

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 9.08
		Issue Date: March 21, 2005
		Revision Date: March 13, 2008; November 30, 2009; September 18, 2014; June 20, 2016
CHAPTER : Traffic Operations		Related Policy: G.O. 9.02 (DWS/DUII Enforcement), G.O. 9.04 (Issuance of Parking Violations), G.O. 11.04 (Property/Evidence)
SUBJECT: Abandoned/Vehicle Tow or Impound		Related Laws: ORS 806.010, ORS 807.010, ORS 809.720, ORS 811.175, ORS 811.182, ORS 813.182, ORS 813.010, ORS 811.125, ORS 811.540, ORS 811.700, ORS 811.705, ORS 811.100, ORS 811.111, ORS 819.100 to 819.260 and LC 6.475

POLICY: The Oregon Vehicle Code and the Lane County Code provides the Lane County Sheriff's Office the authority to tow/impound vehicles in specific situations. Lane County Sheriff's Deputies may tow vehicles as allowed by the procedures outlined below under the authority granted by the Oregon Vehicle Code or the Lane County Code.

RULE: An inventory will be completed on all towed/impounded vehicles.

PROCEDURE:

I. Guidelines For Tow/Impoundment

A. The Oregon Vehicle Code, section 809.720 authorizes the towing and impounding of vehicles that are being 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) and ORS 806.010 (Driving Uninsured).

1. NOTE: The driver's license provided must be checked through the Department of Motor Vehicles to verify its validity. If the license is merely expired and no other provision of this policy applies, a **60** day grace period will be granted before the vehicle is impounded.

- B. Lane Code 6.475 authorizes the towing and impounding of vehicles being operated in violation of ORS 811.125 (Speed Racing), ORS 811.540 (Eluding or Attempting to Elude a Police Officer), ORS 811.700 and 811.705 (Failure to Perform the Duties of a Driver When Property is Damaged or Persons Are Injured), ORS 811.100 and 811.111 (When Exceeding Speed of 100 MPH).
- C. Vehicles may be impounded at the time of contact, if the driver is arrested or cited for driving under the influence of intoxicants as set forth in ORS 813.010.
- D. Under ORS 819.120 and 819.140, if the vehicle constitutes an immediate threat to the safety of the public, a deputy may remove the vehicle by towing, after other alternatives (such as contacting the owner, moving the vehicle, etc.) have been exhausted.
 - 1. All reasonable means shall be used to move a vehicle from the hazardous location prior to requesting a tow.
- E. Under ORS 819.110, 819.140, 819.170 to 819.190, a vehicle abandoned upon a County highway or road may be towed when two conditions are met:
 - 1. There is reason to believe the vehicle is disabled or abandoned; and
 - 2. The vehicle has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.
 - 3. Prior to towing the vehicle:
 - a. The vehicle shall be affixed with a standard tag warning the owner to move the vehicle within 24 hours, or it will be subject to being towed.
 - b. The deputy affixing the tag will inform dispatch of the vehicle location, color, condition, and date to be towed. This information will be entered into CAD and forwarded by dispatch to the Weighmaster.
 - c. After the 24 hour period, if the vehicle has not been removed and the owner has not requested a hearing, the vehicle may be towed.

II. EXCEPTIONS TO TOW/IMPOUNDMENT

- A. Vehicles will *not* be towed/impounded if any of the conditions are met.
 - 1. The vehicle is parked at the residence or other private property under the control of the operator or owner of the vehicle.

2. The owner, who was not the operator of the vehicle, is present with the deputy and is capable of assuming control of and continuing lawful operation of the vehicle.
 3. The owner is present with the deputy and authorizes another who is present that is capable of continuing lawful operation of the vehicle to assume control of the vehicle.
 4. The vehicle is parked on private property with permission of the property owner.
 5. The vehicle is parked in a location that the deputy believes is a safe place for the vehicle to remain parked until the owner can return and move the vehicle without continuing its illegal operation.
- B. Proof of ownership or right to possession shall be made in the following manner:
1. Original Vehicle Title issued in the name of the person seeking possession of the vehicle.
 2. Copy of a current vehicle registration card listing the name of the party either as the registered or legal owner of the vehicle.
 3. The yellow copy of an Oregon Department of Motor Vehicles “Transaction Submitted” form bearing the DMV’s numerical stamp.
- C. If, at the request of the vehicle owner, the vehicle is left on property, other than property owned or controlled by the owner of the vehicle, the deputy should obtain a signed waiver of liability for theft, damage, or vandalism from the owner. In instances where the waiver is not able to be signed, the deputy must note in their report the circumstances.

