



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	C.(2)
Meeting Date:	5/17/2023
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 46-23 Set Public Hearing for June 7, 2023

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance amends the City of Cape Coral Code of Ordinances Chapter 19, Water and Sewer Utilities, Article VII, Water Management, provides for applicability, provides for intent and purpose, provides for definitions, establishes permits, establishes design drawings, established irrigation system inspection, establishes irrigation design standards, establishes chemical injection, establishes completion of installation or substantial modification, establishes maintenance of irrigation systems, establishes alternative compliance, establishes exemptions, provides for emergency water conservation plan, provides for variance and provides for penalties. (Applicant: Advanced by City Council)

REQUESTED ACTION:

SUMMARY EXPLANATION AND BACKGROUND:

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

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

RECOMMENDATIONS:

SOURCE OF ADDITIONAL INFORMATION:

FISCAL IMPACT/FUNDING SOURCES(S)/BUDGET CONSIDERATIONS:

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department-

ATTACHMENTS:

Description	Type
1. Ordinance 46-23	Ordinance

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 19, WATER AND SEWER UTILITIES, ARTICLE VII, WATER MANAGEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; ESTABLISHING PERMITS; ESTABLISHING DESIGN DRAWINGS; ESTABLISHING IRRIGATION SYSTEM INSPECTION; ESTABLISHING IRRIGATION DESIGN STANDARDS; ESTABLISHING CHEMICAL INJECTION; ESTABLISHING COMPLETION OF INSTALLATION OR SUBSTANTIAL MODIFICATION; ESTABLISHING MAINTENANCE OF IRRIGATION SYSTEMS; ESTABLISHING ALTERNATIVE COMPLIANCE; ESTABLISHING EXEMPTIONS; PROVIDING FOR EMERGENCY WATER CONSERVATION PLAN; PROVIDING FOR VARIANCE; PROVIDING FOR PENALTIES; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Department of Environmental Protection has verified the Caloosahatchee River in Lee County as impaired by nutrients as outlined in the Florida Watershed Restoration Act, Section 403.067, Florida Statutes, and the Impaired Surface Waters Rule, Rule 62-303, Florida Administrative Code; and

WHEREAS, Section 373.228, Florida Statutes, recognizes landscape irrigation as a significant source of water use and directs local governments to improve landscape irrigation and design standards; and

WHEREAS, it is the desire of the City to reduce nutrient pollution and excessive irrigation water use occurring within the City to protect and preserve precious water resources; and

WHEREAS, the City of Cape Coral hereby finds and declares that adoption of this ordinance is necessary, appropriate, and in the public interest of citizens of this community.

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 19, Water and Sewer Utilities, Article VII, Water Management, is hereby amended as follows:

§ 19-87 - Applicability.

This article shall apply to all water resources management activities within the corporate limits of Cape Coral. This article applies to all new residential and commercial automatic irrigation systems, whether operated automatically or manually, and to modifications of \$2,500 or more to existing irrigation systems. This article applies to irrigation systems regardless of whether irrigation systems were installed by property owners, licensed irrigation professional or any other person. This article applies to all irrigation systems using water sources, including, but not limited to: reclaimed water, potable water, well water, surface water, stormwater, gray water, and rainwater collection or harvesting system. This article applies to irrigation systems installed in common areas and open space within residential and commercial developments, as well as individual landscaped areas. The standards in this article do not apply to temporary establishment irrigation used for new vegetation. This article shall govern the materials, design, construction and installation of turf and landscape irrigation system that apply to potable water or non-potable water by means of a permanent above ground or subsurface sprinkler or micro-sprinkler equipment that move water through various means of mechanical pressure. Nothing contained in this article shall be deemed to require any irrigation system or part thereof, which existed prior to be changed altered or modified to meet the standards of this article.

§ 19-88 - Intent and purpose.

