

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AMENDING THE CITY OF CAPE CORAL, FLORIDA, CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II, FEES, DIVISION 3, PUBLIC SAFETY IMPACT FEE, SECTION 2-24.8, DEFINITIONS; SECTION 2-24.9, FEES IMPOSED; TIME OF PAYMENT; FEES ADJUSTED BY CITY COUNCIL BASED UPON EVIDENCE PRESENTED BY APPLICANT; FIRE AND RESCUE IMPACT FEE CREDITS; SECTION 2-24.10, REFUNDS AND FEE FOR SPECIAL FIRE SAFETY NEEDS; SECTION 2-24.12, USE OF PROCEEDS; AND SECTION 2-24.13, ANNUAL REVIEW AND ADJUSTMENT OF PUBLIC SAFETY IMPACT FEE; RELATING TO THE IMPOSITION OF PUBLIC SAFETY IMPACT FEES; PROVIDING FOR CODIFICATION AND RESOLUTION OF CONFLICTING LAWS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section (2)(b) of the Florida Constitution and Florida Statute Chapter 166, the City of Cape Coral, Florida, (“City”) has broad home rule powers, including the authority to impose and collect impact fees; and

WHEREAS, Florida Statute Chapter 163 requires that all local governments adopt and maintain comprehensive plans to manage growth within their jurisdictions, consisting of several elements as well as a map depicting the future uses of land throughout the jurisdiction and requiring the adoption of land development regulations to regulate growth and development; and

WHEREAS, the City currently has an established public safety impact fee system, which has been one part of an overall growth management program in the City; and

WHEREAS, the Mayor and City Council of the City have studied the necessity for, and implications of, the adoption of an ordinance to update the public safety impact fees and retained a professional consulting firm, DTA Public Finance, Inc. to prepare a Development Impact Fee Justification Study (the “Study”) relating to public safety impact fees to determine the proportionate demand that new residential development generates for additional public safety facilities; and

WHEREAS, the Study was presented to the City’s Planning and Zoning Commission on March 4, 2026, for their review and recommendation to the Mayor and City Council that such Study is in compliance with the City’s Comprehensive Plan; and

WHEREAS, the Study was presented to, and reviewed by, the Mayor and City Council during the March 4, 2026 and March 25, 2026 City Council meetings, and it has been determined that:

- (1) public safety impact fees are necessary to offset the costs associated with meeting future demands for the City’s public safety facilities pursuant to the projections set forth in the Study; and
- (2) the public safety impact fees bear a reasonable relationship to the burden imposed upon the City to provide public safety facilities to new City residents; and
- (3) public safety impact fees will provide a direct benefit to such new City residents reasonably related to the fees assessed; and
- (4) an essential nexus exists between projected new development and the need for additional public safety impact fees and the benefits that accrue to new development paying the fees; and
- (5) the amount of the public safety impact fees are roughly proportional to the pro rata share of the additional public safety facilities needed to serve new development; and

WHEREAS, the City is projected to significantly grow in population and further economically develop in the future; and

WHEREAS, the public safety impact fees imposed hereby:

- (1) are in compliance with the “dual rational nexus test” developed under Florida case law; and

(2) meet the “essential nexus” and “rough proportionality” requirements established by the United States Supreme Court in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994); and

(3) are consistent with the requirements set forth in Section 163.31801, Florida Statutes; and

(4) are consistent with and being imposed in accordance with Section 163.31801, Florida Statutes; and

WHEREAS, public safety impact fees imposed hereunder achieve the goals, objectives, and policies of the City’s Comprehensive Plan and utilize the tools and techniques encouraged by Section 163.31801, Florida Statutes; and

WHEREAS, the City’s Comprehensive Plan provides that the Mayor and City Council will periodically review the fee schedules of all impact fee ordinances and adjust the fee schedules to reflect the pro-rata share of the cost needed to finance improvements necessitated by new development; and

WHEREAS, the City developed a Development Impact Fee Justification Study dated January 2026, prepared by DTA Public Finance, Inc., which provides technical analysis to determine the public safety impact fees and constitutes a proper factual predicate for imposition and expenditure of the public safety impact fees; and

WHEREAS, the Mayor and City Council have determined that it is advisable and in the public interest to amend the City’s Code of Ordinances to provide for the public safety impact fee provisions as provided herein to ensure that new development bears a proportionate share of required capital facility costs and is supported by competent substantial evidence in the record.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AS FOLLOWS:

SECTION 1. The City of Cape Coral, Florida, Code of Ordinances, Chapter 2, Administration, Article II, Fees, Division 3, Public Safety Impact Fee, Sections 2-24.8, 2-24.9, 2-24.10, 2-24.12 and 2-24.13, are hereby amended as follows:

**§ 2-24.8 Definitions.**

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Unless the context specifically indicates otherwise the meaning of terms used in this ~~section~~ division shall be as follows:

...

