

Ordinance 05-24

An Ordinance of The Town Council Of The Town Of Westfield, Indiana, Establishing Fees for Electronic Formatted Data Maintained by the Town of Westfield and Restricting Commercial Reproduction of Electronic Data.

WHEREAS, The Town of Westfield is authorized to establish a fee for copies of electronic data by the provisions of Indiana Code 36-1-3-8(a)(6); and,

WHEREAS, Indiana Code 5-14-3-2 defines the "direct costs" that may be charged by a unit for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval; and,

WHEREAS, Indiana Code 5-14-3-8(g) establishes a fee that a public agency may charge to copy and provide duplicate records and records maintained in electronic medium.

WHEREAS, Indiana Code 5-14-3 provides that the fiscal body shall adopt an Ordinance to establish a fund for the deposit and use of funds collected for duplication of electronic data; and,

WHEREAS, it is in the best interests of the citizens of Westfield that both the Town of Westfield Council and the Town of Westfield approve the terms of this Ordinance to conform with the terms of Indiana Code 5-14-3.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Westfield, meeting in regular session, that:

1. Small Data Sales. Any data which is contained in four or less contiguous land sections per request shall be sold on a time and material basis. The fee for such data shall include the following for each data request.

a. An initial charge of \$25.00 per request as the minimum contribution toward the Town of Westfield's cost of hardware, software, collection and maintenance of the electronic stored data.

b. A charge of \$50.00 per hour to partially compensate the Town of Westfield for labor costs, including benefits, and overhead costs for storing and maintaining the data, rounded to the nearest quarter hour.

c. \$1.00 per floppy disk.

d. \$7.00 per blank CD.

e. The Town of Westfield's direct cost, rounded to the next highest full dollar for any other medium.

2. Large Data Sales. All data requests for data from one square mile or more shall be charged as follows:

a. \$50.00 per square mile, or part thereof, per each category of data, up to fifty (50) square miles.

b. The charges in section (a) above shall permit the purchaser of the data to updates of the data upon request, but no more frequently than once per calendar quarter.

c. After the first year, any purchaser of data may receive updates for the same data initially purchased for an annual charge of forty percent (40%) of the initial rate charged pursuant to Section (a) above. After payment of the annual fee, the purchaser may receive the data upon request, but no more frequently than once per calendar year.

e. If the purchaser does not purchase annual updates, his right to purchase updates of the data lapses unless he pays the charge set out in paragraph (c) for each year when the purchaser did not pay for updates, unless the purchaser elects to purchase the same data for the charges in Section (a) above.

3. Electronic data reproduced on laser, ink jet printing, or any other copies shall be sold as follows:

a) 8 ½ x 11 - \$.50 per sheet per side

b) 8 ½ x 14 - \$.50 per sheet per side

c) 11 x 14 7/8 - \$1.00 per sheet one side

d) 11 x 17 - \$1.00 per sheet one side

4. The following shall be charged for Inkjet Plotter Costs. These charges will be based on the width of the stock paper available at the department times the length used, and not the size of the original:

a. Regular Bond - \$1.00 per square foot

b. Heavy Coated Bond - \$1.50 per square foot

c. Glossy Coated Bond - \$2.50 per square foot

5. Reimbursement for Mailing Costs: (not including copy costs).

a. Less than or equal to 4 oz. - \$.50 for envelope and postage;

b. 1st Class Greater than 4 oz., and less than or equal to 2 lbs. = \$5.00;

c. All Other = Cost plus \$5.00

6. Nothing herein shall be construed to require any employee of the Town of Westfield to provide information contained on or within a public document of an agency or department by telephone. Department heads and elected officials may, but are not required to take requests for documents by phone.

7. Payment for information under this Ordinance shall be made at the time of delivery. However, an office may agree to invoice a person for the charge if that person or company has promptly paid invoices in the past. Any person, or their designee, requesting data shall be liable for the total charges for the request. Any person, or their designee, who fails to pay the charges shall be liable for the charges, plus interest, attorney's fees, and costs of collection.

8. Nothing herein shall compel any office to charge a fee for copies if the fee imposed by this Ordinance is contrary to state law. In the event the fees in this Ordinance are contrary to any charges established by State statute, the State statute shall apply.

9. *Pursuant to the provisions of Indiana Code 5-14-3-3(e), no person other than those authorized by the Town of Westfield may reproduce, store, grant access, deliver, or sell any information obtained from any department or office of the Town of Westfield to any other person, partnership, or corporation. In addition, any person who receives information from the Town of Westfield shall not be permitted to use any mailing lists, addresses, or data bases for the purpose of selling, advertising, or soliciting the purchase of merchandise, goods, services, or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person, partnership, or corporation. However, all employees and/or agents of the Town shall be exempt from this requirement during the performance of their duties as an employee and/or agent of the town.*

10. A copy of paragraph 9 shall be conspicuously posted in all offices where electronic data is sold and the restriction contained in paragraph 9 shall be offered to any persons who obtain copies of any public information from the Town of Westfield.

11. Any person who violates the terms and conditions of this Ordinance by failing to pay or violating paragraph 9, shall be guilty of an infraction and may be fined up to Two Thousand Five Hundred Dollars (\$2,500). In the event there is a violation of paragraph 9, each violation shall be deemed a separate offense.

12. Pursuant to Indiana Code 5-14-3-8.3, the Town of Westfield Council hereby establishes the Westfield Electronic Data Fund. All fees charged under this Ordinance shall be deposited in the fund. All funds in the Electronic Data Fund shall be used only for the purposes set out in Indiana Code 5-14-3-8.3 and shall be subject to appropriation by the Town of Westfield Council.

13. Any unit of government within the Town of Westfield which has provided electronic data used by Westfield to create the electronic data covered by this Ordinance shall receive copies of the data for that unit's exclusive use free of charge.

14. Any person or unit of government who has a dispute, or seeks relief from the terms of this Ordinance may seek resolution of that dispute or relief from the Town of Westfield. The

Town of Westfield may grant such relief as is reasonable after recommendation of the Town's GIS Coordinator.

15. This Ordinance shall be become effective upon its adoption and proper publication in accordance with Indiana law. All Ordinances or parts thereof in conflict herewith are hereby ordered repealed.

ADOPTED THIS 10 DAY OF Oct, 2005 BY THE
WESTFIELD TOWN COUNCIL, HAMILTON COUNTY, INDIANA

WESTFIELD TOWN COUNCIL

Voting For

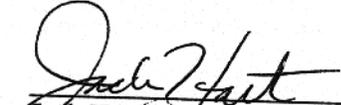
Voting Against

Abstain

Teresa Otis Skelton

Teresa Otis Skelton

Teresa Otis Skelton



Jack Hart

Jack Hart

Jack Hart



David Mikesell

David Mikesell

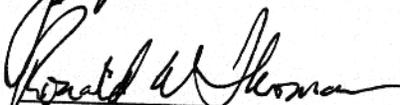
David Mikesell



Bob Smith

Bob Smith

Bob Smith



Ron Thomas

Ron Thomas

Ron Thomas

Attest:



Clerk-Treasurer, Cindy Gossard

This ordinance prepared by
Eric Becker, Westfield Public Works Department

10/4/2005

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Establishing fees for electronic data