As much as 50 percent of water used outdoors is lost due to wind, evaporation and runoff caused by inefficient irrigation methods and systems. The growth of population has given rise to water conservation problems, wastage of sources of water supply, degradation of water quality and quantity in Cape Coral as well as the geographic region in which it is located. It is the intent and purpose of this article to provide means to alleviate such condition by improving the long-term sustainability of the water resources, providing an ongoing water conservation program, increase water use efficiency, and prevent and curtail wasteful water use practices. The city has been a leader in water conservation efforts through the beneficial reuse of reclaimed water from its wastewater reclamation facilities

augmented by the city's fresh water canal system for the purposes of outdoor water uses. In a continuing effort to conserve the city's water resources, in the best interests of its citizens, this article is established to reasonably and equitably allocate available water supplies and establish an Emergency Water Conservation Plan, to increase irrigation efficiency and limit harmful nutrient run-off.

§ 19-89 - Definitions.

As used in this article, the following words and terms shall have the following meaning unless some other meaning is plainly intended.

APPLICATION RATE. The average rate at which water is applied by an irrigation system, also sometimes called precipitation rate. Units are typically inches/hour or millimeters/hour.

AUTOMATIC IRRIGATION SYSTEM. An irrigation system designed to operate following a preset program entered into an automatic controller.

BACKFLOW PREVENTION DEVICE. An approved safety device used to prevent pollution or contamination of the irrigation water supply due to backflow from the irrigation system.

CONTROLLER. The timing mechanism and its mounting box. The controller signals the automatic valves to open and close on a pre-set program or based on sensor readings.

DESIGN. Irrigation system design is defined as the science and art of properly selecting and applying all components within the system.

DISTRIBUTION UNIFORMITY (DU). A measure of how uniformly water is applied to the area being watered, expressed as a ratio. The most common measure of DU is the low quarter DU expressed as Du_{LQ} , which is the measure of the average of the lowest quarter of samples, divided by the average of all samples. A value of $\geq .70$ is considered acceptable.

HEAD. A sprinkler head. Sometimes used interchangeably with an in conjunction with "Sprinkler."

IRRIGATION. Use of water for watering lawns, shrubs, trees, bushes and other landscaping, and washing of cars, trailers, boats, mobile homes, trucks or any other equipment normally washed outside or in a garage. Application of water by artificial means, that is, means other than natural precipitation. Irrigation is used to supply crop water requirements, leach salts, apply chemicals, and for environmental control including crop cooling and freeze protection.

IRRIGATION SYSTEM. A set of components that may include the water source, water distribution network, control components, and other general irrigation equipment which has been installed to provide irrigation.

IRRIGATION WATER. Any and all water on or beneath the surface of the ground within the geographical boundaries of the city used for outdoor irrigation.

IRRIGATION WATER REQUIREMENT OR IRRIGATION REQUIREMENT. The quantity of water that is required for crop production, exclusive of effective rainfall.

LANDSCAPE. Refers to any and all areas which are ornamentally planted, including but not limited to turf, ground covers, flowers, shrubs, trees, and similar plant materials as opposed to agricultural crops grown and harvested for monetary return.

LANDSCAPED AREA. The entire parcel less the building footprint, driveways, hardscapes such as decks and patios, and other non-planted areas. Water features are included in the calculation of the landscaped area. Landscaped area includes Florida-Friendly landscaped areas.

LATERAL. The water delivery pipeline that supplies water to the emitters or sprinklers from a manifold or header pipeline downstream of the control valve.

LICENSED IRRIGATION CONTRACTOR. An irrigation specialty contractor who obtains a local license if applicable, or Irrigation Specialty License from The Florida Construction Industry Licensing Board and maintains continuing education requirements.

LOW VOLUME IRRIGATION. Refers to the use of devices specifically designed to both strictly limit the volume of water being applied and efficiently deliver that water within the root zone of the plant.

LOW VOLUME HAND WATERING. Hand watering by one person with one hose fitted with a self-cancelling or automatic shutoff nozzle or both.

MANIFOLD. The water delivery pipeline that conveys water from the main or submain pipelines to the laterals. Also sometimes called a header pipeline.

MICRO-IRRIGATION. The frequent application of small quantities of water directly on or below the soil surface or plant root zone, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes. Micro-irrigation encompasses a number of methods or concepts, including drip, subsurface, bubbler and micro-spray irrigation, previously known as trickle irrigation. Micro-irrigation is typically a form of low volume irrigation.

MODIFICATION. Any modification to existing irrigation systems such that \$2,500.00 or more in labor and material based on invoice value is replaced or altered.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

POTABLE WATER. Water which is suitable in quality for human consumption and meets the requirements of the Health Authority having jurisdiction.

