

MEETING DATE

Consent Agenda Item ☐
Admin Discussion Item ☐
Personnel Action ☐
Committee of the Whole ☐

AGENDA REQUEST FORM
City of Cape Coral, Florida

ORD. 119-07

AGENDA ITEM
NO. 7 K (5)
DPO WAIVE
INTRO 10/15/07
PH 10/29/07
PH _____

TITLE:

Ordinance 119-07

REQUESTED ACTION:

Approval or Denial of Ordinance

STRATEGIC PLAN INFO:

1. Is this a Strategic Decision? ☐ Yes ☒ No

If Yes, supports: Tier #: , Priority Name:

If No, will it harm the intent or success of the Strategic Plan? ☐ Yes ☒ No

2. ☐ City Vision:

3. ☐ City Mission:

☐ Increased Efficiency

☐ Increased Quality of Services

☐ Positive Return on Investment (ROI)

SUMMARY EXPLANATION AND BACKGROUND:

Amends regulations for parking of vehicles within the City of Cape Coral to prohibit any motor vehicles from being parked on the pavement or in the swale of any public street within Single-Family Residential districts, and to allow motor vehicles to park on the driveway and other paved parking surfaces only.

LEGAL COMMENTS:

Florence R. Upton 10/4/07
Reviewed by: Date

EXHIBITS: (LIST)

Ordinance 119-07

PREPARED BY:**SOURCE OF ADDITIONAL INFORMATION:**

Florence R. Upton, Assistant City Attorney

SUBMITTED BY:

Terry Stewart, City Manager

Date

Department Director

Date

COUNCIL ACTION:

Bonnie J. Potter, City Clerk

Date

Revised January 29, 2007

ORDINANCE 119 - 07

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE III, SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 3.12, PARKING OF VEHICLES AND TRUCKS WITHIN THE CITY, BY AMENDING SUBSECTION .1, DEFINITIONS, TO PROVIDE DEFINITIONS FOR "BOAT", "BOAT TRAILER", "PAVED PARKING SURFACE", AND "POP-UP CAMPER"; TO CLARIFY THE DEFINITION OF "VEHICLE FOR HUMAN HABITATION"; TO ARRANGE THE DEFINITIONS IN ALPHABETICAL ORDER; AND TO RELETTER THE TERMS ACCORDINGLY; BY AMENDING SUB-SUBSECTION 2.A TO PROHIBIT ANY MOTOR VEHICLES FROM BEING PARKED, STORED OR KEPT ON THE PAVEMENT OR IN THE SWALE OF ANY PUBLIC STREET WITHIN ANY SINGLE-FAMILY RESIDENTIAL DISTRICT IN THE CITY; BY AMENDING SUB-SUBSECTION 2.B TO ALLOW MOTOR VEHICLES TO PARK ON THE DRIVEWAY AND OTHER PAVED PARKING SURFACES ONLY; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

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

SECTION 1. The City of Cape Coral Land Use and Development Regulations, Article III, Supplementary District Regulations, Section 3.12, Parking of Vehicles and Trucks within the City, is hereby amended as follows:

Section 3.12 Parking of Vehicles and Trucks within the City

.1 Definitions

- A. "Agricultural" shall include property zoned AG when not used for single-family purposes.
- B. "Boat" shall mean every description of watercraft, barge or airboat, used or capable of being used as a means of transportation on water and propelled by oars, sails, engine, etc.
- C. "Boat trailer" shall mean a trailer that is designed and constructed by the manufacturer thereof for the primary purpose of carrying and launching a boat.
- A. ~~"Single family residential" shall include property zoned R-1A, R-1B, and RE, and Agricultural, RX or RD when used for single family residential purposes.~~
- B. ~~"Multi family residential" shall include property zoned R-3 and RX and RD when developed as multi family.~~
- C. ~~"Industrial" and "agricultural" shall include property zoned I-1 and AG when not used for single family purposes.~~
- D. ~~"Commercial" and "professional" shall include property zoned C-1, and C-3, and P-1.~~
- E. "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.
- F. "Commercial rack" shall mean any frame, device, or other apparatus that is designed and constructed by the manufacturer thereof for the primary purpose of carrying tools, building materials or merchandise. For purposes of this ordinance, racks that are designed and constructed by the manufacturer thereof for the purpose of carrying luggage or sporting equipment, such as kayaks, canoes, or bicycles, shall not be considered to be "commercial racks" so long as they are used for the purpose of

carrying the aforesaid items. Furthermore, a rack that is designed and constructed by the manufacturer thereof for the purpose of carrying a ladder (a "ladder rack") and that is attached to a motor vehicle shall not be considered to be a "commercial rack" provided that such ladder rack is not wider than the vehicle to which it is attached, and no part of such ladder rack extends more than sixteen (16) inches above the cab of the vehicle or extends beyond the tailgate of the vehicle.

