ORDINANCE 33 - 15

AN ORDINANCE AMENDING THE CAPE CORAL CODE OF ORDINANCES, CHAPTER 19, WATER AND SEWER UTILITIES, BY AMENDING CUSTOMER DEPOSITS; PROVIDING FOR LIENS; PROVIDING PENALTIES; PROHIBITING USE OF RECLAIMED WATER FOR FIRE PROTECTION SYSTEMS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is authorized to adopt water, wastewater (sewer), and irrigation (reclaimed) water rates, fees, and charges pursuant to Florida Statutes; and

WHEREAS, an objective of the City is to ensure that rates, fees, and charges levied to pay for the cost of providing water, wastewater (sewer), and irrigation (reclaimed) water are just and reasonable to cover the costs of providing such services; and

WHEREAS, the City Council for the City of Cape Coral finds that fire protection systems utilizing reclaimed water may be detrimental to the health, safety, and welfare of its citizens due to, at times, low water pressure, infiltration of snails, or other pollutants, within the reclaimed water system.

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, is hereby amended as follows:

§ 19-6 Customer deposit.

(a) Deposit required. A deposit shall be required of all new customers of the city water and sewer systems. Deposits shall be paid to the city by cash, check, money order or credit card. The city shall begin requiring deposits for new accounts that are in the name of the property owner(s) on June 1, 2004; for all new accounts that are in the name of someone other than the property owner(s), the city shall begin requiring deposits for new accounts on April 27, 2004.

(b) Exemptions.

(1) a. A customer who has had a previous account with the city and who is applying for new service must satisfy any outstanding balance owed to the city on any previous account(s) prior to receiving service at a new address. A customer who has had a previous utility account may be exempted from paying a customer deposit if the following criteria are met:

b. The previous account(s) existed a minimum of 24 months immediately preceding application for the new account; the new account requested is in the same name as the previous account and is of the same type; and the customer has not, during the preceding 12 months:

1. Made more than one payment that was two payments that were received after the due date;
2. Paid with a check refused by the bank;
3. Had utility service discontinued for non-payment;
4. Tampered with a meter; or
5. Used utility service in a fraudulent or unauthorized manner.

(2) Written statement from another utility company. A new customer will be exempt from the customer deposit requirement if the new customer furnishes a written statement from another utility company that previously provided service to the customer, stating that the new customer's account meets the criteria stated in subsection (b)(1) above.

(c) Deposits on existing accounts. The city reserves the right to require a deposit on existing accounts that have exhibited any one of the characteristics enumerated in subsection (b)(1) above.
(1) Made more than two payments that were received after the due date in a 12 month period;

(2) Paid with a check refused by the bank;

(3) Had utility service discontinued for non-payment;

(4) Tampered with a meter; or

(5) Used utility service in a fraudulent or unauthorized manner.

(d) Increase in deposit(s).

(1) The city reserves the right to require an increase in a current customer deposit, when an account exhibits any one of the characteristics enumerated in subsection (b) above and the current deposit is less than the average monthly billing for the property over the past 12 months. The increased deposit may equal up to the highest monthly bill for the immediately preceding 12 months.

(2) The city reserves the right to require a deposit or an increased deposit to an account when it is determined by the City the meter has been tampered with, or the utility service has been obtained in a fraudulent or unauthorized manner. The total deposit shall be the highest monthly bill for the immediately preceding 12 months or two times the standard deposit, whichever is greater. For accounts that exhibit two, or more, occurrences of either tampering with a meter or obtained utility service in a fraudulent or unauthorized manner, the deposit may be increased up to three times the standard deposit.

(e) Refund of deposits. Refunds of deposits shall be made only to the person who originally made the deposit, except as follows:

(1) Divorce. The customer deposit name may be changed from one spouse to another without the consent of the customer whose name is currently listed on the account, if a written, dated, and signed request is made by the spouse who desires the name change and the request is accompanied by a copy of a property settlement agreement or other legally binding document that designates the requesting party as the legal occupant of the residence.