*RESIDENTIAL DWELLING UNITS.* Includes each single-family dwelling, including any permitted and approved accessory dwelling units, and each unit of apartment, duplex or multiple dwelling structure designed as a separate habitation for one or more persons, whether temporarily or permanently utilized or designed or intended to be utilized for human habitation.

**§ 2-24.9. Fees imposed; time of payment; fees adjusted by city council based upon evidence presented by applicant.**

(a) Any person who, after the effective date of this ~~article~~ division, seeks to develop land by applying for issuance of a building permit for a residential dwelling unit or non-residential use, as defined by this ~~article~~ division, shall be required to pay public safety impact fees prior to the issuance of a building permit, or any other development permit for the construction or substantial reconstruction of any structure to be used for a residential dwelling unit or non-residential use. The public safety impact fees shall consist of three separate fees: a fire and rescue impact fee, a police protection impact fee, and an ALS (advanced life support) impact fee. The following fee tables shall be used to determine the amount due for each type of fee.

(1) The amount of the fire and rescue impact fees shall be determined according to the following tables. For structures that contain both residential and non-residential uses, the amount of the fees shall be apportioned between the residential and non-residential uses.

Height/Area of Structure	<i>Residential Dwelling Units</i>	<i>Non-Residential Uses</i>
Located in a structure that is less than 30 feet in height and less than 30,000 square feet in gross floor area	\$574.96 per dwelling unit	\$0.149 per square foot
Located in a structure that is 30 feet or more in height and/or 30,000 square feet or more in gross floor area	\$591.58 per dwelling unit	\$0.153 per square foot

<b>Fire and Rescue</b>	<b>Unit of Measure (UM)</b>	<b>July 1, 2026 Impact Fee</b>	<b>July 1, 2027 Impact Fee</b>	<b>July 1, 2028 Impact Fee</b>	<b>July 1, 2029 Impact Fee</b>
Residential Dwelling Unit < 30,000 square feet	Unit	\$ 646.83	\$ 718.70	\$ 790.57	\$ 862.44
Residential Dwelling Unit > 30,000 square feet	Unit	\$ 665.53	\$ 739.48	\$ 813.42	\$ 887.37
Non-Residential < 30,000 square feet	Square Foot	\$ 0.1676	\$ 0.1863	\$ 0.2049	\$ 0.2235
Non-Residential > 30,000 square feet	Square Foot	\$ 0.1721	\$ 0.1913	\$ 0.2104	\$ 0.2295

(2) The amount of the police protection impact fee shall be determined according to the following table.

Residential Dwelling Units	Non-Residential Uses
\$596.55 per dwelling unit	\$0.1543 per square foot

<b>Police Protection</b>	<b>Unit of Measure (UM)</b>	<b>July 1, 2026 Impact Fee</b>	<b>July 1, 2027 Impact Fee</b>	<b>July 1, 2028 Impact Fee</b>	<b>July 1, 2029 Impact Fee</b>
Residential Dwelling Unit	Unit	\$ 671.12	\$ 745.69	\$ 820.26	\$ 894.83
Non-Residential	Square Foot	\$ 0.1736	\$ 0.1929	\$ 0.2122	\$ 0.2315

(3) The amount of the ALS impact fee shall be determined according to the following table.

Residential Dwelling Units	Non-Residential Uses
\$35.15 per dwelling unit	\$0.0091 per square foot

<b>Advanced Life Support (ALS) Impact Fee</b>	<b>Unit of Measure (UM)</b>	<b>July 1, 2026 Impact Fee</b>	<b>July 1, 2027 Impact Fee</b>	<b>July 1, 2028 Impact Fee</b>	<b>July 1, 2029 Impact Fee</b>
Residential Dwelling Unit	Unit	\$ 39.54	\$ 43.94	\$ 43.94	\$ 43.94
Non-Residential	Square Foot	\$ 0.0102	\$ 0.0114	\$ 0.0125	\$ 0.0137

