



**AGENDA  
REQUEST  
FORM  
CITY OF  
CAPE  
CORAL**

**Item  
Number:** B.(6)

**Meeting  
Date:** 4/17/2024

**Item  
Type:**

**Public Hearings - Legislative Hearings (Note: Input received as follows: 1. City Staff presentations are limited to five (5) minutes; 2. Applicant(s) presentations are limited to five (5) minutes; and 3. Resident input is limited to three (3) minutes per individual with a maximum of sixty (60) minutes total. All three are subject to the following statement: Unless otherwise extended by City Council.)**

**TITLE:**

Ordinance 26-24 Public Hearing

**ORDINANCES AND RESOLUTIONS:**

**WHAT THE ORDINANCE ACCOMPLISHES:**

The ordinance amends the City of Cape Coral, Florida, Code of Ordinances, Chapter 9, "Health and Sanitation," Article III, "Disposition of Garbage," Section 9-73, "Refuse service to be provided by City refuse franchise hauler," pertaining to the time to begin collection of refuse, and Chapter 12, "Offenses and Miscellaneous provisions," Article II, "Offenses creating nuisances," Section 12-22, "Noise Control," pertaining to the exemption for City approved refuse and recyclable waste collection. (Brought forward by City Management)

**REQUESTED ACTION:**

Approve or Deny

**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:**

Approve

**SOURCE OF ADDITIONAL INFORMATION:**

Terry Schweitzer, Solid Waste Manager, 1-239-573-3136

Damon Grant, Interim Public Works Director, 1-239-242-3681

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

1. Will this action result in a Budget Amendment?      No

**PREPARED BY:**

Division-      Department- Public  
Works

**ATTACHMENTS:**

	<b>Description</b>	<b>Type</b>
▣	1. Ordinance 26-24	Ordinance
▣	2. Business Impact Estimate	Backup Material

ORDINANCE 26 - 24

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 9, "HEALTH AND SANITATION," ARTICLE III, "DISPOSITION OF GARBAGE," SECTION 9-73, "REFUSE SERVICE TO BE PROVIDED BY CITY REFUSE FRANCHISE HAULER," PERTAINING TO THE TIME TO BEGIN COLLECTION OF REFUSE; AND CHAPTER 12, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE II, "OFFENSES CREATING NUISANCES," SECTION 12-22, "NOISE CONTROL," PERTAINING TO THE EXEMPTION FOR CITY APPROVED REFUSE AND RECYCLABLE WASTE COLLECTION.; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Southwest Florida has been experiencing some of the highest temperatures ever recorded, and the heat index has been regularly reaching 100 degrees or higher during the summer months; and

WHEREAS, Waste Pro has requested that the City amend Cape Coral Code of Ordinances to modify Waste Pro's collection schedule and noise exemption during the summer months in order to protect its workers from heat exposure; 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, Code of Ordinances, Chapter 9, Article III, Section 9-73, "Refuse service to be provided by city refuse franchise hauler," is hereby amended to read as follows:

**§ 9-73 - Refuse service to be provided by city refuse franchise hauler.**

...

- (d) The franchise hauler shall not allow single-family dwelling collection trucks to begin collection of refuse until on or after 6:00 a.m. Notwithstanding the foregoing, during the period from May 1<sup>st</sup> through September 30<sup>th</sup> of every year, the franchise hauler shall not allow single-family dwelling collection trucks to begin collection of refuse until on or after 5:00 a.m. Construction cleanup contractors shall not begin collection of construction refuse until on or after 7:00 a.m.

SECTION 2. The City of Cape Coral, Florida, Code of Ordinances, Chapter 12, Article II, Section 12-22, "Noise control," is hereby amended to read as follows:

**§ 12-22 - Noise control.**

...

- (g) *Exemptions.* The provisions of this section shall not apply to:

...

- (4) The During the period from October 1<sup>st</sup> through April 30<sup>th</sup> of every year, the operation of equipment or conduction of activities for city approved refuse and recyclable waste collection, between the hours of 6:00 a.m. to 8:00 p.m. During the period from May 1<sup>st</sup> through September 30<sup>th</sup> of every year, the operation of equipment or conduction of activities for city approved refuse and recyclable waste collection, between the hours of 5:00 a.m. to 8:00 p.m.

...

SECTION 3. 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 4. 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 \_\_\_\_\_  
STEINKE \_\_\_\_\_  
SHEPPARD \_\_\_\_\_  
HAYDEN \_\_\_\_\_

CARR \_\_\_\_\_  
WELSH \_\_\_\_\_  
LONG \_\_\_\_\_  
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/RefuseCollTimes

# Business Impact Estimate

Proposed ordinance's title/reference: ORDINANCE 26 – 24 AN ORDINANCE AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 9, "HEALTH AND SANITATION," ARTICLE III, "DISPOSITION OF GARBAGE," SECTION 9-73, "REFUSE SERVICE TO BE PROVIDED BY CITY REFUSE FRANCHISE HAULER," PERTAINING TO THE TIME TO BEGIN COLLECTION OF REFUSE; AND CHAPTER 12, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE II, "OFFENSES CREATING NUISANCES," SECTION 12-22, "NOISE CONTROL," PERTAINING TO THE EXEMPTION FOR CITY APPROVED REFUSE AND RECYCLABLE WASTE COLLECTION.; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of Cape Coral hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare): Safety for contracted employees

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Cape Coral, if any:

(a) An estimate of direct compliance costs that businesses may reasonably incur;

(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and

(c) An estimate of the City of Cape Coral's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: 1

4. Additional information the governing body deems useful (if any):

Southwest Florida has been experiencing some of its highest temperatures ever, and the heat index has reached dangerous levels during the summer months, regularly reaching 100 degrees or higher. According to the Occupational Safety and Health Administration (OSHA), the heat index is a measure of how hot it feels when the humidity is factored in. A heat index of 90 degrees or higher is considered dangerous, and a heat index of 105 degrees or higher can be fatal. Heat-related deaths in Florida are up 88% in the last 3 years. These deaths are preventable, and we need to take action to protect workers from heat exposure.

One way to protect workers from heat exposure is to allow them to start work one (1) hour early. This will allow them to avoid the hottest part of the day. According to a study by the National Center for Farmworker Health, allowing workers to start work at least one hour early reduced the risk of heat-related illness by 50%.

Another recent study conducted in Phoenix, AZ found that workers' core body temperatures can reach unsafe levels even on moderate summer days, according to the study by Turner Construction released in December 2023. "The study was conducted over three summer days on which the average high temperature was 88 degrees Fahrenheit and found 43% of the 33 workers being watched had core temperatures of more than 100.4 F, the Occupational Safety and Health Administration's benchmark for a greater chance of heat stress."