FOR CLERK USE ONLY
City Council
Item No. 5

CITY COUNCIL AGENDA
FACT SHEET

Police/City Attorney.(Hermosillo)
Department

February 16, 2010
Requested Date

1. **Request:**

Council Approval	☒	Information Only/ Presentation	☐
Other (specify)	☐	Hearing	☐

2. **Requested Action:**

ADOPTION OF "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING TITLE 10, CHAPTER 10.24 OF THE CALEXICO MUNICIPAL CODE BY REPEALING SECTION 10.24.210 AND ADDING A NEW SECTION 10.24.210, RELATING TO THE AUTHORITY TO REMOVE VEHICLES FOR SALE IN CERTAIN AREAS WITHIN THE PUBLIC RIGHT-OF-WAY"

3. **Fiscal Impact:**

Revenue:	Increase	☐	Source:	
	Decrease	☐	Amount:	
Cost:	Increase	☒	Source:	Cost to add signs
	Decrease	☐	Amount:	
	Does Not Apply	☐		

4. **Reviewed By:**

Finance Dept. on _____ By: _____
Comments:

City Attorney on Feb 8, 2010 By: _____
Comments:

Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., 2 Fridays before the scheduled meeting date.

CLERK USE ONLY:
CITY COUNCIL DATE: _____

Action	☐	Filing	☐
Consent	☐	Presentation	☐
Hearing	☐	Other(specify)	☐

Reviewed by: City Clerk _____ City Manager _____
Date _____ Date _____

Form FIN038 (Revised 07/2009)

CITY COUNCIL
AGENDA REPORT

SUBJECT: ADOPTION OF "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING TITLE 10, CHAPTER 10.24 OF THE CALEXICO MUNICIPAL CODE BY REPEALING SECTION 10.24.210 AND ADDING A NEW SECTION 10.24.210, RELATING TO THE AUTHORITY TO REMOVE VEHICLES FOR SALE IN CERTAIN AREAS WITHIN THE PUBLIC RIGHT-OF-WAY"

AGENDA DATE: February 16, 2010

PREPARED BY: Jim Neujahr, Police Chief and Jennifer M. Lyon, City Attorney (At the request of Councilman Hermosillo)

RECOMMENDATION: Consider item. If Council chooses, adopt ordinance by way of title only, waive full reading of the ordinance.

FISCAL IMPACT: This action requires the installation of signs. There may also be a need to increase police presence at certain times and hours to effect enforcement.

BACKGROUND: For several years, residents have expressed concern about streets in their neighborhoods being used as used car sales lots. People seeking to sell their vehicles park on streets posting "For Sale" signs or placards in or on their vehicles. The vehicles cause congestion and create a hazard as motorists slow or stop to look and pedestrians congregate. This activity interferes with the peace and quiet of neighborhoods and the vehicles take up needed parking spaces for 72 hours at a time.

DISCUSSION: (Current consideration): State law authorizes any peace officer and any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of a city to remove vehicles for sale from streets and public lands if all the requirements of California Vehicle Code section 22651.9 are satisfied. California Vehicle Code 22651.9 requires the local authority, by resolution or ordinance, to authorize such removal. Enactment of this ordinance would empower the Police Department to address this issue. Streets listed in the ordinance are those most frequently used and those most likely to be used to park for sale vehicles. The list may be modified by amendment to the ordinance in the future. Permanent signage is recommended in each of the locations identified in the ordinance. Until the installation of permanent signs, temporary signs would be used upon the effective date of the ordinance.

Councilman Hermosillo requested that Calexico Municipal Code section 10.24.210, prohibiting parking on the public rights-of-way, be amended to strengthen the prohibition relating to vehicles with for sale signs parked in the public right-of-way, and to comport with the current state of case law. The ordinance attached repeals Chapter 10.24, Section 10.24.210 of the Calexico Municipal Code and adds a new Section 10.24.210 of Chapter 10.24 of the Calexico Municipal Code to prohibit the parking of cars with "for sale" signs on certain streets.

Attachment: Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING TITLE 10, CHAPTER 10.24 OF THE CALEXICO MUNICIPAL CODE BY REPEALING SECTION 10.24.210 AND ADDING A NEW SECTION 10.24.210, RELATING TO THE AUTHORITY TO REMOVE VEHICLES FOR SALE IN CERTAIN AREAS WITHIN THE PUBLIC RIGHT-OF-WAY

WHEREAS, the City Council for the City of Calexico finds that public streets and highways, including areas open for the stopping and parking of vehicles, should be available for use by all residents and visitors to the City and should not be used by persons for the primary purpose of displaying and advertising to the public the private sale of vehicles; and

WHEREAS, state law authorizes any peace officer and any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, to remove vehicles for sale from streets and public lands if all the requirements of California Vehicle Code section 22651.9 are satisfied; and

WHEREAS, the City Council finds that it is in the public interest to prohibit the use of certain specified public streets for the parking of vehicles for the primary purpose of advertising those vehicles for sale because such use causes unnecessary distractions and takes up needed parking spaces;

NOW THEREFORE, the City Council of the City of Calexico does ordain as follows:

