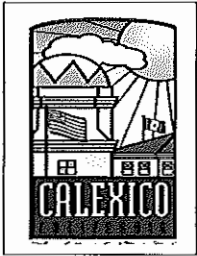


**AGENDA
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AGENDA STAFF REPORT

DATE: April 7, 2021

TO: Mayor and City Council

APPROVED BY: Miguel Figueroa, City Manager *M.F.*

PREPARED BY: Carlos Campos, City Attorney

SUBJECT: Second Reading and Adoption of Ordinance No. 1214 - An Ordinance of the City Council of the City of Calexico, California, Amending Calexico Municipal Code Section 10.24.210 Regarding the Authority to Remove Vehicles for Sale in Certain Areas within the Public Right-of-Way

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Recommendation:

Second Reading and Adoption of Ordinance No. 1214 - An Ordinance of the City Council of the City of Calexico, California amending the Calexico Municipal Code Section 10.24.210 regarding the authority to remove vehicles for sale in certain areas within the public right-of-way.

Background:

The California Legislature enacted California Vehicle Code Section 22651.9, regulating vehicles left on the street with "for sale" signs or placards, as an urgency statute "necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution" finding that the legislation was necessary to "alleviate the critical shortage of parking spaces in a city, county, and city and county, and to help reduce traffic hazards in those jurisdictions."

There is a shortage of on-street parking places on certain streets in the City of Calexico. The parking shortage on certain City streets is exacerbated by people parking vehicles on these streets for the sole purpose of displaying the vehicles for private sale.

Congregation of these vehicles with "for sale" signs or placards and the people trying to buy and sell them occurs on City streets where there is a high volume of vehicular and pedestrian traffic creating traffic hazards

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and traffic congestion along these streets, such as by vehicles that slow down, double park, and park illegally to look at “for sale” vehicles.

Congregation of these vehicles with “for sale” signs and the people trying to buy and sell them are creating a public nuisance and blight as the “for sale” signs on the cars are unsightly and the potential buyers go door-to-door in some neighborhoods trying to find the seller in order to test drive the cars and negotiate prices.

The City’s residential neighborhoods and busy commercial areas have become a magnet for sellers trying to sell their vehicles, which has resulted in the conditions described above.

The California Legislature enacted California Vehicle Code Section 22651.9 authorizing the City to regulate and impound vehicles with “for sale” signs from certain City streets and residential areas in general.

California state law authorizes cities to regulate the display of “for sale” signs in parked vehicles provided that the requirements of Vehicle Code Section 22651.9, subsection (a) are satisfied. The proposed Ordinance satisfies the Vehicle Code Section 22651.9 requirements as discussed further below.

Discussion & Analysis:

Purpose of the Proposed Ordinance.

Displaying vehicles for sale on residential and commercial streets is a distraction for drivers and pedestrians, creates a nuisance for the community and decreases the parking available for businesses and residents.

The proposed Ordinance authorizes peace officers or city employees engaged in traffic management or parking enforcement to remove certain “for sale” vehicles.

Parking Prohibition.

According to the proposed Ordinance, it will be unlawful for any person to park any “for sale” in residential zones and certain streets in the City which have been identified as problem areas.

Removal of Vehicle Advertising Sale.

Pursuant to Section 22651.9, Subdivision (a)(4), of the California Vehicle Code, the City authorizes any peace officer or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of the City, to remove a vehicle which parked for sale in locations prohibited by the Ordinance, provided all of the following requirements are satisfied:

1. Because of a sign or placard on the vehicle, it appears that the primary purpose of parking the vehicle in a residential zone or certain identified streets in the Ordinance is to advertise to the public the private sale of that vehicle.

2. Within the past thirty (30) days, the vehicle is known to have been previously issued a notice of parking violation, which was accompanied by a notice containing all of the following:

a. A warning that an additional parking violation may result in the impoundment of the vehicle.

b. A warning that the vehicle may be impounded, even if moved to another prohibited street so long as the signs or placards offering the vehicle for sale remain on the vehicle.

c. A listing of the streets or public lands subject to this Ordinance.

