

ORDINANCE - 06

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES CHAPTER 5, BUILDING, SECTION 5-3, GENERAL CONTRACTOR'S RESPONSIBILITY RELATIVE TO CONSTRUCTION REFUSE, TO ADD LANGUAGE OF REFERENCE TO THE REGULATIONS PROVIDED IN CHAPTER 9, HEALTH AND SANITATION; AMENDING CHAPTER 9, HEALTH AND SANITATION, SECTION 9-69, GENERAL REGULATIONS FOR ON-SITE REFUSE DURING CONSTRUCTION, RENOVATION, AND REMODELING, TO REQUIRE THAT THE LICENSED GENERAL CONTRACTOR OR OWNER-BUILDER SHALL BE RESPONSIBLE FOR THE PROPER STORAGE AND HANDLING OF CONSTRUCTION REFUSE AND ALL OTHER MATERIALS THAT MAY ACCUMULATE ON THE CONSTRUCTION SITE, TO AMEND THE TITLE AND REGULATIONS THEREIN, AND TO ESTABLISH THE PENALTY PROVISIONS; AMENDING THE CITY OF CAPE CORAL LAND USE AND DEVELOPMENT REGULATIONS, ARTICLE XII, SECTION 12.1, ADOPTION OF CODES: FLORIDA BUILDING CODE, MECHANICAL, PLUMBING, AND FUEL GAS, STANDARD HOUSING, STANDARD UNSAFE BUILDING ABATEMENT, THE NATIONAL ELECTRICAL CODE, AND ENGINEERING DESIGN STANDARDS, TO IDENTIFY THAT CHAPTER 1, ADMINISTRATION, OF THE FLORIDA BUILDING CODE 2004 IS ADOPTED EXCEPT THOSE PARTS DELETED, MODIFIED OR AMENDED; ESTABLISHING SECTION 12.2, CHAPTER 1, ADMINISTRATION, FLORIDA BUILDING CODE 2004, TO AMEND CHAPTER 1, ADMINISTRATION, OF THE FLORIDA BUILDING CODE 2004, SECTION 114, STOP WORK ORDER, TO AUTHORIZE THE BUILDING OFFICIAL TO ISSUE A STOP WORK ORDER FOR THE FAILURE TO REMOVE CONSTRUCTION REFUSE IN A TIMELY MANNER; 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 Code of Ordinances, Chapter 5, Article I, Section 5-3, is hereby amended as follows:

**Sec. 5-3. General contractor's responsibility relative to construction refuse.**

Upon the commencement of construction, the general contractor assumes the responsibility for the proper handling and disposition of refuse as more fully set forth in Chapter 9, Health and Sanitation.

SECTION 2. The City of Cape Coral Code of Ordinances, Chapter 9, Article III, Section 9-69, is hereby amended as follows:

**Sec. 9-69. General regulations for on-site refuse and all other materials that may accumulate on the site during construction, renovation, and remodeling.**

A. (a)1. During the construction, renovation, remodeling, demolition, or erection of a structure, the licensed general contractor or owner-builder shall be responsible ~~must be made~~ for the storage and handling of construction refuse and all other materials including, but not limited to, debris, trash, garbage, litter, food wrappers, food containers, bottles, cans, and cups that may accumulate on the site. Any construction refuse and/or all other said materials located outside of the structure which is subject to movement by light wind must be confined in an on-site construction refuse container as defined herein. An owner-builder or licensed general contractor must make special arrangements with the franchisee to provide for the appropriate containerized refuse service satisfactory to meet the construction refuse collection requirement necessitated by the construction or contract with a licensed construction clean-up contractor. ~~Each building contractor or owner-~~

~~builder shall, prior to any construction, remodeling, or demolition permit being issued, provide either: (1) a copy of a subcontract list indicating the Cape Coral licensed construction clean-up contractor that will be employed, or (2) a copy of an agreement for on-site construction refuse disposal with the city of Cape Coral solid waste franchisee. Containerized service shall be provided by the franchisee under the rates for containerized construction, renovation and remodeling collection services as set forth in Section 9-72.~~

