

ORDINANCE 9 - 18

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 8, FIRE PREVENTION AND EMERGENCY MANAGEMENT, ARTICLE II, FIRE PREVENTION, BY AMENDING SECTION 8-10, CITY OF CAPE CORAL FIRE PREVENTION AND PROTECTION CODE ADOPTED; AMENDMENTS TO FIRE CODES; TO BE CONSISTENT WITH THE CURRENT EDITION OF THE NATIONAL FIRE CODES; ESTABLISHING SECTION 8-14, BURN BAN IMPLEMENTATION PROCEDURES, PROVIDING PROCEDURES TO BAN OPEN BURNING WHEN EXTREME DRY CONDITIONS WARRANT A BAN; BY AMENDING ARTICLE IV, EMERGENCY MANAGEMENT, TO PROVIDE FOR THE DECLARATION OF A STATE OF LOCAL EMERGENCY IN PREPARATION FOR OR RESPONSE TO AN EMERGENCY OR DISASTER; TO PROHIBIT THE SALE OF BEER IN THE ALCOHOLIC BEVERAGE PROHIBITION; TO AMEND REMOVAL OF DEBRIS TO INCLUDE CONDITIONS AFFECTING PUBLIC HEALTH AND SAFETY; AMENDING TERMINATION PROVISIONS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the National Fire Protection Association and the Florida Fire Prevention Code have been amended; and

WHEREAS, the City of Cape Coral desires to amend the local amendments to the Florida Fire Prevention Code as permitted; and

WHEREAS, the City of Cape Coral finds it necessary to protect the health, safety, and welfare of its citizens and their property when extreme dry weather conditions exist.

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 8, Article II, is hereby amended as follows:

CHAPTER 8: - FIRE PREVENTION AND EMERGENCY MANAGEMENT

ARTICLE I: - GENERAL PROVISIONS

§ 8-1 - False fire alarm.

It shall be unlawful for any person to give a false alarm of fire within this city.

ARTICLE II: - FIRE PREVENTION CODE

§§ 8-2—8-8. - Reserved.

§ 8-9 - Purpose and scope; enforcement.

(a) Purpose and scope. This code shall be known as the Cape Coral Fire Prevention Code. The Cape Coral Fire Prevention Code is established to provide the City of Cape Coral with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installation, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire and life safety hazards; establishing the responsibilities and procedures for code enforcement; and establishing the standards for compliance and achievement of these objectives.

(b) Enforcement. The City of Cape Coral Fire Prevention Code shall be enforced by the Fire Chief/Emergency Management Director of the City of Cape Coral Fire Department or his or her designee. Enforcement of parking violations described in the Fire Prevention Code shall be enforced by the Chief of Police of the City of Cape Coral or his or her designee.

§ 8-10 - City of Cape Coral Fire Prevention and Protection Code adopted; amendments to Fire Codes.

(a) Adoption. The Florida Fire Prevention Code is hereby adopted by the City of Cape Coral. The standards and code sections of the "National Fire Codes", as published by the National Fire Protection Association (NFPA), as adopted by the rules of the Division of the State Fire Marshal, § 69A-3.012, 69A-60.005, or referenced by the most current edition of NFPA 1 or NFPA 101 adopted by the state's Fire Marshal, known as the Florida Fire Prevention Code, and those listed below by standard number and edition and as amended herein, are hereby adopted by reference and made a part of the "City of Cape Coral Fire Prevention and Protection Code", intended to protect the health, safety, common interest and convenience of the citizens, visitors and residents of the City of Cape Coral, Florida.

(b) Amendments to Fire Codes. The Florida Fire Prevention Code, 56th Edition", based on NFPA 1 and NFPA 101, 2012~~2015~~ Edition, and as amended from time to time, and as permitted by the Florida Fire Prevention Code, is hereby amended by local amendment as follows:

(1) Chapter 1, Administration, Section 1.3, Application, Subsection 1.3.2.1, is hereby amended to read as follows:

1.3.2.1 Details regarding processes, methods, specifications, equipment testing and maintenance, design standards, performance, installation, or other pertinent criteria contained in those standards and codes listed in Chapter 2 of this code and those adopted pursuant to the Cape Coral Fire Prevention and Protection Code Section 8 shall be considered a part of this code.

