

CITY-COUNTY GENERAL ORDINANCE NO. 36, 2024

Proposal No. 314, 2024

PROPOSAL FOR A GENERAL ORDINANCE to amend Chapter 441 Article III of the Revised Code of the Consolidated City of Indianapolis – Marion County to add a new Division 9 pertaining to illegal street activity.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Revised Code of the Consolidated City and County is hereby amended by adding a new Division 9 to Chapter 441 Article III, to read as follows:

DIVISION 9. - ILLEGAL STREET ACTIVITY

Sec. 441-391. - Definitions. The following definitions apply throughout this division.

- (a) **ILLEGAL STREET RACING** – A motor vehicle speed contest, drag racing or racing and/or laying drags using public highways, streets, rights-of-way, public or private driveways, airport runways, or off-street parking facility in violation of Indiana motor vehicle and traffic laws. Illegal street racing may include, but is not limited to, situations in which:
1. A group of motor vehicles or individuals has gathered at a location for the purpose of participating in such an event that is under way;
  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 such an event that is under way;
  3. One (1) or more individuals have impeded the free public use of a public street, sidewalk, highway, public or private driveways, airport runways, or parking lots by actions, threats, or physical barriers for the purpose of conducting such an event;
  4. Two (2) or more vehicles have lined up with motors running for the purpose of participating in an illegal motor vehicle speed contest or exhibition of speed;
  5. One (1) or more drivers are revving the vehicle's engine or spinning the vehicle's tires in preparation for the event; or
  6. An individual is stationed at or near one (1) or more motor vehicles serving as a race starter.
- (b) **MOTORCYCLE STUNTING** – Any use of a motorcycle for the purpose of acrobatic maneuvering to perform wheelies (the front wheel of the motorcycle comes off the ground), burnouts (keeping the motorcycle stationary and spinning its wheels which results in friction causing the tires to heat up and create smoke), or front wheelies/stoppies (the rear wheel of the motorcycle is lifted by abruptly applying the front brake).
- (c) **OFF-STREET PARKING FACILITY** – Any public or private off-street parking area open for use by the public for parking vehicles, other than a private residential property or the parking area of a garage or parking lot for which a charge is made for the storing or parking of vehicles.
- (d) **ORGANIZER** – Any individual who in any manner knowingly takes part in preparations for, or the planning, organization, coordination, or facilitation of any illegal street racing, motorcycle stunting, or reckless driving exhibition or collects money in connection with an illegal street racing, motorcycle stunting, or reckless driving exhibition.
- (e) **PARTICIPANT** – Any individual who is knowingly present at an illegal street racing, motorcycle stunting, or reckless driving exhibition for the purpose of actively taking part in the event, through conduct including, but not limited to:
1. Riding in a race vehicle as a passenger;

2. Assisting the organizers and/or drivers in carrying out the event; or
  3. Exchanging money or anything of value with any driver, car owner, organizer or other participant in connection with the event.
  4. For the purpose of this definition, a person who is a mere bystander, passerby, or observer not actively participating in the illegal activity shall not be deemed a participant.
- (f) PREPARATIONS – Any of the following acts done for the purpose of causing illegal street racing, motorcycle stunting, or reckless driving exhibition:
1. Causing one or more motor vehicles and persons to gather at a predetermined location on a public street, highway, or off-street parking facility;
  2. Causing one or more persons to gather on, or adjacent to, a public street or highway;
  3. Causing one or more persons to gather in an off-street parking facility;
  4. Causing one or more persons to impede the free public use of a public street, highway or off-street parking facility by acts, words or physical barriers;
  5. Causing one or more motor vehicles to line up on a public street, highway, or off-street parking facility with motors running, impeding the free public use of a public street, highway, or off-street parking facility or being a physical barrier;
  6. Causing one or more drivers to rev a motor vehicle's engine or cause the motor vehicle's tires to spin; or
  7. Standing or sitting in a location to act as a race starter.
- (g) PROMOTER – Any person who knowingly promotes an exhibition of illegal street racing, motorcycle stunting, or reckless driving exhibition.
- (h) RECKLESS DRIVING EXIBITION – A reckless disregard for the safety of persons or potential damage to public or private property involving a motorized vehicle.