- (b)2. Construction cleanup contractors are hereby authorized to provide the following services to a contractor for construction refuse disposal: the complete cleanup, consolidation, confinement, and subsequent hauling and disposal of construction debris from a construction-site to the Lee County designated landfill or other authorized Cape Coral solid waste facility, provided that the hauling and disposal of construction refuse is strictly incidental to the construction-site cleanup. All construction refuse transported by construction clean-up contractors shall be transported exclusively in a truck with an attached cargo area designed for such purpose, including pick-up trucks, trailers, dump trucks, or vans, which are properly covered with a tarpaulin as required by Florida law. All trucks used by construction cleanup contractors shall have the contractor's city competency license number clearly posted thereon and must be covered by a policy of liability insurance with limits of \$100,000.00 per person/\$300,000.00 per incident and \$50,000.00 property damage.

All construction cleanup contractors shall maintain records of all sites serviced by said contractor. Said records shall reference the building permit number and location of the site. Contractors shall retain all weigh slips, referenced by site, which are issued at the city's solid waste facility or the Lee County designated land fill. Records shall be made available, upon request, for inspection by the city manager or his/her designee.

No construction cleanup contractor shall conduct any solid waste disposal activities other than as specifically authorized herein.

~~Any on-site containers used by construction cleanup contractors must be either wire-basket containers, other temporarily constructed disposable devices, or permanent transportable containers including but not limited to, roll-off containers used for the confinement of construction refuse which is placed outside the structure. At all times during construction, all construction refuse that is subject to movement by light wind shall be placed into the on-site construction refuse container. An on-site construction refuse container and collection service that conforms to the requirements set forth in this section must be provided for each construction site. At least one (1) construction refuse container shall be placed on the site prior to the commencement of any construction, renovation, remodeling, demolition, or erection of a structure. For purposes of this requirement, a suitable on-site construction refuse container shall be placed outside the structure and shall be limited to either a permanent transportable container including, but not limited to, a roll-off container obtained from the City's franchisee or the construction cleanup contractor or a container consisting of four (4) sheets of hard-sided solid material and assembled to form a container no less than 8' x 8' x 4' high when measured from the ground. The on-site construction refuse container shall be securely constructed in such a manner so that the construction refuse can be completely contained therein. The on-site construction refuse container shall be maintained in good condition so as to continually contain the construction debris. Collection and disposal of construction debris shall be with such frequency so as to avoid construction refuse spilling out of the on-site construction refuse container onto the site.~~

In addition to all requirements set forth above, the licensed general contractor or owner-builder shall be responsible for the proper storage and collection of all other materials including, but not limited to, debris, trash, garbage, litter, food wrappers, food containers, bottles, cans, and cups that may accumulate on the site so that said materials will not be blown about by light wind.

Construction refuse materials that are not susceptible to being blown around by light wind do not need to be contained in the on-site construction refuse container but must be located in a concentrated location on the site. Refuse such as lumber and

drywall may be located in no more than two (2) concentrated locations on the site, one in the front of the property and the other at the rear. Masonry and roof tiles may be located in one (1) additional, separate concentrated location on the site.

- ~~(e)~~3. It shall be unlawful for a person or a contractor operating within the jurisdictional limits of the city to hire, subcontract, or otherwise employ any person, company, partnership, or other business association for the purpose of construction-site cleanup and refuse removal, unless said person or association is either the city solid waste franchisee or a city licensed construction clean-up contractor.

B. Penalties.

1. The failure of a licensed general contractor or owner-builder to comply with any provision of this Section shall constitute a violation of this Section. The City shall provide written notice of the violation to the licensed general contractor or owner-builder by either certified mail to the mailing address indicated on the permit application, hand delivery, electronically, or facsimile to the contact telephone numbers provided to the City by the licensed general contractor or owner-builder. In the event that the notice of violation was mailed by certified mail and returned as unclaimed or refused, notice may be provided by posting such notice at the subject job site where the permit is displayed and at the City of Cape Coral City Hall and by first class mail directed to the address furnished to the City with a properly executed affidavit confirming the postings and first class mailing.

