

ENROLLED ORDINANCE

NO. 2020 - 750

INTRODUCED BY COMMISSIONER(S): CLARK-COLEMAN

AN ORDINANCE TO AMEND CHAPTER 207 OF THE WAYNE COUNTY CODE OF ORDINANCES, THE PUBLIC NUISANCE ORDINANCE, TO CLARIFY AND FURTHER DEFINE PUBLIC NUISANCES INVOLVING RACING ON PUBLIC STREETS AND THE AVAILABLE ENFORCEMENT, ABATEMENT AND SANCTIONS.

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

SECTION 1: CODE OF ORDINANCES AMENDED

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

Sec. 207-1. - Citation.

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

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.

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

Sec. 207-3. - Definitions.

(a) *Excessively high rates of speed* means any speed that is 15 mph or more over the posted speed limit.

(b) *Owner* of a vehicle includes a person in whose name the vehicle is titled, and any chattel mortgagee or assignee or other lien-holder whose lien has been filed in

1 the office of the Secretary of State or the office of the Wayne County Register of
2 Deeds prior to the commencement of the action, as well as a person who is
3 deemed by law to be a constructive owner.
4

5 (c) *Permit* means written authorization from a government entity authorizing a
6 specific activity in a designated area, or in the case of a private paved surface,
7 then written authorization from the owner authorizing the specific activity in a
8 designated area.
9

10 (d) *Person* includes any individual, firm, partnership, corporation, company,
11 association, joint stock association, or joint venture or combination acting as a
12 unit, and the plural as well as the singular number, and includes any trustee,
13 receiver, assignee, or other similar representative thereof.
14

15 (e) *Public streets* means a street, freeway, alleyway, public parking lot, or any other
16 paved surface, including a private paved surface which is used without the
17 owner's permission, which has not been specifically designed for racing
18 vehicles.
19

20 (f) *Racing* means to (1) race a vehicle either against another vehicle or against a
21 time- or speed-measuring device, whether or not there is an agreement to race;
22 or (2) drive a vehicle at excessively high rates of speed or acceleration or in
23 another recklessly dangerous manner in an exhibition or contest of driving
24 prowess, such as drifting, sliding, or 'donuts' (involving loss of traction
25 and/or repeatedly driving the vehicle in circles or figure eights or in a sideways
26 motion in circles or figure eights) that is recklessly dangerous and could cause
27 serious injury or death and/or is an impediment to traffic.
28

29 (g) *Recklessly* means carelessly and heedlessly or without due caution and
30 circumspection, in willful and wanton disregard of the rights or safety of
31 persons or property, or in a manner so as to endanger or be likely to endanger
32 any person or property.
33

34 (h) *Vehicle* includes, but is not limited to, every device in, upon, or by which any
35 person or property is or may be transported or drawn upon public streets,
36 including self-propelled devices. Vehicle does not include devices exclusively
37 moved by human power or used exclusively upon stationary rails or tracks or
38 power-driven mobility device when that power-driven mobility device is being
39 used by an individual with a mobility disability.
40

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

42 (a) A person or his or her agent or employee, who owns, leases, operates, or
43 maintains a vehicle shall not use that vehicle, nor allow the vehicle to be used,
44 for racing upon the public streets without a permit and/or under circumstances
45 which enable persons to take or make wagers upon the outcome.

1
2 (b) Any violation of Section 207-4(a), including a first-time offense, is a public
3 nuisance if (1) there has been a continual course of or similar racing activity at
4 the place, area, or building, such that either the owner or the operator of the
5 vehicle knew or should have known that the action taken was unlawful or (2)
6 the racing activity is in an organized event that is recklessly dangerous to health
7 and safety and/or impedes traffic, and the owner of a vehicle in a first-time
8 offense knew or should have known the vehicle would be used in such activity.
9

10 (c) A person who violates any prohibition in this Chapter is guilty of a public
11 nuisance. The racing vehicle and its contents, including a tractor or trailer used
12 to transport the vehicle to and from the racing site; or any tools or equipment
13 used to service, maintain, or repair the racing vehicle; or any proceeds of racing
14 are also declared a public nuisance.
15

16 (d) A public nuisance shall be sanctioned, enjoined and abated as set forth in this
17 Chapter and by Third Circuit Court rule.
18

19 **Sec. 207-5. - Enforcement.**

20 (a) This Chapter may be enforced by a civil action filed in the Third Circuit Court to
21 abate the public nuisance; to perpetually enjoin a person, his or her agent or
22 employee from using or allowing a vehicle to be used for the purposes declared
23 a public nuisance by Section 207-4; or to provide for the seizure, impoundment,
24 continued impoundment, sale, or forfeiture to the seizing agency of a vehicle or
25 its contents, including a tractor or trailer used to transport the vehicle to and
26 from the racing site, or allied maintenance or transportation equipment or tools,
27 or any racing proceeds, which is a public nuisance.
28

