



Legislation Text

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File #: 14-3744, Version: 1

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** MARCH 4, 2015

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, ACTING CITY MANAGER /s/

**DOCKET TITLE:**

Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Amend City Code Section City Code 10-4-13 By Deleting Subsection (a), Which Prohibits the Display of Vehicles For Sale Within the Public Right of Way in the City of Alexandria.

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**ISSUE:** Since at least the 1950's, the City has maintained a prohibition against displaying vehicles in the public right of way for the purpose of selling that vehicle. That prohibition is currently codified at City Code Section 10-4-13(a). Several citizens cited for violating the section have raised legal challenges to the prohibition as a violation of the First Amendment right to free speech. While the City Attorney's office believes the regulation is legal, these challenges have prompted staff to examine the necessity of the current prohibition, taking into account how long the code section has been in place, the relatively few complaints over time staff has received about vehicles violating the ordinance and the many significant changes in how used cars can be sold.

**RECOMMENDATION:** That City Council introduce the attached ordinance (Attachment 2) deleting City Code Section 10-4-13(a) and renumbering the remaining sections and set it for public hearing and final passage on March 14, 2015.

**BACKGROUND AND DISCUSSION:** The prohibition against parking vehicles in the right of way for purposes of sale dates back to at least the late 1950's and perhaps earlier. While it is unclear what set of facts and circumstances prompted the adoption of this code section, it is clear that one of the reasons for the code section was to address vehicular and pedestrian safety issues in the areas where used vehicles that are available for private sale are parked. Another reason may have been this was a tool to improve neighborhood appearance.

Alexandria Police advise that they have historically received very few complaints from the community requesting enforcement of this code section. Enforcement prior to the suspension of enforcement in October 2014 was based on Parking Enforcement staff observing a vehicle parked in the roadway with a "For Sale" sign

displayed. Neither Alexandria Police Department, Transportation & Environmental Services staff nor the City Attorneys' office received any complaints when enforcement was suspended last fall or in the intervening months since the suspension; the only feedback was several calls to the City Attorney's office demanding full repeal of the ordinance, not just suspension. In addition, the Office of Communications and Public Information is conducting civic engagement to assess any additional community concerns and expects to have results available prior to Council's consideration of the ordinance. After assessing the lack of complaints historically received, engaging in an internal review and assessment and undertaking a community outreach program, staff believes that the decades-old restriction against parking a vehicle in the right of way for the purposes of sale is no longer necessary, given the significant changes in how used vehicles are sold and the existing, content-neutral controls already in place in many places in the City that already prevent a vehicle from being parked in the right of way for any purpose for an extended period of time.

Staff recommends that the City Council pass the attached ordinance repealing the code section in its entirety.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

Attachment 1: Cover

Attachment 2: Ordinance

**STAFF**

Emily Baker, Deputy City Manager

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