

OFFICE OF THE CITY ATTORNEY
Ronald Ramsingh, City Attorney
Nicholas Trovato, Assistant City Attorney
Kendal Harden, Assistant City Attorney
Amanda Willett, Paralegal
Claire Hurd, Legal Assistant



PHONE: (305) 809-3770
FAX: (305) 809-3771
EMAIL: cityattorney@cityofkeywest-fl.gov

THE CITY OF KEY WEST

1300 WHITE STREET
KEY WEST, FLORIDA 33040

To: The Historic Architectural Review Commission, The Planning Board, and the City Commission for the City of Key West
From: Ronald J. Ramsingh, City Attorney
Meeting Date: January 11, 2024
Agenda Item: Amending Sec. 114-2 and HARC Guidelines to provide an exception to the ban on temporary signs for non-profit events and open house events.
Sponsor: Commissioners Lissette Carey, Mary Lou Hoover, Sam Kaufman, Clayton Lopez, and Billy Wardlow

STAFF REPORT/COVER MEMO

Action Statement:

The proposed ordinance seeks to amend Sec. 114-2 to create an exception to the ban on signage on city property for temporary banners regarding non-profit events and open house signs.

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 90-520, 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.

The Code provides criteria by which LDR amendments must be evaluated:

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 amendment helps to promote cooperation with public and non-profit agencies to assist community participation in fundraising efforts. The proposed amendment concerning open house signs helps promote economic development.

GOAL 8-1: - PROVIDE MECHANISMS FOR IMPROVED INTERGOVERNMENTAL COORDINATION.

The City shall undertake actions necessary to establish governmental relationships designed to improve the coordination of public and private entities involved in development activities, growth management, and resource conservation.

OBJECTIVE: 8-1.6 - ECONOMIC DEVELOPMENT.

The City will seek to create and support an economic development strategy focused on the retention, expansion and attraction of high wage jobs and targeted business. The City will also seek to diversify the City's tax and employment base. This shall be accomplished through the preservation of the City's unique character, historical, cultural and environmental assets and through promotion of sustainable and resilient development, redevelopment and rehabilitation of properties.

Policy 8-1.6.1 - Coordination with Economic Development Entities.

The City will encourage existing representative business groups to collaborate towards a more diversified, stable, prepared and connected economic base.

Policy 8-1.6.2 - Collaboration with Economic Development Entities.

The City will support collaborative public/private projects that are deemed to have positive impacts on the long-term financial health, sustainability, quality of life and disaster preparedness for its businesses and residents.

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.

There are no negative impacts on surrounding properties and infrastructure. These signs are temporary and serve as an important community function.

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;

This proposed revision does not implicate spot zoning since it does not confer any particular rights to any one property owner over another. These signs are to be placed temporarily on city property and rights of way.

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

Not applicable for the reasons stated in (1) above.

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

Not applicable for the reasons stated in (1) above.

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.

Not applicable for the reasons stated in (1) above.

Background:

Currently Sec. 114-2 bans all signs on city property without written approval from the city manager. On October 30, 2023, Code Compliance was directed by city management to remove all signs from city property that did not have prior written approval. Several non-profit organizations and real estate agents called city hall and city commissioners to express concern over the enforcement of the ordinance. For many years, management has permitted non-profit organizations to affix temporary banners on fences in certain parts of the city for charitable purposes. Many can be seen at the baseball fields at the corner of Kennedy Drive and North Roosevelt Boulevard. In a small community like Key West, many of these organizations rely on such exposure, given a lack of daily media; especially television stations to get their message to the public.

The proposed amendment requires real estate companies to submit a hold harmless/indemnification agreement to the City of Key West that would protect the city from any injuries or falls that could happen because of the sign being placed on the sidewalk. The amendment restricts the open house signs to be placed during daylight hours and for only the 48-hour period prior to the open house. The signage cannot occupy a parking space or block a sidewalk or otherwise create an impediment to pedestrian or vehicular travel.