(2) Death. The customer deposit name may be changed to a personal representative with receipt of a copy of the death certificate and letters of administration.

(f) Deposit interest. All deposits will be held in escrow. If the deposit is held in an interest bearing account, interest on the deposit will be credited annually to the utility account for which the deposit is being held. The rate of interest shall be the rate paid by the State of Florida Board of Administration on the local government surplus funds trust investment pool.

(g) Application of deposit. A customer deposit may be applied against any outstanding utility bill on the property. When an account has been terminated and the deposit or balance thereof is unclaimed by the person entitled to receive same, disposition shall be in accordance with the existing laws of the State of Florida relating to unclaimed funds.

(h) Refund of deposit. Deposits shall be credited to the customer at the end of two years provided that the customer has not had service terminated for non-payment; has not issued any checks that were returned by the bank for insufficient funds; and has not had more than one delinquent utility bill within the 12 month period immediately preceding the end of the two year period.

§ 19-8 Limitations on use.

(a) Water. Water service purchased from the city shall be used by the customer only for the purposes specified in the application for water service, and, except as provided in subsection (c) below, the customer shall not sell or otherwise dispose of the water service supplied by the city. Water service furnished to the customer shall be rendered directly to the customer through the city’s individual meter. Except as provided in subsection (c) below, water service
may not be remetered by the customer for the purpose of selling or otherwise disposing of water service to lessees, tenants or others, and under no circumstances shall the customer or customer's agent or any other individual, association or corporation install any device or equipment for the purpose of so remetering the water service. In no case shall a customer, except with the written consent of the city, extend his or her lines across a street, alley, lane, court, property line, avenue or other way, in order to furnish water service for adjacent property, even though the adjacent property may be owned by him or her. In case of the unauthorized extension, remetering, sale or disposition of service, in addition to any penalties imposed pursuant to this Code for violation of this section, the customer's water service is subject to discontinuance until the unauthorized extension, remetering, sale or disposition is discontinued and full payment is made of bills for water service, calculated on proper classification and rate schedules, cost to repair or replace any damaged meter, and reimbursement in full made to the city for all extra expenses incurred for clerical work, testing, inspections and discovery.

§ 19-11 Changes to customer's installation.

No changes or increases in the customer's installation, which will materially affect the volume of service or the proper operation of the pipes, mains or stations of the city, shall be made without written consent of the city. The customer will be liable for any change resulting from costs to repair or replace equipment damaged by the customer due to the customer tampering with the installation in violation of this section.

§ 19-16 Billing periods.

Bills for water/sewer, water, sewer, and irrigation service will be rendered monthly. Bills are due when rendered and shall be considered as received by the customer when delivered or mailed to the water/sewer, water, sewer, and irrigation service address, or some other place mutually agreed upon. Nonreceipt of bills by the customer shall not release or diminish the obligation of the customer with respect to payment thereof.

§ 19-17 Billing, procedures and delinquent bills, liens.

(a) Bills are due when rendered, and if not paid within 20 days thereafter, become delinquent, and water, wastewater and irrigation service may then be discontinued on the date indicated on the bill, which date shall not be less than 45 days from the date the bill was rendered. Prior to any disconnection of water, wastewater or irrigation service, the occupant(s) of the premises shall be given written notice of the city's intention to disconnect service for nonpayment. Written notice may include electronic notification, to include, but not be limited to, email or text messages. The notice shall also advise the occupant of the process for disputing the bill. At anytime prior to the date indicated on the bill for termination of service, a customer or occupant wishing to challenge a disputed bill may do so at the Financial Services Department. A designated employee will hear the customer's complaint and make a determination as to whether or not the customer has been correctly billed.
service is disconnected for non-payment, service will be resumed only upon payment of all past-due bills and penalties, together with a reconnect charge adopted in the rate resolution. There shall be no liability of any kind against the city by reason of discontinuance of water, wastewater or irrigation service to the customer for failure of the customer to pay the bills on time.

