

ORDINANCE NO. _____

An ordinance amending Chapter 28, “Motor Vehicles and Traffic ,” of the Dallas City Code, by amending Sections 28-203, 28-204, 28-205, 28-206, 28-207, 28-208, 28-209, 28-210, 28-211, 28-212, 28-213, 28-214, 28-215, 28-216, 28-217, 28-218, and 28-219; adding Section 28-219.1; providing definitions; providing prohibitions on spectating at a street race or reckless driving exhibition or the preparations of either activities; providing for the abatement of nuisance vehicles engaged in street races and reckless driving exhibitions; providing notice requirements; providing for a response to be timely filed to oppose the abatement; providing for an administrative nuisance abatement by the city attorney; providing for judicial nuisance abatement proceedings; providing regulations for a joint property interest release; providing for stipulated vehicle release agreements; providing vehicle title vesting in the city; providing regulations for the sale of an abated vehicle by a court order at a public auction; providing regulations on disposition of low-value vehicles; providing for regulations on the distribution of sale proceeds; requiring a written accounting of sale proceeds; providing regulations on stolen vehicles and innocent owner remedies; providing regulations regarding towing and storage fees; providing an offense for aiding street racing or reckless driving exhibitions on property a person owns, controls, or operates; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That of Article XIX, “Reserved,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code, is amended to read as follows:

**“ARTICLE XIX.
SPECTATORS PROHIBITED AT STREET RACES AND RECKLESS DRIVING
EXHIBITIONS [~~RESERVED~~].**

Division 1. Definitions

SEC[~~S~~]. 28-203 [~~THRU 28.219~~]. DEFINITIONS [~~RESERVED~~].

In this article:

- (1) DAYS means calendar days including weekends and holidays.
- (2) IMMEDIATE FAMILY means spouse, father, mother, sister, or brother by consanguinity or affinity.
- (3) LEGAL OWNER means a person who has a property interest in or title to a motor vehicle as defined in Section 541.001 of the Texas Transportation Code, as amended.
- (4) OFF-STREET PARKING FACILITY means any public or private off-street parking area open for use by the public for parking vehicles, other than a private residential property or the parking area of a garage or parking lot for which a charge is made for the storing or parking of vehicles.
- (5) PREPARATIONS for a street race or reckless driving exhibition include, but are not limited to, any of the following acts knowingly done for the purpose of causing a street race or reckless driving exhibition:
 - (A) one or more motor vehicles and persons at a predetermined location on a public street, highway, or off-street parking facility;
 - (B) one or more persons gathered on, or adjacent to, a public street or highway;
 - (C) one or more persons gathered in an off-street parking facility;
 - (D) one or more persons impeding the free public use of a public street, highway, or off-street parking facility by acts, words, or physical barriers;
 - (E) one or more motor vehicles lined up on a public street, highway, or off-street parking facility with motors running, impeding the free public use of a public street, highway, or off-street parking facility or being a physical barrier;

(F) one or more drivers revving a motor vehicle's engine or causing the motor vehicle's tires to spin; or

(G) a person is standing or sitting in a location to act as a race starter.

(6) RECKLESS DRIVING EXHIBITION means any exhibition of reckless driving as defined in Section 545.401 of the Texas Transportation Code, as amended.

(7) REGISTERED OWNER means a person registered by the Texas Department of Motor Vehicles.

(8) SPECTATOR means any person who is present at a street race, reckless driving exhibition, or the site of the preparations for either of these events, when such presence is the result of an affirmative choice for the purpose of viewing, observing, watching, betting, gambling, recording, transmitting, or witnessing the event as it progresses.

(9) STREET RACE means any motor vehicle race, speed contest, drag race, acceleration contest, or test of physical endurance of the operator of a motor vehicle as defined in Section 545.420 of the Texas Transportation Code, as amended.

Division 2. Spectators Prohibited at Street Races and Reckless Driving Exhibitions

SEC. 28-204.

SPECTATORS PROHIBITED AT STREET RACES AND RECKLESS DRIVING EXHIBITIONS.

(a) In general. It shall be unlawful for any person to be knowingly present as a spectator:

(1) at a street race conducted on a public street or highway;

(2) at a reckless driving exhibition conducted on a public street, highway, or off-street parking facility;

(3) where preparations are being made for a street race conducted on a public street or highway; or

(4) where preparations are being made for a reckless driving exhibition conducted on a public street, highway, or in an off-street parking facility.

(b) Exemption. Nothing in this section prohibits law enforcement officers or their agents who are acting in the course of their official duties, or media or news personnel who are reporting on the event from being spectators at a street race or reckless driving exhibition, or spectators at the location of preparations for either of these activities.

SEC. 28-205.

PENALTY.

