

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 22, 2015

☐ Consent ☐ Regular
☒ Public Hearing

Department: Planning, Zoning & Building Department

Submitted By: Code Enforcement Division

Submitted For: Code Enforcement Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County Code, Chapter 19 (motor vehicles and traffic), by creating article x (Curbstoning); providing for a title; providing for authority; providing for applicability; providing for definitions; providing for prohibited acts; exceptions; providing for impoundment; fees and penalties; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the code of laws and ordinances; providing for enforcement; providing for penalty; providing for captions; and providing for an effective date.

Summary: Section 316.1951, Florida Statutes, authorizes the County to adopt an ordinance to prohibit the parking and display of motor vehicles for sale, hire or rental in certain areas, unless authorized. This proposed Ordinance will prohibit those activities on public rights of ways, easements and private property open to the public unless authorized. An Individual will not be prohibited from displaying a vehicle for sale on property owned or leased by the individual, or on the immediately adjacent public street. Licensed motor vehicle dealers will be able to display vehicles for sale at a location other than their licensed location, if a supplemental license is obtained from the Florida Department of Motor Vehicles. Motor vehicles parked in violation of this Ordinance will be towed and the owner will be fined \$500.00 per vehicle. Prior to redeeming a towed vehicle, the owner must pay the towing and storage fees and the \$500.00 fine. Unincorporated [SF]

Background and Policy Issues: At the October 7, 2014 Board of County Commission (BCC) meeting, staff was directed to investigate a "Curbstoning" ordinance to deal with the increasing activity of buying and selling cars by individuals acting as unlicensed car dealers. This Ordinance prohibits the buying and selling of motor vehicles without a motor vehicle dealer license and a legally established place of business. Such vehicles are usually displayed for sale in high traffic volume locations such as rights of ways, easements, gas stations, convenience stores and supermarkets.

Attachments:

1. Proposed Ordinance
2. Markup copy of Ordinance

Recommended by: BB Rebecca V. Calderon 8/24/15
Executive Director Date

Approved by: W. Baker 9/9/15
County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	_____	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact: Revenue increase may occur due to imposed fines. At this time the increase in revenue is undeterminable.

C. Departmental Fiscal Review: Pat Dominguez

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Sheng Bu
RD 8/27
OFMB 8/31/20

Dr. J. Jacobus 9/2/15
Contract Development and Control
9.2.15 B W Kelly

B. Legal Sufficiency:

Sam T. G.
Assistant County Attorney

C. Other Department Review:

Department Director

ORDINANCE NO. 2015-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, CHAPTER 19 (MOTOR VEHICLES AND TRAFFIC), BY CREATING ARTICLE X (CURBSTONING); PROVIDING FOR A TITLE; PROVIDING FOR AUTHORITY; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROHIBITED ACTS; EXCEPTIONS; PROVIDING FOR IMPOUNDMENT; FEES AND PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, grants Palm Beach County the power to control parking and to perform any acts in the common interest of the people of the county not specifically prohibited by law; and

WHEREAS, Section 316.1951, Florida Statutes, authorizes the County to adopt an ordinance to prohibit the parking and display of motor vehicles for sale, hire or rental in certain areas unless authorized; and

WHEREAS, the Board of County Commissioners has determined that the practice of buying and selling automobiles without a motor vehicle dealer license and a legally established place of business should be regulated; and

WHEREAS, the Board of County Commissioners deems it in the best interest of the citizens and residents of the County to regulate the practice of buying and selling automobiles without a motor vehicle dealer license and legally established place of business.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

SECTION 1. TITLE:

This Ordinance shall be titled the Palm Beach County Curbstoning Ordinance.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to the authority granted to charter counties under Article VIII, Section 1(g) of the Florida Constitution, Chapter 125, Florida Statutes, Article 1 of the Palm Beach County Home Rule Charter and Section 316.1951, Florida Statutes.

1 **SECTION 3. APPLICABILITY.**

2 All provisions of this Ordinance shall be applicable within the unincorporated areas of
3 Palm Beach County and in all municipalities within Palm Beach County that elect to have this
4 Ordinance apply within their respective jurisdictions.

5
6 **SECTION 4. DEFINITION.**

7 *Curbstoning* is a term given to the practice of buying and selling automobiles without a
8 motor vehicle dealer license and legally established place of business. Curbstoners usually
9 park and display their vehicles for sale in high traffic locations. Often these locations are on
10 rights of ways, utility or pipeline easements, at gas stations, at convenience stores, at
11 supermarket parking lots, at public parking lots or other locations with high volumes of traffic.

