

ORDINANCE NO. 2022-2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAKEWOOD AMENDING ARTICLE III OF THE LAKEWOOD
MUNICIPAL CODE BY ADDING CHAPTER 4 RELATING TO
STREET RACING AND RECKLESS DRIVING

WHEREAS, motor vehicle speed contests and exhibitions of speed are more commonly referred to as "street races," and common acts of reckless driving often occur during, or when preparations are being made for, such illegal street races. This includes pre-race events referred to as "sideshows" or motorcycle "stunting" in which groups of people block streets and sidewalks to form sideshow or stunt areas in conjunction with street races; and

WHEREAS, street races, sideshows, and motorcycle stunting pose an immediate threat to the health and safety of the public, interfere with pedestrian and vehicular traffic, create a public nuisance, and inhibit private business owners from enjoying the use of their property within the City; and

WHEREAS, groups of racers, sideshow participants, stunters, and spectators gather on the streets and in off-street parking facilities and, among other things, block traffic on the streets and sidewalks in order to form a racetrack, sideshow or stunt area, place bets and wagers, and otherwise encourage, aid and abet the street racing process; and

WHEREAS, illegal street racers accelerate to high speeds without regard to oncoming traffic, pedestrians, or other vehicles, and the racers drive quickly from street to street, race for several hours, and then move to different locations upon the arrival of law enforcement; and

WHEREAS, these activities often result in an increase in traffic accidents, property crimes and damage, and calls for law enforcement service; and

WHEREAS, illegal street racing, sideshows, and motorcycle stunting attract many spectators, and the presence of spectators at these events encourages street racing to continue and creates an environment in which illegal activities can flourish; and

WHEREAS, pursuant to California Vehicle Code sections 23103, et seq., and 23109, et seq., motor vehicle speed contests, reckless driving, exhibitions of speed conducted on public streets and highways, and reckless driving conducted on public streets, highways, and off-street parking facilities, as well as aiding and abetting in some of these violations, are already illegal under California law; and

WHEREAS, currently, the California Vehicle Code allows law enforcement to immediately arrest a driver and impound a vehicle used in violation of sections 23103 or 23109 for up to 30 days, and

WHEREAS, as such, the City Council desires to establish procedures for civil forfeiture of vehicles used in street racing or other acts of reckless driving; and

WHEREAS, currently, the California Vehicle Code does not contain a section specifically relating to prohibiting spectators at street races, sideshows, and reckless driving exhibitions; and

WHEREAS, as such, the City Council desires to make it a violation of the Lakewood Municipal Code to be a spectator at a street race, sideshow, or reckless driving exhibition on or in a public highway or off-street parking facility, or to be present during preparations for such events; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. INTENT. Article III Public Safety of the Lakewood Municipal Code is hereby amended as provided in this Ordinance to provide legislative remedies to deter and address the public safety impacts of street races, reckless driving and exhibitions of speed by creating procedures for civil forfeiture of vehicles used in these unsafe, unlawful activities and prohibiting spectators at these events.

SECTION 2. PURPOSE. The purpose of this Ordinance is to discourage and prevent street racing, sideshows, and reckless driving exhibitions activities and prohibit spectators at such events, and provide appropriate enforcement measures to protect the public and deter this criminal activity.

SECTION 3. Chapter 4 Street Races, Sideshows, and Reckless Driving Exhibitions of Article III Public Safety of the Lakewood Municipal Code is hereby added to read as follows:

CHAPTER 4 STREET RACES, SIDESHOWS, AND RECKLESS DRIVING EXHIBITIONS

3400 DEFINITIONS

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

“Days” means workdays not including weekends and holidays.

“Director of Public Safety” means the Director of Public Safety for the City of Lakewood or designee.

“Driver” means any person who drives a motor vehicle.

“Exhibition of speed” means any unlawful motor vehicle exhibition of speed as defined by California Vehicle Code Section 23109(c), whether or not the exhibition of speed is attended by persons other than the drivers performing such unlawful activity on City streets.

“Immediate family” means father, mother, sister, or brother.

“Legal owner” means a person holding a security interest in a vehicle referred to in California Vehicle Code Section 370.

