

ORDINANCE NO. 015-01 C.S.

AN ORDINANCE AMENDING CHAPTER 5, OF THE STOCKTON MUNICIPAL CODE BY ADDING PART XXIV, SECTIONS 5-1000 THROUGH 5-1008, SEIZURE AND FORFEITURE OF NUISANCE VEHICLES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE.

Chapter 5, of the Stockton Municipal Code is hereby amended by adding Part XXIV, Sections 5-1000 through 5-1008, to read as follows:

**PART XXIV
SEIZURE AND FORFEITURE OF NUISANCE VEHICLES**

SEC. 5-1000. NUISANCE VEHICLES.

Any vehicle used to solicit an act of prostitution, or to acquire or attempt to acquire any controlled substance, is declared a nuisance, and the vehicle shall be enjoined and abated as provided in this chapter. Any person or his or her servant, agent, or employee who owns, leases, conducts, or maintains any vehicle (hereinafter referred to as "the property"), used for any of the purposes or acts set forth in this section is guilty of a nuisance.

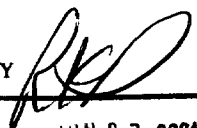
SEC. 5-1001. DECLARATION BY COURT.

Upon proof that the property was used for any of the purposes set forth in Section 5-1000, the court shall declare the property a nuisance and order that the property be forfeited, sold, and the proceeds distributed as set forth in Section 5-1008.

SEC. 5-1002. RIGHT, TITLE, AND INTEREST IN PROPERTY.

All right, title, and interest in any property described in Section 5-1000 shall vest in the City of Stockton upon commission of the act giving rise to the nuisance under this chapter.

CITY ATTY
REVIEW



DATE

JUN 07 2001

SEC. 5-1003. PROCESS.

Vehicles subject to forfeiture under this chapter may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure without process may be made if any of the following situations exist.

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) There is probable cause to believe that the property was used in violation of this chapter.

SEC. 5-1004. RECEIPTS.

Receipts for vehicles seized pursuant to this chapter shall be delivered to any person out of whose possession such vehicle was seized, in accordance with Section 1412 of the Penal Code.

SEC. 5-1005. EVIDENCE.

Property seized pursuant to Section 5-1003, where appropriate, may be held for evidence. The District Attorney or City Attorney shall institute and maintain the proceedings.

SEC. 5-1006. FORFEITURE.

a. Except as provided in subsection g of this section, if the District Attorney or City Attorney determines that the factual circumstances do warrant that the vehicle described in Section 5-1000 is subject to forfeiture, the District Attorney or City Attorney shall file a petition for forfeiture with the Superior Court of San Joaquin County.

b. A petition for forfeiture under this subdivision shall be filed as soon as practicable, but in any case within one year of the seizure of the property which is subject to forfeiture.

c. The District Attorney or City Attorney shall cause a notice of the seizure and of the intended forfeiture proceedings, as well as a notice stating that any interested party may file a verified claim with the Superior Court of San Joaquin County, to be served by personal delivery or by registered mail upon any person who has an interest in the seized vehicle. Whenever a notice is delivered pursuant to this section, it shall be accompanied by a claim form as described in Section 5-1007 and directions for the filing and service of a claim.

d. An investigation shall be made by the Stockton Police Department as to any claimant to a vehicle whose right, title, interest, or lien is of record in the

Department of Motor Vehicles or appropriate federal agency. If the Stockton Police Department finds that any person, other than the registered owner, is the legal owner thereof, and such ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, it shall forthwith send a notice to the legal owner at his or her address appearing on the records of the Department of Motor Vehicles or appropriate federal agency.

e. All notices shall set forth the time within which a claim of interest in the property seized or subject to forfeiture is required to be filed pursuant to Section 5-1007.

f. With respect to vehicles described in Section 5-1000 for which forfeiture is sought and as to which forfeiture is contested, the City of Stockton shall have the burden of proving by a preponderance of the evidence that the vehicle was used as set forth in Section 5-1000. Trial shall be before the court or jury. The presiding judge of the Superior Court shall assign the action brought pursuant to this chapter for trial.

g. The District Attorney or City Attorney may, pursuant to this subsection, order the forfeiture of vehicles seized under this chapter. The District Attorney or City Attorney shall provide notice of the proceedings under this subsection, including:

1. A description of the vehicle;
2. The date and place of seizure;
3. The violation of law alleged with respect to forfeiture of the property;
4. The instructions for filing and serving a claim with the District Attorney or City Attorney pursuant to Section 5-1007 and time limits for filing a claim.

h. If no claims are timely filed, the District Attorney or City Attorney shall prepare a written declaration of forfeiture of the vehicle to the City and dispose of the property in accordance with Section 5-1008. A written declaration of forfeiture signed by the District Attorney or City Attorney under this section shall be deemed to provide good and sufficient title to the forfeited property. The District Attorney or City Attorney ordering forfeiture pursuant to this section shall provide a copy of the declaration of forfeiture to any person who received notice of the forfeiture proceedings.

i. If a claim is timely filed, then the District Attorney or City Attorney shall file a petition for forfeiture pursuant to this section within thirty days of the receipt of the claim.

SEC. 5-1007. INTEREST CLAIM.

a. Any person claiming an interest in the vehicle seized pursuant to Section 5-1000 must, at any time within ten days from the date of the notice of seizure, file with the Superior Court of San Joaquin County a claim, verified in accordance with Section 446 of the Code of Civil Procedure, stating his or her interest in the property. An endorsed copy of the claim shall be served by the claimant on the District Attorney or City Attorney within ten days of the filing of the claim.

b. 1. If a verified claim is filed, the forfeiture proceeding shall be set for hearing on a day not less than thirty (30) days therefrom.

2. The hearing shall be before the court.

3. The provisions of the Code of Civil Procedure shall apply to proceedings under this chapter unless otherwise inconsistent with the provisions or procedures set forth in this chapter. However, in proceedings under this chapter, there shall be no joinder of actions, coordination of actions, except for forfeiture proceedings, or cross-complaints, and the issues shall be limited strictly to the questions related to this chapter.

SEC. 5-1008. SALE OF VEHICLES.

In all cases where vehicles seized pursuant to this chapter are forfeited to the City, the vehicles shall be sold, or if cash is paid as settlement in lieu of forfeiture of the vehicle, and the proceeds of sale shall be distributed and appropriated as follows:

a. To the bona fide or innocent purchaser, conditional sales vendor, mortgagee or lien holder of the property, if any, up to the amount of his or her interest in the property, when the court or District Attorney or City Attorney declaring the forfeiture orders a distribution to that person.

b. To the District Attorney or City Attorney for all expenditures made or incurred by it in connection with the publication of the notices set forth in Section 5-1006, and the sale of the vehicle, including expenditures for any necessary repairs, storage, or transportation of any vehicle seized under this chapter.

c. The remaining funds shall be distributed as follows:

1. Fifty (50) percent to the local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

2. Fifty (50) percent to the District Attorney or City Attorney.

d. All the funds distributed to the local law enforcement entities or District Attorney or City Attorney pursuant to subsection c of this section shall not supplant any funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.


For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

SECTION III. EFFECTIVE DATE.

This ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: JUN 12 2001

EFFECTIVE: JUL 12 2001


GARY A. PODESTO
Mayor of the City of Stockton

ATTEST:


KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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