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AGENDA COVER MEMO

AGENDA DATE: First Reading
January 23, 2008
Second Reading/Public Hearing
February 6, 2008

TO: Board of County Commissioners

DEPARTMENT: Sheriff's Office

PRESENTED BY: Lt. Byron Trapp/Police Services, Field Services

AGENDA TITLE: ORDINANCE 1-08/IN THE MATTER OF AMENDING CHAPTER
6 OF LANE CODE TO REVISE IMPOUNDMENT OF VEHICLES
(LC 6.475)

I. MOTION

Move approval of Ordinance #1-08 IN THE MATTER OF AMENDING CHAPTER
6 OF LANE CODE TO REVISE IMPOUNDMENT OF VEHICLES (LC 6.475)

II. AGENDA ITEM SUMMARY

Currently, state law does not enable local public safety agencies the ability to impound vehicles for speed racing, hit and run, eluding a peace officer, or driving in excess of 100 miles per hour. The Lane County Sheriff's Office would like to add an impoundment provision to the Lane Code to give Lane County Sheriff's Office deputies a tool to prevent and enforce these dangerous driving behaviors.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Board has not addressed vehicle impoundment for the above mentioned offenses in the past. Currently, Lane Code 6.475 – Impoundment of Vehicles - allows the county to impound hazardous vehicles, abandoned vehicles, stolen vehicles, and vehicles left unattended on boat ramps. The Oregon Vehicle Code, section 809.720 authorizes the towing and impounding of vehicles operated in violation of ORS 811.175 (Driving While Suspended), ORS 811.182 (Driving While Revoked), ORS 813.010 (Driving Under the Influence of Intoxicants), ORS

807.010 (Operating a Vehicle Without Driving Privileges, or in Violation of License Restrictions).

B. Policy Issues

ORS 809.716 allows the owner of the impounded vehicle the right to request a hearing regarding the validity of the impoundment and the Sheriff's Office General Orders address the policy and procedure for due process.

C. Board Goals

An overarching goal in Lane County's Strategic Plan states: "Ensure the public's safety with regard to adult and juvenile crime, emergency preparedness and regional cooperative policing through law enforcement, intervention, prosecution, incarceration, and parole and probation, while protecting individual's constitutional rights." Adding the impoundment provisions enhances the public's safety through preparedness and intervention.

D. Financial and/or Resource Considerations

There are no financial implications to adding the impoundment provisions to Lane Code.

E. Analysis

Speed Racing

Speed racing is defined by ORS 811.125. A person commits the offense of speed racing on a highway if, on a highway in this state, the person drives a vehicle or participates in any manner in any of the following in which a vehicle is involved:

- (a) A speed competition or contest.
- (b) An acceleration contest.
- (c) A test of physical endurance.
- (d) An exhibition of speed or acceleration.
- (e) The making of a speed record.

A race is defined as the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

Drag racing is the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the

operation of one or more vehicles over a common selected course, from the same point to the same point for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

The offense described in this section, speed racing on a highway, is a Class A traffic violation and is applicable on any premises open to the public.

Deputy Sheriff's have observed an increase in the amount of speed racing and drag racing in Lane County. Sheriff's deputies have observed racing and the painting of start lines on Franklin Road near milepost 1 near Cheshire, which is a common speed race area. Most races occur late at night. Although not seasonal, speed racing is more frequent during the summer months and can occur most weekends during that time.

Speed racing is popular. Races encountered by deputies attracted about 40-60 vehicles, which park on both sides of the roadway without any lights or markers. They park about three to four feet into the roadway creating a hazard. In addition, approximately 50-100 bystanders stand in the roadway to observe the racing. If and when police arrive, vehicles speed away in all directions creating an unsafe situation with the number of vehicles, speed, and the number of pedestrians in the roadway.

Racing is organized. The local racers have a street racing website that focuses on the Eugene/Springfield area. In the website, race arrangements are made, meetings are organized, and there is discussion about vehicle related topics. Speeding tickets appear to be a sort of "badge of honor." Deputies have read several website excerpts where people brag about the tickets they have received. They also talk about times they out ran the police, and give advice on how to run and or avoid the police. Some of the people have fines exceeding \$5,000 to \$10,000 dollars.