REPAIRS. A repair is replacing a damaged/defective item in the irrigation system per the existing installation.

SLEEVE. A pipe used to enclose other pipes, wire, or tubing; usually under pavement, sidewalks, or planters.

SPRAY IRRIGATION. The micro irrigation application of water to the soil or plant surface by low flow rate sprays or mists.

SPRINKLER. The sprinkler head. Sometimes called "Head."

SUPPLY (WATER SOURCE). The origin of the water used in the irrigation system.

TEMPORARY ESTABLISHMENT IRRIGATION. The temporary use of irrigation for the establishment of new vegetation once the plants are established or within 30-days, whichever occurs first.

~~WATER.~~ Any and all water on or beneath the surface of the ground within the geographical boundaries of the city.

WATER SHORTAGE. The situation within all or part of the city where insufficient water is available to meet the requirements of the city or when conditions are such as to require a temporary reduction in total use within the area to protect water resources from serious harm.

WORKING PRESSURE. The pressure that a pipe, tubing, nozzle or working part is under during standard operating conditions.

§ 19-90 – Irrigation Water Usage.

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~~(b) Permitted uses of water.~~ The following uses of irrigation water are permitted at any time:

- ~~(1) Required watering in of lawn chemicals.~~
- ~~(2) Pressure washing, car, truck or trailer washing, boat washing, and flushing boat motors after salt water use.~~
- ~~(3) Hand watering using low volume irrigation methods.~~

- ~~(4) Water use for cleaning, adjusting, and repair of irrigation systems provided that an attendant is on site and for not more than ten minutes per week for the entire irrigation system (if the irrigation system is not divided into areas or "zones") or for not more than ten minutes per area or "zone" per week (if the irrigation system is divided into areas or "zones").~~
- ~~(5) Irrigation integral to an ongoing business enterprise, such as a golf course (greens, tees and fairways only), a nursery or agricultural operations, is permitted to the extent necessary to reasonably meet the business's minimum agronomic needs and for freeze or heat damage protection.~~

§ 19-90.1 - Permits.

A permit shall be required for new installation of landscape irrigation systems, and modifications to an existing irrigation system that cost \$2,500.00 or greater in labor and material based on invoice value. City Council shall establish, by resolution, a landscape irrigation permit fee.

§ 19-90.2 – Design drawings.

Design drawings shall be provided for the installation of irrigation systems prior to start of construction of the irrigation system. Design drawings shall be prepared by a licensed professional engineer, licensed plumbing/irrigation contractor or licensed landscape architect. Design drawings for single family homes may be neatly hand drawn and to scale. A design drawing shall be required for irrigation systems installed on non-residential, multi-family residential, and residential developments or buildings, and shall contain the following information:

- (a) Location, type and size of all components including sprinklers, micro-irrigation, main and lateral piping, master valves, valves, moisture sensors, rain sensors, controllers, pump start relays, backflow prevention devices, pumps, wells, etc.
- (b) The flow rate, application rate (inches per hour), and the manufacturer's specifications for operating pressure for the sprinklers and micro-irrigation within each zone.
- (c) The name, address, phone, email, professional license or certification number of the installation contractor and date of installation.
- (d) Design drawings for non-residential and multi-family residential buildings shall also include pump station size, pump station location, design operating pressure per manufacturer's specifications, and flow rate per zone, precipitation rate per zone, locations of pipe, controllers, valves, sprinklers, sleeves, gate valves, sensors, etc.

§ 19-90.3 - Irrigation System Inspection.

New irrigation systems or modifications to existing irrigation systems shall be inspected by the City after installation of a new, or modification of an existing irrigation system. Development Services Department inspectors shall be responsible for irrigation system plan reviews, approval, and inspection services.

§ 19-90.4 - Irrigation Design Standards.

The irrigation system shall be designed to achieve a minimum of 70% efficiency by providing sprinkler head placement and nozzle selection that are within manufacturers specifications. Irrigation systems shall be designed to comply with Title XXVIII, Chapter 373, Section 228, Florida Statutes, and the standards adopted by the City and reference the Florida Building Code, Plumbing Volume, Appendix E.

§ 19-90.5 - Chemical injection.