(2) Chapter 1, Administration, Section 1.3., Application, Subsection 1.3.3, Conflicts, Sub-subsection 1.3.3.1, is hereby amended to read as follows:

1.3.3.1 In the event of any conflict between the provisions of the code adopted by this article and applicable provisions of this Code of Ordinances, state law or city ordinances, rules and regulations, the most restrictive provisions of this Code of Ordinances, state law or city ordinances, rules and regulations shall prevail and be controlling.

(3) Chapter 3, Definitions, is hereby amended to include the following definitions:

Engine Company Assistance or Testing: Any situation where an Engine Company is required for assistance, including, but not limited to, fire pump acceptance tests, special events or functions, and other non-emergency assistance that may be applicable.

(4) Chapter 3, Definitions, Subsection 3.3, General Definitions, Sub-subsection 3.3.4~~23~~122 is hereby amended as follows:

3.3.122 Fire lane means any driveway, road, or unobstructed area, which may be used by the fire department for the movement of fire vehicles or firefighting operations. If the fire lane serves a multi-story building, road surface shall be pavement, concrete or similar surface material designed to accommodate fire apparatus with a minimum weight of 36 tons.

(5) Chapter 10, General Safety Requirements, Section 10.3, Occupancy, Subsection 10.3.1, is hereby amended to read as follows:

10.3.1 No new construction or existing building shall be occupied in whole or in part in violation of the provision of this code or other applicable City of Cape Coral Code of Ordinances or Land Use and Development Regulations. All tenants and occupants shall obtain a "Certificate of Use" from the Cape Coral Department of Community Development with release by the City of Cape Coral Fire Department prior to the occupancy and use of a new or existing building as evidence of compliance with the Cape Coral Fire Prevention Code. Such original certificate shall be displayed in a prominent location within the structure, building or portion, thereof.

Exemption: Residential dwellings are exempt from the requirement of obtaining a "Certificate of Use."

(6) Chapter 10, General Safety Requirements, Section 10.4~~10~~10, Open Flame, Candles, Open Fires, and Incinerators, Subsection 10.4~~10~~10.1, Permits, is hereby amended to read as follows:

10.4410.1 Permits: Permits are required and shall comply with Section 1.12.

Bonfires and Outdoor Rubbish Fires: Kindling or maintaining any open fire or a fire in any public street, alley, road, or other public or private ground requires a fee permit. Instructions and stipulations of permit shall be adhered to.

Exemption: Cooking fires and small recreational fires not intended for vegetation or rubbish disposal when conducted safely and on the owner's property. Notwithstanding the above provisions, for 30 days commencing with the declaration of a state of emergency by the Governor of the State of Florida, because of extended drought and the resulting potential for wildfires, which includes all or parts of Lee County, there shall become effective a prohibition against kindling, creating or maintaining any campfire, bonfire, open or barrel burning of trash, discarding of lighted smoking materials outdoors, smoking in city parks, and the sale or use of sparklers. The use of open barbecues or barbecue pits utilizing charcoal or wood shall be prohibited within 600 yards of any unimproved property, woods, or marsh area within the City of Cape Coral. The prohibitions expressly provided herein may be extended by resolution duly adopted by the State Fire Marshal's office.

For this section only, the definition of a recreational fire is the noncommercial burning of materials, other than rubbish for pleasure, religious, ceremonial, cooking, or similar purpose, in which the fuel burned is not contained in an incinerator, a barbecue grill, or a barbecue pit, and the total fuel area is not exceeding 3 ft. (0.9 m) in diameter and 2 ft. (0.6 m) in height.

