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DEPARTMENT OF  
POLICE

ALBERT NÁJERA  
CHIEF OF POLICE

STEVE SEGURA  
DEPUTY CHIEF OF POLICE

RICK BRAZIEL  
DEPUTY CHIEF OF POLICE

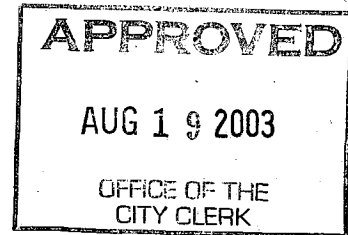
City Council  
Sacramento, California

Honorable Members in Session

CITY OF SACRAMENTO  
CALIFORNIA  
July 28, 2003

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**SUBJECT:** AN ORDINANCE AMENDING SECTION 8.14.060 OF THE SACRAMENTO CITY CODE, RELATING TO CLAIMS AND COURT PROCEEDINGS FOR NUISANCE VEHICLES, TO ADD A RIGHT TO JURY TRIAL, AND DECLARING SAID ORDINANCE AN EMERGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY (2/3 VOTE REQUIRED)

**LOCATION AND COUNCIL DISTRICT:** CITY

**RECOMMENDATION:**

It is recommended that the City Council enact an emergency ordinance amending Section 8.14.060 of the Sacramento City Code, adding a right to jury trial to provisions relating to claims and court proceedings for nuisance vehicles.

**CONTACT PERSONS:** **Jeff Schiele, Acting Deputy Chief, 433-0301**  
**Office of Investigations**

**FOR COUNCIL MEETING OF:** August 19, 2003

**SUMMARY:**

This report recommends enactment of an emergency ordinance to amend Section 8.14.060 of the Sacramento City Code, to add a right to jury trial to provisions relating to claims and court proceedings for nuisance vehicles.

**COMMITTEE / COMMISSION ACTION:** N/A

*The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.*

**BACKGROUND INFORMATION:**

- The City has a successful “Beat Feet” program that discourages use of vehicles for purposes of soliciting prostitutes and buying illegal drugs by seizing and forfeiting vehicles used for these activities.
- According to the City Attorney, current case law requires that a forfeiture ordinance of the type used in the “Beat Feet” program include a right to jury trial on the issue of forfeiture.
- The City Attorney recommends that a right to jury trial be added to the ordinance.
- Because “Beat Feet” enforcement is ongoing, the due process right of jury trial should be added and take effect immediately, so that litigants receive all the rights to which they are entitled.

**FINANCIAL CONSIDERATIONS:**

None.

**ENVIRONMENTAL CONSIDERATIONS:**

This proposal does not constitute a “project” and is therefore exempt from the California Environmental Quality Act (CEQA) according to CEQA guidelines Section 15061(b)(1) and 15378(b)(3).

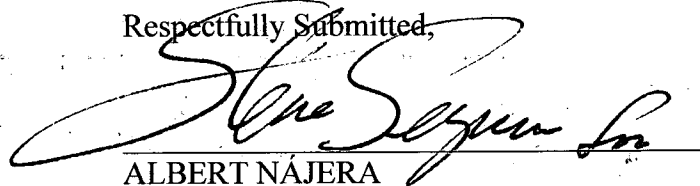
**POLICY CONSIDERATIONS:**

Enactment of the ordinance will further the City Council’s policy to enhance and preserve the neighborhoods.

**ESBD CONSIDERATIONS:**

No goods or services are being purchased under this report.

Respectfully Submitted,

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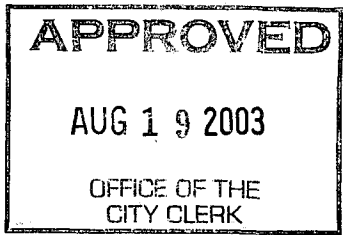
ALBERT NAJERA  
Chief of Police

**RECOMMENDATION APPROVED:**

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ROBERT THOMAS  
City Manager

AN:dls  
Ref 08-19



**ORDINANCE NO. 2003-037**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 8.14.060 OF THE SACRAMENTO CITY CODE, RELATING TO CLAIMS AND COURT PROCEEDINGS FOR NUISANCE VEHICLES, TO ADD A RIGHT TO JURY TRIAL, AND DECLARING SAID ORDINANCE AN EMERGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Section 8.14.060 of the Sacramento City Code is hereby amended to read as follows:

**8.14.060 Claims and court proceedings**

A. Any person claiming an interest in a vehicle seized pursuant to this chapter shall, not later than ten (10) days from the date of service of the notice of intended forfeiture, file a claim of opposition with the Sacramento city attorney verified in accordance with Section 446 of the Code of Civil Procedure, stating his or her interest in the vehicle. The claim shall be accompanied by the superior court filing fee.

B. If a verified claim is timely filed, the city attorney or district attorney shall institute a forfeiture proceeding by filing a petition for forfeiture with the superior court of Sacramento County within thirty (30) days of the receipt of the claim, and by setting the matter for a hearing on a day not less than thirty (30) days therefrom. If a petition for forfeiture and opposition is filed with the court, claimant will receive a filed endorsed copy of the claim; and the petition for forfeiture with the date, time and location of the court hearing.

**FOR CITY CLERK USE ONLY**

ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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C. The hearing shall be before the superior court of Sacramento County.

D. 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.

E. With respect to vehicles described in Section 8.14.030 for which forfeiture is sought and as to which forfeiture is contested, the city shall have the burden of proving by a preponderance of the evidence that the vehicle was used as set forth in Section 8.14.030. Trial shall be before the court or jury.

F. Upon proof that the vehicle was used for any of the purposes set forth in Section 8.14.030, the court shall declare the vehicle a nuisance and order title and ownership of the vehicle transferred to the city of Sacramento and disposal of the vehicle as set forth in Section 8.14.070.

G. If no claims are timely filed in response to the notice issued pursuant to subsection B, the city attorney or the district attorney shall prepare a written declaration of forfeiture of the vehicle to the city and dispose of the property in accordance with Section 8.14.070. A written declaration of forfeiture signed by the city attorney or district attorney under this section shall be deemed to provide good and sufficient title to the forfeited property. The city attorney or district attorney ordering forfeiture pursuant to this subsection shall provide a copy of the declaration of forfeiture to any person who received notice of the intended forfeiture proceedings.

**SECTION 2.**

This ordinance is declared to be an emergency ordinance, to become effective immediately upon its adoption by the City Council pursuant to Section 32(g)(2) of the Sacramento City Charter. The facts constituting the emergency are as follows. According to the City Attorney, current case law requires that a forfeiture ordinance of the type used in the "Beat Feet" program include a right to jury trial on the issue of forfeiture. Because "Beat Feet" enforcement is ongoing, the due process right of jury trial should be added immediately, so that litigants receive all the rights to which they are entitled.

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ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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DATE ENACTED:

DATE EFFECTIVE:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
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ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

(b)