pursuant to SCCC 1.05.070, the City, in the exercise of its prosecutorial discretion, may enforce violation(s) of the provisions of this Chapter as a criminal, civil, and/or administrative action.

(b) If the violation is prosecuted as an administrative citation pursuant to SCCC Chapter 1.10, the penalties for a violation of this chapter shall be as follows:

(1) Penalty for the first violation shall be $500.

(2) Penalty for the second and each subsequent violation within a 3-year period shall be $1,000."

SECTION 2: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

//

//

//

//

//

//

//

//

//

//

SECTION 3: **Savings clause**. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 4: **Effective date**. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 7TH day of April, 2020, by the following vote:

AYES:	COUNCILORS:	Chahal, Davis, Hardy, O'Neill, and Watanabe and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: _____
For NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None