29 (b) A civil action may be initiated in the name of the County by the Attorney General
30 of the State of Michigan, the Wayne County Prosecuting Attorney, the City or
31 Township attorney for the municipality in which the public nuisance may be
32 found, or by any neighborhood organization organized as a not-for-profit
33 corporation with a membership of at least five persons who reside within a one-
34 mile radius of the site of the nuisance.
35

36 (c) In a civil action brought under this Chapter, any chattel mortgagee or assignee
37 or other lienholder whose lien has been filed on the property with the Michigan
38 Secretary of State or the Wayne County Register of Deeds shall be joined as a
39 party defendant.
40

41 (d) In a civil action brought under this Chapter, evidence of the general reputation
42 of the owner or operator of the vehicle; the vehicle; or of the place, area or
43 building in which the racing activity took place is admissible to establish the
44 existence of the public nuisance.
45

- 1 (e) Proof of knowledge of the existence of the public nuisance on the part of the
2 owner, or his or her agent or employee, or any of them, is not required.
3
- 4 (f) In a civil action brought under this Chapter, any monies found on the driver,
5 passengers or others directly involved in the racing activity are presumed to be
6 proceeds of said racing. This presumption may be rebutted by clear and
7 convincing evidence that the monies are unrelated to the racing.
8
- 9 (g) In a civil action brought under this Chapter, the operation of 2 or more vehicles
10 either at speeds in excess of prima facie lawfully established speeds or rapidly
11 accelerating from a common starting point or in a contest of driving prowess to
12 a speed in excess of such prima facie lawful speed is prima facie evidence of
13 racing.
14

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

- 16 (a) Upon finding that a public nuisance exists, the Third Circuit Court may render
17 judgment and enter an order of abatement.
18
- 19 (b) A vehicle which has been used for racing upon the public streets, including its
20 contents or any tractor or trailer used to transport the racing vehicle to and
21 from the racing site; or any tools or equipment used to service, maintain or
22 repair the racing vehicle; or any proceeds of racing may be impounded or
23 continue to be impounded for a period of up to one year, ordered to be sold in
24 the manner provided for the sale of chattels under execution, or forfeited to the
25 seizing agency.
26
- 27 (c) Upon the sale of a racing vehicle, or its contents, or a tractor or trailer used to
28 transport the racing vehicle to or from the racing site, or any tools or equipment
29 used to service, maintain, or repair the racing vehicle, the proceeds shall be
30 disposed of in the following order of priority:
31
 - 32 (1) To pay for the costs of keeping the property and the expenses of the sale.
33
 - 34 (2) To pay all bona fide secured interests and liens on the property, provided
35 that the secured party or lien-holder had no knowledge or notice that the
36 property was being used to maintain a public nuisance.
37
 - 38 (3) To pay for court costs and to reimburse appropriate units of government or
39 an instituting neighborhood organization for the costs of enforcing and
40 prosecuting the action, including any costs of incarceration not otherwise
41 reimbursed which are generated due to a contempt charge against the
42 owner or an agent or employee of the owner arising from the abatement
43 order.
44
 - 45 (4) The remaining balance shall be deposited in Wayne County's general fund
46 or distributed as ordered by the court.

1
2 (d) The Sheriff shall seek from a person sentenced to jail for contempt, full
3 reimbursement for the costs of incarceration, and may place a claim with the
4 Third Circuit Court for a portion of the proceeds of any sale of any racing vehicle
5 or its contents or allied equipment or tools, which is sold under the same court
6 order or for a portion of the proceeds from the racing.

7
8 **Sec. 207-7. - Storage of vehicle, settlement conference and consent order.**

9 (a) If a vehicle is seized at the scene of a racing event on traffic violation charges, a
10 civil action under this Chapter shall be commenced within 30 days after the
11 seizure. Pending trial of a public nuisance action, the court may order that a
12 racing vehicle, including its contents, including a tractor or trailer used to
13 transport the vehicle to and from the racing site, or any allied equipment or
14 tools, be impounded or continue to be impounded and held in secure storage.
15 The racing vehicle or its contents, including a tractor or trailer used to transport
16 the vehicle to and from the racing site, or any allied equipment or tools may be
17 released upon the defendant posting a bond equal to the fair market value of the
18 property.

19
20 (b) A defendant in a public nuisance action brought under this Chapter may enter
21 into an out-of-court settlement agreement with the Wayne County Prosecuting
22 Attorney.

23
24 **Sec. 207-8. - Provisions in addition to other law.**

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

28
29 **Sec. 207-9. - Provisions severable.**

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

34
35 **Sec. 207-10. - Home rule relationships.**

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

43
44 **Sec. 207-11. - Liberal construction.**

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

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5 **SECTION 2: EFFECTIVE DATE**

6 This Ordinance is declared necessary for the public health, safety and welfare of
7 the people of the county and shall be effective immediately upon approval by the
8 Wayne County Commission.

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10 **ADOPTED BY THE WAYNE COUNTY COMMISSION ON NOVEMBER 19, 2020**

11

12 (2020-66-042)

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