AN ORDINANCE RELATING TO IMPACT FEES; AMENDING SUBSECTIONS (b) AND (c) OF SECTION 2-841, AMENDING SECTION 2-842 AND ADDING A NEW SUBSECTION (f) TO SECTION 2-842, AMENDING SUBSECTION (a) OF SECTION 2-846; AMENDING SECTION 2-849; AND AMENDING SUBSECTION (a) OF SECTION 2-850 OF DIVISION 6, FIRE, POLICE, PARKS AND RECREATION AND GENERAL GOVERNMENT CAPITAL FACILITY FEE, OF ARTICLE VI, FINANCE, OF CHAPTER 2; AMENDING SECTION 2-845 OF APPENDIX "A", FEES AND CHARGES SCHEDULE, OF THE CODE OF ORDINANCES, CITY OF NAPLES, TO REFLECT NEW RATES FOR FIRE, POLICE, PARKS AND RECREATION AND TO ELIMINATE THE GENERAL GOVERNMENT CAPITAL FACILITY FEE; Basing Fees upon the Most Recent Impact Fee Study; Creating Separate Funds; Adjusting Credits and Exemptions; Providing a Severability Clause and Providing an Effective Date.

WHEREAS, the State of Florida in 2006 passed the “Florida Impact Fee Act”, 163.31801; and

WHEREAS, the “Florida Impact Fee Act” requires that the calculation of the impact fee be based on the most recent and localized data; and

WHEREAS, the City retained a qualified financial consultant to evaluate and calculate revised impact fees to meet the future growth related needs of the City; and

WHEREAS, a report entitled Impact Fees was presented to Naples City Council by Tischler Bise on December 21, 2007; and

WHEREAS, the Impact Fee Act requires that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or amended impact fee;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Subsections (b) and (c) of Section 2-841 Division 6, Fire, Police, Parks and Recreation and General Government Capital Facility Fee, of Article VI, Finance, of Chapter 2 of the Code of Ordinances, City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Article VI. Finance

DIVISION 6. FIRE, POLICE, PARKS AND RECREATION AND GENERAL GOVERNMENT CAPITAL FACILITY (IMPACT) FEES*

Sec. 2-841. Statutory authority; applicability.

(b) Increasing the capacity of fire, police, and parks and recreation, and general government facilities, in accordance with the comprehensive plan, is a recognized proprietary power of the
city through F.S. § 166.021, and F.S 163.31801 and is in the best interest of the public's health, safety and welfare.

(c) Planning, through the comprehensive planning process, for the necessary expansion of new fire, police, and parks and recreation, and general government facilities created by new land development activity generating need is a responsibility of the city through F.S. § 163.3161 et seq., and is in the best interest of the public's health, safety and welfare.

Section 2. That Section 2-842 of the Code of Ordinances, City of Naples, is amended to read as follows and a new subsection (f) is added to Section 2-842 (with underlining indicating additions and strikeout indicating deletions):

Sec. 2-842. Intent and purpose of division.

(a) The city council has determined and recognized that the growth rate which the city is experiencing will necessitate extensive facilities improvements and make it necessary to regulate new development in order to maintain fire, police, parks and recreation, and general government facilities at an acceptable level of service so as to maintain quality of life in the city. In order to finance the necessary new capital improvements and to purchase necessary equipment, several combined financing methods will be necessary, one of which will require new developments to pay a fire, police, and parks and recreation, and general government capital facility fee which does not exceed a pro rata share of the reasonably anticipated expansion costs of new fire, police, and parks and recreation, and general government facilities.

(b) Providing fire, police, and parks and recreation, and general government and related facilities is a recognized proprietary power of the city through F.S. § 166.021, and is in the best interests of the public's health, safety and welfare.

(c) Implementing a regulatory scheme that requires new development to pay a fire, police, and parks and recreation, and general government capital facility fee; i.e., impact fee, that does not exceed a pro rata share of the reasonably anticipated expansion costs of new fire, police, and parks and recreation, and general government facilities created by the new land development activity is the responsibility of the city in order to carry out the comprehensive plan, as amended, and is in the best interest of the public's health, safety and welfare.

(d) The purpose of this division is to continue to enable the city to allow new development in compliance with the adopted comprehensive plan and to regulate new development activity generating fire, police, parks and recreation, and general government activities so as to require it to share in the burdens of growth by paying its pro rata share for the reasonably anticipated expansion costs of fire, police, and parks and recreation, and general government facilities improvements. Thus, new growth will help pay for itself, and the existing residents of the city will not have the full financial burden of providing
increased fire, police, and parks and recreation, and general government capacity at the outset.

