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Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented

ORDINANCE NUMBER 07- 23

GENERAL ORDINANCE OF THE TOWN OF WESTFIELD TO ESTABLISH A STORMWATER SEWER WORKS DIVISION WITHIN THE TOWN OF WESTFIELD PUBLIC WORKS DEPARTMENT AND TO ESTABLISH A SCHEDULE OF RATES AND CHARGES FOR THE USE OF THE STORMWATER SYSTEM OF SAID TOWN, AND OTHER MATTERS CONNECTED THEREWITH.

WHEREAS, the Town of Westfield, Indiana (the "Town") owns a municipal public works system for the purpose of collecting and disposing of sewage of the residents of the Town and surrounding areas in a sanitary manner; and

WHEREAS, a portion of the public works of the Town consists of a stormwater collection and conveyance system, ('Stormwater System'); and

WHEREAS, the Town desires to establish a stormwater sewer works division (the "Stormwater Division") within the Town of Westfield's Public Works Department, under the jurisdiction of the Council for the purpose of implementing capital improvements, operation and maintenance activities, and public education and outreach to comply with federal and state requirements; and

WHEREAS, the Town desires to establish a distinct just and equitable schedule of fees and charges for the users of the Stormwater System; and

NOW THEREFORE BE IT ORDAINED BY THE WESTFIELD TOWN COUNCIL THAT:

SECTION I: DEFINITIONS

For the purpose of this article, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may' is permissive. Words not defined herein shall be construed to have the meanings given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

a. APPROVED PLANS:

Plans approved by the Town according to a permits and plan review which will govern all improvements made within the Town that require a stormwater system or changes or alterations to the existing stormwater system.

b. LOT:

The smallest separately segregated parcel, unit or plot of land having an identified owner, boundaries, and surface area which is documented for property tax purposes by the Westfield Washington Township Assessor.

c. RESIDENTIAL PROPERTY:

Any lot or parcel existing in the public works system service area on which resides a family dwelling unit.

d. NON- RESIDENTIAL PROPERTY:

All properties not encompassed within the definition of Residential Property with water or sewer service intended to measure flow to/from the Town's utility service.

e. MULTI-UNIT RESIDENTIAL PROPERTY:

A multi-unit residential building is a building containing "two or more dwelling units." A dwelling unit is an individual unit which is rented or owned to be primarily used, or intended to be used, as a domicile, condominiums, mobile home parks and co-operative apartments. This does not include institutions that provide medical care.

f. PERSON:

Any natural individual, corporation, partnership, institution, or other entity.

g. METER:

A water meter or sewage meter intended to measure flow to/from the Town's utility services.

h. STORMWATER:

The chemical compound of hydrogen and oxygen which is produced from atmospheric clouds as rain, snow, sleet, and hail.

i. STORMWATER SYSTEM:

All facilities constructed in an easement or right of way, including structures and natural watercourses under the ownership, and/or control of the Town, used for collecting and conducting stormwater to, through and from drainage areas to the point of final outlet, including any and all of the following: inlets, creeks, channels, catch basins, ditches, streams, streets culverts, retention or detention basins and pumping stations, and excluding there from, any part of the system of drains and water courses under the jurisdiction of Hamilton County , waters of the State of Indiana, private drainage systems, or drainage systems which are the responsibility of a homeowners associations.

j. STORMWATER DEPARTMENT USER FEE:

A charge imposed on users of the Town's Stormwater System.

k. SURFACE WATER:

Water occurring on the surface of the land, from natural causes such as rainfall, whether falling on the land in question or flowing onto the land in question.

l. TOWN:

Shall mean the Town of Westfield, Indiana acting by and through the Town Council, or any successor municipal entity.

m. TOWN COUNCIL:

Shall mean the Town Council of the Town of Westfield, Indiana or any other successor entity, or any duly authorized officials acting on its behalf.

n. PUBLIC WORKS SERVICE AREA:

All property within the corporate boundary of the Town of Westfield, Hamilton County, Indiana.

SECTION II: STORMWATER USER FEE

A stormwater user fee shall be imposed on all property within the Public Works Service Area, including those classified as non-profit or tax-exempt, for services and facilities provided by the Town. This user fee is deemed reasonable and is necessary to pay for the repair, replacement,

planning, improvement, operation, regulation and maintenance of the existing and future stormwater system for the Town of Westfield, Indiana.

SECTION III: STORMWATER RATE STRUCTURE FEE AND RATE

For the purposes stated herein, there is hereby assessed a stormwater user fee to each stormwater user within the Public Works Service Area of the Town of Westfield, Hamilton County, Indiana, in an amount as determined below. For purposes of imposing the stormwater user fee, all lots and parcels within the public works system service area are classified as either:

1. Residential Properties

2. Non- Residential Properties

3. Multi-Unit Residential Properties

1. RESIDENTIAL PROPERTIES:

Monthly fees for Residential Properties located within the Public Works Service area that receive water service or sanitary sewer service only, are hereby established at a rate of Two Dollars and Seventy-five cents ($2.75) per month for a 3/4 inch water meter opening or smaller and Four Dollars ($4.00) per month for any water meter opening larger than 3/4 inch. Any Residential Properties located within the Public Works Service area that does not receive water or sanitary sewer services, will be billed at a monthly minimum rate of Two Dollars and Seventy-five cents ($2.75), and will be billed bi-annually Sixteen Dollars and Fifty Cents ($16.50). The bi-annual monthly billings will occur on June 1 and December 1 of the calendar year.

