

# City Council OKs seizing cars used in prostitution crime

BY: DAN MCKAY / JOURNAL STAFF WRITER

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Pimps, johns and prostitutes may soon face more than just an arrest when caught by Albuquerque police.

An ordinance approved by city councilors late Monday would allow officers to seize any motor vehicle used in a prostitution crime. It was sponsored jointly by councilors Roxanna Meyers and Ken Sanchez.

“This is a citywide problem,” Meyers said, pointing out sting operations conducted throughout Albuquerque.

Sanchez said he sees prostitutes every day on West Central, where he works. Police need more options for attacking the problem, he said.

“It’s almost impossible to stop,” he said.

Albuquerque police Lt. Les Brown said he doesn’t expect to target the prostitutes themselves. Instead, he’ll focus on seizing the vehicles of pimps or johns when the vehicle is used in the course of the crime.

The council voted 8-1 in favor of the ordinance, with Rey Garduño in dissent.

Garduño raised questions about people wrongly accused of a crime and the possibility of someone losing their car if a family member borrows it without their knowledge.

“I think we’re treading on thin ice to make these assumptions,” he said.

Brown said the ordinance does have an “innocent owner” provision that would allow someone to get their car back. He said he envisions seizing vehicles from johns who are caught in sting operations using undercover officers.

Meyers said police helped write the ordinance.

The ordinance relies on the city's civil authority to "abate nuisances." For years, the city has used its anti-nuisance authority to demolish dilapidated houses, seize cars driven by drunken drivers and target other activities.

The DWI seizure program has survived court challenges, city officials said.

Earlier this year, the American Civil Liberties Union of New Mexico raised legal questions about the proposed prostitution ordinance, partly because it allows the city to seize a vehicle upon the driver's arrest, without a conviction. But no one spoke against the proposal during Monday's council meeting.

The proposal calls for declaring vehicles used in prostitution as the "instrumentality of the nuisance."

A vehicle would be subject to seizure or forfeiture if its driver or passenger has been arrested for prostitution, patronizing prostitutes, promoting prostitution or accepting the earnings of a prostitute.

The ordinance says the Police Department may seize the vehicle during an arrest and offer it back with an "immobilization device," such as a boot. The owner would sign an agreement with the city and pay a fee, which isn't specified in the ordinance.

The city, however, wouldn't be required to offer the immobilization option to every offender.

Instead, a police officer could seize the vehicle and serve the person with a "Notice of Forfeiture" and also mail it to the registered owner of the vehicle.

The owner, in turn, could contest the seizure by requesting an administrative hearing for \$50. The hearing officer would determine whether the police officer had probable cause to seize the vehicle.

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