

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 210182

Amending Chapter 56, Code of Ordinances, by repealing Sections 56-347 and 56-348 relating to the property maintenance code and enacting in lieu thereof two new sections of like number and subject and amending Chapter 70, Code of Ordinances, by repealing Sections 70-365 and 70-366 relating to street and drag racing and enacting in lieu thereof two new sections of like number and subject and by adding one new section 70-368 relating to street and drag racing.

WHEREAS, street racing has caused vehicle crashes, deaths and injuries to drivers, passengers, onlookers, or innocent bystanders; and property damage in Kansas City; and

WHEREAS, street racing causes noise disturbances to residences and businesses near the street racing from racing vehicles and crowds; and

WHEREAS, street racing can cause vandalism and litter at racing locations, including businesses where racers commonly gather; and

WHEREAS, street racing can cause a loss of commercial revenue if racing crowds obstruct or intimidate potential customers; and

WHEREAS, street racing will cause excess wear and tear to Kansas City public streets where continual racing occurs, including areas with painted street markings commonly are damaged by the burning rubber of vehicle tires; and

WHEREAS, street racing has caused damage to curbs and bus stops in Kansas City, and to areas maintained by the city, including sidewalk cutaways and grassy areas; and

WHEREAS, public streets are created and maintained by Kansas City for public use and not for individuals to engage in the sport of street racing: NOW, THEREFORE:

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 56 of the Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 56-347 and 56-348 relating to the property maintenance code and enacting in lieu thereof two new sections of like number and subject, to read as follows:

Sec. 56-347. - Powers and duties of property maintenance appeals board.

(a) The property maintenance appeals board shall have the following powers and duties:

- (1) To interpret the provisions of this chapter, chapter 48, and the provisions of section 70-644.
- (2) To review orders and actions of the director taken in the enforcement of this chapter, chapter 48, and the provisions of section 70-644 and to affirm, amend or reverse such orders or actions. If such review does not occur within 90 days from

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the date of filing the appeal, then it shall be presumed that the order or action of the director appealed is affirmed unless for good and sufficient cause the board extends the time for a reasonable period not to exceed an additional 30 days.

- (3) To recommend legislation affecting the substance and enforcement of this chapter and chapter 48.
- (4) To adopt reasonable rules and regulations governing the form, method and procedures used in the filing, hearing and disposition of appeals, and for the conduct of its own business.
- (5) To hear appeals provided for in this chapter, chapter 48, and the provisions of section 70-644.
- (6) To appoint hearing examiners.
- (7) For good cause shown, to grant extensions of time in which to comply with the provisions of this chapter and chapter 48.
- (8) To grant continuances.
- (9) To issue subpoenas compelling attendance of witnesses and production of evidence.
- (10) To administer oaths and affirmations.
- (11) To cause all hearings to be suitably recorded.
- (12) To render its appellate decision in writing with copies to the appellant, director and city counselor.
- (13) To grant or revoke livestock exceptions as provided in chapter 14.
- (14) To interpret the provisions of section 70-368, provide the hearing provided for in that section and make findings and conclusions pursuant to such section.

(b) The board shall have all other powers or duties which are now or may hereafter be granted to or imposed upon it by ordinance, statute or final decision of a court of last resort.

(c) A notice of appeal to the board must be accompanied by a filing fee in the amount of \$50.00 payable to the city treasurer. An application to the board for the grant of a livestock exception provided in chapter 14 must be accompanied by a filing fee in the amount of \$50.00 payable to the city treasurer.

Sec. 56-348. Judicial review of decisions of property maintenance appeals board.

(a) For any decision of the property maintenance appeals board taken pursuant to section 70-368 or upon an order or action taken pursuant to article II, III or IV of this chapter, section 70-644 or pursuant to chapter 48, the method of judicial review shall be by a duly verified petition for writ of certiorari presented to the circuit court of the county in which the petitioner resides, or of the county where the property affected by such decision is located or, in any case, in the circuit court of Jackson County, Missouri. Such petition shall be filed with the court within 30 days after the filing of the board's decision in the office of the director. Such petition shall set forth with particularity the grounds for such review. Any person jointly or severally aggrieved by any decision of the property maintenance appeals board shall be entitled to petition for such review. Upon presentation of the petition, the court may allow a writ of certiorari directed to the board to review such decision of the board and prescribe therein the time within which a return must be made and served upon the relator's attorney, which shall be not less than ten days and may be extended by the court. The allowance of the writ shall not stay the effect of the decision appealed from; but the court may, upon timely application and due notice to the board, for due cause shown, grant a restraining order. The court may reverse or affirm, wholly or in part, the decision brought up for review.

