

ORDINANCE 6 - 26

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, REPEALING SECTION 5.1.18, ABANDONED VEHICLES OR WATERCRAFT, SET FORTH WITHIN ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 1, GENERAL REQUIREMENTS FOR ALL DEVELOPMENT, OF THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE; AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 12, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE XII, PARKING RESTRICTIONS, BY AMENDING SECTIONS 12-127.1, 12-127.11 AND 12-127.17; AND BY CREATING SECTIONS 12-127.18, PENALTIES AND ENFORCEMENT AND RIGHTS OF VIOLATORS, AND SECTION 12-127.19, ABANDONED VEHICLES OR WATERCRAFT; PROVIDING FOR PARKING RESTRICTIONS IN THE CITY; PROVIDING FOR CODIFICATION AND RESOLUTION OF CONFLICTING LAWS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 166.021, of the Florida Statutes, authorizes municipalities to exercise their powers for municipal purposes and to preserve the health, safety, and general welfare of its residents, except when expressly prohibited by law; and

WHEREAS, Section 316.008, of the Florida Statutes, authorizes the Mayor and City Council of the City of Cape Coral to regulate the use of streets, highways, and public rights-of-way under their jurisdiction; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The Land Development Code of the City of Cape Coral, Florida, Article 5, Development Standards, Chapter 1, General Requirements for all Development, Section 5.1.18, is hereby repealed in its entirety:

~~Section 5.1.18. Abandoned vehicles or watercraft.~~

~~In addition to all other provisions of this ordinance, automotive and watercraft uses are subject to the following regulations:~~

~~A. — Abandoned vehicles and watercraft are prohibited from being parked or stored on any property in the City of Cape Coral including in driveways, carports, or on unimproved lots.~~

~~B. — For locations where abandoned vehicles are prohibited, if an abandoned vehicle or watercraft is not removed from the premises within five days from date of written notice to do so, the vehicle or watercraft shall be deemed a nuisance and shall be in violation of this ordinance.~~

~~C. — Vehicles that are in garages on improved property shall not be deemed to be "abandoned" under this ordinance.~~

~~D. — Repairs may be made on the premises if an emergency exists or if performed on an occasional basis. In all cases, repairs must be performed in such a manner as to not cause unsightliness, noise, or obnoxious odors.~~

SECTION 2. The City of Cape Coral, Florida, Code of Ordinances, Chapter 12, Offenses and Miscellaneous Provisions, Article XII, Parking Restrictions, Section 12-127.1, Parking in public rights-of-way prohibited; exceptions, is hereby amended as follows:

§ 12-127.1 Parking in public rights-of-way prohibited; exceptions.

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B. The stopping, standing, or parking of any commercial vehicle (which includes loading or unloading of materials) or trailers in the public rights-of-way is prohibited except under any of the following conditions (exceptions do not apply where signage prohibiting parking is posted):

- (1) Parking of a commercial vehicle in a parking space specifically marked and designated by the City as parking for any motor vehicles, including commercial vehicles, between the hours of 8:00 a.m. and 2:00 a.m.
- (2) Parking in accordance with a city right-of-way permit issued by the City.
- (3) Parking pursuant to a special event as approved by the City.
- (4) Parking of City vehicles and City trailers, as permitted by the City Manager, or their designee.
- (5) Parking on the paved portion of the right-of-way:
 - a. For a period not to exceed 2 continuous hours in any 24-hour period for a vehicle of a person performing work ~~for, or~~ providing service to, or visiting or patronizing the property abutting the right-of-way where no less than 12 feet of paved right-of-way remains available for the free movement of vehicular traffic; or
 - b. Where parking has been approved by the City pursuant to a construction site management plan.
- (6) Stopping, standing, or parking of a vehicle or trailer may occur upon a street in obedience with traffic regulations, traffic signs, or signals or direction by a police officer.

SECTION 3. The City of Cape Coral, Florida, Code of Ordinances, Chapter 12, Offenses and Miscellaneous Provisions, Article XII, Parking Restrictions, Section 12-127.11, Exemptions, is hereby amended as follows:

Section 12-127.11 Exemptions.