Chemical injection systems for the injection of fertilizer, pesticides, rust inhibitors, or any other injected substance will be located and sized according to the manufacturer's recommendations and shall comply with the City's Fertilizer Ordinance contained in Chapter 9, Article VI. Injection systems shall be located downstream of the applicable backflow prevention devices as required by Section 487.021 and 487.05, Florida Statutes; the Environmental Protection Agency (EPA); Pesticide Regulation Notice 87-1; or other applicable codes. If an irrigation water supply is also used for human

consumption, an air gap separation or an approved reduced principal backflow prevention device shall be required in compliance with ASSE 1013.

§ 19-90.6 - Completion of Installation or Substantial Modification.

A property owner or licensed irrigation contractor who installs an irrigation system shall conduct final testing and adjustments to achieve design specifications prior to completion of the system. A property owner or licensed irrigation contractor who installs or performs work on an automatic irrigation system shall test for the correct operation of each technology that inhibits or interrupts operation of the system during periods of sufficient moisture. If such devices or switches are not installed in the system or are not in proper operating condition, the property owner or licensed irrigation contractor shall install new ones or repair the existing ones and confirm that each device or switch is in proper operating condition before completing other work on the system.

§ 19-90.7 - Maintenance of Irrigation Systems.

Upon irrigation system completion, a licensed irrigation contractor responsible for installing or substantially modifying an irrigation system shall provide the property owner with a maintenance checklist affixed to or near the controller and accompanied by accurate design drawings, recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking technology that inhibits or interrupts operation of the system during periods of sufficient moisture, filter cleaning recommendations, if applicable, and information on the current water restrictions. These contractor requirements will not impede the inspection process if not completed at time of final inspection.

§ 19-90.8 - Alternative Compliance

- (a) The provisions of this section shall be liberally construed to effectively carry out the purpose and intent of the City of Cape Coral Comprehensive Plan and of this Article in the interest of the health, safety, and welfare of the residents of the City.
- (b) An applicant may submit a proposal that varies from the strict application of the requirements of §19-90 through 19.90.9 (also known as "alternative compliance") to accommodate unique site features or characteristics, utilize innovative design, prevent extraordinary hardship, or to promote the overriding public interest or general public welfare. The Utilities Director may approve an alternative compliance plan upon finding that the alternative compliance plan fulfills the purpose and intent of § 19-90 through 19.90.9 at least as well as a plan that strictly adheres to the requirements of § 19-90 through 19.90.9. When evaluating proposed alternative compliance plans, consideration shall be given to proposals which preserve native vegetation and other low water use landscape design principles and where the design ensures the maximum preservation of existing vegetation on the site. Diminished value of property or inconvenience is not an extraordinary hardship.
- (c) An applicant seeking authorization for alternative compliance shall have the burden of demonstrating to the Utilities Director the reasons why the strict application of the requirements of § 19-90 through 19.90.9 should not apply.
- (d) Requests for alternative compliance shall be submitted as part of the Irrigation System Approval Process.
- (e) The Utilities Director may require a site inspection and corresponding site inspection fee for systems which are installed according to a City approved alternative compliance plan. City Council shall establish, by resolution, an alternative compliance site inspection fee.

§ 19-90.9 - Exemptions.

The following are exempted from the provisions of §19-90 through 19.90.9, but should follow applicable Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries:

- (a) Bona fide agricultural activities.
- (b) Athletic fields.
- (c) Golf course play areas.
- (d) Nurseries.
- (e) Required watering in of lawn chemicals.
- (f) Pressure washing, car, truck or trailer washing, boat washing, and flushing boat motors after salt water use.
- (g) Low Volume Hand Watering.
- (h) Water use for cleaning, adjusting, and repair of irrigation systems provided that an attendant is on site and for not more than ten minutes per week for the entire irrigation system (if the irrigation system is not divided into areas or "zones") or for not more than ten minutes per area or "zone" per week (if the irrigation system is divided into areas or "zones").

§ 19-91 - Emergency Water Conservation Plan.

