

ORDINANCE NUMBER O- 18870 (NEW SERIES)

ADOPTED ON OCT 16 2000

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A NEW DIVISION 51, TITLED "TEMPORARY STREET CLOSURES DUE TO SERIOUS AND CONTINUAL CRIMINAL ACTIVITY"; AND BY ADDING NEW SECTIONS 52.5101, 52.5102, 52.5103, 52.5104, 52.5105 AND 52.5106, ALL RELATING TO TEMPORARY STREET CLOSURES DUE TO SERIOUS AND CONTINUAL CRIMINAL ACTIVITY PURSUANT TO VEHICLE CODE SECTION 21101.4.

WHEREAS, illegal street racing on certain streets in the City of San Diego has become a broad community problem, immediately threatening public peace, property, health, and safety; and

WHEREAS, this illegal street racing attracts hundreds of juveniles and adults to certain streets on a regular basis; and

WHEREAS, this illegal street racing attracts other criminal activity, including juvenile curfew violations, littering, drinking in public, urinating in public, gambling, fights and disturbances, trespassing, graffiti, and vandalism; and

WHEREAS, illegal street racing creates a dangerous environment, with traffic congestion and risk of serious injury or death, for pedestrians and vehicular traffic on local streets; and

WHEREAS, the City Council of the City of San Diego seeks 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, alleys, sidewalks, and parking areas so as to minimize any dangerous conditions caused by illegal street racing, and to curb the criminal activity surrounding illegal street racing; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter V, Article 2, of the San Diego Municipal Code is hereby amended by adding a new Division 51, and new Sections 52.5101, 52.5102, 52.5103, 52.5104, 52.5105 and 52.5106 to read as follows:

Division 51

Temporary Street Closures Due to Serious and Continual Criminal Activity

Sec. 52.5101 Purpose

The Council for the City of San Diego finds and declares that:

(a) Certain streets within the City of San Diego have been the site of continuing and escalating illegal street racing over the past several years. Such street racing 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 San Diego. The illegal street races occur on a regular basis on certain streets within the City. Hundreds of racers and spectators gather on these streets late at night and in the early morning hours, block the streets and sidewalks to traffic, form a racetrack area, place bets, and otherwise encourage, aid, and abet the racing process.

(b) Illegal street racers accelerate to high speeds without regard to oncoming traffic, pedestrians, or vehicles parked or moving nearby. The racers drive quickly from street to street, race for several heats, and then move to other locations upon the arrival of the police. Calls for police service, traffic accidents, and property crimes have increased dramatically. This Division is adopted pursuant to the authority granted by California Vehicle Code section 21101.4, which allows a local authority to adopt rules and regulations for temporary street closures due to serious and continual criminal activity.

Sec. 52.5102 Definitions

(a) "Designated streets" shall mean those streets or highways and the adjacent sidewalks, which the City Council determines by resolution, meet the criteria set forth in California Vehicle Code section 21101.4.

(b) "Temporary street closure" shall mean the closure of designated streets as set forth by resolution of the City Council, after a public hearing, for not

more than eighteen months, but subject to extension, as set forth in Vehicle Code section 21101.4.

(c) "Violator" shall mean the responsible party for a juvenile violator of this Division or an adult violator of this Division.

Sec. 52.5103 Identification of Designated Streets

(a) Upon the recommendation of the San Diego Police Department, the City Council may adopt a resolution identifying streets where there are problems of serious and continual criminal activity that supports the closure of a designated street in accordance with California Vehicle Code section 21101.4.

(b) Prior to adopting a resolution identifying designated streets for temporary closure, the City Council shall make the following findings:

(1) Serious and continual criminal activity is occurring on the designated street recommended for temporary closure;

(2) The designated street has not been designated as a through highway or arterial street;

(3) Vehicular or pedestrian traffic on the designated street contributes to the criminal activity; and

(4) The closure of the designated street will not substantially adversely affect traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the street or highway proposed to be temporarily closed.

Sec. 52.5104 Temporary Street Closure Violation

(a) No person shall drive, stop, or park a vehicle, or be a pedestrian on a designated street, including the adjacent sidewalk, that has been temporarily closed, pursuant to California Vehicle Code section 21101.4. Violation of this section is a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000.

(b) Signs giving notice of the temporary closure shall be posted prior to enforcement of this section, pursuant to Vehicle Code section 21103. Such signs shall be posted at all entrances to the designated streets. Signs shall advise of the temporary street closure days and hours. Signs shall also advise that designated streets are tow-away zones and that violators will be subject to prosecution for a misdemeanor offense.

(c) All vehicles stopped or parked on designated streets during the time of temporary closure shall be towed pursuant to Vehicle Code section 22651(n).

Sec. 52.5105 Temporary Street Closure Exceptions

(a) This temporary street closure shall not apply to emergency or law enforcement personnel in emergency or law enforcement vehicles; City, County, or State employees in government vehicles acting within the scope of their official duties; commercial vehicles making deliveries to and from commercial properties adjacent to the designated streets; and individuals employed by businesses adjacent to the designated streets and showing identification upon request by law enforcement personnel.

Sec. 52.5106 Removal and Storage of Vehicles; Release of Stored Vehicles; Liability for Towing and Storage Fees

(a) Whenever any vehicle is driven, parked, or left standing on a designated street that has been temporarily closed, a peace officer may remove, impound, and store the vehicle. A motor vehicle may be impounded for not more than thirty days.

(b) The registered and legal owner of a vehicle that is removed and impounded or his or her agent shall be provided with the opportunity for a storage hearing to determine the validity of the storage.

(c) An impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in this section under any of the following circumstances:

(1) If the impounded vehicle is a stolen vehicle.

(2) If the person alleged to be a driver on designated streets during the time of temporary closure was not authorized by the registered owner of the impounded vehicle to operate the vehicle at the time of the commission of the offense.

(3) If the legal owner or registered owner of the impounded vehicle is a rental car agency.

(4) If, prior to the conclusion of the impoundment period, criminal charges are not filed because of a lack of evidence, or the criminal charges are dismissed by the court.

(d) A vehicle shall be released pursuant to this section only if the registered owner or his or her agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(e) If a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of this section nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(f) A vehicle seized and impounded under this section shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the thirtieth day of impoundment, if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. No lien sale processing fees shall be charged to a legal owner who redeems the vehicle on or before the fifteenth day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(g) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized by law. The following provisions related to the payment of towing and storage charges apply:

(1) If the Violator was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized by law and incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(2) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized by law that were incurred by the rental car agency in connection with obtaining possession of the vehicle.

(3) The owner shall not be liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(4) The vehicle shall not be sold prior to the defendant's conviction.

(5) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges.

Notwithstanding this provision, nothing shall prohibit impounding agencies from making prior payment arrangements to satisfy this requirement.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By Joan F. Dawson
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Deputy City Attorney

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