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- b. The provisions of Section 12-127.10 shall not apply to vehicles parked on unimproved or vacant lots within the boundaries of the South Cape zoning district, provided the following requirements are met:
 - i. The unimproved or vacant property must be zoned for commercial use and must be immediately adjacent to the business premises for which parking is being provided. For purposes of this section, the phrase IMMEDIATELY ADJACENT shall mean sharing all or part of a property line with the business premises or directly across a street or alley from the business premises, provided that the width of such street or alley is 50 feet or less and provided that all or part of the unimproved or vacant property lies within an extension of the property lines of the business premises across the street or alley.
 - ii. If the vacant property which will be utilized for parking is not owned by the same person or entity as the developed commercial property it is intended to serve, the owner of the developed commercial property must have a bona fide lease for the adjacent vacant or unimproved property.
 - iii. Parking on the vacant or unimproved property shall be limited to only patrons of the adjacent business and only during the hours that such business is in operation. The vacant or unimproved property shall be posted with a sign that states the foregoing two restrictions.

c. Subsection 12-127.11(b) shall sunset and be deemed repealed on December 31, 2027.

SECTION 4. The City of Cape Coral, Florida, Code of Ordinances, Chapter 12, Offenses and Miscellaneous Provisions, Article XII, Parking Restrictions, Section 12-127.17, Enforcement, penalties and towing and impoundment, is hereby amended as follows:

§ 12-127.17 Enforcement, penalties and towing and impoundment.

- (a) Any person violating Sections 12-127, 12-127.1, 12-127.2, 12-127.3, 12-127.4, 12-127.13, 12-127.14 or 12-127.15, will be issued a uniform parking violation returnable to county court by any law enforcement officer or parking enforcement specialist, as defined and set forth in F.S. § 316.640, ("Parking Enforcement Officer"); will be charged with a non-criminal violation; and will be fined, as a civil penalty, as follows:

(1) Two hundred fifty dollars for violation of Section 12-127.3. All fines received from penalties for this violation must be deposited in a separate municipal account to be used in the following manner:

- a. One-third to be used to defray expenses for the administration of handicapped parking violations.
- b. Two-thirds to be used to provide funds to improve accessibility and equal opportunity to qualified and physically disabled persons and to provide funds to conduct public awareness programs in the city.

(2) One hundred dollars for violation of Sections 12-127, 12-127.1, 12-127.2, 12-127.4, 12-127.13, 12-127.14 or 12-127.15, ~~however if payment is made within 48 hours of the date of violation, the fine is reduced to \$75.~~

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SECTION 5. The City of Cape Coral, Florida, Code of Ordinances, Chapter 12, Offenses and Miscellaneous Provisions, Article XII, Parking Restrictions, Section 12-127.18, Penalties and Enforcement; and Rights of Violators and Section 12-127.19, Abandoned vehicles or watercraft, are hereby created to read as follows:

Section 12-127.18 Penalties and Enforcement; and Rights of Violators.

A. Any violation of Sections 12-127.5, 12-127.6, 12-127.9, 12-127.10, 12-127.12 or 12-127.19 shall be subject to the following fines:

1. If the violation is the first offense, a person or business shall receive a civil fine of \$150;
2. If the violation is the second violation within the preceding 12 months, a person or business shall receive a civil fine of \$250;
3. If the violation is the third violation within the preceding 12 months, a person or business shall receive a civil fine of \$500; and
4. If the violation is the fourth or subsequent violation within the preceding 12 months, a person or business shall receive a civil fine of \$1,000.

B. Enforcement.

1. The Code Compliance Division or the Cape Coral Police Department shall enforce Sections 12-127.5, 12-127.6, 12-127.9, 12-127.10, 12-127.12, or 12-127.19. This shall not preclude other law enforcement agencies from any action to assure compliance with this section and all applicable laws. If a violation of Sections 12-127.5, 12-127.6, 12-127.9, 12-127.10, 12-127.12, or 12-127.19 is observed, the enforcement officer will be authorized to issue a notice of violation. The notice of violation shall inform the violator of the nature of the violation, amount of civil fine for which the violator is liable, instructions and due date for paying the civil fine, that the violation may be appealed by requesting an administrative hearing before the special magistrate within ten days after service of the notice of violation, and that the failure to appeal the violation within ten days of service shall constitute an admission of the violation and a waiver of the right to a hearing. All notices required by this section shall be provided to the violator in accordance with Section 2-85(c) through (g) of the City Code of Ordinances.
2. In the event the violator does not request an administrative hearing before the special magistrate within such ten-day period, the City may take any and all necessary actions to remediate the violation and bring the property into compliance and charge the violator with the reasonable cost of the repairs or the reasonable cost for removing or correcting the violation, along with the civil fine imposed pursuant to this section. The City correcting, remediating, or repairing the violation does not constitute a continuing obligation on the part of the City to make future repairs or to maintain the property and does not create any liability against the City for any damages to the property if the repairs were completed in good faith.

C. Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special magistrate.

1. A violator who has been served with a notice of violation must elect to either:
 - a. Pay the civil fine in the manner indicated on the notice of violation; or

- b. Request an administrative hearing before the special magistrate to appeal the notice of violation, which must be requested within ten days of the service of the notice of violation.
2. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in Sections 2-86 and 2-87 of the City Code of Ordinances, except as specifically provided in this section. Appeals for an administrative hearing of the notice of violation must be accompanied by a fee as approved by a resolution of the City Council, which fee shall be refunded if the named violator prevails in the appeal.
3. If the named violator, after issuance of the notice of violation, fails to pay the civil fine, or fails to timely request an administrative hearing before a special magistrate, the special magistrate may be informed of such failure by report from the enforcement officer. The failure of the named violator to appeal the decision of the enforcement officer within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
4. A certified copy of an order imposing a civil fine, or a civil fine plus remediation costs, shall be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. On or after the 61st day following the recording of any such lien that remains unpaid, the city may foreclose or otherwise execute upon the lien.
5. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
6. The special magistrate shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten days of the service of the notice of violation.
7. The special magistrate shall not have discretion to alter the penalties prescribed in Subsection A.
8. Nothing in this section shall be construed to prohibit the City from enforcing these provisions by any other supplemental means as may be allowed by law.

Section 12-127.19 Abandoned vehicles or watercraft.

For purposes of this Section, abandoned vehicles or watercraft shall mean vehicles or watercraft which are not currently registered or licensed to be lawfully operable on public streets or waterways, or which are wrecked, inoperative, in a partially dismantled condition, or which have no apparent intrinsic value to the rightful owner. In addition to all other provisions of the City Code of Ordinances, automotive and watercraft uses are subject to the following regulations.

A. Abandoned vehicles and watercraft are prohibited from being parked or stored on any property in the City of Cape Coral including in driveways, carports, or on unimproved lots.

B. For locations where abandoned vehicles are prohibited, if an abandoned vehicle or watercraft is not removed from the premises within five days from date of written notice to do so, the vehicle or watercraft shall be deemed a nuisance and shall be in violation of this section.

C. Vehicles or watercraft that are in garages on improved property shall not be deemed to be "abandoned" under this section.

D. Repairs may be made on the premises if an emergency exists or if performed on an occasional basis. In all cases, repairs must be performed in such a manner as to not cause unsightliness, noise, or obnoxious odors.

SECTION 6. 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 7. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

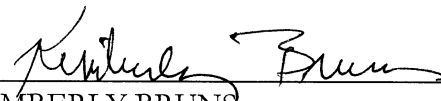
ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL,
FLORIDA, AT THEIR REGULAR SESSION THIS 18th DAY OF February, 2026.


JOHN GUNTER, MAYOR

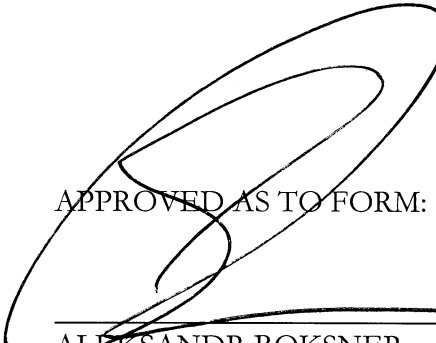
VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	<u>aye</u>	LASTRA	<u>aye</u>
STEINKE	<u>excused</u>	KILRAINE	<u>aye</u>
LEHMANN	<u>aye</u>	LONG	<u>aye</u>
DONNELL	<u>aye</u>	KADUK	<u>aye</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 18th DAY OF February, 2026.


KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


ALEKSANDR BOKSNER
CITY ATTORNEY
Ord./Parking Ord.