“Motor vehicle” means a vehicle as defined in California Vehicle Code Section 670.

“Motor vehicle speed contest” means any unlawful motor vehicle speed contest, as defined by California Vehicle Code Section 23109(a), whether or not the race is attended by persons other than the drivers racing the vehicles on City streets.

“Offstreet parking facility” has the same meaning as set forth in subdivision (c) of California Vehicle Code section 12500, as it 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 any street race, sideshow, or reckless driving exhibition include, but are not limited to, any of the following acts done for the purpose of a street race, sideshow, or reckless driving exhibition:

1. One (1) 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 (1) or more persons have gathered on, or adjacent to, a public street or highway;
3. One (1) or more persons have gathered in an offstreet parking facility;
4. One (1) or more persons have gathered for a sideshow, motorcycle stunting or other exhibition in conjunction with a street race or reckless driving exhibition;
5. One (1) or more persons have impeded the public use of a public street, highway, or offstreet parking facility by acts, words or physical barriers;
6. One (1) or more motor vehicles have lined up on a public street, highway, or offstreet parking facility with motors running;
7. One (1) or more drivers is revving a motor vehicle's engine or causing the motor vehicle's tires to spin; or
8. A person is standing or sitting in a location 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.

“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.

“Registered owner” means a person registered by the Department of Motor Vehicles as the owner of a vehicle referred to in California Vehicle Code Section 505.

"Scene" means the site or location of a street race, sideshow, or reckless driving exhibition or the site or location of the preparations for a street race or reckless driving exhibition. The scene includes the path or course of the street race or reckless driving exhibition.

“Sideshow” means an event in which two or more persons block or impede traffic on a highway for the purpose of performing motor vehicle stunts, street racing, or reckless driving for spectators referred to in subdivision (i)(2)(A) of California Vehicle Code Section 23109, as may be amended from time to time.

"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.

“Street race” or “street racing” 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 from time to time.

3401 NONEXCLUSIVE REMEDY

This Chapter is not the exclusive regulation or penalty for participation in a motor vehicle speed contest or an exhibition of speed. It supplements and is in addition to any other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the State or any other legal entity or agency having jurisdiction.

3402 SPECTATORS PROHIBITED AT STREET RACES, SIDESHOWS, AND RECKLESS DRIVING EXHIBITIONS

- A. It shall be unlawful for any person to be knowingly present as a spectator at a street race, sideshow, or 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 be knowingly present as a spectator where preparations are being made for a street race, sideshow, or 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, sideshow, or reckless driving exhibition and/or spectators at the location of preparations for any of these activities.

3403 VIOLATIONS AND ADMISSIBLE EVIDENCE

- A. Notwithstanding any other provision of law, to prove a violation of Section 3402 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, sideshow, or reckless driving exhibition;
 2. That the person charged has previously aided and abetted street racing, sideshow, or a reckless driving exhibition;
 3. That the person charged has previously attended a street race, sideshow, 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, sideshow, or reckless driving exhibition, or where a street race or reckless driving exhibition was in progress.
 5. To the fullest extent permissible by law, evidence of prior act(s) may be admissible to show the plan, opportunity, intent, knowledge, identity and/or propensity of the person charged to be present at a street race, sideshow, or a reckless driving exhibition if the prior act(s) occurred within three (3) years of the presently charged offense. The prior act(s) may also be admissible to show that, in the absence of a mistake or accident, the person charged had knowledge that a street race, sideshow, or reckless driving exhibition was taking place.
- B. In addition to the circumstances set out in subsection A of this Section, and notwithstanding any other provision of law, to prove a violation of any provision 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 types 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; or
 8. That the person charged admitted to being a spectator at a street race, sideshow, or reckless driving exhibition.

3404 FORFEITURE OF NUISANCE VEHICLES

A motor vehicle may be declared a nuisance and subject to forfeiture under this chapter if:

- A. It is used in violation of California Vehicle Code Section 23109(a) or (c) or 23103(a) or (b); and
- B.
 - a. The registered owner of the vehicle is the driver or a passenger of the vehicle at the time of the violation; or
 - b. A member of the registered owner's immediate family is the driver or a passenger of the vehicle at the time of the violation; or
 - c. The driver or a passenger lives at the same address as the registered owner at the time of the violation; or

- d. The driver or a passenger in the vehicle at the time of the violation has a prior contact in the vehicle, as determined by law enforcement records

3405 RIGHT TO REQUEST A HEARING

A registered or legal owner at the time of the violation may request a hearing pursuant to Section 3406 to determine the validity of the forfeiture action authorized by this Chapter.