- (b) The fees imposed are a result of the city's fee calculation studies to insure that the impact fees imposed are rationally related to the impact of new growth on public safety activities.
- (c) In lieu of the payment of any public safety impact fees set forth herein, and at the option of the city, the fee payer may donate real property, ~~equipment vehicles, and/or~~ capital improvements to the city. Fee payers shall receive credit for any public safety impact fees due under this ~~article division~~ equal to the value of the real property, ~~equipment vehicles,~~ or capital improvements offered and exchanged for payment of the public safety impact fees due under this ~~article division~~. Prior to acceptance of any real property, equipment or capital improvements in lieu of public safety impact fees, the City Manager or his or her designee shall obtain an appraisal to establish the credit for real property, equipment or capital improvements presented in lieu of public safety impact fees.

- (d) (1) Real property, equipment or capital improvements proposed to be exchanged in lieu of a payment of any public safety impact fees shall be real property, ~~equipment vehicles~~ or capital improvements needed for public safety facilities as contemplated by this ~~article~~ division or in the case of platted lots located in the city's urban services reserve area zoned as commercial or professional use prior to February 13, 1989, that are rezoned by the Cape Coral Comprehensive Plan for residential use, may be exchanged for public safety impact fees if the platted lots are below the minimum size for residential use, and adjoin city-owned property.
- (2) Property conveyed to the city for an impact fee credit shall receive a credit equal to its fair market value at the time of the conveyance, or in the case of property located within the city's urban services reserve area, its fair market value based upon the property's commercial or professional zoning prior to the adoption of the Cape Coral Comprehensive Plan on February 13, 1989.
- (3) All of the real property acquired by the city in exchange for impact fees contemplated by this ~~article~~ division shall be either used for capital improvements contemplated by this article or sold within a reasonable time by the city and all of the proceeds from the sale shall be deposited into the specific impact fee fund for which the property was acquired, pursuant to § 2-24.11 below and used for those specific public safety facilities.
- (e) Any fee payor applying for issuance of a building permit, may, at his or her option, submit evidence to the ~~City Council Development Services Director~~ indicating that the impact fees set by this division are not applicable to his or her particular case. Based upon clear and convincing evidence, the ~~City Council Development Services Director~~ may adjust the fees as appropriate for the particular property.
- (f) That the city hereby adopts by reference as if fully set forth herein the ~~2006~~ 2026 City of Cape Coral ~~public safety impact fee study~~ Development Impact Fee Justification Study prepared by DTA Public Finance, Inc., identifying all real property in the city and the impact fees due for each parcel. A copy of the 2006 2026 City of Cape Coral public safety impact fee study Development Impact Fee Justification Study is attached to the ordinance as Exhibit "A" and shall be recorded in the office of the City Clerk and available for public inspection upon request.
- (g) Residential construction is exempt from the payment of public safety impact fees for additions to existing residential structures not creating another dwelling unit. Residential construction is exempt from the payment of the fees for the replacement of a residential structure with a new residential structure not creating an additional dwelling unit.
- (h) When a structure is moved from one location to another, public safety impact fees will be collected for the new location if the structure constitutes one of the land development uses listed in this section, regardless of whether public safety impact fees have been paid at the old location, unless the use at the new location is a replacement of an equivalent use. If the structure moved is replaced by an equivalent use, no public safety impact fee are owed for the replacement use. In every case, the burden of providing past payment of public safety impact fees or equivalency of use rests with the feepayer.
- (i) The city may grant fire and rescue impact fee credits to a developer or property owner in exchange for the construction and transfer, to the city, of permanent utility facilities related to the city's existing potable water transmission/distribution system that are enlarged (up-sized) to provide fire protection to a developer or property owner's property. The city shall utilize an engineer's estimate of probable cost or actual cost of the donated facility to determine the amount of the fire and rescue impact fee credit. The hydraulic share of the existing potable water main shall be deducted from the enlarged (up-sized) potable water main cost when determining the amount of the fire and rescue impact fee credit. Fire and rescue impact fee credits shall be provided for commercial buildings or multi-family dwellings that utilize the increased hydraulic share for fire suppression purposes. Fire and rescue impact fee credits shall not be provided for single-family dwellings or duplexes. The amount of fire and rescue impact fee credits granted for any property shall not exceed the anticipated fire and rescue impact fees to be collected from that property. For properties not obtaining building permits at the time the transfer of the enlarged (up-sized) potable water main is made, estimates of anticipated fire and rescue impact fees shall be used to determine the amount of the credit. The method by which the credits were determined shall be contained in the development agreement or PDP development order applicable to the property.