- G. "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 (including but not limited to automobiles) upon which commercial lettering, as defined herein, has been affixed. The term shall also include, but shall not be limited to, a pickup truck from which the cargo box has been removed. Any motor vehicle with one or more tools (including, but not limited to, a ladder), building materials, or merchandise visible from the street or from abutting residential property, and/or a "commercial rack" that is visible from the street or from abutting residential property shall be deemed a commercial vehicle. A passenger automobile or sports utility vehicle (SUV) containing commercial lettering shall not be considered a commercial vehicle for purposes of this Section so long as the commercial lettering on the vehicle does not contain any reference to the residential address at which the automobile is parked.
- ~~H.~~ "Industrial" shall include property zoned I-1 when not used for single-family purposes.
- ~~H.I.~~ "Light van" shall mean any motor vehicle having a generally rectangular bulk, which is licensed and registered for operation upon public highways and which has a carrying capacity of no more than 1 ton and/or no more than nine (9) passengers.
- ~~I.~~ "Multi-family residential" shall include property zoned R-3 and RX and RD when developed as multi-family.
- ~~I.K.~~ "Owner" shall mean, when used in relation to a motor vehicle or trailer, any person to whom a motor vehicle or trailer is registered according to the certificate of title for the motor vehicle or trailer, and, if the motor vehicle or trailer is under lease, rental agreement or on loan under any type of arrangement, gratuitous or otherwise, shall include, but not be limited to, the person having possession or control of the vehicle. When used in relation to privately owned real property in a residential district, the term shall mean the owner of the property according to the latest ad valorem tax records of the county, and, if the privately owned real property is under lease, rental agreement, agreement for deed or similar land contract, shall include, but not be limited to, the person in possession and control of the property.
- ~~L.~~ "Paved parking surface" shall mean an additional area paved with the same material as the driveway and having at least one (1) side or end of the parking surface connected to the driveway.
- ~~J-M.~~ "Pickup truck" shall mean any motor vehicle designed primarily for the transportation of property within a permanently attached open cargo box and having a gross motor vehicle weight of no more than 17,500 pounds, a height of no more than eighty-two (82) inches (measured from the ground to the vehicle's highest point excluding antennae), no more than six (6) wheels, and no more than two (2) axles.
- ~~N.~~ "Pop-up camper" shall mean a non-motorized trailer which includes, or on which is mounted, a tent-like enclosure (but such enclosure may be made of canvas or similar material, solid materials, or any combination thereof) to be used for camping purposes, which enclosure opens or expands or unfolds to accommodate temporary occupancy and which closes or folds up into itself in such a way as to be unusable for occupancy and to be no more than fifty-five (55) inches in height when measured from ground level.
- ~~O.~~ "Professional" shall include property zoned P-1.
- ~~K-P.~~ "Screening" shall mean a visual barrier consisting of permanent, dense vegetation or other permitted structure at least equal in height to the recreational vehicle, boat or boat trailer, but which does not violate any height limitation for barriers in the applicable zoning district.

- Q. "Single-family residential" shall include property zoned R-1A, R-1B, and RE, and Agricultural, RX or RD when used for single family residential purposes.
- L.R. "Trailer" shall mean any vehicle without motive power designed for carrying persons or property on its own structure and to be drawn by a motor vehicle regardless of hitch type.
- M. ~~"Boat trailer" shall mean a trailer that is designed and constructed by the manufacturer thereof for the primary purpose of carrying and launching a boat.~~
- N.S. "Truck" shall mean any motor vehicle, other than a pickup truck or light van, which is designed primarily for the transportation of property or cargo.
- O.T. "Vehicle for human habitation" shall include a house car, camp car, camper, house trailer or any vehicle, by whatever name known, school bus or other bus, designed or adaptable for human habitation, whether such vehicle moves by its own power or by power supplied by a separate vehicle. This definition shall not apply to any type of boat, barge, airboat, or any other type of watercraft.