(7) Chapter 10, General Safety Requirements, Section 10.4410, Open Flame, Candles, Open Fires, and Incinerators, Subsection 10.4410.1, Permits, Sub-subsection 10.4410.1.1 is hereby amended to read as follows:

10.4410.1.1: Permits shall not be required for cooking fires and small recreational fires not intended for vegetation or rubbish disposal when conducted safely and on the owner's property. The use of open barbecues or barbecue pits utilizing charcoal or wood shall be prohibited within 600 yards of any unimproved property, woods, or marsh area within the City of Cape Coral. The prohibitions expressly provided herein may be extended by resolution duly adopted by the State Fire Marshal's office.

(8) Chapter 10, General Safety Requirements, Section 10.4410, Open Flame, Candles, Open Fires, and Incinerators, Subsection 10.4410.2, is hereby amended to read as follows:

10.4410.2: Notwithstanding the above provisions, for 30 days commencing with the declaration of a state of emergency by the Governor of the State of Florida, because of extended drought and the resulting potential for wildfires, which includes all or parts of Lee County, there shall become effective a prohibition against kindling, creating or maintaining any campfire, bonfire, open or barrel burning of trash, discarding of lighted smoking materials outdoors, smoking in city parks, and the sale or use of sparklers.

(9) Chapter 10, General Safety Requirements, Section 10.4514, Special Outdoor Events, Carnivals, and Fairs, Subsection 10.4514.1, Permits, Sub-subsection 10.4514.1.1, is hereby created to read as follows:

10.4514.1.1: The authority having jurisdiction is hereby authorized to assess and collect reasonable compensation for services rendered to public assemblages and events covered by the provisions of Section 10.4514, as it may deem necessary in accordance with the applicable services resolution of the governing body.

(10) Chapter 10, General Safety Requirements, Section 10.4514, Special Outdoor Events, Carnivals, and Fairs, Subsection 10.4514.3, Life Safety Evaluation, Sub-subsections 10.4514.3.1 and 10.4514.3.2 are hereby amended to include the following:

10.4514.3.1 Where the authority having jurisdiction determines that the gathering of persons in a structure or the nature of the performance, exhibition, display, contest, or activity presents or is predicted to present unusual and significant impact on public safety, including access to buildings, structures, fire hydrants, fire lanes and the like, or other provisions of public safety services, including fire protection and emergency medical services, the authority having jurisdiction shall have the authority to order the development to prescribe a plan for the provision of safety services which provides reasonable degree of safety for the attendees, participants and other affected members of the public.

10.4514.3.2 The plan shall address such items as, but not be limited to, emergency vehicle ingress and egress, fire protection, emergency medical services, fire and safety inspections, public assembly areas and the directing of attendees and vehicles, vendor and food concession distribution, and the need for the presence of law enforcement, fire, and medical services personnel at the event. Said plan shall be submitted to the authority having jurisdiction a minimum of three weeks prior to the starting date of the event.

(11) Chapter 13, Fire Protection Systems, Section 13.2, Standpipe Systems, Subsection 13.2.1, General, Sub-subsections 13.2.1.1 and 13.2.1.2 are hereby created to read as follows:

13.2.1.1 Fire Department valves on standpipe systems shall not be pressure-reducing valves. Pressure restricting devices shall be installed on any valve with pressure in excess of 175 PSI. Pressuring restricting devices shall be so as to be readily removable, leaving hose threads acceptable to the authority having jurisdiction.

13.2.1.2 All Fire Department connections serving a high rise building, shall be located within 50 ft. (15.25m) of a fire hydrant and within 50 ft. (15.25m) of a fire department vehicle access road. Actual locations of fire department connections shall be as approved by the authority having jurisdiction.

Exemption: Fire Department connections supplying fire sprinkler systems in accordance with NFPA 13R that are not a part of a standpipe system.

(12) Chapter 13, Fire Protection Systems, Section 13.3, Automatic Sprinklers, Subsection 13.3.1, General, Sub-subsection 13.3.1.1 is hereby amended by creating 13.3.1.1.1 as follows:

13.3.1.1.1 All fire sprinkler systems shall activate one or more monitored audio/visual device located on the exterior of the building. The number and location of the device(s) shall be approved by the authority having jurisdiction.