**§ 2-24.10 Refunds and fee for special fire safety needs.**

- (a) Refunds of public safety impact fees paid hereunder may be allowed upon application therefore when it is determined that no construction has occurred and the building permit issued for the construction is expired or canceled. No interest shall be paid by the city on impact fees refunded.
- (b) ~~In the event that any structure has special fire safety needs because of size or type of construction or the use thereof, special fire and rescue impact fees shall be paid to the city. Those impact fees shall be an amount necessary to permit the acquisition of any equipment or other capital asset necessary for the safe provision of fire protection services to the structure, as determined by the City Council. That impact fee shall be in addition to any other fee imposed hereunder and shall be paid prior to the issuance of a building permit for the structure. Alternatively, the owner or developer of the construction may provide to the city the equipment or capital assets as determined to be needed because of the construction.~~

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**§ 2-24.12 Use of proceeds.**

- (a) The funds accumulated by reason of the collection of Fire and Rescue impact fees shall be used only for the purchase of fire capital improvements consisting of ~~land, buildings, infrastructure as defined in Section 163.31801(3), Florida Statutes and~~ vehicles and equipment for fire fighting and fire protection services necessary for the protection of the public.
- (b) The funds accumulated by reason of the collection of police protection impact fees shall be used only for the purchase of capital improvements consisting of ~~infrastructure as defined in Section 163.31801(3), Florida Statutes and~~ land, buildings, vehicles and equipment for police protection services to benefit the public.
- (c) The funds accumulated by reason of the collection of ALS impact fees shall be used only for the purchase of capital improvements consisting of ~~infrastructure as defined in Section 163.31801(3), Florida Statutes and~~ land, buildings, vehicles and equipment for ALS services to benefit the public.
- (d) Disbursement of funds and investments. Monies may be disbursed from the trust funds established by this section in the customary manner in accordance with law. Any funds on deposit in any of the trust funds which are not reasonably contemplated to be immediately needed for the purposes intended, may be invested by the city's financial services department from time to time in investments in accordance with the city's investment policies. Any interest or proceeds received from the investment of the funds shall become part of the fund and may not be used for any other purpose.

**§ 2-24.13 ~~Annual review~~ Review and adjustment of public safety impact fee.**

The public safety impact fees shall be reviewed and updated pursuant to Section 163.31801, Florida Statutes, as amended. ~~by the City Council annually.~~

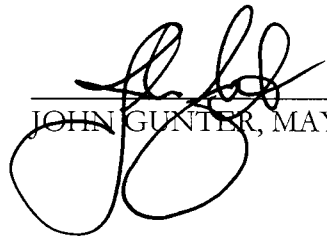
SECTION 2. The Mayor and City Council hereby approve the January 2026 Development Impact Fee Justification Study prepared by DTA Public Finance, Inc.

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. This ordinance does hereby repeal any ordinances, or portion thereof, in conflict herewith.

SECTION 5. Effective Date. This ordinance shall become effective on July 1, 2026.

ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL,  
FLORIDA, AT THEIR REGULAR SESSION THIS 25<sup>th</sup> DAY OF March, 2026.

  
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JOHN GUNTER, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

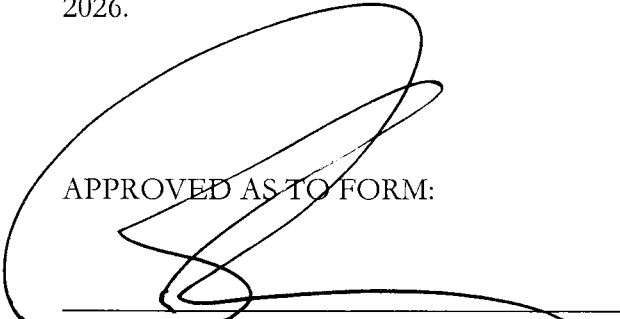
GUNTER            aye  
STEINKE         aye  
LEHMANN        aye  
DONNELL         aye

LA STRA           aye  
KILRAINE         aye  
LONG              no  
KADUK             aye

ATTESTED TO AND FILED IN MY OFFICE THIS 31<sup>st</sup> DAY OF March,  
2026.

  
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KIMBERLY BRUNS  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ALEKSANDR BOKSNER  
CITY ATTORNEY  
ord. Impact Fees – Public Safety  
