

FILED:  
OFFICE OF THE CITY CLERK  
OAKLAND

  
Oakland City Attorney's Office

2007 NOV 26 PM 4:09

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HER DESIGNEE, TO INSTRUCT THE CITY'S LEGISLATIVE LOBBYIST TO SUPPORT PASSAGE OF CALIFORNIA ASSEMBLY BILL NO. 1724 (JONES), WHICH SEEKS TO CHANGE STATE LAW TO AUTHORIZE LOCAL GOVERNMENTS TO ENACT AND ENFORCE ORDINANCES TO FORFEIT NUISANCE VEHICLES USED IN ILLEGAL PURCHASE OF A CONTROLLED SUBSTANCE, PIMPING, PANDERING OR SOLICITATION OF PROSTITUTION, IF AMENDED TO PROVIDE EXCEPTIONS FOR THE TRANSPORTATION OF MEDICAL CANNABIS FROM GROWING SITES TO PERMITTED DISPENSARIES, AND FOR TRANSPORTATION BY PATIENTS FROM THE DISPENSARIES TO THEIR PLACE OF RESIDENCE**

**WHEREAS**, in 1997, the Oakland City Council enacted Ordinance No. 11987 C.M.S. declaring vehicles used to solicit an act of prostitution or to illegally acquire a controlled substance to be public nuisances and authorized the seizure and forfeiture of said vehicles; and

**WHEREAS**, the Oakland City Council subsequently enacted Ordinances No. 12015, 12093, and 12684 C.M.S. amending various provisions of the original Ordinance No. 11987 C.M.S.; and

**WHEREAS**, Ordinance No. 11987 C.M.S. and its amendments are codified and appear as Chapter 9.56 of the Oakland Municipal Code (named the Nuisance Vehicle Forfeiture Ordinance); and

**WHEREAS**, on July 24, 2000, the California Court of Appeal, First District, issued its decision in Sam Horton v. City of Oakland (2000) 82 Cal.App.4<sup>th</sup> 580, finding that the terms of Oakland's Nuisance Vehicle Forfeiture Ordinance did not conflict with California law and denied a preemption challenge brought in said lawsuit; and

**WHEREAS**, in early 2001, the City of Stockton passed ordinance 015-01C.S. (effective July 12, 2001 and codified as Stockton Municipal Code, Chapter 5, Part XXV), which is substantially similar to the Oakland's Nuisance Vehicle Forfeiture Ordinance in many respects; and

**WHEREAS**, in late 2001, Kendra O'Connell filed suit against the City of Stockton, alleging that Stockton's Nuisance Vehicle Ordinance was preempted by California Law; and

**WHEREAS**, on July 26, 2007, the California Supreme Court ruled (see O'Connell v. City of Stockton (2007) 41 Cal.4<sup>th</sup> 1061) that Stockton's Nuisance Vehicle Ordinance is preempted by California law, and overruled the 2000 decision of the Court of Appeal, First District, in Horton v. City of Oakland; and

**WHEREAS**, Assembly Bill No. 1724 (Jones) is currently pending in the California Legislature and seeks to change California law to expressly allow local governments, including the City of Oakland, to enact ordinances that would provide for the forfeiture of nuisance vehicles used to solicit an act of prostitution, for pimping, for pandering, or for the illegal purchase of controlled substances; and

**WHEREAS**, the city of Oakland has enacted ordinances and policies supporting the use of medical cannabis in accordance with the Compassionate Use Act of 1996 and wishes to exempt from Assembly Bill No. 1724, medical cannabis being transported from growing sites to permitted dispensaries and being transported by patients from permitted dispensaries to their place of residence; and

**WHEREAS**, it is in the best interest of the City of Oakland that it have the authority to enact local ordinances providing for forfeiture of nuisance vehicles used to solicit an act of prostitution, for pimping, for pandering, or for the illegal purchase of controlled substances within Oakland; now therefore be it

**RESOLVED:** That the City Administrator, or her designee, is hereby authorized to instruct the City's legislative lobbyist to advocate for and support the passage of California Assembly Bill No. 1724 (Jones) if it is amended to provide an exemption for the transportation of medical cannabis from growing sites to permitted dispensaries and transportation by patients from the dispensaries to their place of residence.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-


ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

  
Oakland City Attorney's Office

2007 NOV 19 11:40 AM  
**OAKLAND CITY COUNCIL**

ORDINANCE No. \_\_\_\_\_ C.M.S.