(b) After an account has been delinquent for 20 days or more and the city has made reasonable efforts to collect the delinquent account, the city may remove the water meter. When the meter is reinstated, the city shall charge the normal installation fee.

(c) For owner accounts that are delinquent, all amounts due and unpaid for payment of water, wastewater or irrigation water shall constitute a lien on the owner’s real property in accordance with sections 153.67 and 159.17, Florida Statutes. Such lien may be perfected, at the discretion of the city, by recordation of a notice of lien by the city in the public records of Lee County, Florida, if the delinquent amount has not been paid in full by the date due as indicated on the invoice. Subsequent liens may be recorded for additional invoices that remain unpaid after the date of any previous lien. The lien(s) shall be of equal dignity with the lien of state, county and municipal taxes. The city may foreclose the lien in the same manner as provided by the laws of Florida for the foreclosure of mortgages upon real property. Should the city elect not to record a lien and pursue foreclosure, such election shall not preclude the city from pursuing other enforcement mechanisms, including, but not limited to, filing suit to collect the delinquent amount, engaging outside collection agencies to pursue payment, and discontinuing service to the account holder’s property. All costs and fees associated to either administer the lien process or collection agency, or both, shall be paid by the account holder at the time of satisfaction of the lien, or the collection of the delinquent amount.

§ 19-20 Reserved Violations; penalties

Unless otherwise specified, any person, firm, contractor, corporation, association or partnership found to have violated any of the provisions of this chapter shall be punished pursuant to section 1-14, City of Cape Coral Code of Ordinances.

§ 19-22 Unauthorized connections.

(a) Connections to the city’s water, sewer, or irrigation system for any purpose whatsoever are to be made only by under the supervision of city employees of the city. Unauthorized connections render the service subject to immediate discontinuance without notice, and water, sewer, or irrigation service will not be restored until such unauthorized connections have been removed and unless settlement is made in full for all water, sewer, or irrigation service estimated by the city to have been used by reason of the unauthorized connection.

(b) Any person, firm, contractor, corporation, association or partnership who is found by the city to have made or caused to have made any connection prohibited by subsection (a) above shall be required by the city to pay the following to the city:

(1) A penalty in the amount of:

<table>
<thead>
<tr>
<th>Type of Offense</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>First offense</td>
<td>$250.00</td>
</tr>
<tr>
<td>Second offense</td>
<td>$500.00</td>
</tr>
<tr>
<td>Third and subsequent offenses</td>
<td>$750.00</td>
</tr>
</tbody>
</table>

(2) An amount equal to three times the connection fees and water, sewer, or irrigation service charges imposed by the city for such connection and water, sewer, or irrigation service provided. Said fees and charges shall be computed using the rates in effect at the time of the discovery of said unauthorized connection. For residential connections, the water, sewer, or irrigation service charges shall be estimated by using the average water, sewer, or irrigation use for similar types and sizes of residential users during the entire period from the date of a certificate of occupancy was issued for any dwelling unit found illegally connected to the system until the date of collection. For commercial connections, water, sewer, or irrigation
service charges shall be estimated by using the average water, sewer, or irrigation use for similar types and sizes of commercial users during the entire period from the date of a certificate of occupancy was issued for any portion of the project served until the date of collection.

(3) All costs of investigation and collection, including time, labor, material, attorney fees, court costs, and professional fees of any kind necessitated to determine that such unauthorized connection existed.

(4) Unauthorized connections may be prosecuted according to §812.14, Florida Statutes.

c) All persons, firms, contractors, corporations, associations or partnerships making or causing said unauthorized connection to be made and/or receiving the benefit of the water, sewer, or irrigation service shall be jointly and severally liable for the payment of the above-described amounts to the city. Water, sewer, or irrigation service shall be discontinued to such persons, firms, contractors, corporations, associations or partnerships until said amount is paid in full. In the event that any corporation is found to be liable for such sums and is not solvent or is without assets to make appropriate payment, the individual officers, directors and shareholders of such corporation shall be liable for such payment.