3. The notice of parking violation was issued at least twenty four (24) hours prior to removal of the vehicle.

Post Storage Impound Hearing.

California Vehicle Code Section 22852 provides, in summary, that whenever an authorized member of a public agency directs the storage of a vehicle, the City shall direct the storage operator to provide the vehicle's registered and legal owner(s) of record, or their agent(s), with the opportunity for a post-storage hearing to determine the validity of the storage.

Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within 48 hours, excluding weekends.

To receive a post-storage hearing, the owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone within ten (10) days of the date appearing on the notice. The City may authorize its own officer or employee to conduct the hearing as long as the hearing officer is not the same person who directed the storage of the vehicle.

Violation and Penalties.

A first violation is punishable by a fine of \$100. A second violation is punishable by a fine of \$250. A third violation and any subsequent violations are punishable by a fine of \$500. The City Council may increase the amount of the fines from time to time. A person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued or permitted.

At the meeting of April 7, 2021, the Council approved the First Reading of the Ordinance.

Attachment:

1. Ordinance No. 1214 - An Ordinance of the City Council of the City of Calexico, California, Amending Calexico Municipal Code Section 10.24.210 Regarding the Authority to Remove Vehicles for Sale in Certain Areas within the Public Right-of-Way.

ORDINANCE NO. 1214

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING CALEXICO MUNICIPAL CODE SECTION 10.24.210 REGARDING THE AUTHORITY TO REMOVE VEHICLES FOR SALE IN CERTAIN AREAS WITHIN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, the California Legislature enacted California Vehicle Code Section 22651.9, regulating vehicles left on the street with “for sale” signs or placards, as an urgency statute “necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution” finding that the legislation was necessary to “alleviate the critical shortage of parking spaces in a city, county, and city and county, and to help reduce traffic hazards in those jurisdictions;” and,

WHEREAS, there is a shortage of on-street parking places on certain streets in the City of Calexico; and,

WHEREAS, the parking shortage on certain City streets is exacerbated by people parking vehicles on these streets for the sole purpose of displaying the vehicles for private sale; and,

WHEREAS, the congregation of these vehicles with “for sale” signs or placards and the people trying to buy and sell them occurs on City streets where there is a high volume of vehicular and pedestrian traffic creating traffic hazards and traffic congestion along these streets, such as by vehicles that slow down, double park, and park illegally to look at “for sale” vehicles; and,

WHEREAS, the congregation of these vehicles with “for sale” signs and the people trying to buy and sell them are creating a public nuisance and blight as the “for sale” signs on the cars are unsightly and the potential buyers go door-to-door in some neighborhoods trying to find the seller in order to test drive the cars and negotiate prices; and,

WHEREAS, the City’s residential neighborhoods and busy commercial areas have become a magnet for sellers trying to sell their vehicles, which has resulted in the conditions described above; and,

WHEREAS, the California Legislature enacted California Vehicle Code Section 22651.9 authorizing the City to regulate and impound vehicles with “for sale” signs from the streets or public lands which the City has identified within this Section; and,

WHEREAS, California state law authorizes cities to regulate the display of “for sale” signs in parked vehicles provided that the requirements of Vehicle Code Section 22651.9, subsection (a) are satisfied. This ordinance satisfies Section 22651.9 (a) by including the following requirements:

- (1) Because of a sign or placard on the vehicle, it appears that the primary purpose of parking the vehicle at that location is to advertise to the public the private sale of that vehicle.

- (2) Within the past thirty (30) days, the vehicle is known to have been previously issued a notice of parking violation, under local ordinance, which was accompanied by a notice containing all of the following:
 - (a) A warning that an additional parking violation may result in the impoundment of the vehicle.
 - (b) A warning that the vehicle may be impounded pursuant to this section, even if moved to another street so long as the signs or placards offering the vehicle for sale remain on the vehicle.
 - (c) A listing of the streets or public lands subject to the regulation or ordinance adopted pursuant to Vehicle Code Section 22651.9(a)(4).
- (3) The notice of parking violation was issued at least twenty four (24) hours prior to the removal of the vehicle.
- (4) The local authority of the city has, by resolution or ordinance, authorized the removal of vehicles pursuant to Vehicle Code Section 22651.9 from the street or public lands on which the vehicle is located; and,