The City's Building Official, as defined in the 2004 Florida Building Code, is authorized to issue a stop work order for any violation of this Section that is not corrected within forty-eight (48) hours after receipt of the notice of violation by the licensed general contractor or owner-builder. The stop work order shall continue until the violation is corrected. The following fines shall be imposed for each day that the stop work order is in effect:

First violation: \$200.00 per day;

Second and subsequent violations that occur on the same property within the active permit period for that property: \$500.00 per day.

It shall be the responsibility of the licensed general contractor or owner-builder to contact the City's Building Official or his or her designee once the violation is corrected to request inspection. When the City's Building Official or his or her designee confirms that the violation is corrected, he or she shall remove the stop work order and calculate the total amount of the fine due to the City of Cape Coral for the violation. Unless appealed, the fine shall be due and payable to the City of Cape Coral within ten (10) calendar days after the stop work order was removed.

2. In addition, the City of Cape Coral shall be authorized to clean up all construction refuse and other materials and empty all containers on said site, either in-house or through a contractor, and the cost of all clean-up shall be added to the fine imposed.
3. No inspections will be made and no certificate of occupancy will be issued until all fines and costs have been paid.
4. A stop work order issued pursuant to this Section by the Building Official or his or her designee may be appealed to the Special Magistrate. A notice of appeal shall be filed with the City Clerk with a copy to the Building Department, within five (5) calendar days of the issuance of the stop work order to be appealed.

SECTION 3. The City of Cape Coral Land Use and Development Regulations, Article XII, Section 12.1, is hereby amended as follows:

**ARTICLE XII. BUILDING CODES AND  
CITY OF CAPE CORAL ENGINEERING DESIGN STANDARDS**

**Sec. 12.1 Adoption of Codes: Florida Building Code, Mechanical, Plumbing, and Fuel Gas, Standard Housing, Standard Existing Building, Standard Unsafe**

**Building Abatement, the National Electrical Code, and Engineering Design Standards.**

The following building codes are hereby adopted, and incorporated herein by reference as fully as if set out at length herein, and shall govern all construction, erection, alteration, repair and demolition of all buildings or other structures within the corporate limits of the City, and any appurtenances attached thereto, except those portions of said codes that are hereinafter deleted, modified or amended:

Florida Building Code 2004, except for those parts of Chapter 1, Administration, deleted, modified or amended;

National Electrical Code--1999 Edition;

Standard Housing Code--1997 Edition;

Standard Unsafe Building Abatement Code--1985 Edition;

Florida Building Code 2001-Fuel Gas; and

City of Cape Coral Engineering Design Standards--2002

SECTION 4. The City of Cape Coral Land Use and Development Regulations, Article XII, Section 12.2, is hereby established as follows:

**Sec. 12.2 Chapter 1, Administration, Florida Building Code 2004.**

All sections of Chapter 1, Administration, of the Florida Building Code 2004 are in effect as stated therein except for the following:

**CHAPTER 1  
ADMINISTRATION**

...

**SECTION 114  
STOP WORK ORDER**

**114.1 Authority.**

Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order. In addition, the building official is authorized to issue a stop work order for the failure to remove construction refuse in a timely manner.

**114.2 Issuance.**

The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, ~~the cited~~ all work on the construction site work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

**114.3 Unlawful continuance.**

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

...

SECTION 5. 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 6. 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 \_\_\_\_\_, 2006.

\_\_\_\_\_  
ERIC P. FEICHTHALER, MAYOR

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.

\_\_\_\_\_  
BONNIE J. VENT, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
FLORENCE R. UPTON  
ASSISTANT CITY ATTORNEY  
ord/constructionrefuse