.2 Parking Regulations for Property Zoned Single-Family Residential

- A. (1) It shall be unlawful for any owner, agent, operator or person in charge of a ~~commercial motor~~ vehicle or trailer to park, store or keep such vehicle or trailer on the pavement or in the swale of any public street within any single-family residential district in the City. Furthermore, it shall be unlawful for any owner of privately owned real property in any residential district in the City to park on, cause to be parked on, or allow to be parked on such property any commercial vehicle or trailer, except as otherwise provided herein.
- (2) The prohibitions of Section 3.12.2.A.(1) shall not apply to the following:
- (a) The temporary parking of any commercial vehicle or trailer on privately owned real property or in the adjoining swale of any public street within a residential district where construction for which a current and valid permit has been issued by the City is underway on the property and the permit therefore is properly displayed on the premises. Provided that such trailer or commercial vehicle is only on the real property at the time the construction is actually physically occurring. Nothing in this subsection is intended to require a permit where none is otherwise required or to allow a trailer or commercial vehicle to be parked on privately owned real property or in the adjoining swale of any public street within a residential district when construction is not actually physically occurring on the private property.
 - (b) Deliveries by tradespeople, or the use of commercial vehicles or trailers in making service calls.
 - (c) Temporary parking of a commercial vehicle or recreational vehicle while such vehicle is being used by the operator for travel to and from the residential property for personal reasons of a temporary nature such as for a meal or to visit or serve an ill person. Such temporary parking shall not, however, exceed a total of two (2) hours duration during any twenty-four (24) hour time period.
 - (d) The emergency parking of a disabled commercial vehicle, recreational vehicle, or trailer. However, any such commercial vehicle, recreational vehicle, boat or trailer shall be removed from the residential district within twenty-four (24) hours by wrecker towing or other available means regardless of the nature of the emergency.
- B. Notwithstanding the prohibitions in Section 3.12.2.A, any combination of the following motor vehicles or trailers may be parked in single-family residential districts, on a parcel improved with a permitted principal building:

- (1) Any light van, sports utility vehicle (SUV), pickup truck, jeep, motorcycle, automobile, or similar type of motor vehicle which is not a commercial vehicle may be parked on the driveway or other paved parking surfaces only. Furthermore, light vans, sports utility vehicles (SUVs), pickup trucks, jeeps, motorcycles, automobiles, or similar types of motor vehicles which would otherwise be considered to be "commercial vehicles" only because commercial lettering has been affixed to them may be parked outside of a permitted garage or carport on the driveway or other paved parking surfaces only provided that all commercial lettering has been concealed by a cover of a type that is applied directly to the surface of the motor vehicle or attached to the vehicle in such a manner that the vehicle can be safely driven on the public streets with the cover in place. If more than one such cover is attached to or is located on a vehicle, then all of such covers located on or attached to such vehicle shall be the same color. For purposes of this Section, covers located so as to impair the vision of the driver of the vehicle or insecurely mounted so as to present a danger of falling off the vehicle while it is being driven shall be presumed to be insufficient to bring the commercial vehicle within the exemption provided by this subsection. Furthermore, this exemption shall not apply to any motor vehicle that is considered to be a "commercial vehicle" under this Section by virtue of the nature of its vehicle type and not solely because commercial lettering has been affixed to it regardless of whether such vehicle or any lettering affixed to it has been covered in part or in full of such vehicle is parked outside of the confines of a permitted garage or carport.
- (2) Any trailer or motor vehicle described in Section 3.12.2.A which is a commercial vehicle, provided that:
- (a) Such commercial vehicle or trailer is parked in a permitted garage or carport.
 - (b) When parked in a garage or carport, no part of such commercial vehicle or trailer may project horizontally beyond the roofline of the garage or carport.
 - (c) When parked in a carport, such commercial vehicle or trailer is screened on three (3) sides.

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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 take effect immediately upon its adoption by the Cape Coral City Council.

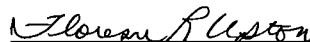
ADOPTED AT A REGULAR COUNCIL MEETING THIS _____ DAY OF _____, 2007.

ERIC FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2007.

BONNIE J. POTTER, CITY CLERK

APPROVED AS TO FORM:



FLORENCE R. UPTON
ASSISTANT CITY ATTORNEY
Ord/parkonpavedonly2

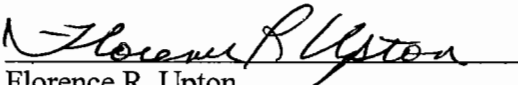


CITY ATTORNEY'S OFFICE MEMORANDUM

TO: Assistant to City Council
FROM: City Attorney
DATE: October 4, 2007
SUBJECT: Ordinance 119-07

Please place the above-referenced ordinance on the October 15th Council agenda for introduction. The sponsoring councilmember will waive the DPO process on this ordinance.

If you have any questions, please feel free to contact me.


Florence R. Upton
City Attorney

FRU/dac

Enclosures

cc: Terry Stewart, City Manager
Bonnie Potter, City Clerk
Dona Newman, City Auditor