... § 19-24 Request for meter test by customer.

(a) Should any customer request a bench test of his or her water meter, the city will require a deposit to defray cost of testing—the deposit not to exceed the following schedules of fees. The City Council shall, after a duly noticed public hearing, establish and adopt by resolution a meter bench test deposit fee schedule. The City Council may modify the meter bench test deposit fee schedule from time to time by resolution.

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-8 inch and 1 inch</td>
<td>$22</td>
</tr>
<tr>
<td>Greater than 1 inch</td>
<td>$28</td>
</tr>
</tbody>
</table>

(b) If the meter is found to register in excess of the accuracy limits prescribed by standards set forth herein, the deposit will be refunded; but if below the accuracy limits, the deposit will be retained by the city as a service charge for conducting the test.

... § 19-132 Fire protection.

No fire hydrant or fire sprinkler system shall be installed on reclaimed water mains constructed within the city at such locations as deemed appropriate by the Director. Owners of real property that utilize reclaimed water for fire protection systems shall discontinue said use of reclaimed water and connect the fire protection system to potable water within 36 months of the City providing notice, by certified mail, that a potable water main of adequate size is available for fire protection systems.

... Article XII: Definitions—Reserved

Sections 19-143 through 19-148 Reserved

§ 19-143 Cross-connection.

The term CROSS-CONNECTION, as used in these regulations, means any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome and potable for human consumption.

§ 19-144 Approved water supply.
The term **APPROVED WATER SUPPLY** means any water supply approved by, or under the public health supervision of, a public health agency of the State of Florida or its political subdivision.

§ 19-145 Auxiliary supply.

The term **AUXILIARY SUPPLY** means any water supply on or available to the premises other than the public water supply.

§ 19-146 Double detector check valve assembly.

The term **DOUBLE DETECTOR CHECK VALVE ASSEMBLY** means an assembly of at least two independently-acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly, plus properly-located test cocks for the testing of each check valve. A by-pass arrangement consisting of an approved meter and an approved double check valve shall be incorporated with the device for detection of leaks, and unauthorized use of water.

§ 19-147 Double check valve assembly.

The term **APPROVED DOUBLE CHECK VALVE ASSEMBLY** means an assembly of at least two independently-acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing the water tightness of each check valve.

§ 19-148 Air-gap separation.

The term **AIR-GAP SEPARATION** means a physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no case less than one inch.

§ 19-149 Reduced pressure-backflow prevention device.

The term **REDUCED PRESSURE BACKFLOW PREVENTION DEVICE** means an approved device incorporating two or more check valves and an automatically-operating differential relief valve located between the two checks, two shut-off valves and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves, less than the pressure on the public water supply side of the device. At cessation of normal flow the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall open to atmosphere thereby providing an air-gap in the device. To be approved these devices must be readily-accessible for maintenance and testing an installed in a location where no part of the valve will be submerged.

**ARTICLE XIII: PROTECTION OF PUBLIC WATER SYSTEM AT SERVICE CONNECTIONS**

§ 19-149 Definitions.

**AIR-GAP SEPARATION.** A physical break between a supply pipe and a receiving vessel. The air-gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no case less than one inch.

**APPROVED WATER SUPPLY.** Any water supply approved by, or under the public health supervision of, a public health agency of the State of Florida or its political subdivision.

