

IN THE BOARD OF COMMISSIONERS FOR THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Prohibiting )  
Speed Racing and Acting as a Spectator )  
at a Speed Race; Imposing Penalties Up to ) ORDINANCE No. 716  
\$500; Authorizing Impoundment of Vehicles)  
of Participants; Declaring an Emergency. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on August 15, 2002, commissioners Robert Johnstone, Leslie Lewis and Thomas E.E. Bunn being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Illegal speed racing is a serious problem endangering the citizens of Yamhill County. Speed racing has likely caused death or serious injuries to citizens of the county. The Yamhill County District Attorney has requested the Board to enact an ordinance to prohibit persons from either engaging in speed racing or knowingly acting as spectators at a speed race. The District Attorney has also requested authority for a police officer to impound vehicles used by participants or spectators at a speed race.
- B. Following a public hearing on August 15, 2002 the Board determined it appropriate to enact an ordinance as requested by the District Attorney for the health and welfare of the citizens of the county.
- C. This ordinance is adopted under authority of ORS Chapter 203. NOW, THEREFORE

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. DEFINITIONS. The following definitions apply to this ordinance:

- 1. An "Applicable City" is a city that has given formal consent to the applicability of this Yamhill County ordinance within the city limits as provided in Section 6 of this ordinance.
- 2. "Drag racing" means 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.

3. A **“Police Officer”** includes a member of the Oregon State Police, a sheriff, a deputy sheriff or a city police officer.

4. **“Racing”** means 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.

5. **“Speed Racing”** means the operation of a motor vehicle or participation in any manner involving racing in any of the following in which a motor 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.
- (f) Drag racing.

**“Speed Racing”** does not include a racing event sanctioned or permitted by a governmental unit.

6. A **“Spectator of Speed Racing”** is a person who attends or is present at or near the scene of any activity prohibited by this ordinance for the purpose of observing any part of such activity unless privileged to do so as provided in this subsection. A person is “privileged to do so” if the person resides on or owns real property within 500 feet of the activity, and has not participated in or encouraged any activity prohibited by this ordinance.

## Section 2.      **OFFENSES AND PENALTIES.**

1. It shall be unlawful for any person to participate in speed racing as defined in Section 1 of this ordinance upon any public street or public road, or any premises open to the public, within the unincorporated area of Yamhill County or within the city limits of an applicable city.

2. It shall be unlawful for any person to act as a spectator of speed racing, as defined in Section 1 of this ordinance, from any point within the unincorporated area of Yamhill County or within the city limits of an applicable city.

3. Any person who violates this section is guilty of a violation and upon conviction may be fined not more than \$500.

**Section 3. VIOLATION PROCEDURE; JURISDICTION; VENUE; PROSECUTION.**

1. A person who violates Section 2 of this ordinance commits a violation. Citations shall be issued and court procedures followed that are in accord with ORS Chapter 153, 2001 replacement part.
2. Jurisdiction for violations arising under this ordinance occurring in the unincorporated area of Yamhill County is vested in Yamhill County Circuit Court or Yamhill County Justice Court. Jurisdiction for violations arising under this ordinance occurring in an applicable city is vested in the municipal court of the applicable city.
3. An action for a violation arising under this ordinance shall be commenced in Yamhill County.
4. At any trial involving a violation arising under this ordinance only, the prosecuting attorney may aid in preparing evidence and obtaining witnesses but shall not appear unless counsel for the defendant appears. As used in this subsection, the "prosecuting attorney" includes the district attorney, a city attorney, or the county counsel.

**Section 4. IMPOUNDMENT OF VEHICLES; GROUNDS; NOTICE; RELEASE.**

1. A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this ordinance may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release set forth in this section or the vehicle is ordered released by a hearing officer as otherwise provided in this ordinance.
2. Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.
3. A vehicle impounded under subsection (1) 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 police agency of an administrative fee of \$50.
4. Notwithstanding subsection (3) 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.

5. When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection (3) or (4) of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.
6. Notwithstanding subsection (3) of this section, the holder of a towing business certificate issued under ORS 822.205 may foreclose a lien created by ORS 87.152 for the towing and storage charges incurred in the impoundment of the vehicle, without payment of the administrative fee under subsection (3)(c) of this section.
7. The police agency that orders impoundment under this ordinance shall give notice of the impoundment to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall be given within 48 hours of impoundment. The notice shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal.
8. A police agency may not collect its fee under subsection (3)(c) of this section from a holder of a towing business certificate issued under ORS 822.205 unless the holder has first collected payment of any towing and storage charges associated with the impoundment.

Section 5.     **HEARING ON IMPOUNDMENT.**

1. A person entitled to lawful possession of a vehicle impounded under Section 4, above, may request a hearing to contest the validity of the impoundment. A request must be made within five calendar days after the date that notice of the impoundment is mailed, as evidenced by the postmark, not including Saturdays, Sundays or holidays. The request shall be made to a person designated by the impounding police agency to receive such requests.
2. When a timely request for a hearing is made, a hearing shall be held before a hearings officer designated by the impounding police agency. The hearing shall be set for four calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.
3. The impounding police agency shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of this ordinance. The police officer who ordered the vehicle impounded may submit an affidavit to the hearings officer in lieu of making a personal appearance at the hearing.
4. If the hearings officer finds that the impoundment of the vehicle was proper, the hearings officer shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The hearings officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

5. If the hearings officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by the impounding police agency.

6. A police agency may contract with another agency or entity to conduct hearings under this section.

Section 6. **APPLICABILITY OF ORDINANCE WITHIN CITY LIMITS.** In accordance with ORS 203.040, this ordinance is applicable within the city limits of any city within Yamhill County which has consented to the application of the ordinance by action of the governing body or the electors of the city.

Section 7. **SEVERABILITY CLAUSE.** All sections, subsections, and paragraphs of this ordinance are severable. If any section, subsection, or paragraph is ruled invalid for any reason by the court of last resort, the other parties of this ordinance shall be unaffected.

Section 8. **EFFECTIVE DATE; EMERGENCY CLAUSE.** The first and second readings of this ordinance were made August 15, 2002. To carry out the intent of this ordinance an emergency is hereby declared to exist. In accordance with ORS 203.045(4) this ordinance shall take effect on August 16, 2002.

AYES: Commissioners Johnstone, Lewis and Bunn.

DONE at McMinnville, Oregon on August 15, 2002.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLIE  
County Clerk

By: Kelly Feters  
Deputy KELLYE FETTERS



Robert Johnstone  
Chairman ROBERT JOHNSTONE

Leslie Lewis  
Commissioner LESLIE LEWIS

FORM APPROVED BY:

John M. Gray, Jr.  
JOHN M. GRAY, JR  
Yamhill County Legal Counsel

Thomas E. E. Bunn  
Commissioner THOMAS E. E. BUNN

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