- (a) *Purpose.* The City of Cape Coral has developed an Emergency Water Conservation Plan (the "Plan") in order to ensure and preserve an adequate supply of water resources for irrigation purposes in order to protect the health, safety, and welfare of the citizens.
- (b) *Determination of irrigation system water shortage.* If it appears that water demand on the city's irrigation water system may exceed supply, the City Manager, following consultation with the Utilities Director, shall consider whether there is a need for emergency measures in order to conserve the city's irrigation water supply. In making his/her determination, the Utilities Director shall consider factors such as water shortage levels and available sources of supply, available usable storage on hand, storage tank drawdown rates, system pressures, the projected water supply capability, outlook for precipitation, daily water use patterns, and availability of water from other sources. Emergency measures shall consist of three stages: Advisory, Stage I, and Stage II emergencies. Each stage shall be implemented when the factors considered continually worsen to the point that the City Manager, following consultation with the Utilities Director, makes a determination that the increased measures are warranted.
- (c) *Implementation of Emergency Water Conservation Plan.* The City Manager or his/her designee shall implement water conservation measures. The City Manager or his/her designee shall issue a Notice of Emergency declaring the water shortage condition and setting forth the steps for water conservation by consumers. The City Manager may declare any stage be implemented including all or part of a particular stage.
- (d) *Notice of Emergency.* The City of Cape Coral will use the following methods of notification when a water shortage condition is declared. A Notice of Emergency will set forth the necessary emergency measures associated with the particular Stage of emergency being put into effect. A notice shall be sent or posted as follows:
 - (1) City email to include staff.
 - (2) Notices in all city utility payment office, including City Hall.
 - (3) The City of Cape Coral's web site.
 - (4) Local radio, local newspaper and cable television stations.
 - (5) Notice in customer water bills.
- (e) *Emergency stages.*
 - (1) *Advisory Stage.* When conditions warrant the initial advisory stage, the City Manager will issue a Notice of Emergency requesting water conservation by consumers. Reductions in water usage are not mandatory at this stage, but will help reduce consumption voluntarily.
 - (2) *Stage I.* Upon evaluation of the conditions set forth in § 19-91(b), if the city believes that it is in the best interest of the city to issue a declaration of a Stage I water shortage condition, use of water from the city's reclaimed water, fresh water canal system or

private irrigation wells for any purpose shall be regulated as stated below until such time as the declaration of the Stage I water shortage has been rescinded.

- a. *Limitations on watering of lawns and landscape.* It shall be unlawful for any person to use water for irrigation except as described herein:
Upon the declaration of a Stage I water shortage condition, it shall be unlawful for any person to use water for irrigation except as described herein:

1.

When the last number of an address ends in:	Watering shall be allowed:
0	Monday 12:00 a.m. <u>8:00 p.m.</u> to 4:00 a.m. <u>11:59 p.m.</u>
1	Friday <u>Tuesday</u> 4:00 a.m. <u>12:00 a.m.</u> to 8:00 a.m. <u>4:00 a.m.</u>
2	Thursday <u>Wednesday</u> 12:00 a.m. <u>4:00 a.m.</u> to 4:00 a.m. <u>8:00 a.m.</u>
3	Wednesday <u>Thursday</u> 12:00 a.m. <u>8:00 p.m.</u> to 4:00 a.m. <u>11:59 p.m.</u>
4	Sunday <u>Friday</u> 12:00 a.m. <u>12:00 a.m.</u> to 4:00 a.m. <u>4:00 a.m.</u>
5	Saturday 12:00 a.m. <u>4:00 a.m.</u> to 4:00 a.m. <u>8:00 a.m.</u>
6	Thursday <u>Sunday</u> 4:00 a.m. <u>8:00 p.m.</u> to 8:00 a.m. <u>11:59 p.m.</u>
7	Wednesday <u>Monday</u> 4:00 a.m. <u>12:00 a.m.</u> to 8:00 a.m. <u>4:00 a.m.</u>
8	Sunday <u>Tuesday</u> 4:00 a.m. <u>4:00 a.m.</u> to 8:00 a.m. <u>8:00 a.m.</u>
9	Saturday <u>Wednesday</u> 4:00 a.m. <u>8:00 p.m.</u> to 8:00 a.m. <u>11:59 p.m.</u>

