

**Action Item #1 First Reading - Ordinance 07-14 Amendments to Ordinances  
03-24 and 06-44.**

This Ordinance is being presented as a First Reading.

The amendment to these ordinances consists of increasing the current Availability Fee from One Thousand Fifteen Hundred and Thirty Dollars (\$1530) to One Thousand Eight Hundred Dollars (\$1800) per equivalent dwelling unit, which is an increase of Two Hundred and Seventy Dollars (\$270). Of this One Thousand Eight Hundred Dollars (\$1800), Fifteen Hundred and Fifty Dollars (\$1550) shall be deposited in the Availability Fee Master Account and Two Hundred and Fifty Dollars (\$250) dollars shall be deposited into the Availability Fee Reimbursement Account. The Availability Fee shall be paid at the issuance of the Water Permit. Ordinance 07-14 is attached below as “Exhibit A”.

The current water connection fee, which is also paid at the issuance of the Water Permit, will remain at Five Hundred (\$500) per equivalent dwelling unit (EDU) and such payment shall be placed entirely into the Water Tap Fee Fund.

The Availability Fee Master Account shall be used to provide infrastructure improvement projects to the Town’s treatment plants and distribution system. The Availability Fee Reimbursement Account shall be used to provide reimbursements to developers who oversize and/or extend water mains pursuant to the Master Plan and enter into a Reimbursement Agreement that is approved by the Town Council.

The following is the time line as established by Indiana Code for the implementation of Changes to the Water Availability Fee:

- July 9, 2007 - Introduce Ordinance to Town Council
- July 19, 2007 - Notice of Public Hearing must be received by newspaper for publication.
- July 24, 2007 - Notice of Public Hearing must be published in the Noblesville Ledger and Noblesville Times.
- July 24, 2007 - Notices mailed to owners of vacant or unimproved properties inside and outside of the Town’s Water Jurisdiction.
- July 24, 2007 - Notices mailed to users of the waterworks located outside of the Town’s corporate boundaries.
- August 13, 2007 – Town Council holds a public hearing on the Water Availability change, Ordinance No. 07-14.
- August 20, 2007 – Objection period expires.

Therefore, the Westfield Public Works Department recommends to the Westfield Town Council that this amendment change to the Towns Water Availability Fee for consideration for the second reading.

**Exhibit "A"**

**Ordinance 07-14**

**AN ORDINANCE OF THE TOWN COUNCIL  
OF THE TOWN OF WESTFIELD, INDIANA  
AMENDING ORDINANCES 03-24 and 06-44**

**WHEREAS**, on October 13, 2003 the Town Council ("Council") of the Town of Westfield, Indiana ("Town") adopted Ordinance 03-24 providing for the payment of water availability and water connection costs for developers and new users of the Town of Westfield Water Works; and

**WHEREAS**, in Ordinance 06-44 the Council amended the water availability fee; and

**WHEREAS**, the Council encourages proper development of the Town; and

**WHEREAS**, the Council is desirous of amending the water availability fee Ordinances 03-24 and 06-44 again to produce an income sufficient to maintain the utility in a sound physical and financial condition to render adequate and efficient service;

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTFIELD, INDIANA AS FOLLOWS:**

**Section 1.** Paragraph 4 of Ordinance 03-24 and Section 1 of Ordinance 06-44 are hereby amended by the addition of language which is underlined and the removal of language which is stricken through:

4. Manner of Payment. Payment of the water availability and connection costs shall be made at the following times and in the following manner:
  - a. At detail plan approval, or conditional use approval and before any utility construction commences the availability fees of ~~One Thousand Five Hundred and Thirty Dollars (\$1530)~~ One Thousand Eight Hundred Dollars (\$1800) per each equivalent dwelling unit shall be paid. Said payment shall be paid into the following accounts of the Availability Fee Fund.
    - i. Availability Fee Master Account. ~~One Thousand Two Hundred and Eighty Dollars (\$1280)~~ One Thousand Five Hundred and Fifty Dollars (\$1550) shall be paid into the Availability Fee Master Account.
    - ii. Availability Fee Reimbursement Account. Two Hundred and Fifty Dollars (\$250) shall be paid into the Availability Fee Reimbursement Account. This account shall be used to provide reimbursements to developers who oversize and/or extend water mains pursuant to the

Master Plan set out in paragraph 8 below. Contracts under this account shall be negotiated by the Town Public Works Director and approved by the Westfield Town Council. Any developer meeting the terms of paragraph 8 below, shall receive as a credit, up to Two Hundred and Fifty Dollars (\$250) per EDU on land developed or owned by the developer as a credit for payment to the Availability Fee Reimbursement Account. The balance of credits shall be paid in cash as set out in paragraph 8 below. The payments under this account shall be made only from funds available and shall be paid to the developer in order of approval of the Reimbursement Agreements approved by the Westfield Town Council. Specifically, prioritized reimbursement cash payments will only be paid when the full amount of reimbursement is available in the account to be paid. The Director of Public Works shall approve all cash payments from this account.

- b. At the issuance of the water permit, Five Hundred Dollars (\$500) per equivalent dwelling unit (EDU) shall be paid. Said payment shall be placed entirely into the Water Tap Fee Fund.
- c. All availability and connection costs shall be due and payable upon application for a water permit for any new user if the lot or land of the new user was not assessed an initial connection fee under either Section (4)(a) above, or a prior ordinance of the Town.
- d. Funds contained in or contributed to the Availability Fee Fund, and the rights of developers to such funds, are expressly subject and subordinate to the pledge of such funds, as it may be continued from time to time, to the holders of the Town's Waterworks Revenue Bonds. The Town shall take no actions under this Ordinance 03-24 in conflict with such pledge or the rights of the holders of such Revenue Bonds.
- e. If the development is platted, a developer may choose to enter into a Water and Sewer Service and Availability Agreement with the Town in which case the price to be paid per EDU shall be the lesser of the Town's prevailing rate, as established by ordinance and existing at the time payment is due, or at a discount of 10%.

**Section 2.** The actions of the Town staff working under this Ordinance are to be deemed in conformity with Town policy.

**Section 3.** Any portion of this Ordinance that may later be deemed invalid shall not effect the remaining provision.

**Section 4.** This Ordinance shall be in full force and effect in accordance with Indiana law, upon its passage and any publication and applicable waiting period, as provided by the laws of the State of Indiana.

ALL OF WHICH IS ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2007.

**WESTFIELD TOWN COUNCIL**

**Voting For**

**Voting Against**

**Abstain**

_____ Andy Cook	_____ Andy Cook	_____ Andy Cook
_____ John Dippel	_____ John Dippel	_____ John Dippel
_____ John B. Hart	_____ John B. Hart	_____ John B. Hart
_____ Robert L. Horkay	_____ Robert L. Horkay	_____ Robert L. Horkay
_____ Joe Plankis	_____ Joe Plankis	_____ Joe Plankis
_____ Robert J. Smith	_____ Robert J. Smith	_____ Robert J. Smith
_____ Ron Thomas	_____ Ron Thomas	_____ Ron Thomas

ATTEST:

\_\_\_\_\_  
Clerk-Treasurer, Cindy J. Gossard

This Ordinance prepared by:  
Sue A. Beesley  
Bingham McHale LLP