**ORDINANCE REPEALING ORDINANCES NO. 11987, 12015, 12093, and 12684 C.M.S. WHICH DECLARE VEHICLES USED TO SOLICIT AN ACT OF PROSTITUTION, FOR PANDERING, FOR PIMPING, OR TO ILLEGALLY ACQUIRE A CONTROLLED SUBSTANCE, TO BE PUBLIC NUISANCES AND AUTHORIZE THE SEIZURE AND FORFEITURE OF SAID VEHICLES.**

**WHEREAS**, in 1997, the Oakland City Council enacted Ordinance No. 11987 C.M.S. declaring vehicles used to solicit an act of prostitution or to illegally acquire a controlled substance to be public nuisances and authorized the seizure and forfeiture of said vehicles; and

**WHEREAS**, the Oakland City Council subsequently enacted Ordinances No. 12015, 12093, and 12684 C.M.S. amending various provisions of the original Ordinance No. 11987 C.M.S.; and

**WHEREAS**, Ordinance No. 11987 C.M.S. and its amendments are codified and appear as Chapter 9.56 of the Oakland Municipal Code (named the Nuisance Vehicle Forfeiture Ordinance); and

**WHEREAS**, on July 24, 2000, the California Court of Appeal, First District, issued its decision in Sam Horton v. City of Oakland (2000) 82 Cal.App.4<sup>th</sup> 580, finding that the terms of Oakland's Nuisance Vehicle Forfeiture Ordinance did not conflict with California law and denied a preemption challenge brought in said lawsuit; and

**WHEREAS**, in early 2001, the City of Stockton passed ordinance 015-01 C.S. (effective July 12, 2001 and codified as Stockton Municipal Code, Chapter 5, Part XXV), which is substantially similar to the Oakland's Nuisance Vehicle Forfeiture Ordinance in many respects; and

**WHEREAS**, in late 2001, Kendra O'Connell filed suit against the City of Stockton, alleging that Stockton's Nuisance Vehicle Ordinance was preempted by California Law; and

**WHEREAS**, on July 26, 2007, the California Supreme Court ruled (see O'Connell v. City of Stockton (2007) 41 Cal.4<sup>th</sup> 1061) that Stockton's Nuisance Vehicle Ordinance is preempted by California law, and overruled the 2000 decision of the Court of Appeal, First District, in Horton v. City of Oakland; and

**WHEREAS**, pursuant to the above, the City Council has determined it is in the best interest of the City to repeal Ordinances No. 11987, 12015, 12093, and 12684 C.M.S.; now therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Ordinances No. 11987, 12015, 12093, and 12684 C.M.S. are hereby repealed.

**SECTION 2.** Oakland Municipal Code, Title 9, Chapter 9.56, is hereby repealed.

**SECTION 3.** Effective Date.

This Ordinance shall be come effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20 \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California



## Notice & Digest

**AN ORDINANCE REPEALING ORDINANCES NO. 11987, 12015, 12093, AND 12684 C.M.S. WHICH DECLARE VEHICLES USED TO SOLICIT AN ACT OF PROSTITUTION, FOR PANDERING, FOR PIMPING, OR TO ILLEGALLY ACQUIRE A CONTROLLED SUBSTANCE, TO BE PUBLIC NUISANCES AND AUTHORIZE THE SEIZURE AND FORFEITURE OF SAID VEHICLES.**

This is an ordinance repealing Ordinances No. 11987, 12015, 12093, and 12684 C.M.S. which declare vehicles used to solicit an act of prostitution, for pandering, for pimping, or to illegally acquire a controlled substance, to be public nuisances and authorize the seizure and forfeiture of said vehicles. The effect of this ordinance is to repeal Oakland Municipal Code Chapter 9.56 "Seizure and Forfeiture of Nuisance Vehicles." This action is in response to the California Supreme Court decision O'Connell v. City of Stockton et al (2007) 41 Cal.4<sup>th</sup> 1061.