



**AGENDA
REQUEST FORM**
CITY OF CAPE
CORAL

Item Number:	C.(7)
Meeting Date:	4/3/2024
Item Type:	ORDINANCES/RESOLUTIONS - Introductions

TITLE:

Ordinance 29-24 Set Public Hearing for April 17, 2024

ORDINANCES AND RESOLUTIONS:

WHAT THE ORDINANCE ACCOMPLISHES:

The ordinance amends Ordinance 46-23 to accelerate and revise the effective date of Ordinance 46-23 from December 1, 2024, to June 1, 2024, regarding irrigation systems, and amends the City of Cape Coral, Florida, Code of Ordinances, Chapter 19 "Water and Sewer Utilities," Article VII, "Water Management," by amending Section 19-90.6, "Completion of installation or substantial modification," Section 19-90.8, "Alternative Compliance," and Section 19-94, "Penalties," regarding irrigation systems and penalties for violations. (Brought forward by City Council)

REQUESTED ACTION:

Introduction

SUMMARY EXPLANATION AND BACKGROUND:

City Council adopted Ordinance 46-23 on June 7, 2023, with an effective date of December 1, 2024. During the February 14, 2024, Committee of the Whole meeting, City Council directed Staff to accelerate the 2023 Conservation Ordinance and increase fines for water violations.

STRATEGIC PLAN ALIGNMENT:

1. Is this a Strategic Decision? Yes
If Yes, Priority Goals Supported are listed below.
If No, will it harm the intent or success of the Strategic Plan?

ENVIRONMENTAL SUSTAINABILITY: PRESERVE CAPE CORAL'S NATURAL RESOURCES FOR CURRENT AND FUTURE GENERATIONS

RECOMMENDATIONS:

SOURCE OF ADDITIONAL INFORMATION:

Jeff Pearson, Utilities Director, 1-239-574-0709

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

1. Will this action result in a Budget Amendment?

PREPARED BY:

Division- Department- Utilities

ATTACHMENTS:

Description

- ▣ 1. Ordinance 29-24

Type

Ordinance

ORDINANCE 29 - 24

AN ORDINANCE OF THE CITY OF CAPE CORAL, FLORIDA, AMENDING ORDINANCE 46-23 TO ACCELERATE AND REVISE THE EFFECTIVE DATE OF ORDINANCE 46-23 FROM DECEMBER 1, 2024, TO JUNE 1, 2024, REGARDING IRRIGATION SYSTEMS; AND BY AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 19, "WATER AND SEWER UTILITIES," ARTICLE VII, "WATER MANAGEMENT," BY AMENDING SECTION 19-90.6, "COMPLETION OF INSTALLATION OR SUBSTANTIAL MODIFICATION," SECTION 19-90.8, "ALTERNATIVE COMPLIANCE," AND SECTION 19-94, "PENALTIES," REGARDING IRRIGATION SYSTEMS AND PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council adopted Ordinance 46-23 on June 7, 2023, with an effective date of December 1, 2024, regarding irrigation systems in the City; and

WHEREAS, City staff has recommended that the effective date of Ordinance 46-23 be accelerated and amended to reflect an effective date of June 1, 2024; 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 effective date of Ordinance 46-23 is hereby accelerated and revised to reflect June 1, 2024, instead of December 1, 2024.

SECTION 2. The City of Cape Coral, Florida Code of Ordinances, Chapter 19, Section 19-90.6, "Completion of Installation or Substantial Modification," is hereby amended to read as follows:

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

...

Property owners that install a smart irrigation system verified by the City Building Department, which meets the $\geq 70\%$ water conservation efficiency and have smart controllers and soil sensors installed, shall receive a \$500 cash rebate from the City.

SECTION 3. The City of Cape Coral, Florida Code of Ordinances, Chapter 19, Section 19-90.8, "Alternative compliance," is hereby amended to read as follows:

§ 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~~ Development Services Director, or their designee, 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~~ Development Services Director, or their

designee, 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~~ Development Services Director, or their designee, 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.

SECTION 4. The City of Cape Coral Code of Ordinances, Chapter 19, Section 19-94, "Penalties," is hereby amended to read as follows:

§ 19 -94 - Penalties.

Violation of any provision of this article within a consecutive 12-month period shall result in the following penalties:

- (a) First violation: no fine.
- (b) Second violation: ~~\$100~~ 200 fine.
- (c) Third violation: ~~\$200~~ 350 fine.
- (d) Fourth and subsequent violations: ~~\$400~~ 500 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 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 become effective June 1, 2024.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS _____ DAY OF _____, 2024.

JOHN GUNTER, MAYOR

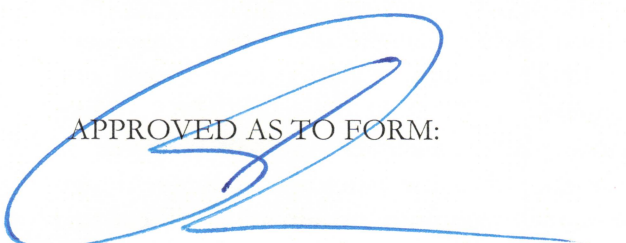
VOTE OF MAYOR AND COUNCILMEMBERS:

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/ Irrigation Conservation