

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel J. Gulizio, Senior Planner

Meeting Date: January 18, 2024

Agenda Item: 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 Chapter 114 – Signs, Division 5 entitled Yard Sales; pursuant to Chapter 90, Article VI, Division 2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Request: A text amendment to the Land Development Regulations to establish a permitting process for Yard Sales.

Applicant: City of Key West

Background:

The proposed text amendment establishes a review and permitting process for Yard Sales. The amendment was prepared through the Office of the City Manager. Yard Sales are proposed to be regulated through Chapter 114 (Signs) with the establishment of a new Division “5” entitled “Yard Sales.” The new provisions for the regulation of Yard Sales include the following sections: (1) Definitions, (2) Permit Required, (3) Merchandise, (4) Signage, (5) Parking, and (6) Enforcement of Article.

The Yard Sale provisions are intended to better regulate activities within existing neighborhoods by providing guidelines for the number, time, and duration of sales.

The proposed amendments are depicted below.

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

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**Chapter 114 – SIGNS
DIVISION 5. - YARD SALES**

Sec. 114-142. - Definitions.

(a) A yard sale means the sale of personal property at the property on which the sale is occurring. The term shall include, but not be limited to, "lawn sale," "garage sale," "estate sale" or "rummage sale."

(b) Number of sales. Each single-family homeowner, multi-family residence building or charitable, civic, educational, or religious organization is permitted, two yard sales per calendar year.

(c) Time. Yard sales may only take place during daylight hours.

(d) Duration. It shall be a violation of this section for yard sales to extend more than 48 hours on any single lot, parcel, or tract of land. If a sale is held on a holiday weekend, a third day is allowed.

(e) Filing requirements. Application shall be submitted to the Planning Department two weeks prior to the yard sale.

Sec. 114-143.- Permit required.

(1) Prior to holding a yard sale, the property owner or tenant shall obtain a permit from the Planning Department. There shall be a twenty-dollar administrative fee for the permit.

(2) Applicants for yard sale permits must provide the following information to the city at time of application:

a. Name of the person or entity conducting the sale or owner of the property at which the sale will be located.

b. Location where the yard sale is to be conducted.

c. Date(s) the sale is to be held.

d. Dates of any past yard sales at the subject location within the past 12 months.

e. Nature of the property to be sold.

f. Proof of residence.

g. Homeowner's Association (HOA) approval (if applicable).

(3) Applications for yard sales must be accompanied by the written permission of the property owner.

(4) The yard sale permit must be prominently displayed on the premises while the sale is in progress.

Sec. 114-144.- Merchandise.

(a) Merchandise to be sold at a yard sale shall have been previously used or crafted and not belong to a business or commercial entity. Placement of sale items is restricted to garage, carport, driveway areas and yards.

(b) Merchandise display. Merchandise to be sold at a yard sale shall be displayed in a garage, carport, private driveway, or yard. Merchandise shall not be displayed on public rights-of-way or swale areas. All items shall be removed from visual display by the end of each day of the sale.

Sec. 114-145.-Signage.

Signage shall comply with Sec. 114-75 as set forth in chapter 114 of the city's land development regulations. No signs shall be placed within the public rights-of-way.

Sec. 114-146.- Parking.

Through traffic on public or private roadways shall not be obstructed. No vehicles shall obstruct the driveways of other homes in the neighborhood.

Sec.114-147.- Enforcement of Article.

A property owner and any person who conducts or aids in conducting a yard sale not in accordance with this section shall be in violation of this code and shall be punished pursuant to Chapter 2, Article 6, Division 3, Sec. 2-677, Sec. 2-678, and Sec. 2-679.

Official Text Amendment Process:

Planning Board Meeting:	January 18, 2024
City Commission (1 st Reading / Transmittal):	TBD, 2024
Local Appeal Period:	30 days
DOC Review (1 st Reading):	Up to 60 days
City Commission (2 nd Reading / Adoption):	TBD, 2024
Local Appeal Period:	30 days
DOC Review (2 nd Reading):	Up to 45 days
DOC Notice of Intent (NOI):	Effective when NOI posted to DOC site

Analysis:

The proposed amendment establishes a regulatory process for “Yard Sales.” The ordinance is proposed to be incorporated within Chapter 114 – Signs. A new Division 5 has been created to incorporate the new ordinance. The draft ordinance is divided into the following sections:

- Sec. 114-142 – Definitions
- Sec. 114-143 – Permit Required
- Sec. 114-144 – Merchandise
- Sec. 114-145 – Signage
- Sec. 114-146 – Parking
- Sec. 114-147 – Enforcement

The Ordinance includes definitions for yard sales, number of sales, time, duration, and filing requirements. It proposes that a permit be obtained from the Planning Department prior to the yard sale event and a permit fee of \$20 is suggested for the permit. The applicant must detail the dates for the proposed sale, the nature of the property to be sold, proof of residence, Homeowner’s Association (HOA) approval, if applicable and the application must be accompanied by permission from the property owner. Finally, a permit for the yard sale must be prominently displayed on the premises while the sale is in progress.

The Draft Ordinance also includes guidelines on the type of merchandise that can be sold at a yard sale. It states “Merchandise to be sold at a yard sale shall have been previously used or crafted and not belong to a business or commercial entity.” In addition, the display of merchandise is limited to “a garage, carport, private driveway, or yard. Merchandise shall not be displayed on public rights-of-way or swale areas. All items shall be removed from visual display by the end of each day of the sale.”

Signage for the proposed yard sale is to be regulated pursuant to Sec. 114-75 of the Sign Ordinance. The Ordinance also contains provisions to prevent parking within an existing right-of-way with a specific prohibition against obstructing “the driveways of other homes in the neighborhood.” Finally, enforcement of the proposed Ordinance shall be provided pursuant to Chapter 2 (Administration), Article VI (Code Compliance).

Yard or “garage” sales have a longstanding history in the City of Key West with an avid following of locals and snowbirds. Many transactions at yard sales consist of friends greeting one another, and are not so much focused on profit but represent an opportunity for community gathering and good-natured bargaining.

Pursuant to **Section 90-519 (Submission of application)**, “An application for an amendment to the land development regulations...shall be submitted to the planning director...” **Section 90-520 (6)** establishes guidelines for the review of a text amendment. It includes the following:

(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:

- 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.
- b. Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Potential land use incompatibility and impacts on infrastructure shall be identified.
- c. Avoidance of spot zoning. 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;
 2. The singling out is not in the public interest but only for the benefit of the landowner; and
 3. The action is not consistent with the adopted comprehensive plan.
- d. Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the City Manager’s Office respectfully recommends to the Planning Board that the request to amend the Land Development Regulations be respectfully **APPROVED**.