

ORDINANCE 66 - 24

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING THE CITY OF CAPE CORAL, FLORIDA, LAND DEVELOPMENT CODE, ARTICLE 4, ZONING DISTRICTS, CHAPTER 1, GENERAL PROVISIONS, SECTION 4.1.6., USES BY ZONING DISTRICT – USE HIERARCHY, TABLE 4.1.6, USE TABLE, REGARDING THE CAR WASH USE; AMENDING ARTICLE 5, DEVELOPMENT STANDARDS, CHAPTER 11, CONDITIONAL USES, BY CREATING SECTION 5.11.17., CAR WASH FACILITIES, ESTABLISHING CONDITIONS FOR CAR WASH FACILITIES; AMENDING ARTICLE 11, DEFINITIONS, SECTION 11.2., DEFINITIONS, REGARDING CAR WASH FACILITIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Cape Coral, Florida adopted Ordinance 16-24 on April 17, 2024, imposing a temporary moratorium on the acceptance of applications for and issuance of permits for the development of car wash facilities in the City of Cape Coral, Florida (the “City”); and

WHEREAS, presently, and in the preceding years, the car wash industry (full-service or self-service facilities, that are sometimes connected to a vehicle fueling station, used to wash vehicles) has proven to be a sector that is proliferating at an unprecedented rate of growth throughout the commercial real estate industry and within the commercial corridors of the City; and

WHEREAS, it has been estimated that there are sixteen (16) existing standalone car wash facilities in the City, and another nine (9) accessory car wash facilities ancillary to vehicle fueling stations, with an additional twelve (12) standalone car wash facilities in permitting or under construction in the City; and

WHEREAS, in order to prevent the proliferation of car wash facilities consuming essential commercial property, too fast, and in close proximity to one another, it is necessary to establish limits to the number(s) or location(s) that are appropriate for the City; and

WHEREAS, car wash facilities are a permitted use in the Commercial (C) and Commercial Corridor (CC) zoning districts, which are largely mapped along the City’s major corridors and commercial nodes; and

WHEREAS, due to the platted nature of Cape Coral, car wash facilities are frequently constructed near residential development, where such uses may impose adverse noise and lighting impacts on residents; and

WHEREAS, the City’s Land Development Code regulations for car wash facilities presently do not provide an adequate mechanism to regulate and control the location, size, hours of operation, or design of such facilities; and

WHEREAS, the City has documented that there exists a deficiency of vacant, non-residentially zoned land that is needed to meet the commercial/industrial demands of current and future residents; and,

WHEREAS, the City’s Strategic Plan “Cape Compass” includes the goal to create an economically balanced community by expanding and diversifying the City’s overall tax base; and

WHEREAS, the City has concerns related to the economic and locational impact of these uses relative to the long-term growth of the City; and

WHEREAS, Florida Statutes require the City to adopt new land development regulations, or amend its current regulations as necessary to ensure that such regulations are compatible with and further the goals of the City's Comprehensive Plan, and to utilize accepted planning practices and analyses that include, but are not limited to, the direction of growth and development into those locations that have proper access to the existing and planned transportation system ("access management"), minimal environmental constraints, and compatibility of land uses both within the particular area and in relation to surrounding land uses; and

WHEREAS, it has been determined that the City's Land Development Code requires revisions in order to ensure that they provide a sufficient safeguard regarding the proliferation of these car wash facilities for the future protection and promotion of the public health, safety welfare, aesthetics, and economic order of the City; and

WHEREAS, the Florida Legislature enacted Senate Bill 250 (2023), codified as chapter 2023-304, Laws of Florida, that prohibits local governments from proposing or adopting certain regulations affecting property damaged by Hurricane Ian or Nicole before October 1, 2024, and applies it retroactively to September 28, 2022; and

WHEREAS, the Mayor and City Council find that the Florida Legislature expressly drafted chapter 2023-304, Laws of Florida, to apply to property damaged by Hurricane Ian or Nicole, and that these regulations apply to unimproved land that by its vacant nature did not suffer property damage from Hurricane Ian or Nicole; and

WHEREAS, the Mayor and City Council find that state legislative bill analyses related to Senate Bill 250 (2023) provide analysis related to prior versions of the bill, which did not contain language prohibiting additional regulations, and that the Florida Senate House Message Summary, provided after the moratorium language was added, expressly includes that property damage by Hurricane Ian or Nicole is a requirement for the regulatory restriction to apply; and

WHEREAS, the Mayor and City Council find that, based on the foregoing reasons for the moratorium, this Ordinance will promote the public health, welfare, safety, aesthetics, and economic order of the community, the region, and the City; and

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Cape Coral, Florida, a municipal corporation, enjoys all governmental, corporate, and home rule proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; 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, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral, Florida, Land Development Code, Article 4, Chapter 1, Section 4.1.6., Table 4.1.6, is hereby amended as follows:

Table 4.1.6 Use Table

The following table of permitted uses, when read together with the definitions set forth in Article 11 shall be used to determine the zoning district in which a given use may be established.

