

ORDINANCE 8 - 24

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 12, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE XII, "OFFENSES CREATING NUISANCES," SECTION 12-127, "TRAILER REGULATIONS IN THE SOUTH CAPE DOWNTOWN DISTRICT CITY PARKING LOTS," REGARDING PARKING REGULATIONS FOR COMMERCIAL VEHICLES AND TRAILERS IN CITY PARKING LOTS IN THE SOUTH CAPE ZONING DISTRICT; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 12, Article XII, Section 12-127 "Trailer regulations in the south cape downtown zoning district," is hereby amended to read as follows:

§ 12-127. - Trailer Parking regulations in the south cape ~~downtown~~ zoning district city parking lots.

- (a) *DEFINITIONS.* For the purpose of this section, the following words, terms, and phrases, when used in this section, shall have the meanings set forth herein, except where the context clearly indicates or requires a different meaning:

CITY PARKING LOT shall mean the off-street parking lots owned or controlled by the City of Cape Coral and located in the South Cape ~~Downtown~~ Zoning District.

COMMERCIAL LETTERING shall mean letters, numbers, symbols, or combinations thereof which advertise a trade, business, industry, or other activity for profit or a product, commodity, or service. The term shall not include bumper stickers affixed to bumpers only or the decal or plate commonly applied to a motor vehicle by a motor vehicle dealer.

COMMERCIAL VEHICLE shall mean any agricultural, construction or industrial motor vehicle, or any bus, step van, truck or truck tractor. The term shall include any motor vehicle upon which commercial lettering, as defined herein, has been affixed. The term shall also include, but shall not necessarily be limited to, a pickup truck with an altered cargo box, or from which the cargo box has been removed. Any motor vehicle with tools, building materials or merchandise visible from the street or from abutting property shall be deemed a commercial vehicle.

PARK shall have the same meaning as defined in F.S. § 316.003, as may hereafter be amended.

STAND shall have the same meaning as defined in F.S. § 316.003, as may hereafter be amended.

STOP shall have the same meaning as defined in F.S. § 316.003, as may hereafter be amended.

TRAILER shall mean any vehicle without motive power designed to be drawn by a motor vehicle regardless of hitch type and often used for or designed for carrying persons or property on its own structure. For purposes of this section, devices or equipment, such as compressors, mixers, or smokers, that are not designed for the purpose of carrying persons or property, but instead have wheels that are integrated into the body of the device or equipment shall be deemed to be trailers.

- (b) **TRAILER/COMMERCIAL VEHICLE PARKING PROHIBITION.** The following regulations apply to all trailers and commercial vehicles located in a City Parking Lot except for construction trailers and commercial vehicles, as provided in Subsection (c) below.

- (1) It shall be unlawful to stop, stand, or park a trailer in any City Parking Lot located in the South Cape ~~Downtown~~ Zoning District between the hours of 2 a.m. and 6 a.m.

