

TOWN OF WINDSOR

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 Town Attorney
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Established 1902

September 3, 2014

Memorandum

**To: Michael Stallings, Town Manager
 Mayor and Town Council**

From: Dennis Carney, Planning and Zoning Administrator

Subject: Report on Yard Sales

After the August Town Council meeting, Staff reviewed numerous towns and cities that were either in our general population range and size or are close geographically to us. Although there are no clear definitive policies on yard sales that have emerged from the investigation, there are some general trends. In this report these trends will be given and potential policy options will be given for Council's consideration.

Staff reviewed the ordinances of 13 towns and cities. Eleven of these localities required permits. A "penalty fee" of \$30.00 in South Boston is required for each sale over 4 times in a year on a property. Otherwise there are no fees in South Boston and also no fee is charged in South Hill. Three localities charged \$10.00 (Smithfield, Newport News and Blackstone), and five localities charged \$5.00 (Colonial Beach, Emporia, Radford and Salem). Gordonsville charges \$2.00 and Franklin charges \$1.00 (as we do). It appears that the norm is for a nominal fee of under \$5.00. For the Town of Farmville, it is noted they used to have a \$25.00 fee but repealed it and now they do not require a permit.

The number of yard sales per year on a property vary greatly. Smithfield, Franklin and Radford permit two a year. Colonial Beach and Newport News permit three a year. Blackstone, Emporia and Gordonsville permit four such sales a year. Woodstock also has no restriction on the number of sales and it is also technically unlimited in South Boston if the \$30 fee (per "yard sale) for over four yard sales a year is paid.

Church and other non-profit groups are also viewed in very different ways. Some exempt them from fees and the permitting process (Colonial Beach, Gordonsville, Newport News, and South Boston). The others make no distinction.

The manner in which signs are posted and the number of signs permitted also vary widely. All of them prohibit the posting of signs on public rights of way. Some permit (presumably of a directional nature) signs on other private property with the owner's permission (Colonial Beach, Gordonsville) Newport News, Franklin, and Radford limit signs to the property where the sale occurs. South Boston limits the number of signs to

two on-premises signs and two directional signs (with other owner's permission) of no larger than four square feet. All of the localities require the removal of the signs within a reasonable time after the yard sale. None of the localities require a locality sponsored sign as we do, however several require the permit to be posted.

It is noted that none of these yard sale permits and policies in any of the localities address the person wishing to sell an appliance, furniture, vehicle or other item on a one-time basis. Our ordinance and for that matter all of the other permit oriented ordinances cause the only way that these items can be sold from a residence is with the very limited time-frame of a "yard-sale". Most of the time these items take longer to sell than the two time periods of three days per year. The posting of a "for sale sign" for the item or placing the items in the yard could constitute a violation and it has in Windsor when permits are not procured or when the maximum time-frames are exceeded.

Comments: Generally speaking yard sales are positive events for a community. They permit residents to rid themselves of things they no longer want or need. Conversely, other residents purchase these things that they feel that they want or need at a price generally below what they will find them for in a retail store. Most of the time, the signs are removed the day of or the day following the yard sale and most of the time there is no outward evidence that a yard sale occurred. The brief clutter of signs and lots of "stuff" in yards quickly dissipates. Because such events occur on weekends and in warmer weather and generally for a few hours on Friday and Saturday, the problems of parking and traffic are minimal. When several neighbors get together for such a sale, it can build a sense of community.

The complaints that have been received about our yard sale policies are generally over sign location and whether there is a need to have a permitting process. The primary complaint on signs that I have heard is that directional type signs are needed and that the signs need to be more visible. Most residents don't mind paying the nominal \$1.00 fee and the refundable \$1.00 per sign fee. They want their yard sale to be a success. Many people do not realize that a yard sale permit is required and sometimes the almost spontaneous yard sale event arises. Of course if it happens late Friday afternoon or Saturday morning it may be too late to acquire the permit and permitted signs and a violation occurs. When informed of the problem the resident most of the time is contrite but can feel like they have done something terribly wrong. Because the situation is enforced most of the time by a policeman, the problem is exacerbated.

Recommendations: The following are potential recommendations that could be pursued by the Town on this matter.

1. From April through October, a continual reiteration of the yard sale policies of the Town should be given on the website and in the newsletter. When new residents enter the Town, a flyer giving the policy should be given to them. No matter what the policy is an active campaign is needed to counteract the "I didn't know a permit was needed or "I didn't know that I couldn't place a sign there" excuse. This recommendation should be carried out no matter what course is taken.

2. The Town could repeal the permitting process for Yard Sales such as Farmville has done and only enforce the posting of signs in the State right of way and on utility poles and their removal in a timely manner. This latter would remove the major negative aspect of yard sales.
3. Permit other signs to be utilized for directional purposes not on right of ways or posts or as an alternative design larger and more colorful Town signs. The latter method could be costly.
4. Create a central location with adequate parking for Town residents to hold yard sales. Participants could be limited to two times a year per family to prevent dealers from predominating the event and having it become a professional flea market. This could take the place or be in conjunction with the current permitting process. It would mean having someone to oversee the yard sale events. This function could be privatized with oversight by the Town and funded with a portion of the nominal yard sale event fee paying the private overseer. There may be sites available where this could be utilized.
5. For the person trying to sell a vehicle, appliance or furniture on a one-time basis in a residential district, allow as a type of temporary “one-time” sign permit with a nominal \$5.00 fee in lieu of the current yard-sale quandary for such sales. This would permit a person that needed to sell a large item to have 30 or 60 days to do so. Because it is on a one time basis (within a year?), it would prevent misuse of the Ordinance for commercial uses in a residential district. It would tacitly permit the sale of the large item without categorizing it with the normal yard sale restrictions.
6. Permit churches and non-profits to be exempt from the yard sale requirements.