

# SPEED LIMIT ENFORCEMENT ON PRIVATE ROADS

## CAN SPEED LIMITS BE ENFORCED ON PRIVATE ROADS?

Under section 21107 of the California Vehicle Code (CVC), law enforcement officers can enforce speed limits on private roads in unincorporated areas of the County.

The process requires a public hearing before the Board of Supervisors and a mailing of notices. In order for the law enforcement officers to conduct enforcement patrols, the Board of Supervisors has to adopt a resolution to that effect.

Vehicle Code enforcement in the unincorporated area of the County is the responsibility of the California Highway Patrol (CHP). Approval of the resolution by the Board of Supervisors does not constitute a commitment by the CHP or Sheriff's Department to provide enforcement patrols on a regular basis.

The local homeowners association is required to take the lead on noticing all owners and advising the Transportation Department by providing a copy of the notice and mailing list.

The County charges a fee of \$500 for processing each request. Payment must be provided before the formal process can be initiated.

## AFTER A RESOLUTION IS PASSED, HOW DO WE ESTABLISH SPEED LIMITS?

The local homeowners association is responsible for any engineering studies required to establish an enforceable speed limit as well as furnishing, installing, and maintaining any signs and other traffic control devices. Any speed limit number can be posted on a private road, however, if the speed limit is to be enforceable, it must be established in accordance with existing law.

## CALIFORNIA SPEED LAW

The primary legal justification for Vehicle Code enforcement in California is the CVC.

All states base their speed regulations on the **Basic Speed Law**: "No person shall drive a vehicle at a speed greater than is reasonable or prudent and in no event at a speed which endangers the safety of persons or property" (CVC 22350).

State law also establishes maximum speed limits. For example, the maximum speed on an undivided two-lane roadway is 55 MPH, (CVC 22349b).

All other speed limits are called prima facie limits, which are considered by law to be safe and prudent under normal conditions. Certain prima facie limits are established by State law and include the 25 MPH speed limit in business and residential districts and the 25 MPH in school zones when children are present. [Residence district speed limits do not need to be posted to be enforceable.]

Local authorities have authority to establish reduced speed limits on the basis of **engineering and traffic surveys** (CVC 22358). Such surveys must include an analysis of roadway conditions, accident records, and a sampling of the prevailing speed of traffic (CVC 627). Other factors may be considered, but an unreasonable speed limit, which is called a **speed**

trap, may not be established (CVC 40802).

The State Legislature has declared a strong public policy against the use of speed traps, to the extent that citations issued where a speed trap is found to exist are likely to be dismissed, particularly if radar enforcement methods are used (CVC 40803 – 40805).

A provision of the Vehicle Code that California courts have generally considered very strongly reads “It is the intent of the Legislature that physical conditions such as width, curvature, grade and surface conditions, or any other condition not readily apparent to a driver, in the absence of other factors, would not require special downward speed zoning, as the basic rule of section 22350 is sufficient regulation as to such conditions” (CVC 22358.5). The words, It is the intent of the Legislature, are intended to get the attention of traffic engineers and local jurisdictions in setting and maintaining local speed limits. Such speed limits must be set carefully, as justified by appropriate factors, to avoid making such limits un-enforceable.

In practice, speed limits are normally set at the first five-mile per hour increment below the 85th percentile speed, defined as that speed at or

below which 85 percent of the traffic is moving. Further reduction must be documented and clearly justified by an Engineering and Traffic Survey.

### RESIDENTIAL AREAS

The most common concerns about speeding generally originate from residential areas. Twenty-five MPH speed limit signs may be posted on residential streets without conducting a speed survey, if the street or segment of street being considered (CVC 515) meets the following:

1. Width cannot exceed 40 feet.
2. Uninterrupted length cannot be more than one half mile; interruptions include official traffic control devices such as stop signs and traffic signals.
3. There can be only one traffic lane in each direction.

### VEHICLE CODE ENFORCEMENT

If you have questions, requests, or suggestions, please call Department at: or through the “Contact Us” link at: Rev. 2/21/08

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