

ORDINANCE NO. 03-2021

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF NORCROSS, GEORGIA, BY REGULATING AND PROHIBITING STREET RACING AND KNOWING ASSISTANCE OF SAME; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES

WHEREAS, the Mayor and Council of the City of Norcross are charged with protection of the public health, safety and welfare within the City of Norcross; and

WHEREAS, pursuant to O.C.G.A. § 40-6-186, no person shall drive any vehicle on a highway in the State of Georgia in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition of speed, contest of speed, or test or exhibition of speed; and

WHEREAS, pursuant to O.C.G.A. § 40-6-251, no driver of any motor vehicle shall operate the vehicle upon the public streets, highways, public or private driveways, airport runways, or parking lots in such a manner as to create a danger to persons or property by intentionally or unnecessarily causing the vehicle to move in a zigzag or circular course or to gyrate or spin around, except to avoid a collision or injury or damage; and

WHEREAS, pursuant to O.C.G.A. § 32-4-92, a municipality may regulate and control the use of the public roads on its municipal street system and on portions of the county road systems extending within the corporate limits of the municipality; and

WHEREAS, street racing and reckless driving exhibitions and activities have been increasing in cities across the country and are an immediate threat to public safety and a nuisance to neighborhoods and commuters using various modes of transportation; and

WHEREAS, multiple deaths of innocent children have occurred in other cities due to the engagement in street racing and reckless driving exhibitions; and

WHEREAS, the City of Atlanta and the City of Sandy Springs in the state of Georgia and cities across the country, such as Dallas, Stockton, San Diego, Sacramento, Kansas City, Albuquerque, Milwaukee, and Las Vegas, have enacted ordinances to prohibit street racing exhibitions, including the prohibition of non-driver or spectator participation therein; and

WHEREAS, the City of Norcross has recently experienced an increasing occurrence of such activities; and

WHEREAS, these activities have caused multiple occurrences of public streets being shut down and made impassable, as well as damage to private properties and loud noises during late-night hours; and

WHEREAS, in addition to prohibiting and penalizing street racing and reckless driving exhibitions, it is also necessary to prohibit and penalize the organization of, and participation in, such activities, which draw large numbers of spectators, causing a disturbance of the peace and a threat to public safety; and

WHEREAS, establishing an ordinance to prohibit the organization of and participation in street racing exhibitions and activities, as defined herein, would enable the Norcross Police Department to more effectively combat the occurrence of such behavior; and

WHEREAS, in the interests of public safety and ensuring the well-being of motorists and pedestrians, it is necessary to amend the City of Norcross Code of Ordinances to prohibit the organization of and participation in street racing and reckless driving exhibitions.

NOW, THEREFORE, the Mayor and Council of the City of Norcross, Georgia, do hereby ordain as follows:

An Amendment to the City Code of Ordinances, Chapter 34, entitled “Traffic and Vehicles,” Article I entitled “In General.”

ENACTING CLAUSE. The Mayor and City Council of the City of Norcross, Georgia, hereby ordains that the adopted Code of Ordinances, is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that the following provisions shall become and be made a part of the Code of the City of Norcross, and the Sections in the Code in the Ordinance be renumbered to accomplish that intention.

I. AMENDMENT.

That the Code of Ordinances, City of Norcross, Georgia, is hereby amended by revising Chapter 34 entitled “Traffic and Vehicles,” Article I, entitled “In General,” to add a new Section 34-6 entitled “Street Racing and Reckless Driving Exhibitions,” which reads as follows:

“Sec. 34-6. Street Racing and Reckless Driving Exhibitions

- (a) Definitions. As used herein, the following terms shall have the means ascribed to them below:

“Illegal Street Racing or Reckless Driving Exhibition” shall mean a motor vehicle speed contest using public highways, streets, or rights of way in violation of applicable motor vehicle and traffic laws, including, without limitation, O.C.G.A. §§ 40-6-186, 40-6-