- (a) Any person who violates any provision of this article is guilty of an offense.
- (b) An offense under this article is punishable by a criminal fine of not more than \$500.
- (c) The culpable mental state required for the commission of an offense under this article is governed by Section 1-5.1 of the code.

Division 3. Abatement of Nuisance Vehicles Engaged in Street Races or Reckless Driving Exhibition.

SEC. 28-206.

DECLARATION AND ABATEMENT OF NUISANCE VEHICLES.

A motor vehicle shall be declared a nuisance and abated subject to this division if:

- (1) the motor vehicle is used in a street race or exhibition of reckless driving;
- (2) the driver or passenger is one of the following:
 - (A) the registered owner of the vehicle at the time of the violation;
 - (B) a member of the registered owner's immediate family at the time of the violation; or
 - (C) lives at the same address as the registered owner at the time of the violation; and
- (3) the driver or passenger described in Paragraph (2) has:
 - (A) used the motor vehicle in a previous incident for a street race or reckless driving exhibition;
 - (B) used the motor vehicle in a street race or reckless driving exhibition that resulted in property damage or bodily injury to another;
 - (C) a previous misdemeanor conviction for fleeing or attempting to elude a police officer pursuant to Section 545.421 of the Texas Transportation Code;
 - (D) a previous misdemeanor conviction for reckless driving pursuant to Section 545.401 of the Texas Transportation Code; or
 - (E) a previous misdemeanor or felony conviction for racing on highway pursuant to Section 545.420 of the Texas Transportation Code.

SEC. 28-207.

NOTICE OF NUISANCE AND ABATEMENT TO LEGAL AND REGISTERED OWNERS AND LIENHOLDERS.

(a) In general. When a street racing or reckless driving exhibition violation occurs causing a vehicle to be declared a nuisance and subject to abatement under this division, the chief of police shall ascertain from the Texas Department of Motor Vehicles the names and addresses of all legal and registered owners and any lienholder of record of that vehicle.

(b) Notice of nuisance and abatement. The chief of police shall send a notice by certified mail, return receipt requested, to all legal and registered owners and any lienholder of record of the vehicle proposed for abatement. The notice shall be sent to the addresses obtained from the Texas Department of Motor Vehicles.

(c) Personal service of notice of nuisance and abatement. If a legal or registered owner or lienholder of record was personally served a notice at the time of the violation which caused a vehicle to be subject to abatement under this division, and the notice contains all the information required to be provided by this section, no further notice is required to be sent to that owner. However, a notice must still be sent to any other current legal or registered owners or lienholders of record of the vehicle, if any.

(d) Contents of the notice. The notice must contain the following:

(1) Statement informing legal and registered owners and any lienholder of record of the vehicle that the vehicle will be declared a nuisance and abated by the city subject to Chapter 28, Article XIX, Division 2 of the Dallas City Code, and will be sold or otherwise disposed of pursuant to this division;

(2) A description of the vehicle including, if available, the year, make, model, license plate number, and vehicle identification number;

(3) Instructions for filing a response opposing the nuisance and abatement with the city attorney and the time limits for filing the response.

SEC. 28-208.

ADMINISTRATIVE ABATEMENT OF NUISANCE.

(a) If no responses opposing the nuisance and abatement are filed and served within 15 days of the mailing of the notice pursuant to Section 28-207(b) or within five days of personal service of the notice pursuant to Section 28-207(c), the city attorney shall submit a motion for default judgment for the nuisance and abatement of the vehicle by the city.

(b) A copy of the motion and order of the nuisance and abatement must be provided on written request to any person informed of the pending abatement pursuant to Section 28-207.

(c) A response opposing the abatement that is filed and later withdrawn by the claimant will be deemed to not have been filed.

SEC. 28-209.

JUDICIAL ABATEMENT OF NUISANCE PROCEEDINGS.

(a) If a response opposing abatement is timely filed and served with the city attorney, then the city attorney shall file a petition for nuisance and abatement with the appropriate court within 10 days of the receipt of the response.

(b) The city attorney shall request a hearing date and send notice to the legal or registered owner and any lienholder of record.

(c) The court filing fee established by the court, not to exceed \$50, shall be paid by the claimant made payable to the city, but shall be reimbursed by the city if the claimant prevails.

(d) The filing of a response opposing abatement within the time limit specified in this section is considered a jurisdictional prerequisite for initiating a nuisance and abatement proceeding. A proceeding in the civil case is a limited civil case. The city attorney shall have the burden of proof that the vehicle constituted a nuisance pursuant to this chapter by a preponderance of the evidence. All questions that may arise must be decided by the court and all other proceedings must be conducted as in an ordinary civil action. A judgment of abatement 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 abatement proceedings to be initiated.

SEC. 28-210.

JOINT PROPERTY INTEREST RELEASE.