Races on Interstate 5 start at speeds of 60-70 mph and the first to reach 150-160 mph wins. Beltline also hosts racing. Typically, they utilize four cars – lined up two by two. The two cars in the rear are used to slow following traffic. When there is enough distance between them and the front vehicles, the lead cars will race on Beltline from River Road to Roosevelt Blvd. A Lane County Sheriff's Office Sergeant observed and stopped two racing vehicles on Beltline. She observed them traveling at 40 mph and then accelerate to around 80-90 mph until they caught up to traffic.

Common racing roadways in Lane County include Franklin Road, Shotgun and McGowan Creek, Marcola Road, River Road, Highway 99, Green Hill Road, Beacon Road, Wolf Creek Road, Crow Road, and various rural roads in the Cottage Grove vicinity.

During evening shifts, the Sheriff's Office only has two to three Traffic Safety Team deputies available to respond to calls for service. The Traffic Safety Team

is pulled away from DUI enforcement to respond to racing calls. Most of the time, the Traffic Safety Team need to travel a distance to arrive at a racing site and since the organized speed racers commonly use mobile scanners, the racers are gone or leaving upon arrival.

The Sheriff's Office believes the race car drivers are investing thousands of dollars of work and time into their cars to make them go faster and therefore the fines do not seem as a deterrent and as previously mentioned become more fuel for showing off their speed.

Lane County seems to be attractive for drivers who want to race in this fashion. Many people will drive here from other Oregon counties to meet and race on Lane County roadways. Some other counties have a tow policies connected with speed racing. It is common knowledge Lane County lacks an impound policy and relies on traffic citations to enforce and deter speed racing.

When a driver runs from a vehicle and is not captured, the car is left at the scene, unless it is hazard. If it does not reach any of the criteria for impoundment, it is left at the scene. Commonly, drivers or acquaintances return at a later time to retrieve the vehicle.

Elude

A person commits the crime of fleeing or attempting to flee when a deputy or police officers appropriately signals them to stop and they knowingly flee. This compromises the public's safety just as driving while intoxicated does. Currently, law enforcement officers can issue a citation, but cannot impound the vehicle. Adding this provision to Lane Code would add a tool to prevent eluding.

Hit and Run

Lane County Sheriff's deputies often respond to crashes where the drivers have fled the scene because they are intoxicated, have warrants for their arrest, or have suspended driver's licenses.

Amending the code to allow impoundment of vehicles involved in eluding and hit and run may serve as a deterrent and may also help with prosecution of these crimes. The vehicle owner or driver will be precluded from coming back to the scene after deputies have left to retrieve the vehicle. When someone does come in to claim the impounded vehicle, staff will be able to gather information regarding the driver and the incident that could facilitate prosecution.

Excess of 100 MPH

Deputies and other local law enforcement have stopped numerous vehicles in Lane County for traveling in excess of 100 mph. The safety risks increase dramatically with the increase and high rate of speed. Adding excess of 100 MPH to Lane County's impoundment policies would serve as a deterrent for traveling this fast on Lane County roads.

IV. Alternatives/Options

Adopt Ordinance 1-08 that would assist Lane County Sheriff's deputies in making Lane County a safer place to be.

Do not adopt Ordinance 1-08. Impoundment rules would remain the same.

V. Timing/Implementation

The ordinance will take effect on the 30th day after being enacted.

VI. RECOMMENDATION

The Sheriff's Office recommends adopting Ordinance 1-08 in order to give deputies an extra tool to prevent and enforce dangerous driving behaviors.

VII. FOLLOW-UP

If necessary, the Sheriff's Office will work with incorporated cities within Lane County in order to enact the same ordinance within city jurisdictions.

VIII. ATTACHMENTS

Ordinance 1-08

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 1-08

IN THE MATTER OF AMENDING CHAPTER 6 OF
LANE CODE TO REVISE IMPOUNDMENT OF
VEHICLES (LC 6.475)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 6 of Lane Code is hereby amended by deleting, substituting, and adding new sections as follows:

DELETE THESE SECTION(S)

6.475
as located on page 6-6
(a total of 1 page)

INSERT THESE SECTION(S)

6.475
as located on pages 6-6 through 6-14
(a total of 9 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to revise impoundment of vehicles (LC 6.475).

ENACTED this _____ day of _____ 2008.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 1/10/08 Lane County

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OFFICE OF LEGAL COUNSEL

6.445 Lights on Parked Vehicle.

No lights need be displayed on a vehicle that is parked in accordance with applicable law on a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle. *(Revised by Ordinance No. 9-88, Effective 6.1.88; 1-00, 4.12.00)*

6.450 Exemptions.

The provisions of LC 6.425 through 6.440 that regulate the parking or standing of vehicles do not apply to:

(1) A city, County, state or public utility vehicle being used for public works maintenance, construction or repair work.