- (2) It shall be unlawful to stop, stand, or park a commercial vehicle in any City Parking Lot located in the South Cape Zoning District between the hours of 3 a.m and 6 a.m.
- (23) Outside of the hours between 2 a.m. and 6 a.m. for trailers, and outside of the hours between 3 a.m. and 6 a.m. for commercial vehicles, it shall be unlawful to:
- A. Stop, stand, or park a trailer in a City Parking Lot that is not attached to a motor vehicle:
 - B. Stop, stand, or park a trailer or a commercial vehicle in a City Parking Lot for a period of time exceeding two (2) hours; or
 - C. Stop, stand, or park a trailer or a commercial vehicle in a City Parking Lot outside of spaces designated for parking. A trailer attached to a motor vehicle may utilize two parking spaces to accommodate the length of the vehicle and trailer, however, the vehicle and trailer must be entirely contained within the area so designated by lines or markings for the parking space(s).
- (34) The provisions of § 12-127(b) shall be enforced, and a citation or ticket may be issued to the owner of the trailer or commercial vehicle for violations thereof, by any law enforcement officer or a parking enforcement specialist, who meets the requirements of F.S. § 316.640(3)(c).
- (45) Penalty. A violation of § 12-127(b) shall result in a civil penalty in an amount of thirty dollars (\$30.00). Any person receiving a citation or ticket pursuant to this section shall, within thirty (30) calendar days, pay said civil penalty or request a hearing before a designated official, as defined by F.S. Ch. 318.
- A. Any person electing to appear before a designated official for a hearing shall be deemed to have waived such persons right to pay the civil penalty set forth herein. The designated official, after a hearing, shall make a determination as to whether a violation of this section has been committed. If a violation is found, the designated official shall impose a civil penalty in the amount of one hundred dollars (\$100.00) plus court costs.
 - B. Each violation of § 12-127(b) shall constitute a separate and distinct violation for which a citation or ticket may be issued.
 - C. Law enforcement officers and parking enforcement specialists are hereby authorized to tow or cause to be towed and impounded any trailer or commercial vehicle stopped, standing, or parked in violation of this § 12-127(b), where signs have been posted indicating that the City Parking Lot is a location from which trailers and commercial vehicles will be removed if they are parked unlawfully. If an unlawfully parked trailer is attached to a vehicle in a City Parking Lot, said vehicle may also be removed by the police department. A trailer or a commercial vehicle may also be towed and impounded if it is parked in a City Parking Lot in such a manner as to impede or block the flow of traffic or constitutes a hazard likely to endanger the public. The owner of any trailer or vehicle so towed, in addition to the payment of any fines or penalties for the unlawful parking, shall also be liable for any towing, impounding, and storage charges incurred in removing the trailer and vehicle.
 - D. Any person cited for a violation of this section shall have an affirmative defense to an enforcement action under this section if such person can prove that the person stopped, stood, or parked a trailer or commercial vehicle in violation of this section due to an emergency situation. "Emergency situations" shall include, but are not limited to, vehicle mechanical issues, driver incapacity, or similar circumstances, and shall not exceed a period of 24 hours. A person shall be entitled to an affirmative defense pursuant to this subsection no more than two (2) times within any consecutive 12-month period. Documentation describing the emergency situation and specifying all facts detailing the cause of the violation shall be submitted to and received by the Police Chief at least five (5) business days prior to a scheduled hearing date in order to request the City to void the citation and cancel the hearing.


(c) CONSTRUCTION TRAILERS AND COMMERCIAL VEHICLES USED FOR ACTIVE CONSTRUCTION.

- (1) Notwithstanding Subsection (b) above, trailers, regardless of whether they are attached to a motor vehicle, and commercial vehicles that are being used for active construction purposes on property or buildings abutting a City Parking Lot may be located in a City Parking Lot provided the following conditions are met:
 - A. A valid building permit has been issued by the City and the permit therefore is properly displayed at the premises where the construction is taking place; and
 - B. The trailer and commercial vehicle must be located in an area that is adjacent to the premises where the construction is taking place; and
 - C. The trailer and commercial vehicle must be in a location where it does not unreasonably block any pedestrian walkways or vehicular traffic, or otherwise endanger the public health, safety, or welfare.
 - (2) Trailers and commercial vehicles located in a City Parking Lot pursuant to this Subsection (c) are not restricted to the time periods identified in Subsection (b) above and are not required to be contained within parking spaces.
 - (3) The City shall approve the placement of the construction trailer and commercial vehicle in the process of obtaining a building permit, however, the City maintains the ability to require relocation of the trailer and commercial vehicle during construction. The approval of placement of the construction trailer and commercial vehicle is subject to revocation by the City if the construction is not progressing in a reasonable timeframe, or if the City determines that conditions have become unsafe.
 - (4) Failure to comply with this § 12-127(c) shall constitute a violation and shall subject the owner or operator to the code enforcement provisions and procedures provided in § 2-81 through § 2-96, Cape Coral Code of Ordinances. Violations of this § 12-127(c) shall be punishable by a fine of not less than \$100. Each day that a violation exists shall constitute a separate and distinct violation. Trailers and commercial vehicles located in a City Parking Lot in violation of this Subsection (c) are subject to removal by the City.
- (d) Nothing contained in this section shall prohibit the City from enforcing its codes or ordinances by any other means available to the City.

SECTION 2. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 3. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS 24th DAY OF January, 2024.


JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER
STEINKE
SHEPPARD
HAYDEN

aye
aye
aye
aye

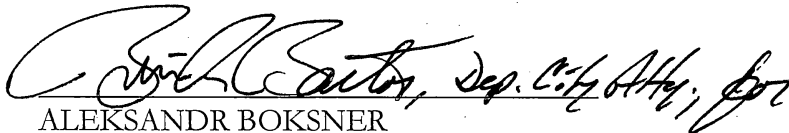

CARR
WELSH
LONG
COSDEN

aye
aye
aye
aye

ATTESTED TO AND FILED IN MY OFFICE THIS 31st DAY OF January, 2024.


KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


ALEKSANDR BOKSNER
CITY ATTORNEY

Ord/ SCParkingLots.CommVehicles