(e) It is the purpose of this division to establish a system to assist in providing increased capacity for the fire, police, and parks and recreation, and general government operations to accommodate the increased demand new development will have on the existing operations. New land development activity will be required to pay a fee which does not exceed a pro rata share of the reasonably anticipated costs of new fire, police, and parks and recreation, and general government facilities and other facilities than its presence necessitates.

(f) The city council hereby calculates the impact fee based on the most recent and localized data, which is contained in the impact fee rate study, entitled "Impact Fees" as prepared by Tischler Bise and dated January 25, 2008 and any amendments, updates, or supplements thereto prior to adoption of this ordinance, including without limitation the assumptions, conclusions and findings in such study. A copy of the study will be kept on file in the office of the city clerk.

Section 3. That Subsection (a) of Section 2-846 of the Code of Ordinances, City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 2-846. Appeal of determination of fees.

(a) An applicant may appeal to the city manager for a determination that the applicant's economic impact on the fire, police, and parks and recreation, and general government systems is less than the schedule of fees provided for in section 2-845.

Section 4. That Section 2-849 of the Code of Ordinances, City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 2-849. Use of funds.

(a) The facility fees collected by the city pursuant to this division shall be kept in separate funds from other revenue of the city. The fees collected shall be divided in accordance with the proportions set forth in the fee schedule in appendix A to this Code for separate expenditures for fire, police, parks and recreation, and general government capital facilities.

(b) The funds collected by reason of the establishment of fire, police, parks and recreation, and general government facility fees in accordance with this division shall be used solely for the purpose of funding projects contained in the capital improvement program of the city.

(a) The city hereby establishes or reaffirms the establishment of separate impact fee trust funds for each of the public facilities, designated as follows:
(1) Police: "Police Impact Fee Trust Fund";
(2) Fire: "Fire Impact Fee Trust Fund";
(3) Parks and recreational: "Parks and Recreation Impact Fee Trust Fund"

(b) Each of these impact fee trust funds shall be maintained separate and apart from each other and from all other funds of the city. Each fund shall account for all collections, revenues and expenditures. The portion of the impact fee allocated to each public facility inclusive shall be deposited into the corresponding impact fee trust fund upon receipt. No impact fee in any trust account shall be loaned to any other impact fee trust account.

(c) The money collected in accordance with this chapter shall be used solely for the purpose of providing growth-necessitated development improvements, additions, and capital equipment for the specific function in the city as follows:

(1) Fire Impact fee. Capital needs related to growth in the city including costs related to adding or expanding fire facilities and fire apparatus; and
(2) Police Impact fee. Capital needs related to growth in the city including costs related to adding or expanding police facilities and police equipment apparatus; and
(3) Parks and Recreation Impact fee. Capital needs related to growth in the city including costs related to adding or expanding parks, adding or expanding recreation facilities and adding parks or recreational equipment.

(d) Impact fee trust funds shall not be used for any expenditure that would be classified as a maintenance or repair expense.

Section 5.
That Subsection (a) of Section 2-850 of the Code of Ordinances, City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 2-850. Exemptions.

(a) The following shall be exempt from payment of the fire, police, and parks and recreation, general government capital facility fee:

(1) Alteration, expansion or replacement of (1) an existing dwelling unit or (2) a commercial structure or use, provided the respective alteration, expansion or replacement: (a) will not create any additional net increase in the size or square footage of the respective development, (b) will not result in a net increase of the intensity of use(s); or (c) will not otherwise create any additional net demand of the respective facility. Lawful buildings, structures and/or uses that are not in actual use at the time of the submittal of an application to the city for development approval and issuance of that building permit (or other development approval) and that would otherwise result in an obligation to pay the new (additional) impact fees shall not be eligible for this
exemption unless the applicant can prove that the building had been lawfully used during any time within the immediately preceding seven (7) years and the building or structure has not been condemned. No additional living units are created and use as a residential structure is not changed.

(2) Alteration and rehabilitation of a commercial structure, provided that the physical cube of the exterior of the building is not increased. Where the physical cube is increased, the fees shall be calculated based upon the total projected square footage minus the original square footage of the physical cube.

(32) The construction of accessory residential buildings or structures which will not increase the number of inhabitants associated with the principal building or of the land.

(4) The replacement of a residential structure with a new residential structure.

(5) The replacement of an existing commercial building with a new commercial building with the impact fees being applied to the difference between the square footage of the new building and the square footage of the building torn down.

(63) The construction, rehabilitation, expansion or replacement of agricultural structures.