Exemption: Single-Family dwellings, duplexes (two family dwellings), and any structure containing less than seven (7) sprinkler heads connected to domestic water supply.

(13) Chapter 13, Fire Protection Systems, Section 13.4, Fire Pumps, Subsection 13.4.2, Equipment Protection, 13.4.2.1, General Requirements, is hereby amended by creating 13.4.2.1.1.1 as follows:

13.4.2.1.1.1 Access directly into fire pump rooms shall be provided from the exterior of buildings

Exemption: Single-Family dwellings and duplexes (two family dwellings).

(14) Chapter 13, Fire Protection Systems, Section, 13.7, Detection, Alarm, and Communications Systems, Subsection 13.7.2, Where Required, Sub-subsection 13.7.2.2729, Special Structures and High-Rise Buildings, 13.7.2.2729.2.2, is hereby amended to read as follows:

13.7.2.2729.2.2 All structures meeting the definitions of high rise buildings shall install two-way telephone communication service and shall be provided for fire department use. This system shall be in accordance with NFPA 72, National Fire Alarm Code. The communications system shall operate between the central control station and every elevator car, every elevator lobby, and each floor level of exit stairs.

(15) Chapter 18, Fire Department Access and Water Supply, Section 18.2 Fire Department Access, Subsection 18.2.1, is hereby amended to read as follows:

18.2.1 All buildings that a fire department may be called to protect that are not readily accessible to an adjacent local street shall be provided with a suitable fire lane or parallel access drive unless the analysis of the fire official indicates the fire access is unnecessary. Such fire access is necessary for all buildings three (3) or more stories in height which are not adjacent to a local street.

(a) Parking spaces adjacent to structures that in the opinion of the fire official may hinder or delay fire fighting forces in the performance of their duties are prohibited. Limited designated parking spaces may be approved by the fire official when alternative

arrangements are made prior to construction, which must include automatic fire suppression systems.

(b) The fire official may require additional fire lanes around commercial buildings when his or her analysis indicates additional access to the building is needed.

(16) Chapter 18, Fire Department Access and Water Supply, Section 18.2, Fire Department Access, Subsection 18.2.2, Access to Structures or Areas, and sub-subsection 18.2.2.1, Access Boxes, and 18.2.2.2, Access to Gated Subdivisions or Developments are hereby amended as follows:

~~18.2.2.1 Access Box(es). The Authority Having Jurisdiction (AHJ) shall have the authority to require access box(es) to be installed in an accessible location where access to or within a structure or area is difficult because of security. The access box(es) shall be an approved type listed in accordance with UL 1037.~~

18.2.2.2.1 All non-electronic access control gates to structures and properties that may require emergency services that restrict the free ingress and egress of emergency vehicles and are not constantly attended 24 hours a day shall be provided with a key box acceptable to the Fire Official.

18.2.2.2.42 This section is intended to apply to all gate installations except those serving an individual single-family residence.

~~Exemption: Gates serving an individual single-family residence.~~

~~(17) Chapter 18, Fire Department Access and Water Supply, Section 18.2, Fire Department Access, Subsection 18.2.2, Access to Structures or Areas, Sub-subsection 18.2.2.2, Access to Gated Subdivisions or Developments, is hereby amended by creating 18.2.2.2.2, 18.2.2.2.3, and 18.2.2.2.4 as follows:~~

18.2.2.2.23 All electronic access control gate to structures and properties that may require emergency services that restrict the free ingress and egress of emergency vehicles and are not constantly attended 24 hours per day shall be provided with an electronic transmitter/receiver system capable of being programmed with a unique activation code and frequency approved by the authority having jurisdiction. Such code or frequency shall not be used by or provided to other gate users. Existing installations shall comply within 180 days subsequent to the notification date by the authority having jurisdiction.

All electronic access control gates shall be compatible with the City of Cape Coral transmitters. Said transmitters are carried only within emergency service vehicles.