The other exemption to the ordinance that is being proposed allows non-profit organizations to place temporary 3' by 5' banners to promote charitable causes 10 days prior to the event and requires the sign's removal within 24 hours after the event.

Sec. 114-2 Posting notices, signs or advertising matter on trees, poles or public property.

1. No notice, sign or any advertising matter shall be posted on any tree or telegraph or telephone pole erected on the city streets nor on the walls of any city building nor on any property of the city, ~~without the written approval of the city manager,~~ except that legal, election and similar notices may be posted on bulletin boards.

2. Exceptions.

a. Charitable Events- There shall be an exception for registered 501(c)(3) non-profit organizations advertising fundraising events on 5' by 3' banner signs that are properly affixed to city-owned fencing and walls; excluding buildings. Banner signs can be placed 10 days prior to the event and must be removed within 24 hours after the event by the organization.

b. Open House Signs- Locally licensed real estate agents, brokers or property managers can place Open House signage and flags on the city rights of way that do not impair the safe passage of vehicular or pedestrian travel. Signs and flags may not occupy a parking space, nor impair required access under the Americans with Disabilities Act. Signs and flags can be placed up to 48 hours in advance of the open house and can only be placed during daylight hours. A hold harmless agreement must be submitted to the Licensing Official indemnifying the City of Key West for any and all claims arising from such signage.

Sec. 114-103. - Prohibited signs.

(a) The following signs are not appropriate to any building or site within the historic district, therefore their use is prohibited:

(1) Animated signs within one (1) foot of a building facade facing any right-of-way and including vacant lots or parking areas.

(2) Bus bench signs.

(3) Digitally printed signs, with the exception of printed letters, symbols, or logos attached to high relief surfaces of three dimensional, carved, or sand blasted panels. The use of corrugated PVC and molded plastic is prohibited, with exception of matte finished painted plastic letters.

(4) Portable signs, with the exception of "A" frame signs deemed appropriate by the historic architectural review commission.

(5) Roof signs.

(6) Signs painted directly on the exterior wall or directly on the roof surface of a building, unless deemed historically appropriate by the historic architectural review commission.

(7) Snipe signs.

(8) Temporary store window signs, including going out of business signs, when their square footage cause a violation of section 114-104; provided, however, that menus and public notice signs are not included in this prohibition. A public notice sign means a sign advertising an arts event, a political event or candidate, a community event, or such other event open to the public.

(9) Posterboard signs.

(10) Billboards

(11) Animated rotating and or fluttering devices, fringe, and pennant string streamer.

(12) Off-premises signs.

(13) Signs that are placed on public sidewalks or public property, including but not limited to hydrant, utility pole, tree, or public fence- subject to the exceptions in Sec. 114-2.

(14) Interior illuminated signs.

(b) If a flag advertises or promotes the business or a product sold by that business, then it shall be deemed a sign and is subject to the permitted square footage pursuant to section 114-104 and the Historic Architectural Guidelines.

That the following guidelines for the Historical Architectural Review Commission are hereby amended as follows:

Page 50-n: Subject to the exception in Sec. 114-2(2), ~~S~~ signs that are placed on public sidewalks or public property, including but not limited to hydrants, utility poles, trees, or public fences.

Page 50-p: Exceptions- An exception may be granted if the “A” frame sign is used as a menu board, only for restaurants or bars, or if it meets an exception in Sec. 114-2(2).

Legislative History:

This proposed ordinance amendment received approval at the December 12, 2023 Planning Board meeting

Procurement/Financial:

The proposed amendment has no impact on the City’s procurement processes. However, some of the non-profits and real estate companies have contacted some city and elected officials and have indicated that such a prohibition has a negative impact on charitable fundraising.

Options:

1. To pass the proposed amendment to permit temporary, non-profit signage on city property, as well as open house signage for 48 hours with an indemnification agreement.
2. To deny the proposed ordinance amendment. The aforementioned signage will continue to be prohibited unless permitted by the Manager in writing.

Recommendation:

To pass the proposed ordinance.