2. For properties or developments up to and including five acres in size that have an irrigation system that simultaneously irrigates multiple properties with different watering times including, but not limited to, duplexes, multi-family units, compound use and mixed use units, the watering schedule shall not be as described in the chart above, but shall be allowed on ~~Mondays~~ Thursday from 4:00 a.m. to 8:00 a.m.
3. For properties or developments more than five acres in size that have an irrigation system that simultaneously irrigates multiple properties with different watering times including, but not limited to, multi-family, compound use and mixed use units, the watering schedule shall not be as described in the chart above, but shall be allowed on ~~Mondays~~ Friday from 12:00 a.m. to 8:00 a.m.
4. Watering of new lawns and landscaping during a ~~45~~30-day establishment period shall be permitted on ~~Monday, Tuesday, Wednesday, Thursday, Saturday and Sunday~~ any day of the week from 2:00 a.m. to 8:00 a.m. Irrigation of new landscaping which has been in place for thirty-one (31) to ninety (90) days shall be permitted on Monday, Wednesday, Thursday and Saturday from 2:00 a.m. to 8:00 a.m.
5. During any time change from Standard to Daylight Savings or vice versa, a 30 day grace period shall be in effect to allow residents to reset their sprinkler timers. Residents will not be cited for watering within one hour before the beginning or one hour after the end times provided above within the 30 day grace period.
- b. ~~Permitted uses of water.~~ The following uses of irrigation water are permitted at any time:
1. ~~Required watering in of lawn chemicals.~~
2. ~~Pressure washing, car, truck or trailer washing, boat washing, and flushing boat motors after salt water use.~~

- ~~3. Hand watering using low volume irrigation methods.~~
- ~~4. Water use for cleaning, adjusting, and repair of irrigation systems provided that an attendant is on site and for not more than ten minutes per week for the entire irrigation system (if the irrigation system is not divided into areas or "zones") or for not more than ten minutes per area or "zone" per week (if the irrigation system is divided into areas or "zones").~~
- ~~5. Irrigation integral to an ongoing business enterprise, such as a golf course (greens, tees and fairways only), a nursery or agricultural operations, is permitted to the extent necessary to reasonably meet the business's minimum agronomic needs and for freeze or heat damage protection.~~

b. Exemptions.

The following are exempted from the provisions of §19-91, but should follow applicable Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries:

- (1) Bona fide agricultural activities.
 - (2) Athletic fields.
 - (3) Golf course play areas.
 - (4) Nurseries.
 - (5) Required watering in of lawn chemicals.
 - (6) Pressure washing, car, truck or trailer washing, boat washing, and flushing boat motors after salt water use.
 - (7) Low Volume Hand Watering.
 - (8) Water use for cleaning, adjusting, and repair of irrigation systems provided that an attendant is on site and for not more than ten minutes per week for the entire irrigation system (if the irrigation system is not divided into areas or "zones") or for not more than ten minutes per area or "zone" per week (if the irrigation system is divided into areas or "zones").
- (3) Stage II water shortage condition. Notwithstanding the foregoing, Upon evaluation of the conditions set forth in § 19-91(b), if the city believes that conditions are so severe that it is in the best interest of the city to issue a declaration of a Stage II water shortage condition, it shall be prohibited for any person to use or permit the use of water from the city's reclaimed water, fresh water canal system or private irrigation wells for any purpose, with the exception of fire fighting, until such time as the declaration of water shortage has been rescinded.
- (f) *Measures of effectiveness.* The City Manager or his/her designee will consider the following criteria to measure the effectiveness of the Plan in order to determine when the declaration of emergency water shortage shall be rescinded:
- Reduction in pump run times.
 - Maintain maintenance of elevated tank levels above ten feet.
 - Maintain maintenance of system pressures above 20 psi.
 - Water storage tank recovery time.
 - Reduction in average daily flow (ADF) demands.
 - Reduction in peak day flow (PDF) demands.

- (g) *Plan review.* The City of Cape Coral will review the Emergency Water Conservation Plan at a minimum of every five years, or after each activation, if an activation of the plan is within a five year period in order to adapt to new water supplies and demands.

§ 19-92 - Variance.