Sec. 441-392 Purpose

- (a) Illegal street racing, motorcycle stunting, and/or reckless driving exhibitions have been occurring with greater frequency in the City of Indianapolis and Marion County. These events pose a danger to the public with threat of damage to persons or property and are declared to be a public nuisance.
- (b) This division shall not apply to conduct constituting a crime under a state criminal statute or infraction. In such circumstances, a charge will be brought under the Indiana Code, rather than enforcement of this division.

Sec. 441-393. - Violations.

- (a) No person shall knowingly act as an organizer of an illegal street racing, motorcycle stunting, or reckless driving exhibition.
- (b) Except as provided elsewhere in this section, no person shall knowingly act as a participant in an illegal street racing, motorcycle stunting, or reckless driving exhibition, as defined herein.
- (c) No person shall knowingly act as a promoter of an illegal street racing, motorcycle stunting, or reckless driving exhibition.
- (d) No owner of a motor vehicle shall knowingly permit said motor vehicle to be used by an organizer, participant, or promoter to further any illegal street racing, motorcycle stunting, or reckless driving exhibition.

- (e) Nothing in this section prohibits law enforcement officers or their agents from being participants in an illegal street racing, motorcycle stunting, or reckless driving exhibition in the course of their official duties.
- (f) This section shall not apply to licensed or duly authorized racetracks, drag strips, or other designated areas set aside by proper authorities for such purposes.
- (g) In all cases of violations of this ordinance, the person charged shall appear in court pursuant to notice from the City Prosecutor's Office as set forth in Section 441-394(b).

Sec. 441-394. - Procedure and Penalties.

(a) Violations of this section shall be punished as follows:

- 1. First time violations of Section 441-393 shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) subject to all limitations contained in applicable state law. Second time violations of Section 441-393 shall be punished by a fine of two thousand five hundred dollars (\$2,500.00) subject to all limitations contained in applicable state law.
- 2. Any motor vehicle used in an illegal street racing, motorcycle stunting, or reckless driving exhibition as defined in this division may be removed and impounded by police. An impounded vehicle may be held in impound for not less than thirty (30) days and not longer than final adjudication of the case, to the maximum extent allowed under state law. The purpose of such impoundment is to abate the nuisance created by violations of Section 441-393, to punish violations of Section 441-393, and to deter future violations of Section 441-393.

(b) Proving a Violation. Proving a Violation – A violation will be based upon an evaluation of a totality of the circumstances. Notwithstanding any other provision of law, to prove a violation of this section, 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. To the fullest extent permissible by law, evidence of prior act(s) may be admissible to show the plan, opportunity, intent, knowledge, and/or identity of the person charged to be present at a street race or a reckless driving exhibition if the prior act(s) occurred within three (3) years of the presently charged offense. The prior act(s) may also be admissible to show that, in the absence of a mistake or accident, the person charged had knowledge that a street race or reckless driving exhibition was taking place. This evidence may include, but is not limited to:
  - a. That the defendant has previously participated in an illegal street racing, motorcycle stunting, or reckless driving exhibition;
  - b. That the defendant has previously aided and abetted an illegal street racing, motorcycle stunting, or reckless driving exhibition;
  - c. That the defendant has previously organized an illegal street racing, motorcycle stunting, or reckless driving exhibition; or

- d. That the defendant previously was present at a location where preparations were being made for an illegal street racing, motorcycle stunting, or reckless driving exhibition or where an illegal street racing, motorcycle stunting, or reckless driving exhibition was in progress.

