

ORDINANCE 30 - 24

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, ARTICLE 7, "SIGNS," CHAPTER 3, "TEMPORARY SIGNS," SECTION 7.3.1., "TEMPORARY SIGNS," REGARDING TEMPORARY SIGNS ON REAL PROPERTY; 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 Land Development Code, Article 7, Chapter 3, Section 7.3.1., is hereby amended as follows:

Section 7.3.1. – Temporary signs.

- A. 1. Temporary signs, identified in this chapter as not requiring a sign permit, unless indicated below, must otherwise meet all the applicable requirements of this section and this article. Any temporary sign not meeting these requirements, in any way, including quantity, shall be treated as a non-exempt sign subject to permitting. The area of temporary signs displayed on a site shall not be included in the calculation of the total signs on such site.
- 2. Temporary signs are prohibited on real property in the City without the written approval of the property owner, lessee, or person in control of such property. Such written approval shall be available and provided to the City upon the City's request. The written approval required hereunder shall be available and provided to the City upon request regardless of whether the temporary signs are displayed by the property owner or any other person. The failure to provide such written approval to the City upon the City's request shall be a violation of this section.
- 3. Temporary signs are prohibited in any public Right-of-Way. Violations of this Subsection A.3. shall be subject to immediate removal and enhanced civil penalties, as provided in Section 7.3.1.G.2.
- 4. Temporary signs are prohibited in any Visibility Triangle.
- 5. It is prohibited to illuminate a temporary sign.
- 6. It is prohibited to display, place, or locate a temporary Freestanding Sign within five (5) feet of another temporary Freestanding Sign.

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F. All Other Temporary Signs			
Applicable Zoning District/Use	Single-Family Residential Zoning Districts (R-1, RE, AG)	Multi-Family Residential Zoning Districts (RML, RMM)	All Non-Residential Districts
Sign Permit Required	No	No	No
Number of signs/site	3	2—6 Units	1 per Street Frontage not to exceed 2
		7+ Units	1 per Street Frontage not to exceed 2

Maximum Sign Area/sign	4 sq. ft.	2—6 Units	16 sq. ft. per sign	16 sq. ft.
		7+ Units	24 sq. ft. per sign	
Maximum Sign Height for a Temporary Freestanding Sign	6 ft.	2—6 Units	6 ft	6 ft.
		7+ Units	6 ft	
Maximum Sign Height for a Temporary Wall Sign	15 ft.	2—6 Units	15	15 ft.
		7+ Units	15	
Minimum Sign Setback from any property line	10 ft.	10 ft.		10 ft.
Minimum Spacing between Temporary Ground Signs	5 ft.	5 ft.		5 ft.
Temporary Sign Allowed on Public Right of Way	No	No		No
Temporary Sign Allowed on Property without Property Owners Approval	No	No		No
Temporary Sign Allowed in the Sight Visibility Triangle	No	No		No
Direct/Indirect Illumination of Surface of Temporary Sign Allowed	No	No		No
Duration	<p>Temporary signs placed in accordance with this Subsection F. shall not exceed 30 consecutive days.</p> <p>Notwithstanding the foregoing, temporary signs placed in accordance with this Subsection F. shall be allowed for the 90 calendar days prior to and 7 calendar days following any Federal, State of Florida, Lee County, or City of Cape Coral elections, including primaries.</p> <p>Temporary Signs exceeding the durational time limitations provided herein shall be considered permanent signs and subject to Section 7.4.1. or Section 7.4.2., as applicable.</p>			

G. Penalties and enforcement.

1. Except for violations of Section 7.3.1.A.3., any violation of Section 7.3.1. shall be subject to the following penalties:
 - a. If the violation is the first offense, a person or business shall receive a civil fine of \$25.00, per sign;
 - b. If the violation is the second violation within the preceding twelve (12) months, a person or business shall receive a civil fine of \$100.00, per sign;
 - c. If the violation is the third violation within the preceding twelve (12) months, a person or business shall receive a civil fine of \$500.00, per sign; and
 - d. If the violation is the fourth or subsequent violation within the preceding twelve (12) months, a person or business shall receive a civil fine of \$1,000.00, per sign.
2. Enhanced civil penalties. Any violation of Section 7.3.1.A.3. shall be subject to the following penalties:

- a. If the violation is the first offense, a person or business shall receive a civil fine of \$500.00, per sign;
- b. If the violation is the second or subsequent violation within the preceding twelve (12) months, a person or business shall receive a civil fine of \$1,000.00, per sign.
- c. In addition to the imposition of civil penalties provided herein, City officials are hereby authorized to immediately remove and confiscate any sign(s) located in any public Right-of-Way in violation of Section 7.3.1.A.3. The City shall notify the responsible person or entity for installing the sign(s) that the sign(s) may be retrieved from the City upon the timely payment of any civil penalty due or a successful appeal of the violation. If the civil penalty is not paid or an appeal filed within ten (10) days of service of a notice of violation, the City is authorized to destroy any signs removed and confiscated hereunder.

3. Enforcement.

- a. The Cape Coral Police Department or the Code Compliance Division shall enforce this Section 7.3.1. 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 this section is observed, the enforcement officer will be authorized to issue a notice of violation to the property owner of the subject real property and/or the responsible person or entity for installing the sign. 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 (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) 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.
- b. In the event the violator does not request an administrative hearing before the special magistrate within such ten (10) 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.

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

- a. A violator who has been served with a notice of violation must elect to either:
 - i. Pay the civil fine in the manner indicated on the notice of violation;
or
 - ii. Request an administrative hearing before the special magistrate to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.
- b. 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.

- c. 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.
- d. 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.
- e. Any party aggrieved by a decision of a special magistrate may appeal that decision to a court of competent jurisdiction.
- f. 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 (10) days of the service of the notice of violation.
- g. The special magistrate shall not have discretion to alter the penalties prescribed in Subsections G.1. and G.2.
- h. 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 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 _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	CARR	_____
STEINKE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____, 2024.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:

ALEKSANDR BOKSNER
CITY ATTORNEY

ord./TempSigns