18.2.2.2.34 All electronic access control gates shall have a battery backup with a fail safe override.

18.2.2.2.45 All electronic gates are required to receive a building permit with fire review prior to installation.

~~(18) Chapter 18, Fire Department Access and Water Supply, Section 18.3, Water Supplies and Fire Hydrants, Subsection 18.3.1 is hereby amended by creating Sub-subsections 18.3.1.1.1, 18.3.1.1.2, 18.3.1.2, 18.3.3, and 18.3.1.4, as follows:~~

18.3.1.1.1 The Fire Department Connection (F.D.C.) shall be located not less than forty (40) feet from buildings and in an area accessible to fire apparatus, preferably adjacent to the street right-of-way or easement serving as the means of vehicular ingress to, and egress from, the building.

18.3.1.1.2 Unless a fire hydrant exists that satisfies the requirements of the Florida Fire Prevention Code, and this section, a fire hydrant shall be installed within two hundred fifty (250) feet of the parcel boundary of the building, and the entire building must be within five hundred (500) hose feet of a fire hydrant. A fire hydrant shall be required on the same side of the right-of-way (ROW) that the building abuts if the combined paved surface of the roadway is greater than thirty-five (35) feet in width, or if the ROW contains two lanes, or more, of vehicular traffic in a single direction. Fire hydrants shall be provided on potable water lines six (6) inches, or larger, in diameter that meet the minimum fire flow requirements. Fire hydrants for firefighting purposes shall be prohibited on irrigation water lines. The City's Fire Marshal may authorize exceptions to the above requirements for buildings that contain fire sprinklers that comply with NFPA 13.

~~18.3.1.2 Adopt 2012 NFPA 1 or subsequent edition Annex E in total.~~

18.3.1.32 New structures not capable of delivering the required fire flow shall provide automatic sprinkler systems in accordance with NFPA 13, 13R or 13D, 2010 or subsequent editions as applicable.

Owners and developers shall make provisions to install water lines and fire hydrants to meet spacing and fire flow requirements. Where fire mains exist but do not meet the fire flow requirements, alternative arrangements may be made, prior to construction, with the authority having jurisdiction. Failure to meet the fire flow requirements or coming to an agreement on alternative arrangements shall be grounds for refusal for the City to issue building permits.

Exemption: All single-family and duplex (two-family) dwellings and new single-family and duplex (two family) subdivisions that do not contain clubhouses, commercial, or professional structures.

~~18.3.1.4-3~~ Where buildings are constructed with the furthest point of the structure being one hundred fifty (150) feet or more from a public street, such buildings shall require private mains and fire hydrants that meet the required fire flow with spacing to be determined by the fire official. The spacing of hydrants shall not exceed 500 feet between hydrants. Hydrant spacing and required fire flow may be amended by the fire official if, by prior arrangement with the fire official, automatic fire suppression systems are installed in all buildings on the premises.

~~(4918)~~ Chapter 18, Fire Hydrants, Section 18.5, Marking of Hydrants is hereby amended by creating Sub-subsections 18.5.710.1.1 and 18.5.710.1.2, as follows:

18.5.710.1.1 An approved Florida Department of Transportation (FDOT) blue reflective day/night raised pavement marker (RPM) will be used for rapid location of all fire hydrants in the city. The FDOT Traffic Engineering Manual Topic No. 750-000-005 Section 4.3 will be the standard guideline used for the placement and location of the blue marker on the roadway. Fire hydrants located on State roads will be maintained by the State. Fire hydrants located on County roads will be maintained by the County. The city will maintain all other fire hydrants excluding private fire hydrants.

18.5.710.1.2 All private fire hydrants will use the same FDOT guideline, and will be identified with a FDOT blue reflective day/night raised pavement marker (RPM) by the contractor during installation or on the required annual testing of the hydrant per NFPA 25 standards.

...

§8-14 – Burn Ban Implementation Procedures.

(a) Purpose and intent.