12
13 **SECTION 5. PROHIBITED ACTS; EXCEPTIONS.**

- 14 (a) It is unlawful for any person to park a motor vehicle, as defined in Section 320.01,
15 Florida Statutes, upon a public street or highway, a public parking lot, or other public
16 property, or upon private property where the public has the right to travel by motor
17 vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for
18 sale, hire, or rental unless the sale, hire, or rental of the motor vehicle is specifically
19 authorized on such property by law and the person is in compliance with all state and
20 county licensing regulations.
- 21 (b) A vehicle displayed for sale by a licensed dealer at any location other than the dealer's
22 licensed location or off premises location for which a supplemental license has been
23 issued is subject to immediate removal without warning.
- 24 (c) It is unlawful to offer a vehicle for sale if the vehicle identification number has been
25 destroyed, removed, covered, altered, or defaced. A vehicle found in violation of this
26 subsection is subject to immediate removal without warning.
- 27 (d) It is unlawful to knowingly attach to any motor vehicle registration that was not
28 assigned or lawfully transferred to the vehicle. A vehicle found in violation of this
29 subsection is subject to immediate removal without warning.
- 30 (e) It is unlawful to display or offer for sale a vehicle that does not have a valid registration.
31 A vehicle found in violation of this subsection is subject to immediate removal without
32 warning. This subsection does not apply to vehicles and recreational vehicles being

1 offered for sale through motor vehicle auctions.

2 (f) A vehicle is subject to immediate removal without warning if it bears a telephone
3 number that has been displayed on three or more vehicles offered for sale within a 12-
4 month period.

5 (g) This Ordinance shall not be construed to prohibit a person from parking his or her own
6 motor vehicle on any private real property that the person owns or leases or on the
7 public street immediately adjacent thereto for the principal purpose and intent of sale,
8 hire or rental.

9
10 **SECTION 6. IMPOUNDMENT; FEES AND PENALTIES.**

11 (a) Notwithstanding Chapter 19, Article VIII, Section 19-194 of the Palm Beach County
12 Code (the "Tow Truck Ordinance of Palm Beach County"), a Palm Beach County code
13 enforcement officer or his/her designee or a Palm Beach County sheriff's deputy may
14 cause to be immediately removed at the owner's expense any motor vehicle found in
15 violation of this Ordinance. The owner of the motor vehicle shall be assessed a penalty
16 of \$500.00 by the County and shall be responsible for all towing and storage fees
17 reasonably necessitated by removal and storage of the motor vehicle. A motor vehicle
18 removed under this section shall not be released from an impound or towing and storage
19 facility until the penalty has been paid to the County, a release form prescribed by the
20 County has been completed and all towing and storage fees have been paid. However,
21 the owner may pay the towing and storage fees to the towing and storage facility before
22 payment of the penalty or before the release form has been completed.

23
24 (b) A violation of this section is a noncriminal traffic infraction, punishable as a
25 nonmoving violation as provided in Chapter 318, Florida Statutes.

26
27 **SECTION 7. REPEAL OF LAWS IN CONFLICT:**

28 All local laws and ordinances in conflict with any provisions of this Ordinance are
29 hereby repealed to the extent of such conflict.

30

1 **SECTION 8. SEVERABILITY:**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
3 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,
4 such holding shall not affect the remainder of this Ordinance.

5
6 **SECTION 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

7 The provisions of this Ordinance shall become and be made a part of the Palm Beach
8 County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish
9 such, and the word “ordinance” may be changed to section, article, or other appropriate word.

10
11 **SECTION 10. ENFORCEMENT:**

12 This Ordinance is enforceable by all means provided by law. Additionally, the County
13 may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm
14 Beach County.

15
16 **SECTION 11. CAPTIONS:**

17 The captions, section headings, and section designations used in this Ordinance are for
18 convenience only and shall have no effect on the interpretation of the provisions of this
19 Ordinance.

20
21 **SECTION 12. EFFECTIVE DATE:**

22 The provisions of this Ordinance shall become effective upon filing with the
23 Department of State.

The remainder of this page is intentionally left blank.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 20____.

SHARON R. BOCK, CLERK

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By:  _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 20____.

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APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the ____ day of _____, 20____.

SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Shelley Vana, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of _____, 20____.