(2) A vehicle owned by the United States and being used for collection, transportation or delivery of mail.

(3) A vehicle of a disabled person who complies with the provisions of ORS 801.235 and 811.602 through 811.640. *(Revised by Ordinance No. 9-88, Effective 6.1.88; 1-00, 4.12.00)*

6.460 Owner Responsibility.

The owner of an unattended vehicle that is parked in violation of a parking restriction imposed by LC 6.425 through LC 6.440 shall be responsible for the offense unless the operator used the vehicle without the owner's consent. In all prosecutions of the owner of a vehicle found in violation of LC 6.425 through 6.440, it shall be sufficient to charge the defendant in the manner provided in ORS 810.425. *(Revised by Ordinance No. 9-88, Effective 6.1.88)*

6.465 Registered Owner Presumption.

In a proceeding charging violation of a parking restriction imposed by LC 6.425 through 6.440 against a vehicle owner, proof that the vehicle was registered to the defendant at the time of the violation constitutes a presumption that the defendant was the owner. *(Revised by Ordinance No. 9-88, Effective 6.1.88)*

6.475 Impoundment of Vehicles.

(1) Disposition of a vehicle towed and stored under provisions of state law for the removal of hazardous vehicles shall be in accordance with provisions of state law and County ordinance on impoundment and disposition of abandoned vehicles.

(2) Impoundment of a vehicle does not preclude issuance of a citation for violation of a provision of this ordinance.

(3) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner in accordance with state law governing custody and disposition of stolen vehicles.

(4) Vehicles left unattended on or near any public boat ramp in violation of Lane Code 6.430 (3) may be towed and stored at the expense of the vehicle owner in accordance with state law governing custody and removal of vehicles constituting a hazard.

(5) A peace officer who has probable cause to believe that a person at or just prior to the time the peace officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with a right to possession of the vehicle complies with the conditions for release. This section applies to the following offenses:

(a) Speed racing on any roadway within Lane County, in violation of ORS 811.125; Vehicles subject to impoundment are any vehicles involved in a speed

competition or contest, an acceleration contest, a test of physical endurance, an exhibition of speed or acceleration, the making of a speed record, a race, or a drag race, as defined in ORS 811.125.

(b) Eluding or attempting to elude a police officer in violation of ORS 811.540.

(c) Failure to perform the duties of a driver when property is damaged or persons injured in violation of ORS 811.700 and 811.705.

(d) Exceeding a speed of 100 mph on any roadway within Lane County in violation of ORS 811.100 or 811.111.

(6) For vehicles impounded under section 6.475, notice shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 809.725(1) and 819.180.

(7) A vehicle impounded under subsection (5) of this section shall be released to a person entitled to lawful possession upon compliance with the following:

(a) Submission of proof that a person with valid driving privileges will be operating the vehicle;

(b) Submission of proof of compliance with financial responsibility requirements for the vehicle; and

(c) Payment to the Sheriff's Office of an administrative fee sufficient to recover the actual administrative costs for the impoundment.

(8) Notwithstanding subsection (7) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

(9) When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (7) or (8) of this section, the Sheriff's Office shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs. *(Revised by Ordinance No. 9-88, Effective 6.1.88; 7-06, 10.27.06)*

6.480 Non-Motorized Traffic Prohibitions.

(1) Except for those persons engaged in obtaining emergency services for a disabled motor vehicle, those persons performing duties in connection with repair and maintenance of the road or other lawful governmental function, or those persons that have received a permit from the Director, Lane County Department of Public Works, no person shall walk or go upon the following described area in non-motorized vehicles:

Any part of the right-of-way which is enclosed by fences or which is 80 feet from the centerline of that portion of Delta Highway commencing at the point at which Delta Highway intersects County Road No. 515, commonly known as Country Club Road, then continuing northerly to the point at which Delta Highway passes over Beltline Road.

(2) The Director, Lane County Department of Public Works, may issue permits to those persons that make application for the purpose of operating a bicycle or walking in the area described in LC 6.480(1) to persons 16 years of age or older.

(3) The application and permit shall be in a form as prescribed by the Director, Lane County Department of Public Works, and any permit issued shall be carried at all times by the permittee while utilizing the areas described in LC 6.480(1). In approving a permit, the Director herein may include such reasonable conditions such as prohibited

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Lane Code

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