The City of Cape Coral finds and declares that the provisions of this Part are necessary to protect the health, safety and welfare for the City of Cape Coral citizens and their property when extreme dry weather conditions due to lack of normal precipitation increases the threat of fire, thereby threatening the safety of life and property. Outside burning in unauthorized areas during dry weather conditions increases the danger of wildfires throughout the City. The purpose and intent of this Part is to provide an orderly and expeditious procedure for implementing a ban on open burning when extreme dry weather conditions warrant such a ban.

(b) Burn ban.

(1) The City Manager shall have the power, duty and responsibility to sign an Executive Order prohibiting all open burning in the City of Cape Coral when dry weather conditions result in a Keetch-Byram Drought Index reading at 600 or higher. Unless otherwise provided, the burn ban shall take effect upon the City Manager signing the Executive Order.

(2) OPEN BURNING, for purposes of this section, shall mean kindling, creating, or maintaining any campfire, bonfire, open or barrel burning of trash, discarding of lighted smoking materials outdoors, smoking in city parks, and the sale or use of sparklers. The use of open barbecues or barbecue pits utilizing charcoal or wood shall be prohibited within 600 yards of any unimproved property, woods, or marsh areas. OPEN BURNING does not include small

recreation fires not intended for vegetation or rubbish disposal, or barbecue grills or pits that contain a total fuel area not exceeding 3 feet (0.9 m) in diameter and 2 feet (0.6 m) in height, when conducted safely and on the owner's property.

(3) The burn ban shall not apply to burning done by, or under the direct supervision of, authorized County or municipal personnel or with the authorization of the Florida Department of Agriculture and Consumer Services, Florida Forest Services. The use of barbecues utilizing charcoal, wood, or propane gas shall not be prohibited during a declared burn ban pursuant to this section.

(4) The burn ban prohibition will continue to be in effect in seven (7) day increments for as long as the Keetch-Byram Drought Index is at or above 600, unless rescinded as provided in this Section.

(5) This burn ban prohibition will be lifted after the Keetch-Byram Drought Index has fallen below 600 for at least seven (7) consecutive days.

(6) If the Keetch-Byram Drought Index falls below 600 for at least seven (7) consecutive days calling for the rescinding of the Executive Order, and the City Manager is unavailable, the Fire Chief is delegated the authority to rescind the Executive Order with notification to the City Manager.

(7) The Cape Coral Fire Marshal and Law Enforcement are authorized to enforce the Burn Ban.

(c) Public notice.

Upon notification by the Fire Chief, the Public Affairs Office shall promptly provide notification to the public of the implementation or cessation of a burn ban pursuant to this section through a press release to newspapers and television, the use of social media, and the City website.

(d) Applicability.

This Part applies to and is effective within the incorporated areas of the City of Cape Coral.

(e) Penalty.

Any person who violates any provision of this section may be punished either by imprisonment for a term not to exceed 60 days or a fine not to exceed \$500.00 or by both.

SECTION 2. The City of Cape Coral Code of Ordinances, Chapter 8, Article IV, is hereby amended as follows:

§ 8-25 - Declaration; time limits.

~~The City Manager shall have the power, duty, and responsibility to declare a state of local emergency between June 1 and November 30 each year when the National Hurricane Center and/or the city's duly contracted weather consultant has predicted that hurricane force winds, flooding, and/or other adverse weather conditions resulting from an anticipated hurricane will affect the City of Cape Coral in not more than 72 hours in preparation for or response to an emergency or disaster.~~

The City Manager shall inform the City Council of the reasons for and status of events requiring the declaration of a state of local emergency either prior to the declaration of emergency or as soon thereafter as practicable. Upon the declaration of a state of local emergency, the City Manager, or his or her designee, shall post a written notice of such declaration at conspicuous place(s) in the Cape Coral City Hall, and shall, as promptly as practicable, file in the office of the City Clerk a notice of a declared state of local emergency. The City Manager, or his or her designee, shall notify the local media, city employees, and residents as soon as possible and in the manner most practicable and expeditious.

§ 8-26 - Powers during emergency.

(a) The City Manager shall be empowered during a state of local emergency:

(1) To implement emergency plans and procedures and take such other prompt and necessary action to save lives and protect property, including but not limited to, the authority to compel and direct timely local evacuation, if necessary.

