

ORDINANCE NO. NS-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SANTA ANA ADDING A NEW ARTICLE
XV TO CHAPTER 36 OF THE SANTA ANA
MUNICIPAL CODE TO PROHIBIT SPECTATORS
AT A STREET RACE OR RECKLESS DRIVING
EXHIBITION

WHEREAS, under the provisions of Sections 23103, 23109 of the California Vehicle Code, reckless driving exhibition and speed contests on public streets are illegal; and

WHEREAS, motor vehicle speed contests are more commonly known as street races or drag races and reckless driving exhibitions are more commonly referred to as exhibitions of reckless driving; and

WHEREAS, the streets within the City of Santa Ana have been the site of continuing and escalating illegal street racing over the past several years; and

WHEREAS, such street racing poses serious hazards and 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 within the City of Santa Ana; and

WHEREAS, in most cases, hundreds of street racers and spectators gather on the streets late at night, and in the early morning hours, blocking the streets and sidewalks to traffic, forming a racetrack area, placing bets, and otherwise encouraging, aiding and abetting the racing process and the City has determined the presence of spectators at these events encourage and fuel the occurrence of these unlawful events; and

WHEREAS, traffic accidents, property crimes, and calls for police service have increased dramatically. Recently, an innocent motorist was killed in broad daylight by drivers engaged in street racing and in a separate incident, street racers involved in a race struck and killed a pedestrian; and

WHEREAS, street racing constitutes a nuisance and the City Council of the City of Santa Ana wishes to promote the City's interest in protecting and preserving the safety of pedestrian and vehicular traffic in, about, or upon public and private streets, parkways, roadways, alleys, sidewalks, and parking areas so as to minimize any dangerous conditions due to street racing.

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS FOLLOWS:

Section 1. A new Article XV is hereby added to Chapter 36 of the Santa Ana Municipal Code to read as follows:

Illegal Street Race and Reckless Driving Exhibition-Article XV

Section 36-706. Definitions.

As used in this Article:

“Street race” or “street racing” means any speed contest or exhibition of speed referred to in California Vehicle Code section 23109, as it may be amended from time to time.

“Reckless driving exhibition” means any exhibition of reckless driving referred to in California Vehicle Code section 23103, as it may be amended from time to time.

Offstreet parking facility has the same meaning as set forth in Vehicle Code section 12500(c), as may be amended from time to time, and includes any public or private parking facility open and accessible to members of the public.

Preparations for a street race or reckless driving exhibition includes, but are not limited to, situations in which:

- (1) One (1) or more motor vehicles and persons have arrived at a location on a public street, highway or an offstreet parking facility for the purpose of participating in or being spectators at a street race or reckless driving exhibition;
- (2) One (1) or more persons have gathered in an offstreet parking facility for the purpose of participating in or being a spectator at a street race or reckless driving exhibition;
- (3) One (1) or more persons have gathered for a motorcycle stunting or other exhibition in conjunction with a street race or reckless driving exhibition;
- (4) One (1) or more persons have impeded the free public use of a public street, highway, or offstreet parking facility by actions, words, or physical barriers;
- (5) One (1) or more vehicles have lined up on a public street, highway, or offstreet parking facility with motors running;
- (6) One (1) or more drivers is revving a motor vehicle’s engine or spinning the motor vehicle’s tires; or
- (7) A person is stationed for the purpose of acting as a race starter.

A person is *“present”* at a street race or reckless driving exhibition if that person is within two hundred (200) feet of the location of the street race or reckless driving exhibition, or within two hundred (200) feet of the site of the preparations for either of these activities.

Spectator means any individual who is present at street race or reckless driving exhibition at a location where preparations are being made for such activities, for the purpose of viewing, observing, watching, recording, or witnessing, the event as it progresses. Spectator includes any individual at the location of the event without regard to whether the individual arrived at the event by driving a vehicle, riding as a passenger in a vehicle, walking, or arriving by some other means.

Section 36-707. Aiding and Abetting Street Races or Reckless Driving Exhibitions Prohibited

It shall be unlawful for any person to engage in, or to aid and abet, any street race or reckless driving exhibition conducted on a public street or highway or in an offstreet parking facility. A violation of this section may be punishable as an infraction or a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000. Alternatively, violations may be addressed through the use of an administrative citation as set forth in sections 1-21.1 through 1-21.9.

Section 36-708. Spectators at Street Races or Reckless Driving Exhibitions Prohibited.

(a) It shall be unlawful for any person to be knowingly present as a spectator at a street race or reckless driving exhibition on a public street, highway, or offstreet parking facility. A violation of this section may be punishable as an infraction or a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000. Alternatively, violations may be addressed through the use of an administrative citation as set forth in sections 1-21.1 through 1-21.9.

(b) It shall be unlawful for any person to 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 offstreet parking facility. A violation of this section may be punishable as an infraction or a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000. Alternatively, violations may be addressed through the use of an administrative citation as set forth in sections 1-21.1 through 1-21.9.

(c) Exemption: Nothing in this section prohibits law enforcement 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.

Section 36-709 Relevant Circumstances to Prove a Violation.

Notwithstanding any other provision of law, to prove a violation of Sections 36-707 or 36-708, admissible evidence may include, but is not limited to, any of the following:

- (a) the time of day;
- (b) the nature and description of the scene;
- (c) the number of people at the scene;
- (d) the location of the person charged in relation to any person or group present at the scene;
- (e) indicia of a street race or reckless driving exhibition, including but not limited to, stickers, posters, markings, flags at or near the scene;
- (e) the number and types of motor vehicles at the scene;
- (f) that the motor vehicles present have been altered or modified to increase power, handling or visual appeal;
- (g) that the person charged drove or was transported to the scene;
- (h) that the person charged admitted to being a spectator at a street race or reckless driving exhibition;

- (i) that the person charged has previously participated in street race or reckless driving exhibition;
- (j) that the person charged has previously aided and abetted a street race or reckless driving exhibition; that the person charged has previously attended a street race or reckless driving exhibition;
- (k) that the person charged previously was present at a location where preparations were being made for a street race or reckless driving exhibition or a street race or reckless driving exhibition was in progress.

Section 36-710 Admissibility of Prior Acts

The list of circumstances set forth in Section 36-709 is not exclusive. To the fullest extent permissible by law, evidence of prior acts may be admissible to show plan, opportunity, knowledge, identity, and/or propensity of the person charged to be present at or attending a street race or reckless exhibition of speed if the prior act(s) 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 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 Ana.

Section 3. The City Council finds that this ordinance is not subject to the California Environmental Quality Act under California Code of regulations, Title 14, Section 15060, subdivision (c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment nor under subdivision (c)(3) because the activity has no potential for resulting in physical change to the environment, directly or indirectly and so is not a project.

Section 4. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared invalid or unconstitutional.

Section 5. The Clerk of the Council shall certify to the adoption of this ordinance and cause the same to be published in the manner prescribed by law.

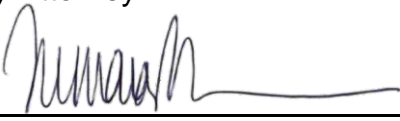
Section 6. This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

ADOPTED this _____ day of _____, 2023.

Valerie Amezcua
Mayor

APPROVED AS TO FORM:

Sonia R. Carvalho
City Attorney

By: 

Tamara Bogosian
Senior Assistant City Attorney

AYES: Councilmembers _____
NOES: Councilmembers _____
ABSTAIN: Councilmembers _____
NOT PRESENT: Councilmembers _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, JENNIFER L. HALL, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-XXX to be the original ordinance adopted by the City Council of the City of Santa Ana on ____, 2023 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana