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**ENROLLED ORDINANCE**

**NO. 2024 - 092**

**INTRODUCED BY COMMISSIONER(S): CLARK-COLEMAN**

**AN ORDINANCE TO AMEND CHAPTER 207 OF THE WAYNE COUNTY CODE OF ORDINANCES, "PUBLIC NUISANCES" DIVISION 1. RACING UPON PUBLIC STREETS; TO INCLUDE THE DEFINITION OF "ASSISTING RACING" AND "CLAIMANT"; TO INCLUDE THE ASSISTANCE OF RACING ACTIVITIES; TO OUTLINE THE PROCESS FOR ENFORCEMENT BY A CIVIL ACTION; TO AUTHORIZE A VEHICLE OR PROPERTY TO BE SEIZED BY LAW ENFORCEMENT; TO REQUIRE A NOTICE OF SEIZURE, AN EX PARTE ORDER OF IMPOUNDMENT, A NOTICE OF CLAIM AND OBJECTION TO BE ISSUED; AND TO AUTHORIZE ADMINISTRATIVE FORFEITURES.**

**IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CHARTER COUNTY OF WAYNE:**

**SECTION 1: CODE OF ORDINANCES AMENDED**

Chapter 207, Division 1, of the Wayne County Code of Ordinances is amended to read as follows:

**CHAPTER 207 PUBLIC NUISANCES**

**Sec. 207-1. Citation.**

This chapter may be cited as "the Public Nuisance Ordinance."

**DIVISION 1. RACING UPON PUBLIC STREETS**

**Sec. 207-2. Commission Findings.**

After conducting research into the matter and public hearings upon this matter, the Wayne County Commission finds as follows:

- (1) The use of a vehicle to engage in racing upon the public streets without a permit results not only in unsafe traffic conditions for other vehicles, playing children, and pedestrians, but also attracts rowdy, uncivil, intimidating, and criminal activity to the vicinity of the racing, including gambling upon the outcome of the races, which engenders fear and disinvestment among neighborhood residents and prevents the full and peaceful enjoyment of the use of their property, or otherwise impacts negatively on the health, safety, and welfare of the community.

- 1  
2 (2) This activity is therefore declared to be a public nuisance, which justifies  
3 taking firm action to abate the public nuisance, including impoundment  
4 and forfeiture of the property.  
5

6 **Sec. 207-3. Definitions.**

- 7 (a) *Assisting Racing* means actively, directly and knowingly aiding, abetting and  
8 assisting in or facilitating racing activity, including but not limited to: blockading  
9 traffic to knowingly enable racing to occur unimpeded or uninterrupted, while  
10 traveling to and from or during the racing event; filming or live-streaming a  
11 racing event to promote or encourage the racing activity; illegally or recklessly  
12 fleeing or eluding from police in such a manner that one consciously disregards  
13 the substantial risk it may be recklessly dangerous or materially interferes with or  
14 obstructs the police's ability to detain or investigate those suspected of  
15 participating in a racing event; illegally parking or trespassing on property nearby  
16 to participate in or attend the racing activity; organizing, coordinating or planning  
17 the racing activity; providing financial or other assistance or services to persons or  
18 vehicles spectating or racing so as to knowingly benefit from or facilitate,  
19 encourage and support the racing activity; organizing or promoting an illegal  
20 racing event; or obtaining financial income or other benefits from the promotion  
21 or organizing of a racing event or racing activity.  
22
- 23 (b) *Claimant* means a person who filed a claim under this Chapter and reasonably  
24 might claim to be an owner or have an ownership interest, whether in whole or  
25 part, in the property/vehicle.  
26
- 27 (c) *Excessively high rates of speed* means any speed that is 15 mph or more over  
28 the posted speed limit.  
29
- 30 (d) *Owner* of a vehicle includes a person in whose name the vehicle is titled, and  
31 any chattel mortgagee or assignee or other lien-holder whose lien has been filed in  
32 the office of the Secretary of State or the office of the Wayne County Register of  
33 Deeds prior to the commencement of the action, as well as a person who is  
34 deemed by law to be a de-facto or constructive owner.  
35
- 36 (e) *Permit* means written authorization from a government entity authorizing a  
37 specific activity in a designated area, or in the case of a private paved surface,  
38 then written authorization from the owner authorizing the specific activity in a  
39 designated area.  
40
- 41 (f) *Person* includes any individual, firm, partnership, corporation, company,  
42 association, joint stock association, or joint venture or combination acting as a  
43 unit, and the plural as well as the singular number, and includes any trustee,  
44 receiver, assignee, or other similar representative thereof.  
45

- 1 (g) *Public streets* means a street, freeway, alleyway, public parking lot, or any other  
2 paved surface, including a private paved surface which is used without the  
3 owner's permission, which has not been specifically designed for racing vehicles.  
4
- 5 (h) *Racing* means to (1) race a vehicle either against another vehicle or against a  
6 time- or speed-measuring device, whether or not there is an agreement to race; or  
7 (2) drive a vehicle at excessively high rates of speed or acceleration or in another  
8 recklessly dangerous manner in an exhibition or contest of driving prowess, such  
9 as drifting, sliding, or 'donuts' (involving loss of traction and/or repeatedly  
10 driving the vehicle in circles or figure eights or in a sideways motion in circles or  
11 figure eights) that is recklessly dangerous and could cause serious injury or death  
12 and/or is an impediment to traffic.  
13
- 14 (i) *Recklessly* means carelessly and heedlessly or without due caution and  
15 circumspection, in willful and wanton disregard of the rights or safety of persons  
16 or property, or in a manner so as to endanger or be likely to endanger any person  
17 or property.  
18
- 19 (j) *Vehicle* includes, but is not limited to, every device in, upon, or by which any  
20 person or property is or may be transported or drawn upon public streets,  
21 including self-propelled devices. Vehicle does not include devices exclusively  
22 moved by human power or used exclusively upon stationary rails or tracks or  
23 power-driven mobility device when that power-driven mobility device is being  
24 used by an individual with a mobility disability.  
25

26 **Sec. 207-4. Nuisance prohibited.**

- 27 (a) A person or his or her agent or employee, who owns, leases, operates, or  
28 maintains a vehicle shall not use that vehicle, nor allow the vehicle to be used, for  
29 racing or assisting in a racing event or racing activity upon the public streets  
30 without a permit and/or under circumstances which enable persons to take or  
31 make wagers upon the outcome.  
32
- 33 (b) Any violation of Section 207-4(a), including a first-time offense, is a public  
34 nuisance if (1) there has been a continual course of or similar racing activity at the  
35 place, area, or building, such that either the Owner or the operator of the vehicle  
36 knew or should have known that the action taken was unlawful or (2) the racing  
37 activity is in an organized event that is recklessly dangerous to health and safety  
38 and/or impedes traffic, and the Owner of a vehicle in a first-time offense knew or  
39 should have known the vehicle would be used in such activity.  
40
- 41 (c) A person who violates any prohibition in this Chapter is guilty of a public  
42 nuisance. The racing vehicle and its contents, including a tractor or trailer used to  
43 transport the vehicle to and from the racing site; or any tools or equipment used to  
44 service, maintain, or repair the racing vehicle; or any vehicle assisting in the  
45 racing activity and its contents; or any proceeds of racing; or income or substitute

1 proceeds from racing activity or Assisting Racing; or other property used for  
2 racing activity or Assisting Racing are also declared a public nuisance.

3

4 (d) A public nuisance shall be sanctioned, enjoined and abated as set forth in this  
5 Chapter and by Third Circuit Court rule.

6

7 **Sec. 207-5. Enforcement.**

8 (a) This Chapter may be enforced by a civil action filed in the Third Circuit Court to  
9 abate the public nuisance; to perpetually enjoin a person, his or her agent or employee  
10 from using or allowing a vehicle to be used for the purposes declared a public nuisance  
11 by Section 207-4; or to provide for the seizure, impoundment, continued impoundment,  
12 sale, or forfeiture to the seizing agency of a vehicle or its contents, including a tractor or  
13 trailer used to transport the vehicle to and from the racing site, or allied maintenance or  
14 transportation equipment or tools, or any racing proceeds, or income or substitute  
15 proceeds from racing or other property used for Assisting Racing, which is a public  
16 nuisance.

17

18 (b) A civil action may be initiated in the name of the County by the Attorney General of  
19 the State of Michigan, the Wayne County Prosecuting Attorney, the City or Township  
20 attorney for the municipality in which the public nuisance may be found, or by any  
21 neighborhood organization organized as a not-for-profit corporation with a membership  
22 of at least five persons who reside within a one-mile radius of the site of the nuisance.

23

24 (c) In a civil action brought under this Chapter, any chattel mortgagee or assignee or  
25 other lienholder whose lien has been filed on the property with the Michigan Secretary of  
26 State or the Wayne County Register of Deeds shall be joined as a party defendant.

27

28 (d) In a civil action brought under this Chapter, evidence of the general reputation of the  
29 Owner, Claimant, or operator of the vehicle; the vehicle; or of the place, area or building  
30 in which the racing activity took place or that was or is used for Assisting Racing activity  
31 is admissible to establish the existence of the public nuisance.

32

33 (e) Proof of knowledge of the existence of the public nuisance on the part of the Owner,  
34 or his or her agent or employee, or any of them, is not required.

35

36 (f) In a civil action brought under this Chapter, any monies found on the driver,  
37 passengers or others, or as contents in vehicles or other property directly involved in or  
38 assisting with the racing activity are presumed to be proceeds of said racing. This  
39 presumption may be rebutted by clear and convincing evidence that the monies are  
40 unrelated to the racing.

41

42 (g) In a civil action brought under this Chapter, the operation of 2 or more vehicles either  
43 at speeds in excess of prima facie lawfully established speeds or rapidly accelerating  
44 from a common starting point or in a contest of driving prowess to a speed in excess of  
45 such prima facie lawful speed or driven in circles, figure eights, sideways in circle(s) or  
46 figure eights with wheels spinning without traction is prima facie evidence of racing.

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2 **Sec. 207-6. Judgment and order.**

3 (a) Upon finding that a public nuisance exists, the Third Circuit Court may render  
4 judgment and enter an order of abatement.  
5

6 (b) A vehicle which has been used for racing upon the public streets, including its  
7 contents or any tractor or trailer used to transport the racing vehicle to and from  
8 the racing site; or any tools or equipment used to service, maintain or repair the  
9 racing vehicle; or any vehicle used for Assisting Racing activity and its contents;  
10 or any proceeds of racing, or income, or substitute proceeds from racing activity,  
11 or other property used for Assisting Racing activity, may be impounded or  
12 continue to be impounded for a period of up to one year, ordered to be sold in the  
13 manner provided for the sale of chattels under execution, or forfeited to the  
14 seizing agency.  
15

16 (c) Upon the sale of a racing vehicle, or its contents, or a tractor or trailer used to  
17 transport the racing vehicle to or from the racing site, or any tools or equipment  
18 used to service, maintain, or repair the racing vehicle, the proceeds shall be  
19 disposed of in the following order of priority:  
20

- 21 (1) To pay for the costs of keeping the property and the expenses of the sale.  
22 (2) To pay all bona fide secured interests and liens on the property, provided that  
23 the secured party or lien-holder had no knowledge or notice that the property was  
24 being used to maintain a public nuisance.  
25 (3) To pay for court costs and to reimburse appropriate units of government or an  
26 instituting neighborhood organization for the costs of enforcing and prosecuting  
27 the action, including any costs of incarceration not otherwise reimbursed which  
28 are generated due to a contempt charge against the Owner or Claimant, or an  
29 agent or employee of the Owner arising from the abatement order.  
30 (4) The remaining balance shall be deposited in Wayne County's general fund or  
31 distributed as ordered by the court.  
32

33 (d) The Sheriff shall seek from a person sentenced to jail for contempt, full  
34 reimbursement for the costs of incarceration, and may place a claim with the  
35 Third Circuit Court for a portion of the proceeds of any sale of any racing vehicle  
36 or its contents or allied equipment or tools, which is sold under the same court  
37 order or for a portion of the proceeds from the racing.  
38

39 **Sec. 207-7. Notice of Seizure, Ex Parte Order of Impoundment, Notice of Claim and**  
40 **Objection, Administrative Forfeiture, Storage of vehicle, settlement conference and**  
41 **consent order.**

42 (a) A vehicle or other property may be seized by law enforcement for abatement or  
43 forfeiture under this Chapter as follows:

- 44 (1) Upon process issued by a court of jurisdiction over the property or racing  
45 event.

- 1 (2) Pursuant to a search or other lawful warrant issued by a court with jurisdiction  
2 over the property or racing event.
- 3 (3) Incident to a lawful arrest or detention at the scene of a racing event or upon a  
4 lawful stop incident to a racing event or, unless a search warrant is otherwise  
5 required by law, during an investigation of racing activity based upon  
6 probable cause to believe the property is intended for use in or was used for  
7 racing activity or a racing event. If a vehicle is seized at the scene of or  
8 incident to a racing event and forfeiture of the property is to be sought under  
9 this Chapter, a related traffic or an ordinance violation or criminal charge  
10 should be issued by citation or submission to the Wayne County Prosecutor's  
11 Office for criminal charges as appropriate, unless good cause can be shown  
12 and there is no substantive prejudice to the Owner or Claimant. Within five  
13 (5) days of the seizure of a vehicle or other personal property, the seizing  
14 agency shall submit to the District Court with jurisdiction over the location  
15 wherein the seizure or racing activity occurred a warrant with a draft order  
16 seeking ex parte, an order for continued seizure/impoundment of the property  
17 which shall be issued ex parte by the court based upon a showing of probable  
18 cause that the property may be subject to abatement or forfeiture under this  
19 Chapter.  
20
- 21 (b) If property is used in violation of this Chapter, or upon seizure of any property  
22 and abatement, or forfeiture is sought under this Chapter, the seizing agency  
23 must:  
24
- 25 (1) Serve the possessor of the property or driver of the vehicle and Owner(s) of  
26 the vehicle, if known, a written Notice of Seizure form. The service must be  
27 by delivery in-person or sent by U.S. postal certified mail requiring signature  
28 received, unless the name and address of the Owner are not reasonably  
29 ascertainable or delivery of the notice cannot be reasonably accomplished,  
30 then the notice must be published on the local unit of government's public  
31 website and in a newspaper of general circulation in the location of Wayne  
32 County in which the property was seized for ten (10) successive publishing  
33 days.  
34
- 35 (2) Upon service of the Notice of Seizure form and issuance of the order of  
36 seizure or impoundment, the seizing agency shall forthwith send a copy of the  
37 case to the Wayne County Prosecutor's Office. However, the seizing agency  
38 retains jurisdiction over the matter until a claim and objection is filed by the  
39 claimant or a settlement is reached between the prosecutor and a claimant or  
40 Owner.  
41
- 42 (c) The Notice of Seizure form must clearly and concisely include the following  
43 information:  
44

- 1 (1) Inform the Claimant or Owner that the property has been seized by the  
2 seizing agency under this Chapter with the intent that it may be abated (by  
3 forfeiture) for a violation of this Chapter and disposed of thereby.  
4
- 5 (2) Inform the Claimant or Owner that they must contact the seizing agency, as  
6 instructed by the agency, within thirty (30) days from date of service of the  
7 Notice of Seizure form to file as reasonably and generally instructed by the  
8 agency a written Notice of Claim and Objection to the seizure of the  
9 property, which must be signed by the Owner or person with power of  
10 attorney for the Owner and containing the Owner's contact information  
11 including: current address, telephone number, e-mail address, along with a  
12 copy of a government issued identification.  
13
- 14 (3) Inform Claimant or Owner that if no Notice of Claim and Objection as  
15 required herein above is submitted by the Owner to and received by the  
16 seizing agency as reasonably and generally instructed by the agency within  
17 the thirty (30) days, then the property shall be forfeited to the seizing  
18 agency, subject to any lien holder or secured interest party.  
19
- 20 (4) Inform the Claimant or Owner that the Claimant or Owner may contact as  
21 reasonably and generally the Wayne County Prosecutor's Office to request a  
22 review and discuss possible resolution or settlement of the civil vehicle  
23 seizure matter prior to the thirty (30) days allotted in subsection (c)(3) of  
24 this Section.  
25
- 26 (d) If no such written Notice of Claim and Objection as required herein above is  
27 submitted by the Owner to and received by or filed with the seizing agency as  
28 reasonably and generally instructed within the thirty (30) days from the date of  
29 service of the Notice of Seizure or the Owner disclaims ownership of the property  
30 in writing, then the property shall be forfeited to the seizing agency, subject to  
31 any lien holder or secured interest third party, and the seizing agency may sell or  
32 apply for title for any seized vehicle subject to any lien holder or secured interest  
33 third party pursuant to this Chapter. An innocent lien holder or secured interest  
34 third party must have the opportunity to claim the vehicle for payment of towing  
35 and storage fees upon submission of a hold harmless agreement as reasonably and  
36 generally instructed within 60 days of service of the Notice of Seizure on the lien  
37 holder or secured interest party. The seizing agency shall obtain consent of the  
38 prosecutor handling the related citation or criminal charge, only if and while it is  
39 pending in court, for consent before disposing of the forfeited property under this  
40 Chapter.  
41
- 42 (e) If a Notice of Claim and Objection to Seizure form is filed as instructed with the  
43 seizing agency within the thirty (30) days, it shall be provided forthwith by the  
44 seizing agency to the Wayne County Prosecutor's Office and acivil action under  
45 this Chapter shall be commenced within ninety (90) days after the seizure, unless  
46 good cause can be shown and there is no substantial prejudice to the Owner

1 and/or Claimant. The filing of a civil action within ninety (90) days from the date  
2 of seizure under this Chapter shall cure any defect in service of the Notice of  
3 Seizure form provided in subsection (a).  
4

- 5 (f) (f) Upon filing of a civil action and pending final court order or settlement  
6 disposing of a public nuisance action, the court shall order that a racing vehicle,  
7 including its contents, including a tractor or trailer used to transport the vehicle to  
8 and from the racing site, or any allied equipment or tools, or any seized vehicle or  
9 other property or contents thereof used for Assisting Racing activity, be  
10 impounded or continue to be impounded and held in secure storage if there is an  
11 ex parte showing of probable cause that the vehicle or other personal property is  
12 subject to abatement under this Chapter. However, the seized vehicle or its  
13 contents, including a tractor or trailer used to transport the vehicle to and from the  
14 racing site, or any allied equipment or tools may be released upon a finding that  
15 temporary use of the seized vehicle is necessary for the Owner or Claimant or  
16 immediate family or dependent thereof and, then, only upon the Owner or  
17 Claimant posting a bond equal to the fair market value of the property and any  
18 other terms and conditions the court finds appropriate.  
19
- 20 (g) After sixty (60) days from seizure, any seized proceeds or income or substitute  
21 proceeds from racing activity or event may be deposited into an account in an  
22 insured financial institution by the seizing agency pursuant to their standard  
23 procedures pending final court order or settlement disposing of the matter.  
24
- 25 (h) A defendant in a public nuisance action brought under this Chapter may enter  
26 into an out-of-court settlement agreement with the Wayne County Prosecuting  
27 Attorney.  
28
- 29 (i) Property taken or detained under this Chapter is not subject to an action to recover  
30 personal property but is deemed to be in the custody of the seizing agency subject  
31 only to an order and judgment of the court having jurisdiction over the forfeiture  
32 proceedings or if no civil action is filed within ninety (90) days from the date of  
33 seizure of the property.  
34
- 35 (j) Upon filing of a civil complaint under this Chapter, all parties to the action may  
36 request an expedited schedule of events with the court requiring, if possible, for  
37 the court and under expedited rules of discovery and procedure as the court deems  
38 appropriate and reasonable, a trial be heard within ninety (90) days of service of  
39 the complaint and summons on the claimant and defendants. However, unless  
40 good cause is shown, within one hundred and eighty (180) days of service of the  
41 summons and complaint a trial date must be scheduled by the court.  
42

43 **Sec. 207-8. Provisions in addition to other law.**

44 The provisions, sanctions and remedies set forth in this Chapter are in addition to the  
45 sanctions and remedies provided in state and other municipal law, and are not intended to  
46 comprise, substitute for or place a limitation upon those other laws.

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**Sec. 207-9. Provisions severable.**

If any provision of this Chapter shall be declared by a court of competent jurisdiction to be void, invalid, illegal or unenforceable, then such voidness, invalidity, illegality or unenforceability shall not affect any other provision in this Chapter, and all remaining provisions shall continue to be of full force and effect.

**Sec. 207-10. Home rule relationships.**

This Chapter is adopted under the home rule powers of the Charter County of Wayne, which are inferior to the home rule powers of charter cities and townships within the county. A charter city or township may opt out of this Chapter by adopting an ordinance or resolution to opt out, or by adopting an ordinance or resolution addressing the same subject matter. A charter city or township may also elect to enforce this Chapter on behalf of Wayne County through their municipal attorney.

**Sec. 207-11. Liberal construction.**

The purpose of this Chapter is to promote and protect the health, safety and welfare of the county and the citizens of the county, as such, it shall be liberally construed in order to effectuate that purpose.

**SECTION 2: PREEMPTION**

If any section, clause, or provision of this Division conflicts with any state law then the section, clause, or provision of state law shall be read to supersede the conflicting provisions of this Division to the extent necessary to give the state law full force and effect.

**SECTION 3: EFFECTIVE DATE**

This Ordinance is effective thirty (30) days after its adoption by the Wayne County Commission.

ADOPTED BY THE WAYNE COUNTY COMMISSION ON FEBRUARY 15, 2024  
(2024-68-001)