Use Table																		
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																		
PUD zoning allows all uses consistent with the Future Land Use Classification																		
	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R 1	RM L	RM M	R E	A	P	C	I	INS T	PV	CC	NC	MX 7	MX B	SC		
																PRI	SE C	LOC
	...																	
Vehicle-related Commercial	Boat Sales							P	P			P					CU	CU
	Car Wash							CUP				CUP						
	Commercial Parking lot or Garage							P				P		P	P	P	P	P
	Heavy Vehicle, Sales & Rental								P			P						
	Light Vehicle, Rental							P				P	P				P	P
	Light Vehicle, Sales											P*						
	Vehicle Repair, Major								P			SE						
	Vehicle Repair, Minor							CU	P			P						
	Vehicle Fueling Station							CU	P			P	CU				CU	
	Marine Fuel Pump							P*	P*	P*		P*	P*	P*	P*	P*	P*	P*
	Vehicle and Boat Storage								P									
	Accessory Parking Lot		P*				P*	P*				P*						
	...																	

SECTION 2. The City of Cape Coral, Florida, Land Development Code, Article 5, Chapter 11, Section 5.11.17, is hereby created as follows:

Section 5.11.17. Car Wash Facility.

In addition to other provisions of the Land Development Code, Car wash facilities shall meet all of the following conditions:

- A. Applicability: This section shall apply to all car wash facilities as defined in LDC Section 11.2, except as noted below.
1. Exceptions:

a. Car wash facilities that are accessory to a primary use, where the accessory use area occupies no more than 20% of the overall site area, and which are fully integrated into the primary use structure or area are exempt from this section.

b. Car wash facilities that are accessory to a primary use classified as light vehicle sales on sites where the establishment has a minimum developed area of five acres.

c. Temporary outdoor car wash facilities associated with a non-profit, religious function, or governmental organization are exempt from this section provided that the use is temporary and no automated equipment or systems are utilized.
- B. Locational Requirements: All facilities shall conform to the following location standards:
1. There shall be a minimum separation distance of one mile (5,280 feet) between parcels occupied, or to be occupied, by a car wash facility. Such a distance shall be measured by the shortest straight-line measurement between the nearest points of the applicable parcels.

2. Car Wash facilities shall only be permitted on those parcels which have primary frontage on roadways with the following City of Cape Coral Functional Classifications: Minor Collector; Major Collector; Minor Arterial; Major Arterial; and Principal Arterial. Functional roadway classifications shall be determined by the City of Cape Coral and all classifications shall be made available to the public. Primary frontage is defined as a minimum linear frontage that is equal to or exceeds 75% of overall linear property frontage along all public rights-of-way.
 3. Parcels associated with car wash facilities shall not be permitted within 500 feet of any major intersection involving any combination of collector and/or arterial streets. This distance shall be measured in the shortest straight-line measurement between the centerline of the intersected rights-of-ways and the nearest point of the parcel.
- C. Enclosure Required: All washing uses, facilities, and equipment shall be within an enclosed building, including those systems and equipment which is ancillary or accessory to the operation of the facility except as noted below.
1. Exception: Centrally designed vacuum facilities may have exposed apertures, nozzles, and piping directly associated with the servicing of a vehicle, provided all central equipment, including pumps, turbines, separators, filters, and manifolds, are completely enclosed within a building and that the noise generated from the exposed equipment is mitigated to the greatest extent possible.
- D. Residential Adjacency: The following regulations shall apply when a car wash facility is located directly adjacent to a site with residential zoning or a residential use, either through directly abutting property line(s) or being separated by an alleyway, canal, or local roadway:
1. All uses and equipment shall be oriented away from the adjacent residential zoning or uses. Where such orientation would provide an undue hardship to the implementation of the uses on the site, additional screening shall be provided to mitigate the visual impact of the facility. Such screening may be comprised of additional vegetative hedging, living green walls, or an architecturally interesting vertical barrier and implemented as directed through conditions of approval applied by the City of Cape Coral.
 2. The facility shall be designed so as to provide an increased buffered separation along all directly abutting residential property lines. The buffer shall conform to all applicable standards and regulations contained in LDC Article 5, Section 5. The buffer width shall be in excess of 150% the required buffer width specified in Table 5.5.13.B and shall include the utilization of either a six-foot tall bermed earth feature or an eight-foot tall separation wall. The buffer area shall provide plantings of 150% or more of the required amount per LDC Section 5.5.13, for all plantings. The wall shall meet all applicable standards and requirements as specified per LDC Section 5.5.13.C.5.g.
 - a. Where the facility abuts a mixed-use zoning district, or mixed-use site, which includes any form of residential uses and no buffer requirement is specified in table 5.5.13.B, the facility shall provide a buffer with a minimum width of twenty feet. Landscaping within the buffer shall be provided at the highest intensity specified per table 5.5.13.C abutting the R-1 district. The buffer area shall be designed to meet all other criteria listed in Section 5.11.17.D.2.
 - b. Where a canal or road right-of-way separates two property lines requiring the buffer separation as specified in this section, the buffering requirements shall also be applied along the property lines adjacent to the right-of-way.
- E. Landscape Screening: Specifically designed landscape screenings and treatments shall be provided to mitigate the visual impact of exterior equipment and utilities, exterior vacuum apertures and equipment, and openings in enclosed facility spaces from all public rights-of-way. The screening shall be designed in such a way that the internal and external uses of the facility are screened to the greatest extent possible when viewed from the rights-of-way and shall be approved through conditions of approval applied by the City of Cape Coral.