3406 POST STORAGE HEARING

- A. The City shall provide the opportunity for a post-storage hearing to determine the validity of the storage to the persons who were the registered and legal owners of the vehicle at the time of impoundment. The hearing request shall be made to the City Clerk not later than 10 days after the date the vehicle was impounded. However, the hearing request shall be made within three days after the date the vehicle was impounded if personal service was provided to the registered or legal owner pursuant to Section 3408 and no mailed notice is required.
- B. The post-storage hearing shall be conducted not later than two days after the date it was requested. The hearing shall be conducted by an independent hearing officer. Failure of either a registered or legal owner to request a hearing as provided in Section 3406(A) or to attend a scheduled hearing shall satisfy the post-storage hearing requirement.

3407 NOTICE OF FORFEITURE TO LEGAL AND REGISTERED OWNERS

- A. When a violation of California Vehicle Code sections 23109(a) or (c) or 23103(a) or (b) occurs causing a vehicle to be subject to forfeiture under this Chapter, the Director of Public Safety shall ascertain from the Department of Motor Vehicles the names and addresses of all legal and registered owners of that vehicle.
- B. Within three days of impoundment, the Director of Public Safety shall send a notice of forfeiture by certified mail, return receipt requested, to all legal and registered owners of the vehicle proposed for forfeiture. The notice shall be sent to the addresses obtained from the Department of Motor Vehicles.

3408 PERSONAL SERVICE OF NOTICE OF FORFEITURE

If a legal or registered owner was personally served a notice of forfeiture at the time of the violation which caused a vehicle to be subject to forfeiture under this division, and the notice contains all the information required to be provided by Section 3409, no further notice is required to be sent to that owner. However, a notice shall still be sent to other current legal or registered owners of record of the vehicle, if any.

3409 CONTENTS OF NOTICE OF FORFEITURE

The notice shall inform legal and registered owners of the vehicle that the vehicle will be declared a nuisance and forfeited to the City subject to Article III, Chapter 4 of the Lakewood Municipal Code, and will be sold or otherwise disposed of pursuant to Sections 3417, 3418, and 3419. The notice shall also include instructions for filing a claim with the City Clerk, and the time limits for filing a claim.

3410 ADMINISTRATIVE FORFEITURE

If no claims are filed and served within 15 days of the mailing of the notice pursuant to Section 3407 or within 5 days of personal service of the notice pursuant to Section 3408, the City Prosecutor shall prepare a written declaration of forfeiture of the vehicle to the City. A written declaration of forfeiture signed by the City Prosecutor under this Section shall be deemed to provide good and sufficient title to the forfeited vehicle. A copy of the declaration shall be provided on request to any person informed of the pending forfeiture pursuant to Sections 3407 and 3408. A claim that is filed and later withdrawn by the claimant shall be deemed to not have been filed.

3411 CLAIM OPPOSING FORFEITURE AND PETITION FOR FORFEITURE

If a claim is timely filed and served with the City Clerk, then the City Prosecutor shall file a petition for forfeiture with the appropriate Court within 10 days of the receipt of the claim. The City Prosecutor shall establish an expedited hearing date in accordance with instructions from the court. Any court filing fee established by the court, shall be paid by the claimant made payable to the court, but shall be reimbursed by the City if the claimant prevails.

3412 JUDICIAL FORFEITURE PROCEEDINGS

The filing of a claim within the time limit specified in Section 3410 is considered a jurisdictional prerequisite for initiating a forfeiture proceeding. A proceeding in the civil case is a limited civil case. The burden of proof in the civil case shall be on the City by a preponderance of the evidence. All questions that may arise shall be decided and all other proceedings shall be conducted as in an ordinary civil action. A judgment of forfeiture does not require as a condition precedent the conviction of a defendant for the current violation which gave rise to the nuisance and caused these forfeiture proceedings to be initiated.