Section 1. Section 10.24.210 of Title 10 of the Calexico Municipal Code is hereby repealed as follows:

> ~~**10.24.210 Parking vehicles for sale.**A. It is unlawful for any individual or entity engaged in the business of retail or wholesale vehicle sales to park the same upon any street for the purpose of displaying it for sale.~~
>
> ~~B. It is unlawful for the operator of any vehicle to park the same upon any public street in excess of eight hours in the same location for the purpose of displaying it for sale, except if circumstances beyond the control of the operator exist requiring that vehicle to be on the public street in excess of eight hours.~~
>
> ~~C. Violation of this section will result in a fine and bail of one hundred dollars.~~

Section 2. Section 10.24.210 of Title 10 is added to Chapter 10.24 of the Calexico Municipal Code to read as follows:

"10.24.210 Authority to Remove Vehicles for Sale in Certain Areas Within the Public Right-of-Way

(A) Purpose. The Council of the City of Calexico finds that the display of vehicles for sale on its streets creates a distraction for drivers and pedestrians, thereby creating a hazard; creates a nuisance for the community; and decreases the parking available for businesses and residents. Council further finds that numerous methods are available and necessary to alleviate this problem in the method most appropriate. The purpose of this section is to authorize and empower an authorized peace officer or other regularly employed and salaried employee of the City of Calexico who is engaged in directing traffic or enforcing parking laws and regulations of the City, to take various actions when public streets and highways identified in this section are used for the private sale of vehicles.

(B) Parking For Sale Vehicles Restricted. It is unlawful to park a vehicle on a street designated in paragraph (2) of subdivision (C) of this section 10.24.210 when, because of a sign or placard on the vehicle, it appears that the primary purpose of parking the vehicle at that location is to display and advertise to the public that the vehicle is for sale, and where the notice required in subdivision (C), below has been given to the owner or operator of the vehicle in the manner set forth therein.

(C) Pre-removal Notice. Prior to the removal of a vehicle pursuant to this section 10.24.210, the officer or employee must first determine that within the past 30 days, the vehicle is known to have been previously issued a notice of parking violation, which notice must contain the following:

(1) A warning that an additional violation of Section 10.24.210 may result in the impoundment of the vehicle, even if the vehicle is moved to another street designated under this section, so long as the sign or placard offering the vehicle for sale remains on the vehicle.

(2) A list of the following streets subject to this section, which are hereby identified by the City Council as streets where the parking of vehicles for sale is prohibited, is incorporated in the aforementioned warning.

STREET	BEGINNING LIMIT	ENDING LIMIT
Imperial Avenue	North City Limit	South City Limit
Imperial Avenue West	Scaroni Road	Birch Street
Imperial Avenue East	Cole Road	Palm Drive
Birch Street	West City Limit	East City Limit
No. Frontage Road of Birch Street	Paulin Avenue	C.N. Perry Avenue
So. Frontage Road of Birch Street	Eady Avenue	Lee Street
So. Frontage Road of Birch Street	Blair Avenue	Encinas Avenue

Kloke Avenue	North City Limit	Calexico Street
Eady Avenue	Martinez Street	Amelia Street
Canal Street	Eady Avenue	V.V. Williams Avenue
V.V. Williams Ave	North City Limit	Birch Street
Cesar Chavez Blvd	Birch Street	South City Limit
Ollie Avenue	North roadway edge	McKinley Street
Estrada Blvd	Cole Road	Birch Street
Arguellas Street	Estrada Blvd	Ollie Avenue
Hacienda Street	Ollie Avenue	Imperial Avenue West
Emerson Avenue	Birch Street	Third Street
Grant Street	West City Limit	Imperial Avenue
Rockwood Avenue	North City Limit	First Street
Encinas Avenue	Birch Street	First Street
Avenida De Oro	Calle De Oro Street	Birch Street
Rancho Frontera Avenue	North City Limit	Birch Street
Andrade Avenue	North City Limit	South City Limit
Second Street	West City Limit	East City Limit

Section 3. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of any other portion of this Ordinance and, to that end, the provisions of this Ordinance are severable.

Section 4. This Ordinance shall take effect 30 days after its adoption.

Section 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be posted and published according to law.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Calexico, California, on the 2nd day of February, 2010; and **THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Calexico, California, on the 16th day of February, 2010, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

DAVID B. OUZAN, MAYOR

ATTEST:

LOURDES CORDOVA
CITY CLERK

APPROVED AS TO FORM:

JENNIFER M. LYON
CITY ATTORNEY

I, City Clerk of the City of Calexico, do hereby certify the foregoing to be an exact copy of Ordinance No. _____ – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO AMENDING TITLE 10, CHAPTER 10.24 OF THE CALEXICO MUNICIPAL CODE BY REPEALING SECTION 10.24.210 AND ADDING A NEW SECTION 10.24.210, RELATING TO THE AUTHORITY TO REMOVE VEHICLES FOR SALE IN CERTAIN AREAS WITHIN THE PUBLIC RIGHT-OF-WAY.

CITY CLERK

DATE