251 and 40-6-390. Illegal Street Racing or Reckless Driving Exhibition may include, but is not limited to, situations in which: (1) a group of motor vehicles or individuals has arrived at a location for the purpose of participating in the event; (2) a group of individuals has gathered on private property open to the general public without the consent of the owner, operator, or agent thereof for the purpose of participating in the event; (3) one or more individuals has impeded the free public use of a public street, sidewalk or highway by actions, words, or physical barriers for the purpose of conducting the event; (4) two or more vehicles have lined up with motors running for an illegal motor vehicle speed contest or exhibition of speed; (5) one or more drivers is revving his engine or spinning his tires in preparation for the event; or (6) an individual is stationed at or near one or more motor vehicles serving as a race starter

“Organizer” shall mean any individual who in any manner knowingly takes part in the planning, organization, coordination, facilitation, advertising, or sharing of the location for any such illegal street race or collect moneys in connection with an Illegal Street Racing or Reckless Driving Exhibition, as defined herein.

“Participant” shall mean any individual who is knowingly present at an Illegal Street Racing or Reckless Driving Exhibition for the purpose of actively taking part in the event, through conduct including, but not limited to: riding in a race vehicle as a passenger; assisting the Organizers and/or drivers in carrying out or promoting the event; taking video or photographic images for the purpose of promoting and/or profiting from the event (also known as a “spectator”); or exchanging money or anything of value with any driver, car owner, Organizer or other Participant in connection with the event. For the purpose of this definition, a person who is a mere bystander, passerby, or observer not aware of the illegal activity shall not be deemed a Participant.

(b) Violations.

1. No person shall knowingly act as an Organizer of an Illegal Street Racing or Reckless Driving Exhibition, as defined herein.
2. Except as provided elsewhere in this Article, no person shall knowingly act as a Participant in, or spectator of, an Illegal Street Racing or Reckless Driving Exhibition, as defined herein.
3. Exemption. Nothing in this Article prohibits law enforcement officers or their agents from being Participants or spectators at an Illegal Street Racing or Reckless Driving Exhibition in the course of their official duties.
4. This Article shall not apply to licensed or duly authorized racetracks, drag strips, other designated areas set aside by proper authorities for such purposes.
5. In all cases of violations of this Ordinance, the individual charged shall appear in municipal court. For violation of this Ordinance, prepayment of a fine without appearance shall not be permitted.

(c) Penalties.

Violations of this Article shall be punished as follows:

1. Organizers and those driving motor vehicles shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or any combination thereof, subject to all limitations contained in the Charter of the City or applicable state law.
2. All other Participants shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding six months, or any combination thereof, subject to all limitations contained in the Charter of the City or applicable state law.
3. Any motor vehicle used in Illegal Street Racing or Reckless Driving Exhibition as defined in this Article may be removed and impounded by police to the extent authorized by applicable state law, including, without limitation, O.C.G.A. §40-6-206, or pursuant to a warrant issued by a court of competent jurisdiction. An impounded vehicle may be held in impound for not less than thirty (30) days or final adjudication of the case, to the maximum extent allowed under state law.

(d) Proving a Violation.

Relevant circumstances to prove a violation. Notwithstanding any other provision of law, to prove a violation of this Article, admissible evidence may include, but is not limited to, any of the following:

1. The time of day;
2. The nature and description of the scene;
3. The number of people at the scene;
4. The location of the individual charged in relation to any individual or group present at the scene;
5. The number and description of motor vehicles at the scene;
6. That the individual charged drove or was transported to the scene;
7. That the individual charged has previously participated in an Illegal Street Racing or Reckless Driving Exhibition;
8. That the individual charged has previously aided and abetted an Illegal Street Racing or Reckless Driving Exhibition;

9. That the individual charged has previously organized an Illegal Street Racing or Reckless Driving Exhibition; or
10. That the individual charged previously was present at a location where preparations were being made for an Illegal Street Racing or Reckless Driving Exhibition or where an Illegal Street Racing or Reckless Driving Exhibition was in progress.”

III. REPEALER.

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed.

IV. EFFECTIVE DATE.

This Ordinance shall become effective immediately and shall remain in effect until revised or repealed by further action by the Mayor and Council of the City of Norcross.

IN WITNESS WHEREOF, I have hereunto set my hand and cause this seal to be affixed this ____ day of _____, 2021.

Craig Newton, Mayor

ATTEST:

Monique Lang, City Clerk

(SEAL)