3413 COMMUNITY PROPERTY INTEREST RELEASE

If at the time of the violation there is a community property interest in the vehicle to be forfeited, and at the time of the violation the vehicle is the only vehicle available to the registered owner's immediate family that may be operated with a class C driver's license, the vehicle shall be released to a registered owner or to the community property interest owner upon compliance with all of the following requirements:

- A. The registered owner or the community property interest owner requests release of the vehicle and the owner of the community property interest submits proof of that interest; and
- B. The registered owner or the community property interest owner submits proof that the vehicle is properly registered pursuant to the California Vehicle Code; and
- C. All towing and storage charges and any administrative charges authorized pursuant to California Vehicle Code section 22850.5 are paid; and
- D. The registered owner and the community property interest owner sign a stipulated vehicle release agreement, as described in Section 3414, in consideration for the nonforfeiture of the vehicle.

3414 STIPULATED VEHICLE RELEASE AGREEMENT

- A. A stipulated vehicle release agreement shall provide for the consent of the signers to the automatic future forfeiture and transfer of title to the City of any vehicle registered to that person, if the vehicle is used in violation of California Vehicle Code sections 23109(a) or (c) or 23103 (a) or (b). The agreement shall be in effect for five years from the date of signing and shall be maintained by the Director of Public Safety.
- B. No vehicle shall be released pursuant to Section 3413 if the Director of Public Safety has on file a prior stipulated vehicle release agreement signed by that person within the previous five years.

3415 VEHICLE TITLE VESTING IN THE CITY

All right, title, and interest in the vehicle shall vest in the City upon commission of the act giving rise to the nuisance under this division.

3416 SALE OF FORFEITED VEHICLE AFTER DECLARATION OF FORFEITURE

Any vehicle forfeited pursuant to this division shall be sold once a declaration of forfeiture is issued by the City Prosecutor or an order of forfeiture is issued by a court, as the case may be, pursuant to Sections 3410 and 3412.

3417 SALE OF FORFEITED VEHICLE BY LEGAL OWNER

- A. Any legal owner who is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or the agent of that legal owner, may take possession and conduct the sale of the forfeited vehicle if the legal owner or agent notifies the Director of Public Safety of its intent to conduct the sale within 15 days of either the mailing of the notice pursuant to Section 3407 or personal service of the notice pursuant to Section 3408. Sale of the vehicle after forfeiture pursuant to this division may be conducted at the time, in the manner, and on the notice usually given for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by or on behalf of the legal owner shall be disposed of as provided in Section 3420. A legal owner's notice to conduct the sale pursuant to this Section may be presented in person, by certified mail, by facsimile transmission, or by electronic mail.
- B. The agent of a legal owner acting pursuant to Section 3417(A) shall be licensed, or exempt from licensure, pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

3418 SALE OF FORFEITED VEHICLE

If the legal owner or agent of the owner does not notify the Director of Public Safety of its intent to conduct the sale as provided in Section 3417, the City shall offer the forfeited vehicle for sale at public auction within 60 days of receiving title to the vehicle. Low value vehicles shall be disposed of pursuant to Section 3419.

3419 DISPOSITION OF LOW-VALUE VEHICLES

If the City determines that the vehicle to be forfeited and sold pursuant to this division is of so little value that it cannot readily be sold to the public generally, the vehicle shall be conveyed to

a licensed dismantler or donated to a charitable organization. License plates shall be removed from any vehicle conveyed to a dismantler pursuant to this section.