III. Deputy Procedure for Tow/Impoundment of Vehicles

- A. After the determination that a vehicle is going to be towed/impounded the following steps will occur:
1. The deputy shall request a tow for the vehicle from the designated tow list from dispatch.
 2. Complete either the Impound or Evidence/Property form. The narrative about the incident will contain sufficient information to meet the requirements for the tow/impound. The deputy shall note in the narrative the location the vehicle is parked and the circumstances present in the surrounding area. The information must include whether or not the

vehicle is parked on private or public property, if it presents a traffic impediment or public safety issue, or if it is at risk of theft or vandalism if left in the area. Also, the narrative must note that the driver or owner did not inform the officer of any other means of moving the vehicle without continuing its illegal operation.

3. Inventory the items inside the vehicle according to the inventory procedure.
- B. The original Impound form will be forwarded directly to the vehicle impound desk no later than the end of the shift. Copies from the Florence outpost may be faxed to support services. All associated reports will be forwarded to records through the normal process.

IV. Inventory Procedure

- A. An inventory utilizing the department Impound or Evidence/Property form shall be conducted for the purpose of:
1. Establishing ownership.
 2. Identifying items of value (over \$100) for the purpose of protecting the property owner.
 3. Identifying items of value (over \$100) for the purpose of preventing false claims of loss against the Sheriff's Office.
 4. Locating and identifying dangerous or hazardous material to prevent impound and tow personnel from exposure to such substance and potential injury.
- B. The scope of the vehicle inventory shall consist of:
1. The entire passenger compartment including under the seats.
 2. Accessible glove boxes, console compartments, and fixed storage containers. These areas should be inventoried, if unlocked or keys are available.
 3. Accessible vehicle trunk, canopy, truck beds, hatchback, or utility boxes (inventoried if unlocked or keys are available).
 4. Wallets, purses, coin purses, fanny packs, back packs, computer cases, cosmetic bags, prescription drug containers, unlocked brief cases,

unlocked lock boxes, ring box or jewelry box that have been left in the vehicle.

- C. Items with a value in excess of \$100.00 shall be documented on the impound or evidence/property form.
- D. In instances where the vehicle is locked, deputies must note on the impound or evidence/property form that the vehicles is locked and if whether or not there was any items of value that could be seen in the vehicle.
- E. The inventory is not a search for evidence of a crime. However, deputies may seize evidence or contraband located during the inventory. Items should only be scrutinized to the extent necessary to complete the inventory.

V. Notification of Towed/Impounded Vehicle

- A. Written notification will be provided to the registered and legal owner(s) of every vehicle towed/impounded.
 - 1. This notification will be sent by certified mail, return receipt requested, using the impound letter or abandoned/hazard letter.
 - 2. This notice will be mailed within 48 hours (excluding Saturday, Sunday, or holidays) by personnel assigned within the division's Support Services Section.

VI. Release of Towed/Impounded Vehicle

- A. The impounded vehicle will be released to the owner or person entitled to lawful possession upon compliance with the listed conditions as stated in O.R.S. 809.715.
 - 1. Proof of ownership or right to possession. Proof shall be made in the following manner:
 - a. Original Vehicle Title issued in the name of the person seeking possession of the vehicle.
 - b. Copy of a current vehicle registration card listing the name of the party either as the registered or legal owner of the vehicle.
 - c. The yellow copy of an Oregon Department of Motor Vehicles "Transaction Submitted" form bearing the DMV's numerical stamp.
 - 2. Proof of valid driving privileges. If the vehicle is going to be operated by someone other than the owner, both parties must be present before the

vehicle will be released. The owner will be required to complete an affidavit stating that they will not operate the vehicle until their driving privilege has been restored.

3. Proof of compliance with the financial responsibility requirements as previously listed.
 4. Payment of the administrative fee (according to the current fee schedule) to the Lane County Sheriff's Office.
 5. The owner or person entitled to possession of the vehicle may apply for the vehicle's release with the division's Support Services Section, located at the Lane County Sheriff's Office; 125 East 8th Avenue, Eugene, Oregon.
 6. When all of the above conditions have been met, the vehicle will be released. The department will issue the appropriate person a receipt for the fee, together with a "Release Notice" indicating that all requirements for release have been met. This notice will then be taken to the tow company where the vehicle will be released upon payment of the appropriate tow and storage charges.
- B. Vehicles that have been towed due to being a hazard or abandoned can be reclaimed by presenting proof of ownership or right of possession to the tow company. The tow company may release the vehicle to the rightful person upon satisfaction of payment of all charges for the towing and storage.

