



CITY OF
HAYWARD
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DATE: October 20, 2009
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Amending Article 12 of Chapter 4 of the Hayward Municipal Code Relating to the Prohibition of Spectators at Illegal Speed Contests or Exhibitions of Speed

RECOMMENDATION

It is recommended that the City Council adopts the attached Ordinance.

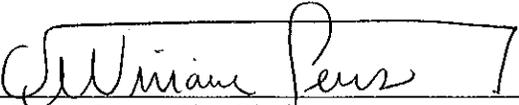
BACKGROUND

The ordinance was introduced by Council Member Henson at the October 6, 2009, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermefio, Quirk, Halliday, May, Dowling, Henson
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

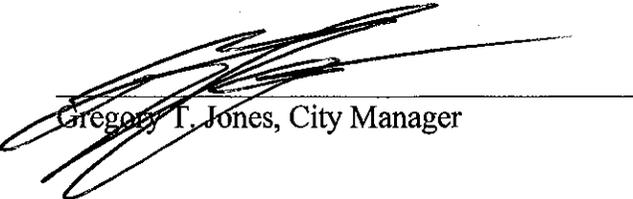
The ordinance was published in the Hayward Daily Review on Saturday, October 10, 2009. Adoption at this time is therefore appropriate.

Recommended by:



Miriam Lens, City Clerk

Approved by:



Gregory T. Jones, City Manager

Attachment: Draft Ordinance

**PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD**

AN ORDINANCE AMENDING ARTICLE 12 OF CHAPTER 4 OF THE HAYWARD MUNICIPAL CODE RELATING TO THE PROHIBITION OF SPECTATORS AT ILLEGAL SPEED CONTESTS OR EXHIBITIONS OF SPEED

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Upon the effective date of this ordinance, Section 4-12.003 of the Hayward Municipal Code, entitled "Spectator at Illegal Speed Contest or Exhibition of Speed - Violation" is hereby amended to read as follows:

SEC. 4-12.003 SPECTATOR AT ILLEGAL SPEED CONTEST OR EXHIBITION OF SPEED
– CRIMINAL VIOLATIONS; ADMINISTRATIVE CITATIONS.

(a) Any individual who is knowingly present as a "spectator," either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, at an "illegal motor vehicle speed contest" or "exhibition of speed" is guilty of a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000.00.

(b) Any individual who is knowingly present as a "spectator," either on a public street or highway, or on private property open to the general public without the consent of the owner, operator, or agent thereof, where "preparations" are being made for an "illegal motor vehicle speed contest" or "exhibition of speed" is guilty of a misdemeanor subject to a maximum of six months in jail and a fine of \$1,000.00.

(c) An individual is present at the "illegal motor vehicle speed contest" or "exhibition of speed," if that individual is within 200 feet of the location of the event, or within 200 feet of the location where "preparations" are being made for the event.

(d) As an alternative to criminal enforcement of the provisions of this Article, the Chief of Police (or his or her designee), at his or her discretion, may issue an administrative citation for a violation of this Article. A first violation of this Article shall result in an administrative citation with a \$500.00 fine. A second violation shall result in an administrative citation with a \$750.00 fine. A third or subsequent violation shall result in an administrative citation with a \$1,000.00 fine.

The Chief of Police (or his or her designee) shall give notice of a violation of this Article by issuing the administrative citation to any and all responsible persons identified by the Chief of Police within 30 days of the violation. The issuance and enforcement of an administrative citation shall be subject to the processes and procedures set forth in Article 7 of Chapter 1 of this Code.

Exemption: Nothing in this section prohibits law enforcement officers or their agents from being “spectators” at “illegal speed contests” or “exhibitions of speed” in the course of their official duties.”

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

Introduced at a meeting of the Hayward City Council held October 6, 2009, the above-entitled ordinance was introduced by Council Member Henson.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on October 20, 2009, at 8:00 p.m., in the Council Chamber, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the office of the City Clerk.

Dated: October 10, 2009

Miriam Lens, City Clerk
City of Hayward