



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Jim Singelyn, Acting Planning Director

From: Ben Gagnon, Planner II

Meeting Date: September 18th, 2025

Application: **Text Amendment of the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission to amend the Land Development Regulations Chapter 122, entitled "zoning", Article V, entitled "supplementary district regulations", Division 13, entitled "Tattoo Establishments," Section 122-1543, entitled "Separation Requirements,"; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Request: The text amendment would address the regulation of tattoo establishments consistent with the uptick in number of requests the City has had for new tattoo shops.

Sponsor: Interim City Attorney Harden with support from Jim Singelyn, Acting Planning Director

Background

In 2025, the City of Key West adopted Ordinance 2025-08 to establish additional regulations and permitting requirements for tattoo establishments within five designated zoning districts. Since its adoption, the City has experienced a significant increase in applications, particularly within the HRCC-1 zoning district.

Concerns have been raised regarding the proximity of proposed tattoo establishments in HRCC-1 to nearby parks. Specifically, Mallory Square and Clinton Square which qualify as parks under the City's definition in Section 26-96 of the Code of Ordinances.

In response, the Interim City Attorney requested that the Planning Department revisit the ordinance to address these proximity concerns. The proposed amendments were developed in coordination with the City Attorney's Office.

Staff Analysis

The proposed amendments to **Division 13 – Tattoo Establishments** are limited to revisions of the separation requirements. Specifically, the City finds no rational basis to maintain a 500-foot separation between tattoo establishments and other similar uses. As such, multiple tattoo shops may be permitted in close proximity within a zoning district, including adjacent locations, provided they meet all other applicable regulations.

HRCC-1, the City’s most active pedestrian and commercial corridor, contains several heavy commercial streets near Mallory Square and Clinton Square that are well-suited for tattoo establishments due to their smaller storefronts, high foot traffic, and compatibility with surrounding uses. Additionally, the Duval Street Pocket Park, located within the HRCC-3 zoning district, has been included in the review as it may further limit the availability of permissible locations for tattoo shops within the districts that allow them.

These targeted changes aim to balance the intent of the ordinance with the practical realities of the built environment and economic activity in these high-traffic districts.

Request / Proposed Amendment:

*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

{ ... }

Sec. 122-1543. Separation requirements.

~~(a) The proposed site shall be at least 500 feet from any other such use.~~

~~(b)~~ a) The proposed site shall be at least 500 feet from the nearest house of worship, school (public or private), child care center, library, or public park. The beach area adjacent to the Atlantic Ocean, the Pocket Park at 1400 Duval Street, Mallory Square, and Clinton Square, shall not be considered a public park for the spacing criteria.

~~(c)~~ b) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed tattoo establishment to the other parcel (as listed above) in subsections (a) and (b).

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	September 18, 2025
City Commission (1st Reading):	TBD, 2025
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD, 2025
Local Appeal Period:	30 days
DEO Review (2nd Reading):	Up to 45 days
DEO Notice of Intent (NOI):	Effective when NOI posted to DEO site

Analysis:

The purpose of Chapter 90, Article VI, Division 2 of the Land Development Regulations (the “LDRs”) of

the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for changing the text of the Land Development Regulations. It is not intended to relieve hardships nor to confer special privileges or rights to any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Planning Board and the City Commission shall consider the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-552, the Planning Board shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change in the LDRs to the City Commission for official action.

Code Section 90-520 (6) provides criteria by which LDR amendments must be evaluated:

Section 90-520 (6) Justification. The need and justification for the proposed change shall be stated. The evaluation shall address but shall not be limited to the following issues:

The proposed changes aim to remove unnecessary constraints imposed by the current separation requirements on prospective tattoo shop owners in the HRCC-1 and HRCC-3 zoning districts. Given the compact urban fabric of areas like Duval Street, a 500-foot separation from either an existing tattoo establishment or the three designated parks would significantly restrict the number of viable locations available. The amendments are intended to provide greater flexibility for business owners while maintaining compatibility with the character and scale of these districts.

a. Comprehensive Plan consistency. Identifying impacts of the proposed change in zoning on the Comprehensive Plan. The zoning must be consistent with the Comprehensive Plan.

The proposed modification of the Ordinance associated with Tattoo Establishments and contained within Chapter 122, Article V, Division 13 is consistent with the Comprehensive Plan and recent case law associated with reasonable time, place and manner restrictions on protected expression.

b. Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Identify potential land use incompatibility and impacts on infrastructure.

The proposed removal of separation requirements between tattoo establishments reflects the City's belief that market forces should determine the number and proximity of such businesses, rather than rigid distance-based regulations. Competing uses will naturally respond to demand, location, and consumer preferences. The revised regulations strike an appropriate balance between protecting the First Amendment rights associated with tattoo businesses and ensuring compatibility with surrounding land uses.

c. Avoidance of special treatment. The proposed change shall not constitute a spot zone change. Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment:

The proposed amendment is not specific to a single parcel.

2. The singling out is not in the public interest but only for the benefit of the landowner.

The proposed amendment is not specific to a single parcel.

3. The action is not consistent with the adopted comprehensive plan.

Staff have not identified any conflicts with the comprehensive plan

d. Undeveloped land with similar comprehensive plan future land use map designation. The amount of undeveloped land in the general area and in the City having the same zoning classification as that requested shall be stated.

While the proposed amendment mentions specific parks in two zoning districts, removing the separation of such use requirement is for all applicable zoning districts in which tattoo shops are permitted.

CONCLUSION

The proposed Ordinance is a reasonable application of the city's police powers and properly mitigates potential impacts associated with such uses while protecting the constitutional rights of business owners consistent with reasonable time, place, and manner restrictions associated with freedom of expression.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the proposed Ordinance be recommended for **APPROVAL** to the City Commission. Respectfully submitted to the Board for use in making its determination.