- F. Outdoor Storage and Display: The outdoor storage and display of merchandise, parts and supplies shall be prohibited. All materials shall be located completely within an enclosed building.
- G. Hours of Operation: For facilities which are located adjacent to residentially zoned districts, the hours of operation for the facility shall be limited through conditions of approval applied by the City of Cape Coral.
- H. Noise Mitigation: The use of exterior loudspeakers, paging equipment or noise makers, is prohibited.
- I. Water Recycling: The facility shall be designed and constructed to comply with National Pollutant Discharge Elimination System (NPDES) requirements for car washes to prevent creating and carrying off the premises, of airborne particles of water, chemicals, and dust. No wash-water runoff generated by the facility may be conveyed off site into stormwater or wastewater systems without pretreatment. Car-wash equipment shall use a 90% water recycling system, utilizing 100% of wastewater.
- J. Prohibitions: The following shall be prohibited on site:
 - 1. Exterior detailing and waxing which utilizes any type of machines or equipment is prohibited.
- K. View Corridor Protection: Where a facility is developed adjacent to a residential site or use and has any frontage along a canal, or canal right-of-way, the facility shall be so designed to adequately protect visual corridors to the canal way for adjacent residential uses. Design and implementation shall be approved through conditions of approval applied by the City of Cape Coral.

SECTION 3. The City of Cape Coral, Florida, Land Development Code, Article 11, Section 11.2., is hereby amended as follows:

Section 11.2. – Definitions.

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Car Cover, is a cover that is designed and constructed by the manufacturer for the primary purpose of protecting a motor vehicle from the elements.

Car Wash Facility, is a temporary or permanent area or structure which is used for the exterior and/or interior washing and cleaning of automobiles and other motorized vehicles. Such a facility and associated equipment encompasses both self-service and full-service operations and includes constructed stand-alone structure(s), accessory uses and structures, and integrated uses as part of a mixed use site or structure.

Cemetery, is land used or dedicated to the burial of deceased people or animals. Cemeteries may also include mausoleums and mortuaries when operated within the boundary of such cemetery.

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SECTION 4. 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 5. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF CAPE CORAL AT THEIR REGULAR SESSION THIS 16th DAY OF October, 2024.



 JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

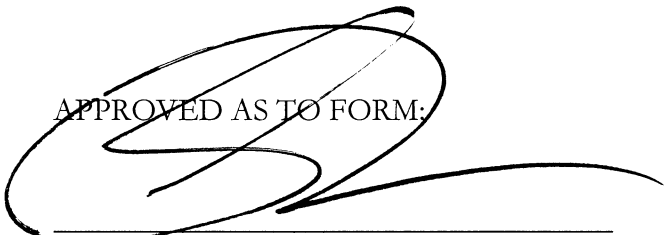
GUNTER aye
STEINKE aye
SHEPPARD no
HAYDEN aye

CARR aye
WELSH aye
LONG aye
COSDEN aye

ATTESTED TO AND FILED IN MY OFFICE THIS 1st DAY OF November, 2024.

Kimberly Bruns
KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY

ord/LDC Updates-Car Wash (Moratorium) 10.16.24.Council
Legend: ~~xx~~ xx 10/02/24 Council Meeting
 xx ~~xx~~ 10/16/24 Council Meeting

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