Sec. 441-395. – Notice of Impoundment and Violation Hearings

(a) Notice of Impoundment of Vehicle.

1. The registered owner of the impounded motor vehicle shall be established by the Indianapolis Metropolitan Police Department's vehicle registration inquiry with the Indiana Bureau of Motor Vehicles.
2. Within seven (7) calendar days of any impoundment under Section 441-394(a)(2), notice of the impoundment of the vehicle shall be sent to the registered owner at their address on file with the Indiana Bureau of Motor Vehicles. The notice shall include the following:
  - a. Statement that the driver or operator of a motor vehicle registered to said owner:
    - i. Participated in, organized, or promoted an illegal street racing or reckless driving exposition using the impounded vehicle;
    - ii. Date, approximate time, and approximate location of the event;
    - iii. Description of the motor vehicle as contained in the police officer's report;
    - iv. Notice that the vehicle has been released and may be retrieved or that the City Prosecutor has filed a civil action seeking to maintain or prolong the impoundment in accordance with this division;
    - v. If the vehicle is not being released, the court information, including cause number, for the civil action filed under subsection (a) of this section;
    - vi. If the vehicle is not being released, notice of the opportunity to contest the impoundment by defending the civil action filed under subsection (c) of this section;
    - vii. If the vehicle is not being released, notice of the owner's right to file a request for an expedited hearing with the court listed in the notice within ten (10) calendar days of receipt of the notice of impoundment. If an expedited hearing is requested under this section, that hearing shall be conducted within ten (10) business days after filing of the request.
    - viii. At any expedited hearing, the vehicle owner shall bear the burden of proving by a preponderance of the evidence either that the owner did not knowingly permit the vehicle to be used by an organizer, participant, or promoter or that the owner will suffer a substantial hardship if the vehicle is not returned pending resolution of the civil action.

(b) The City Prosecutor is authorized to enforce this division by filing a civil action in Marion Superior Court.

(c) The City Prosecutor shall file any civil action seeking to maintain or prolong the impoundment of a vehicle impounded under Section 441-394(a)(2) within seven (7) calendar days of the impoundment.

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this 7th day of October, 2024, at 8:14 p.m.

ATTEST:

Vop Osili  
President, City-County Council

Yulonda Winfield  
Clerk, City-County Council

Presented by me to the Mayor this 8th day of October, 2024

Yulonda Winfield  
Clerk, City-County Council

Approved and signed by me this 15th day of October, 2024.

Joseph H. Hogsett, Mayor

STATE OF INDIANA, MARION COUNTY) ) SS:  
CITY OF INDIANAPOLIS ) )

I, Yulonda Winfield, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 314, 2024, a Proposal for a GENERAL ORDINANCE passed by the City-County Council on the 7th day of October, 2024, by a vote of 25 YEAS and 0 NAYS, and was retitled General Ordinance No. 36, 2024, which was signed by the Mayor on the 15th day of October, 2024, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 15th day of October, 2024.

Yulonda Winfield  
Clerk, City-County Council

(SEAL)

Indianapolis City - County Council  
2020-2023  
2024-2027

RCS# 397

10/7/2024 8:14 PM

Proposal: PROP-24 314 Ordinance: G.O. 36 (PASSED)

Sponsor: OSILI, ROBINSON, CARLINO, GRAVES, MASCARI, MCCORMI

Action: Adopt

Committee: Public Safety and Crim. Just.

Yea: 25

Nay: 0

Abstain: 0

Not Voting: 0

Excused: 0

Yea - 25

Allen  
Annee  
Bain  
Barth  
Boots  
Brown-A  
Brown-J

Cahill  
Carlino  
Delaney  
Dilk  
Evans  
Gibson

Graves  
Hart  
Jones  
Lewis  
Mascari  
McCormick

Mowery  
Nielsen  
Osili  
Perkins  
Roberts  
Robinson

Nay - 0

Abstain - 0

Not Voting - 0

Excused - 0