(b) For any decision of the property maintenance appeals board upon an order or action taken pursuant to article V of this chapter, pertaining to dangerous buildings or structures, the method of judicial review shall be as provided by RSMo ch. 536.

Section 2. That Chapter 70 of the Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Sections 70-365 and 70-366 relating to street and drag racing and enacting in lieu thereof two new sections of like number and subject, to read as follows:

Sec. 70-365. Racing on streets and highways; burnouts.

(a) Except as provided elsewhere in this chapter, no person shall drive or otherwise engage in, aid or abet any vehicle on a street or highway in any drag race or speed competition or exhibition of speed or acceleration or burnout. The term 'burnout' shall be defined for this section as keeping a vehicle stationary and spinning its wheels and causing the vehicle's tires to heat up and smoke. No person shall, for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or drag race or burnout upon any street or highway, in any manner obstruct a street or highway or place any barricade or obstruction upon any street or highway. However, the director may issue a permit for any such race, competition, contest, test or exhibition in accordance with the terms and conditions specifically approved for such event by ordinance by the city council.

(b) Violations of this section shall result in the following:

- (1) First violation: Up to a \$150.00 fine and/or up to 30 days in jail
- (2) Second violation: Up to a \$300.00 fine and/or up to 60 days in jail

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- (3) Third and subsequent violation: Up to a \$500.00 fine and/or and up to six months in jail

Sec. 70-366. Spectator or unlawful assembly at drag race or speed competition.

(a) Except as provided elsewhere in this chapter, no person shall knowingly be 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 a drag race or illegal motor vehicle speed competition.

(b) Except as provided elsewhere in this chapter, no person shall be present as a spectator, either on a public street or highway, or on private property without the consent of the owner, operator, or agent thereof, where preparations are being made for a drag race or illegal motor vehicle speed competition

(c) An individual is present at the drag race or illegal motor vehicle speed competition 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) When two or more persons assemble to witness or participate in a drag race or illegal motor vehicle speed competition such assembly is an unlawful assembly and any person who participates in such unlawful assembly is guilty of an offense.

(e) Exemption: Nothing in this section prohibits law enforcement officers or their agents from being spectators at drag races or speed contests in the course of their official duties.

(f) Violations of this section shall result in up to a \$100.00 fine.

Section 3. That Chapter 70 of the Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by adding one new Section 70-368 relating to street and drag racing, to read as follows:

Sec. 70-368. Vehicles impounded as evidence; hearing; search warrant.

(a) If a vehicle that the police have probable cause to believe is, or was, involved in racing on streets and highways in violation of sections 70-365 or 70-366 is identified and located, that vehicle may, following execution of a search warrant issued pursuant to this section, be towed, impounded with the city and kept as evidence until a determination is made as part of an investigation determining whether the owner or operator of the violated section 70-365 or section 70-366 of this Code. After that determination, the vehicle shall be returned to the owner. A vehicle shall not continue to be impounded pursuant to this section for a period in excess of 30 days or after being ordered released to the owner by the property maintenance appeals board.

(b) A vehicle owner may request a hearing before the property maintenance appeals board to determine whether the vehicle impounded pursuant to this section shall be released to such owner. If the vehicle is impounded pursuant to this section, the board shall order its release from

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impoundment upon finding and concluding any of the following: that the vehicle was stolen at the time of the alleged violation of sections 70-365 or 70-366; or that the operator of the vehicle was not authorized by the owner to operate such vehicle at the time of the alleged violation of sections 70-365 or 70-366; or that the vehicle is owned by a rental car agency; or that the charges of violating sections 70-365 or 70-366 made against the owner or operator of the vehicle have been adjudicated; or that more than 30 days have elapsed since the vehicle was impounded and has not been released.

(c) If a written application for a search warrant under this section is filed by any police officer with the municipal court stating that such officer has probable cause to believe there exists in a building or on real property more particularly described therein, evidence of a violation of sections 70-365 or 70-366 of this code of ordinances and such officer has no probable cause to believe that the vehicle was not authorized by the owner to be operated or used in a manner that would cause the alleged violation of sections 70-365 or 70-366 and if such application is verified by oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, then the judge may issue a search warrant directed to the authorized official to search the subject building or real property for the purposes requested. Such search warrant may be executed and returned only within 10 days after the date of its issuance. The official authorized to search must make a return promptly after concluding the search, and such return must contain an itemization of all violations of sections 70-365 and 70-366 of this code of ordinances. Refusal to allow entry upon presentation of a search warrant is unlawful and a violation of this code of ordinances. Execution of a search warrant issuance under this section may not be by forcible entry.

Approved as to form and legality:



Alan Holtkamp
Assistant City Attorney



Authenticated as Passed



Quinton Lucas, Mayor

Marilyn Sanders, City Clerk

MAY 27 2021

Date Passed