VII. Hearings

- A. O.R.S. 809.716 and 819.190 allows the owner or any other person who reasonably appears to have an interest in the vehicle of the towed/impounded vehicle the right to request a hearing regarding the validity of the tow/impoundment. The validity of the impoundment will be based upon a preponderance of the evidence. The owner will be entitled to only one hearing.
- B. Requests for a hearing must be submitted to the Lane County Sheriff's Office, Attn: Support Services Section, 125 E. 8th Avenue, Eugene, OR 97401
- C. The request must be made within 5 calendar days (excluding holidays, Saturdays or Sundays) of when notice is mailed. The request shall be made in person or in writing, not by telephone.
- D. Administrative hearings will be conducted at the Lane County Sheriff's Office, 125 E. 8th Avenue, Eugene, OR 97401.

- E. The hearing will be set 3 calendar days (excluding holidays, Saturdays or Sundays) from the date the request is received unless the petitioning party requests a later date.
- F. In hearings regarding an impoundment, the impounding deputy will be notified of the hearing as soon as a hearing date has been established. Once notified, the impounding deputy must confirm their attendance at the hearing or choose to submit an affidavit in lieu of making a personal appearance at the hearing.
 - 1. Affidavits are available from the Support Services Section and must be completed, and returned, no later than the business day immediately preceding the scheduled hearing. Once completed, the affidavit will be forwarded with the rest of the reports. If the deputy fails to complete the affidavit within the required time, he/she will need to personally appear for the hearing.
 - 2. The impounding deputy will have the burden of proving that he/she had reasonable grounds to believe the vehicle was being operated in violation of O.R.S. 807.0101, 811.175, 811.182, 813.010 or Lane Code 6.475 based upon a preponderance of the evidence.
- G. The Lane County Sheriff's Office will appoint administrative hearings officers. The hearings officer will make a determination that the tow/impoundment was proper or improper, based upon a preponderance of the evidence.
 - 1. If the finding is proper, the owner will be responsible for the towing and storage charges as well as any administrative costs.
 - 2. If the finding is improper, the Lane County Sheriff's Office will be responsible for the costs of the towing and storage.
- H. Hearing Procedure:
 - 1. LCSO shall send the party requesting the hearing a copy of any documents that will be used at the hearing. For example the citation, narrative, or impound report.
 - 2. The hearing shall be held in a private room.
 - 3. If possible, record the proceeding with a video camera. Inform the party or parties appearing that the proceeding will be recorded.
 - 4. If the requesting party does not have the documents in the tow/impoundment file, the hearing officer shall provide them with a copy or allow them to read the hearing officer's copy.

5. At the beginning of the hearing, the hearing officer shall introduce himself or herself to the parties and outline the procedure that will occur.
6. If the requesting party provides information that the hearing's officer must confirm or follow up, the hearing's officer shall reserve ruling until a follow up investigation is completed.
7. If at any time before, during, or after the hearing, the hearing officer has a question about how to proceed, the hearing officer shall contact the Lane County Office of Legal Counsel.
8. At the end of the hearing, the hearing officer should inform the requesting party of the status of the tow/impoundment (i.e. tow/impoundment upheld or overturned, additional investigation needed, or written ruling will issue via US mail). Any oral ruling shall be followed by a written ruling sent to the party via US mail.

LANE COUNTY LIABILITY RELEASE FORM

On the date of _____, 20____, intending to be legally bound hereby, I agree and hereby release from liability and indemnify and hold harmless Lane County, the Lane County Sheriff's Office and any of its commissioners, employees or agents representing or related to the County as regards to the potential towing and impound of my vehicle _____ on _____.
(Year, Make, Model, Color, License plate number) (Date)

I request that in lieu of being towed and impounded, my vehicle remain at _____
(location address or description)

I hereby agree and certify that I am the legal owner of the above described vehicle.

This release is for any and all liability for personal injuries (including death) and property losses, damage, or civil rights violations occasioned by, or in connection with the activity described above. This release and indemnification includes an agreement to defend and hold the County harmless from any claims made by employees or third parties based in connection with the activity described above.

ACKNOWLEDGEMENT AND SIGNATURE:

I hereby certify that I have read and approve this document; and, I understand its content.

Dated this ____ day of _____, 20 ____

Signed:

Owner

Witnessed by (Lane County Sheriff's Office)

Print Name

Deputy Name - Print