(2) Pursuant to the established "~~Comprehensive~~ Emergency Operations Management Plan" (~~CEMP EOP~~) of the city, declare that the ~~CEMP EOP~~ is in effect, as appropriate.

(3) To obligate emergency expenditures for payment from the emergency reserve fund when such action is necessary to protect and preserve the ~~public health~~, safety, ~~health~~, and welfare of the public. All such transfers and obligations shall be reported to the City Council at the first opportunity following such action, but no later than 30 days after such occurrence.

(4) To act, on behalf of the city, in any matter provided by F.S. § 252.38(2) and (3), as amended.

(5) To determine a threat to public health and safety that may result from the generation of widespread debris throughout the city, ~~that such debris constitutes a hazardous environment for all modes of movement and transportation of the residents as well as emergency aid and relief services, endangerment to all properties in the city, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all property whether public lands, public or private roads, and gated communities to eliminate an immediate threat to life, public health and safety to reduce the threat of additional damage to improved property and to promote economic recovery of the community at large.~~

(6) To authorize the city of its contracted agent(s) right of access to private roads or gated communities as needed by emergency vehicles such as, but not limited to, police, fire, medical care, debris removal, and sanitation to alleviate immediate threats to public health and safety.

(b) The granting of power, duty, and responsibility to the City Manager to declare a state of local emergency shall not be construed to abrogate the power and authority to the City Council to declare a state of local emergency in accordance with the City Charter and state law.

...

§ 8-28 - Alcoholic beverage prohibition.

(a) During any state of local emergency lawfully declared by either the City Council or the City Manager, the City Council authorizes the City Manager to suspend or regulate the sale of, or offer to sell, alcoholic beverages, ~~with the exception of beer~~, within the City of Cape Coral.

(b) Any person who knowingly violates any provision of this section shall, upon conviction, be punished according to law and shall be subject to a fine not exceeding the sum of \$500, or imprisonment in the Lee County Jail for a period not exceeding 60 days, or by fine and imprisonment.

§ 8-29 - Unconscionable pricing.

(a) As used in this section:

COMMODITY means any goods, services, materials, merchandise, supplies, equipment, resources or other article of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products and lumber necessary for consumption or use as a direct result of the emergency.

(b) It is prima facie evidence that a price is unconscionable if:

(1) The amount charged represents a gross disparity between the price of the commodity or rental or lease of any dwelling unit or self-storage facility that is the subject of the offer or transaction and the average price at which that commodity or dwelling unit or self-storage facility

was rented, leased, sold or offered for rent or sale in the usual course of business during the 30 days immediately prior to a declaration of a state of local emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or national or international market trends; or

(2) The amount charged grossly exceeds the average price at which the same or similar commodity was readily obtainable in the trade area during the 30 days immediately prior to a declaration of local emergency, and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility, or national or international market trends.

(3) Upon a declaration of a state of local emergency by the Governor, the City Council of the City of Cape Coral, Cape Coral City Manager or the Board of County Commissioners for Lee County that affects the City of Cape Coral and/or Lee County, it shall be unlawful for a person or his or her agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of local emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions or equipment that is necessary for consumption or use as a direct result of the emergency. This prohibition shall remain in effect until all declarations expire or are terminated.

(4) It is unlawful and a violation of this section for any person to impose unconscionable prices for the rental or lease of any dwelling unit or self storage facility during a period of declared state of local emergency.

(5) A price increase approved by an appropriate government agency shall not be a violation of this section.

(6) This section shall not apply to sales by growers, producers or processors of raw or processed food products, except for retail sales of the products to the ultimate consumer within the area of the declared state of local emergency.

(7) All state law enforcement officers and Code Enforcement Officers shall have the power to investigate compliance with, and enforcement requirements of this section and incident thereto may subpoena witnesses, administer oaths and require the production of records.