If at the time of the violation there is a joint property interest in the vehicle to be abated, 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 valid class C driver's license, the vehicle may not be abated upon compliance with all of the following requirements:

(1) The registered owner or the joint property interest owner requests release of the vehicle and the owner of the joint property interest submits proof of that interest;

(2) The registered owner or the joint property interest owner submits proof that the vehicle is properly registered pursuant to the Texas Transportation Code;

(3) All towing and storage charges and any administrative charges authorized pursuant to Section 2303.155 of the Texas Administrative Code and Section 48A-43 of the Dallas City Code are paid; and

(4) The registered owner and the joint property interest owner sign a stipulated vehicle release agreement, as described in Section 28-211, in consideration for the release of the vehicle.

SEC. 28-211.

STIPULATED VEHICLE RELEASE AGREEMENT.

(a) A stipulated vehicle release agreement must provide for the consent of the signers to the automatic future abatement and transfer of title to the city of any vehicle registered to that person, if the vehicle is used in a street race or exhibition of reckless driving. The

agreement must be in effect for five years from the date of signing and must be maintained by the chief of police.

(b) No vehicle may be released pursuant to Section 28-210 if the chief of police has on file a prior stipulated vehicle release agreement signed by that person within the previous five years.

SEC. 28-212. VEHICLE TITLE VESTING IN THE CITY.

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

SEC. 28-213. SALE OF ABATED VEHICLE.

(a) Order of nuisance and abatement. Any vehicle declared a nuisance and subject to abatement pursuant to this division must be sold once an order of nuisance and abatement is issued by a court pursuant to Sections 28-208 or 28-209 unless the chief of police determines that the vehicle is necessary to be utilized to further police operations in enforcing street racing or reckless driving exhibitions violations or for any other law enforcement purposes.

(b) Public auction. The city shall offer the abated vehicle for sale at public auction within 60 days of receiving title to the vehicle. Low value vehicles must be disposed of pursuant to Section 28-214.

SEC. 28-214. DISPOSITION OF LOW-VALUE VEHICLES.

If the chief of police determines that the abated vehicle to be sold pursuant to this division is of so little value that it cannot readily be sold to the public generally, the vehicle must be conveyed to a licensed dismantler or donated to a charitable organization. License plates must be removed from any vehicle conveyed to a dismantler pursuant to this section.

SEC. 28-215. DISTRIBUTION OF SALE PROCEEDS.

The proceeds of a sale of an abated vehicle must be disposed of in the following priority:

(1) To satisfy the towing and storage costs following impoundment, the costs of providing notice pursuant to Section 28-207 the costs of sale, and the costs and fees associated with the judicial proceedings, if any;

(2) 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; then,

(3) The remaining proceeds shall be transferred to the City of Dallas Police Department for the enforcement of street racing and reckless driving exhibition violations.

SEC. 28-216.

ACCOUNTING OF SALE PROCEEDS.

The person conducting the sale shall disburse the proceeds of the sale as provided in Section 28-215 and shall provide a written accounting regarding the disposition to the chief of police 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 chief of police, within 15 days after the sale is conducted.

SEC. 28-217.

STOLEN VEHICLES.

No vehicle may be sold pursuant to this division if the chief of police determines that the vehicle was stolen. In this event, the vehicle may be claimed by the registered owner or lienholder of record at any time after impoundment, provided the vehicle registration is current and the 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 or lienholder of record of the vehicle cannot be reasonably ascertained, the vehicle may be sold.

SEC. 28-218.

INNOCENT OWNER REMEDY.

Any owner of a vehicle who suffers any loss due to the abatement of any vehicle pursuant to this division may recover the amount of the loss from the person who violated Texas Transportation Code Sections 545.401 or 545.420, which gave rise to the nuisance under this division.

SEC. 28-219.

TOWING AND STORAGE FEES.

Charges for towing and storage for any vehicle impounded pursuant to this division must not exceed the normal towing and storage rates for other vehicle towing and storage conducted by the chief of police in the normal course of business.

Division 4. Aiding Street Racing or Reckless Driving Exhibitions.

SEC. 28-219.1.

AIDING STREET RACING AND RECKLESS DRIVING EXHIBITIONS.

(a) A person commits an offense if he knowingly allows street racing, reckless driving exhibitions, or preparations for street racing or reckless driving exhibitions to occur on the premises that the person owns, operates, or controls.

(b) It is a defense to prosecution under this section if the person who owns, operates, or controls the premises within 10 days of receiving a citation pursuant to this section:

(1) submits a criminal trespass affidavit; and

(2) takes reasonable and appropriate measures to make the property inaccessible to the public during non-business hours.”

SECTION 2. That, unless specifically provided otherwise by this ordinance or by state law, a person violating a provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$500.

SECTION 3. That Chapter 28 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____