3420 DISTRIBUTION OF SALE PROCEEDS

- A. The proceeds of a sale of a forfeited vehicle shall be disposed of in the following priority:
- a. To satisfy the towing and storage costs following impoundment, the costs of providing notice pursuant to Sections 3407 and 3408, the costs of sale, and the unfunded costs of judicial proceedings, if any; then,
 - b. To the City for all legal expenditures, made or incurred by the City Prosecutor's office in connection with the enforcement of this Chapter, including, but not limited to, costs for investigation, litigation, and notices resulting from enforcement of this chapter; then
 - c. To the City for local law enforcement for all expenditures other than personnel costs, made or incurred in connection with enforcement of this chapter, including, but not limited to, costs for equipment, investigation and supplies related to enforcement of this chapter; provided, however, that any overtime costs incurred by local law enforcement resulting from such enforcement of this chapter will be reimbursed to the City; then
 - d. To the City for all expenditures incurred by the Public Works Department for the necessary repairs to any public streets or intersections damaged as a result of the illegal street racing contest(s) or exhibitions of speed; then
 - e. Upon satisfactory proof to the Director of Public Safety, to the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, excluding any accrued interest or finance charges and delinquency charges, providing that the principal indebtedness was incurred prior to the date of impoundment; then,
 - f. To the holder of any subordinate lien or encumbrance on the vehicle, other than a registered or legal owner, to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, shall furnish reasonable proof of its interest and, unless it does so upon request, is not entitled to distribution pursuant to this section; then
 - g. To any other person, other than a registered or legal owner, who can reasonably establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest, if written notification is received before distribution of the proceeds is completed; then
 - h. Of the remaining proceeds, 100% shall be transferred to the City to the attention of the Director of Administrative Services.
- B. A vehicle may be destroyed only if the condition of the vehicle warrants destruction and there are no lien holders or claimants who did not know that the vehicle was used for a purpose that constitutes a violation of this chapter.
- C. A forfeited vehicle shall not be sold to any person identified under Section 3404 of this Chapter at the time the vehicle was seized.

3421 ACCOUNTING OF SALE PROCEEDS

The person conducting the sale shall disburse the proceeds of the sale as provided in Section 3420 and shall provide a written accounting regarding the disposition to the Director of Public Safety and, on request, to any person entitled to a share of the proceeds or to any person validly claiming a share of the proceeds, as determined by the Director of Public Safety, within 15 days after the sale is conducted.

3422 STOLEN VEHICLES

No vehicle shall be sold pursuant to this division if the Director of Public Safety determines the vehicle to have been stolen. In this event, the vehicle may be claimed by the legal or registered owner at any time after impoundment, providing the vehicle registration is current and registered owner has no outstanding traffic violations or parking penalties on his or her driving record or on the registration record of any vehicle registered to the person. If the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained, the vehicle may be sold.

3423 INNOCENT OWNER REMEDY

Any owner of a vehicle who suffers any loss due to the forfeiture of any vehicle pursuant to this Chapter may recover the amount of the loss from the person who violated California Vehicle Code section 23109(a) or (c), or 23103(a) or (b) which gave rise to the nuisance under this division.

3424 TOWING AND STORAGE FEES

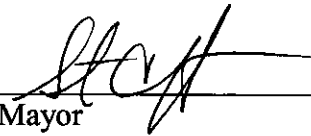
- A. The City shall be responsible for the costs incurred for towing and storage if it is determined that the driver at the time of impoundment did not violate California Vehicle Code section 23109(a) or (c), or 23103(a) or (b) and did not give rise to the nuisance.
- B. Charges for towing, storage and administrative fees for any vehicle impounded pursuant to this Chapter shall not exceed the normal towing, storage and administrative rates for other vehicle towing and storage as set forth by resolution by the City Council.

SECTION 4. The City Council hereby declares it would have passed this Ordinance sentence by sentence, paragraph by paragraph and section by section, and does hereby declare the provisions of this Ordinance are severable, and if for any reason any section of this Ordinance should be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance. The City Council hereby finds and determines there are no newspapers of general circulation both published and circulated within the City and, in compliance with Section 36933 of the Government Code, directs the City Clerk to cause said Ordinance within fifteen (15) days after its passage to be posted in at least three (3) public places within the City as established by Ordinance.

ADOPTED AND APPROVED this 28th day of June, 2022, by the following roll call vote:

	AYES	NAYS	ABSENT
Mayor Croft	<u>X</u>	_____	_____
Council Member Pe	<u>X</u>	_____	_____
Council Member Rogers	<u>X</u>	_____	_____
Council Member Stuckey	<u>X</u>	_____	_____
Council Member Wood	<u>X</u>	_____	_____



Mayor

ATTEST:



City Clerk