(8) Any person, who knowingly violates any provision of this section shall, upon conviction, be punished according to law and shall be subject to a fine not exceeding the sum of \$500, or imprisonment in the Lee County Jail for a period not exceeding 60 days, or by fine and imprisonment.

§ 8-30 - Curfew.

(a) During any state of local emergency lawfully declared by either the City Council or the City Manager, the City Council authorizes the City Manager to impose a general curfew throughout Cape Coral for the hours determined by the City Manager when deemed necessary by the City Manager in order to protect the ~~public~~ health, safety, and welfare of the public ~~as the result of conditions related to a hurricane~~. The curfew may include, but not be limited to, the prohibition of or restriction on pedestrian and vehicular movement, except for the provision of designated, essential services, including, but not limited to, such as fire, police, emergency medical services and hospital services, including the transportation of patients thereto, utility emergency repairs and emergency calls by physicians. Local services designated as essential services shall ~~are requested to~~ do everything possible to provide identification for their employees.

(b) Any person, who knowingly violates any provision of this section shall, upon conviction, be punished according to law and shall be subject to a fine not exceeding the sum of \$500, or imprisonment in the Lee County Jail for a period not exceeding 60 days, or by fine and imprisonment.

§ 8-31 - Removal of debris.

During, ~~and subsequent of~~, a declared state of local emergency, the City Manager shall have the power to authorize the collection, removal, and disposal of emergency and disaster-generated debris ~~and wreckage~~ resulting from a declared disaster from all property whether public lands, public or private roads, private vacant property, or gated communities to ensure a safe and sanitary living and functioning conditions, and to protect improved property from immediate threat. Debris includes all hazardous conditions created that impact all modes of movement and transportation of the residents as well as emergency services, and endangers properties and waterways in the city. Debris also includes conditions created that increase an environment conducive to breeding disease and vermin, and greatly increases risk of fire, and that is in the public interest to remove and dispose. Debris collection, removal, and disposal is not limited to the timeframe of the state of local emergency, but shall be accomplished expeditiously to ensure protection of the health, safety, and welfare of the community, and the restoration of normalcy to promote economic recovery of the community at large.

§ 8-32 - Time periods tolled.

During a state of local emergency, all procedural and notice time periods affecting the normal functions of the city, to the extent such requirements cannot be complied with due to the emergency, shall be temporarily suspended for a period of seven days from the declaration of local emergency. Such functions include, but are not limited to, permitting, code enforcement matters, municipal approvals, and scheduled public meetings. When necessary, seven-day time extensions may be permitted by approval of the City Council.

§ 8-33 - State of local emergency terminated.

(a) A state of local emergency declared by the City Manager pursuant to this article shall be terminated upon the first to occur of any of the following:

(1) A certification by the City Manager that the conditions leading to or causing the emergency or disaster no longer exist and the city agencies, departments, and staff are able to manage the situation without extraordinary assistance; or

(2) A vote of the City Council declaring the state of local emergency has ended; or

(3) The expiration of seven days from the commencement of the state of local emergency, unless such period is extended by the City Council as authorized by state law. A state of local emergency declared in the event of overt acts of violence or the imminent threat of such violence pursuant to sections 870.041 – 870.048, Florida Statutes, shall terminate seventy-two (72) hours from its commencement, unless extended by the City Council by duly enacted ordinance or resolution in a regular or special meeting.

(b) Notice of the termination of the state of local emergency declaration shall be made to the public by the City Manager by the same means as notice of the declaration of the state of local emergency.

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 4th DAY OF June, 2018.



JOE COVIELLO, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

COVIELLO
GUNTER
CARIOSCIA
STOUT

aye
aye
aye
aye

NELSON
STOKES
WILLIAMS
COSDEN

aye
aye
aye
aye

ATTESTED TO AND FILED IN MY OFFICE THIS 14th DAY OF June,
2018.

Rebecca Van Deutekom
REBECCA VAN DEUTEKOM
CITY CLERK

APPROVED AS TO FORM:

Dolores D. Menendez
DOLORES D. MENENDEZ
CITY ATTORNEY
ord\Fire Prevention