**AUXILIARY SUPPLY.** Any water supply on or available to the premises other than the public water supply.

**CROSS-CONNECTION.** Any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome and potable for human consumption.

**APPROVED DOUBLE CHECK VALVE ASSEMBLY.** An assembly of at least two independently acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing the water tightness of each check valve.
DOUBLE DETECTOR CHECK VALVE ASSEMBLY. An assembly of at least two independently acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly, plus properly located test cocks for the testing of each check valve. A bypass arrangement consisting of an approved meter and an approved double check valve shall be incorporated with the device for detection of leaks, and unauthorized use of water.

REDUCED PRESSURE BACKFLOW PREVENTION DEVICE. An approved device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, two shut-off valves and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves, less than the pressure on the public water supply side of the device. At cessation of normal flow the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall open to atmosphere thereby providing an air gap in the device. To be approved these devices must be readily accessible for maintenance and testing an installed in a location where no part of the valve will be submerged.

ARTICLE XIV: PROTECTION OF POTABLE WATER SYSTEM WITHIN PREMISES

§ 19-153 Fire system.

(a) Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, whenever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and fire fighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for fire fighting purposes. It is hereby declared that it is the responsibility of the person or persons causing the introduction of said unapproved or unsafe water into the pipelines to see:

(1) That a procedure be developed and carried out to notify and protect users of this piping system during the emergency; and

(2) That special precautions be taken to disinfect thoroughly and flush out all pipelines which may have become contaminated before they are again used to furnish drinking water. In the event the means of protection of water consumers is by disinfection of the auxiliary fire fighting supply, the installation and its use shall be thoroughly reliable:

(b) When disinfection of the auxiliary supply itself is depended upon to render the water safe, the means of applying the disinfectant under this regulation shall be automatic with operation of the pumps employed with the dangerous water in question. Adequate supplies of chlorine or its compounds must be kept on hand at all times. Chlorine dosing equipment shall be tested daily and kept in good operating condition:

(c) The public water supply must be protected against backflow from the dual domestic fire systems as detailed in § 19-151:

§ 19-153 Fire system.

(a) Unless approved by the City of Cape Coral Utilities Director, water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human consumption or use shall be kept wholly separate from drinking water pipelines and equipment. In no case shall a single domestic water service line be used for both drinking and fire fighting purposes. In no case shall a fire protection system be installed on a reclaimed water main. In all cases an approved backflow prevention device shall be installed to protect individual drinking water lines. For firefighting purposes, all fire line systems shall have an independent dedicated fire service connection with its own separate approved backflow prevention device and meter assembly. It is hereby declared that it is the responsibility of the person or persons causing the introduction of said unapproved or unsafe water into the pipelines to see:

(1) That a procedure be developed and carried out to notify and protect users of this piping system during the emergency; and
(2) That special precautions be taken to disinfect thoroughly and flush out all pipelines which may have become contaminated before they are again used to furnish drinking water. In the event the means of protection of water consumers is by disinfection of the auxiliary fire fighting supply, the installation and its use shall be thoroughly reliable.

(b) When disinfection of the auxiliary supply itself is depended upon to render the water safe, the means of applying the disinfectant under this regulation shall be automatic with operation of the pumps employed with the dangerous water in question. Adequate supplies of chlorine or its compounds must be kept on hand at all times. Chlorine dosing equipment shall be tested daily and kept in good operating condition.

(c) The public water supply must be protected against backflow from the dual domestic fire systems as detailed in §19-151.

ARTICLE XV XIV: PROTECTION OF WELLS AND APPROVED FUTURE WELL-SITES FROM SANITARY HAZARDS

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 immediately after its adoption by the Cape Coral City Council.


VOTE OF MAYOR AND COUNCILMEMBERS:

SAWICKI  
BURCH  
CARIOSCIA  
NESTA  
LEON  
ERBRICK  
WILLIAMS  
DONNELL

ATTESTED TO AND FILED IN MY OFFICE THIS 3rd DAY OF September, 2015.

APPROVED AS TO FORM:

DOLORES D. MENENDEZ  
CITY ATTORNEY  
Chap19-WaterSewerUtilities  
8/31/15