WHEREAS, California Vehicle Code Section 22651.9 states that California Vehicle Code Section 22852 applies to the removal of any vehicle pursuant to Section 22651.9.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF CALEXICO DO ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Calexico, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

SECTION 2. Amendment to Calexico Municipal Code. Section 10.24.210 of the Calexico Municipal Code is hereby amended 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 shall be unlawful for any person to park any vehicle on the streets or public lands in the City of Calexico, California, listed in this Subsection for the purpose of advertising to the public the private sale of that vehicle:

1. Along any public street in any residential zone in the City;
2. Along all streets listed in the table, below:

Parking for Sale Vehicles Prohibited		
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 Avenue	North City Limit	Birch Street
Cesar Chavez Boulevard	Birch Street	South City Limit
Ollie Avenue	North roadway edge	McKinley Street
Estrada Boulevard	Cole Road	Birch Street
Arguellas Street	Estrada Boulevard	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

C. Removal of Vehicle Advertising Sale. Pursuant to Section 22651.9, Subdivision (a)(4), of the California Vehicle Code, the City authorizes any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of the City, to remove a vehicle located within its territorial limits which is in violation of this Section, if all of the following requirements are satisfied:

1. Because of a sign or placard on the vehicle, it appears that the primary purpose of parking the vehicle at that location listed in Subdivision B. of this Section is to advertise to the public the private sale of that vehicle.
2. Within the past thirty (30) days, the vehicle is known to have been previously issued a notice of parking violation, under this Section, which was accompanied by a notice containing all of the following:
 - a. A warning that an additional parking violation may result in the impoundment of the vehicle.
 - b. A warning that the vehicle may be impounded pursuant to this Section, even if moved to another street subject to this Section so long as the signs or placards offering the vehicle for sale remain on the vehicle.
 - c. A listing of the streets or public lands subject to this Section.
3. The notice of parking violation was issued at least twenty four (24) hours prior to removal of the vehicle.

D. Post Storage Impound Hearing. Section 22852 of the California Vehicle Code applies to this Section with respect to the removal of any vehicle in violation of this Section. Section 22852 is incorporated by reference as if set forth in full herein and provides, in summary, that whenever an authorized member of a public agency directs the storage of a vehicle, the City

shall direct the storage operator to provide the vehicle's registered and legal owner(s) of record, or their agent(s), with the opportunity for a post-storage hearing to determine the validity of the storage. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within 48 hours, excluding weekends, as specifically provided for under Section 22852 of the California Vehicle Code. To receive a post-storage hearing, the owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone within ten (10) days of the date appearing on the notice. The City may authorize its own officer or employee to conduct the hearing as long as the hearing officer is not the same person who directed the storage of the vehicle.

E. Violation — Penalties. A first violation of this Section is punishable by a fine of \$100. A second violation of this Section is punishable by a fine of \$250. A third violation and any subsequent violations of this Section are punishable by a fine of \$500. The City Council may increase the amount of the fines from time to time. A person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of this Section is committed, continued or permitted.”

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15061(c)(3) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) and 15378 (the activity is not a project under CEQA) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. This is because the prohibition adopted by this Ordinance merely prohibits uses that do have impacts on public health, safety, and welfare, and does not permit any development that could result in a significant change to the environment. In addition, the Ordinance is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, because this ordinance is a regulatory action taken by the City in accordance with California Government Code Section 65858 to assure maintenance and protection of the environment.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Certification and Publication. The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Calexico, California on the 21st day of April, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ROSIE ARREOLA-FERNANDEZ, MAYOR

ATTEST:

GABRIELA T. GARCIA, CITY CLERK

APPROVED AS TO FORM:

CARLOS CAMPOS, CITY ATTORNEY

State of California)
County of Imperial) s.s.
City of Calexico)

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 1214, introduced at a regular meeting held on the 7th day of April, 2021, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the 21st day of April, 2021.

AYES:

NOES:

ABSTAIN:

ABSENT:

GABRIELA T. GARCIA, CITY CLERK