- (a) Any person may gain relief from the ~~provisions of this article~~ watering schedule by ~~through~~ applying for an administrative variance from the ~~City Manager~~ Utilities Director or his or her or the Director's designee. ~~The variance shall only be granted on a showing of exceptional circumstances establishing that the public health, safety, or welfare would be better enhanced and protected by an altering of the water use restrictions set forth herein.~~ An administrative variance from the specific day or days identified in this article may be granted by the Utilities Director, or the Director's designee, if the following requirements are met.
- (1) A Variance may be granted from the days-of-the-week water restrictions for any residential, commercial, or recreational user having soil moisture sensor(s) and/or an evapotranspiration or weather based smart controller(s).
- (2) Applicant must maintain and operate the system within the $\geq 70\%$ minimum efficiency standard for distribution uniformity as well as in accordance with manufacturer specifications at all times, including technology that inhibits or interrupts operation of the system during periods of sufficient moisture.
- (3) A variance granted does not relieve a property owner from complying with irrigation restrictions contained in a water shortage order or water emergency declaration issued by the South Florida Water Management District, the City, or any other governmental entity having jurisdiction.
- (b) The City shall maintain a database of all properties which have installed and maintained advanced irrigation systems that qualify for a variance in accordance with the requirements of this section.
- (c) An applicant who receives a variance for having an evapotranspiration-based or moisture sensing controlled irrigation system agrees such irrigation system is subject to an inspection by the City to ensure ongoing compliance. An applicant agrees a variance is subject to immediate revocation by the City if the system is found to be not in compliance after an inspection by the City, and the City issues a notice of violation or citation for such non-compliance. The revocation shall continue until applicant comes into compliance and notifies the City, in writing, to conduct a re-inspection to ensure compliance or, notifies the City, in writing, they no longer want the variance or, until the notice of violation or citation is heard at a Code Enforcement Hearing as provided in section 19-93 below.

§ 19-94 - Penalties.

Violation of any provision of this article shall result in the following penalties:

- (a) First violation: no fine.
- (b) Second violation: \$100 fine.
- (c) Third violation: \$200 fine.
- (d) Fourth and subsequent violations: \$400 fine. ~~An irrigation dual~~ water customer may also be disconnected and subject to a reconnection fee ~~of \$80~~. Reconnection of service shall be at the sole discretion of the City Manager or his or her designee.

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 on December 1, 2024.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR
SESSION THIS _____ DAY OF _____, 2023.

JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER _____
STEINKE _____
SHEPPARD _____
HAYDEN _____

CUMMINGS _____
WELSH _____
LONG _____
COSDEN _____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2023.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:


JOHN E. NACLERIO III
ASSISTANT CITY ATTORNEY



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	C.(3)
Meeting Date:	5/17/2023
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 48-23 Set Public Hearing for June 7, 2023

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The Ordinance provides for the release of a Permanent Ingress and Egress Easement of a portion of Block 1842, Lots 5 and 6, Unit 45, Part 1, Cape Coral Subdivision. as more particularly described herein and authorizes the Mayor to execute a release of said easement. (Applicant: Brought forward by City Management.)

REQUESTED ACTION:

Approve or Deny

SUMMARY EXPLANATION AND BACKGROUND:

In 2006, City Council adopted Ordinance 69-06 which approved a Development Order for "South Santa Barbara Plaza" located at 3032-3108 Santa Barbara Boulevard. In February 2011, City Council adopted Ordinance 1-11, which amended Ordinance 69-06 and expanded the land area of the Project to include adjacent lots at the rear of the Project and vacated a portion of the 20-foot wide alley right-of-way within said Block 1842. Ordinance 1-11 provided that the developer deed a perpetual ingress/egress easement located within Lots 5 and 6, Block 1842, Cape Coral Unit 45, Part 1 to allow public access from the alley north of the easement.

Over the years, the ownerships of the expanded lots has changed. Ordinance 36-23 is being considered on May 17, 2023 to further amend the PDP and remove said Lots 5 and 6, Block 1842 from the PDP. The current owner of Lots 5 and 6, Block 1842, Reviving Homes LLC, has requested the City release the easement in order to build on the property. The City has determined the easement is no longer necessary and agrees to the release of the Easement.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision?

If Yes, Priority Goals Supported are listed below.

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

RECOMMENDATIONS:

Approval

SOURCE OF ADDITIONAL INFORMATION:

Dawn Andrews, Property Broker , 1-239-574-0735