SUBJECT: DISPLAY OF PRIVATE AUTOS FOR SALE ALONG CITY STREETS AND IN COMMERCIAL PARKING LOTS

SOURCE: COMMUNITY DEVELOPMENT AND SERVICES DEPARTMENT - PLANNING DIVISION

COMMENT: At their August 20, 2002 meeting, the City Council requested a report on the practice of private individuals parking their cars in prominent locations with FOR SALE signs. In some areas, a significant number of cars are displayed in this manner at one time, utilizing parking designated for patrons of local businesses, interfering with the free flow of traffic, and, in some instances, presenting an aesthetic nuisance.

The regulations regarding this practice are substantially different depending upon the location of the parked vehicle. On public streets and highways, the Motor Vehicles Section of the Municipal Code applies, and enforcement is typically carried out by the Police Department. On private property, the Zoning Ordinance applies, and enforcement is typically carried out by the Planning Division except where the property owner or Planning Staff have requested the assistance of the Police Department.

Parking a vehicle on a City Street for the purpose of displaying it for sale is a violation of Sections 17-10.5 and 17-10.12 of the Municipal Code. The Police Department has the authority to enforce this restriction through citation. Actual enforcement typically occurs on an “as needed” basis, either in response to a complaint or if the vehicle(s) are parked in a location in which they may cause a hazard or other nuisance. If a vehicle is parked in one location for longer than 72 hours, (whether or not a sign is displayed) it may be declared to be an “abandoned vehicle” and may be towed by the Police Department.

On private property, the display of autos for sale (whether by individuals or by dealers) is generally restricted to the C-3 (Heavy Commercial) Zone (primarily along the Olive Avenue commercial corridor and on Main Street south of Olive Avenue and north of Morton Avenue). In the C-2 (Central Commercial) Zone and PD (C) (Planned Development - Commercial) Zone, the Zoning Ordinance establishes a mechanism for approval of temporary auto sales within developed commercial parking lots. In the absence of a permit for temporary auto sales, the display of cars for sale at any of the Henderson Avenue shopping centers (or in most other areas of
the City) constitutes a zoning violation. It is worth noting that property owners are responsible for correcting all zoning violations on their property. Enforcement efforts typically concentrate on establishing adequate site control to prevent such violations from continuing, rather than on pursuing citations against the property owner.

Enforcement of the Zoning Ordinance restrictions regarding display of vehicles for sale on private property is also typically conducted on an “as needed” basis, in response to complaints, or in cases in which the violations have become a substantial nuisance. In order to assist commercial property owners with their efforts to secure their parking lots and to preserve their parking for customers, Staff recommends that “Customer Parking Only” signs be posted (in compliance with the standards described in the Vehicle Code). Once posted, the Police Department has the authority, under Municipal Code Section 17-10.12.1 to issue citations to vehicles parked on the site for other purposes (including display for sale). Furthermore, posting the site gives the property owner the authority needed to make private arrangements to have vehicles towed when necessary. On several occasions in the past, City Staff have contacted shopping center owners by mail and phone to encourage the use of such signs.

At the City Council’s request, City Staff contacted the City of Visalia and City of Tulare Planning Department for information regarding their regulations. Generally speaking, the two cities appear to have comparable codes, although in both cities, the enforcement effort with regard to this issue has varied over time.

CITY COUNCIL OPTIONS:

1. Take no action. Enforcement will continue on an “as needed basis” for vehicles parked on public streets and on private property.

2. Direct greater enforcement of existing regulations. At the City Council’s direction, Planning Staff and/or the Police Department can redirect their efforts to increase the enforcement of restrictions on display of vehicles for sale. Depending upon the level of effort requested, this option may require reductions in effort toward other priorities. Enforcement activities which do not require substantial dedication of Staff resources would include sending reminder notices to commercial property owners and/or briefing Patrol Officers to ensure they are aware of the relevant Municipal Code sections.

3. Direct Staff to explore additional regulatory mechanisms to address the issue. If this option is selected, Staff would request broad direction regarding the Council’s interest in restricting the activity.
RECOMMENDATION: That the City Council:

1. Direct greater enforcement of existing regulations to such an extent as possible without reducing efforts on previously identified priorities.