(74) The construction, rehabilitation, expansion or replacement of publicly owned government buildings owned by the city.

(8) Multiple family units constructed for affordable housing.

Section 6. That Section 2-845 of Appendix A, Fees and Charges schedule of the Code of Ordinances, City of Naples, is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

§ 2-845. Capital facility (Impact) fees.

(1) Fire, police and general government capital Residential facility fee (per housing unit):

(a) Fire, police and general government capital facility fees are as follows:

1. Residential dwelling unit . . . . . 354.99
2. Commercial structures, per 100 square feet . . . . . 73.49

(b) The fees set out in subsection (1)a above are only for fire, police and general government capital facilities and equipment. The breakdown for capital facilities fees is as follow:

...
1. For residential dwelling units, $82.23 for fire, 
$199.10 for police, and $73.66 for general 
government, for each residential dwelling unit, for a 
total of $355.99; and

2. For commercial structures, $25.20 per 100 square feet 
for fire, $41.39 per 100 square feet for police, and 
$6.90 per 100 square feet for general government, for 
each commercial structure, for a total of $73.49 per 
100 square feet for new structures or additions.

c. The fees shall be separately accounted and budgeted for 
fire, police and general government capital facilities.

(2) Parks and recreation capital facility fees:

e. The parks and recreation capital facility fee shall be as 
follows:

<table>
<thead>
<tr>
<th>Residential dwelling unit</th>
<th>Parks</th>
<th>Police</th>
<th>Fire</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family</td>
<td>$1166</td>
<td>$323</td>
<td>$337</td>
<td>$1,826</td>
</tr>
<tr>
<td>Detached</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Other Housing</td>
<td>$897</td>
<td>$248</td>
<td>$259</td>
<td>$1,404</td>
</tr>
</tbody>
</table>

b. The fees set out in subsection (2)a above are only for 
parks and recreation capital facilities and equipment.

c. The fees shall be separately accounted and budgeted for 
parks and recreation capital facilities.

(2) Non residential facility fee (per square foot of floor area):

<table>
<thead>
<tr>
<th>Police</th>
<th>Fire</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>820 Commercial Shopping Center 100,000 SF or less</td>
<td>$0.45</td>
<td>$1.24</td>
</tr>
<tr>
<td>820 Commercial Shopping Center 100,000 SF or more</td>
<td>$0.33</td>
<td>$0.90</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>$0.13</td>
<td>$0.35</td>
</tr>
<tr>
<td>720 Medical Dental Office</td>
<td>$0.37</td>
<td>$1.00</td>
</tr>
<tr>
<td>710 General Office 50,000 SF or less</td>
<td>$0.16</td>
<td>$0.43</td>
</tr>
<tr>
<td>710 General Office 50,000 SF or more</td>
<td>$0.11</td>
<td>$0.31</td>
</tr>
<tr>
<td>610 Hospital</td>
<td>$0.18</td>
<td>$0.48</td>
</tr>
<tr>
<td>151 Mini Warehouse</td>
<td>$0.02</td>
<td>$0.06</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>$0.07</td>
<td>$0.19</td>
</tr>
<tr>
<td>Any other not classified</td>
<td>$0.45</td>
<td>$1.24</td>
</tr>
</tbody>
</table>
(3) Other Non residential facility fee (per unique Demand indicator):

<table>
<thead>
<tr>
<th>Facility</th>
<th>Police</th>
<th>Fire</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>320 Lodging (per Room)</td>
<td>$57</td>
<td>$156</td>
<td>$213</td>
</tr>
<tr>
<td>520 Elementary School (per student)</td>
<td>$8</td>
<td>$23</td>
<td>$31</td>
</tr>
<tr>
<td>530 Secondary School (per student)</td>
<td>$12</td>
<td>$34</td>
<td>$46</td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td>$22</td>
<td>$59</td>
<td>$81</td>
</tr>
</tbody>
</table>

Section 7. It is the intention of the City Council and it is hereby ordained that the provisions of Section 1. of this ordinance shall become and be made a part of the Code of Ordinances of the City of Naples, Florida, and that the sections of this ordinance may be renumbered to accomplish such intention; and that Section 2. be incorporated into the fee schedule appended to the code.

Section 8. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 9. That all sections or parts of sections of the Code of Municipal Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 10. This ordinance shall take effect immediately upon adoption at second reading. The rates shall take effect May 29, 2008.

APPROVED AT FIRST READING THIS 6TH DAY OF FEBRUARY, 2008.


Bill Barnett, Mayor

Attest: Tara A. Norman, City Clerk

Approved as to form and legality: Robert D. Pritt, City Attorney