ORDINANCE 08-12004

AN ORDINANCE RELATING TO STORMWATER MANAGEMENT; AMENDING SECTION 30-336 OF APPENDIX "A", FEES AND CHARGES SCHEDULE; AMENDING SECTIONS 30-339(a), ADJUSTMENT OF FEES, AND 30-340, CREDITS, AND ADDING SECTION 30-343, ANNUAL RATE ADJUSTMENT BY INDEX, TO ARTICLE VI, STORMWATER MANAGEMENT, OF CHAPTER 30, PUBLIC WORKS, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FLORIDA FOR THE PURPOSE OF INCREASING THE STORMWATER UTILITY RATES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, in June 2007, the City hired a rate consultant to update the stormwater utility rates based on the next three years of the Capital Improvement Program and the next five years of the operations and maintenance budget; and

WHEREAS, the stormwater utility rates were presented at publicly advertised Council Workshops on December 3 and 17, 2007, and on February 19, 2008; and

WHEREAS, it is the desire of the City Council to revise the rates as set forth below;

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

Section 1. That Section 30-336 of Appendix "A", Fees and Charges Schedule, of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

30-336. Stormwater management utility fees.

(1) Single-family residential, per month 4.00 11.40
(2) Multifamily residential, per unit per month . . . . . 4.00 11.40
(3) Commercial, per average residential unit per month . . . . . 4.00 11.40

Section 2. That Section 30-339(a) of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 30-339. Adjustment of fees.

(a) Request for adjustment of the stormwater management utility fee shall be submitted to the city manager, who is given the authority to develop and administer the procedures and standards for the adjustment of fees. All requests shall be judged on the basis of the amount of impervious area on developed parcels and total area of vacant parcels. No credit shall be given for the installation of facilities required by the city or county development codes or state or water management district stormwater rules. The following procedures shall apply to all adjustment requests of the stormwater fee:

(1) Any owner who has paid such owner's utility fees and who believes the utility fee to be incorrect may, subject to the limitations set forth in this article, submit an adjustment
request to the city manager.

(2) Adjustment requests for the utility fees which have been paid by an owner shall be made in writing setting forth, in detail, the grounds upon which relief is sought.

(3) Adjustment requests made during the first calendar year that the utility fee is imposed will be reviewed by the city manager within a 2-month period from the date of filing the adjustment request. Adjustments resulting from such request shall be retroactive to the beginning of billings, but retroactive adjustment shall not exceed 1 year.

(4) The owner requesting the adjustment may be required, at such person's own cost, to provide supplemental information to the city manager, including but not limited to survey data approved by either a registered professional land surveyor (RPLS) and engineering reports approved by a professional engineer (PE). Failure to provide such information may result in the denial of the adjustment request.

(5) Adjustments to the utility fee will be made upon the granting of the adjustment request, in writing, by the city manager. Denials of adjustment requests shall be made in writing, by the city manager.

Section 3. That Section 30-340 of the Code of Ordinances of the City of Naples is amended to read as follows (with underlining indicating additions and strikeout indicating deletions):

Sec. 30-340. Credit Policy for Approved Stormwater Management Systems and Credits.

(a) If the city has constructed or plans to construct stormwater facilities which are proposed to be used by a developer in lieu of a facility usually required to be constructed by the developer, the city may accept a capital contribution from the developer and waive certain construction requirements. If the city plans to construct stormwater facilities which are proposed to be constructed by a developer, the city may grant a credit to the extent of the costs avoided by the city by the construction of the stormwater facilities by the developer.

(b) Procedures and standards developed by the city shall define appropriate means by which to optimize the developer's capital contributions in the construction or refunding of stormwater systems. These capital contributions shall take the form of fee in-lieu-of or availability charges. Each situation will be analyzed by the city and a specific written decision will be developed. The application of each is defined as follows:

(1) Fee in-lieu-of is applied to a site-specific negotiated procedure, wherein a development's stormwater contribution (quantity and quality) is assessed its share of the capital needs of the facilities required to serve the development in question. This capital contribution would be used for the construction or refunding of city-owned stormwater facilities.
The process does not apply where the stormwater facilities are privately held. Each application is evaluated against the city's master plan or, if the master plan is incomplete, against the cumulative impacts from the development.

(2) Availability charge is administered on a site-specific basis identical to the fee in lieu of procedure noted in subsection (b)(1) of this section. The only difference is that the capital investment advanced by the city in implementing a stormwater facility is recovered through an availability charge. The capital charge is determined on a prorated share of the capacity used by the new applicant as measured by the cumulative impact from the development upon all impacted facilities applied to the worth of the original capital expenditure.

(e) Credits for developer-installed facilities will be made to each periodic utility bill of the utility fee, as provided in section 30-338, provided the developer-installed facilities reduce the capital costs of construction of projects by the utility. Credits shall only be given for reductions in costs to programmed capital projects adopted in the approved capital improvement program of the utility, and no credit shall be given for any improvements required by rule or law of any agency or governmental entity, including the utility. Credits shall be applied to reduce the utility fee for the developer's property to the extent of the proportionate share of the utility fee that represents the extension and replacement and debt service. Such credits shall be made until the sum of all credits granted for all of the developer's property equals the costs avoided by the utility by construction of facilities by the developer after which no further credit will be made to the utility fees paid. If the developer of the property transfers ownership of the property, the remaining credits shall be transferred to the new owner.

(a) Properties that currently operate and maintain an approved stormwater management system that is shown to reduce stormwater runoff and improve the quality of stormwater runoff are eligible for a reduction in the stormwater utility fee in the form of a credit. Stormwater utility customers with property meeting the criteria provided in this section may receive a stormwater utility fee credit of up to, but not exceeding, 30% on the fee for the subject property.

(b) The following criteria must be met by the stormwater utility customer in order to receive the on-site stormwater utility fee credit:

(1) The stormwater facilities have been permitted by the South Florida Water Management District or approved by the city manager.

(2) The stormwater utility customer requesting the credit demonstrates to the City Manager, on or before every third year anniversary after the granting of the credit that said stormwater facilities are operating properly and being maintained according to standard practices. The demonstration shall include, at a minimum, photographs of the subject stormwater facilities during the year prior and a signed
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affidavit by a Professional Civil Engineer registered in the State of Florida that the facilities have been operated properly and maintained according to standard practices.

Section 4. That the Code of Ordinances, City of Naples, Florida, is hereby amended by adding a section to be numbered 30-343, which said section reads as follows:

Sec. 30-343 Annual rate adjustment by index.

Effective October 1, 2008 and for each annual anniversary thereafter, there shall be an automatic stormwater utility rate adjustment based upon and equal to the then-current percentage increase of the United States Consumer Price Index. The automatic rate adjustment provided herein shall not preclude the City Council from increasing or decreasing the stormwater utility rate as deemed necessary or appropriate at any time.

Section 5. 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 6. That all sections or parts of sections of the Code of Ordinances, City of Naples, 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 7. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 5TH DAY OF MARCH, 2008.


Bill Barnett, Mayor

Approved as to form and legality:

Robert D. Pritt, City Attorney

Attest: Tara A. Norman, City Clerk

Date filed with City Clerk: 4/8/08