2. NON- RESIDENTIAL PROPERTIES:

Monthly fees for Non-Residential Properties located within the Public Works Service area that receive water service or sanitary sewer service only, are hereby established at the rate of Five Dollars ($5.00) per month for a 3/4 inch water meter opening or smaller and Twenty Dollars ($20.00) per month for any water meter opening larger than 3/4 inch with the exception of multi-unit residential users. Any Non-Residential Properties located within the Public Works Service area that does not receive water or sanitary sewer services, will be billed at a monthly minimum rate of Five Dollars ($5.00), and will be billed bi-annually Thirty Dollars ($30.00). The bi-annual monthly billings will occur on June 1 and December 1 of the calendar year.

3. MULTI-UNIT RESIDENTIAL:

Monthly fees for Multi-Unit Residential Properties located within the Public Works Service area that receive water service or sanitary sewer service only, are hereby established at a rate of Two Dollars and Seventy-five cents ($2.75) per month for a 3/4 inch water meter opening or smaller and Twenty Dollars ($20.00) per month for any water meter opening larger than 3/4 inch. Any Multi-Unit Residential Properties located within the Public Works Service area that does not

receive water or sanitary sewer services, will be billed at a monthly minimum rate of Two Dollars and Seventy-five cents ($2.75), and will be billed bi-annually Sixteen Dollars and Fifty Cents ($16.50). The bi-annual monthly billings will occur on June 1 and December 1 of the calendar year.

SECTION IV: FEE ESTABLISHMENT PROCEDURE

This stormwater user fee rate is designed to recover and be able to pay the cost of rendering stormwater service to the users of the stormwater system, and shall be the basis for assessment of the Town's stormwater user fee. This stormwater user rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variation in the demand for services. This rate shall be evaluated annually as to its sufficiency to satisfy the needs of the Town.

SECTION V: BILLING AND PAYMENT PENALTIES

Such rates and charges shall be prepared, billed and collected by the Town in the manner provided by law and ordinance.

a. The rates and charges for all users shall be prepared and billed monthly.

b. The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the Town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which said records are kept and during the hours that such office is open for business.

c. As provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of ten percent (10%) of the amount of the rates or charges shall thereupon attach thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill.

SECTION VI: ADJUSTMENT OF FEES

That the rules and regulations promulgated by the Town, after being approved by the Town Council, shall among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the public works system and the Fee Structure to the Town Council and that any decision concerning the Fee Structure of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

SECTION VII: PRIVATE STORMWATER FACILITIES

a. The Town shall have no responsibility for the installation, maintenance and repair of private stormwater facilities or private drain systems.

b. No newly-constructed stormwater systems or drains shall cross the property of another private owner unless such private owner has granted an easement for such private stormwater system or drain, and which easement is duly recorded in the office of the Hamilton County Recorder.

c. All costs and expenses incident to the installation and connection of the private drain or private drainage system shall be borne by the owner. The owner shall indemnify the Town for any loss or damage directly or indirectly occasioned by the construction or installation of the private drain, including backwater damages from the public stormwater system.

d. The connection or outlet of a stormwater systems or private drain into the public stormwater system shall conform to Town specifications and standards for storm drainage works. Any deviation of the prescribed procedure or material must be approved by the Public Works Department before installation.

e. No unauthorized person shall uncover, make any connection with or open into, use, alter or disturb any public stormwater sewer or appurtenance thereof without first contacting the department of the Public Works.

f. All excavations or construction or installation of private stormwater systems or drainage facilities shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in accordance with the specifications and standards for storm drainage works of the Town.

g. All private construction and installation of stormwater systems shall include proper restoration and provisions for erosion and sediment control in accordance with the specifications and standards for storm drainage works of the Town and all other stormwater systems or drainage requirements.

h. No property owner shall change the stormwater runoff pattern of the property of such owner in such a way that neighboring properties or Town property is adversely affected. Consideration and provisions must be made for stormwater systems or drainage to and from neighboring properties in connection with land alterations.

SECTION VIII: DELINQUENT FEES AND PENALTIES AS LIENS

Delinquent charges for stormwater user fee rates, services, applied penalties, and recording fees constitute a lien upon the property and may be collected in accordance with provisions of IC 36-9-23-32 and 36--23-35.

SECTION IX: VIOLATIONS, ENFORCEMENT AND PENALTIES

Failure to pay a stormwater user fee rates when due shall constitute a violation of this Ordinance, which shall be enforced by the Town and such persons as the Town may appoint for such purpose, which shall also include the cost of recovery, including attorney-fees, other costs of collection and recording fees.

SECTION X: STORMWATER REVENUE FUND

All revenues earned and fees collected for stormwater service, including but not limited to, department user fees, penalties assessed by this Ordinance or subsequent amendments, or interest earnings on any unused funds shall be deposited in an account entitled "Town of Westfield Stormwater Revenue Fund" and shall be subject to the provisions of Indiana Code 36-9-23, as amended. Funds from this account shall not revert to any other Town Utility or the General Fund of the Town and may not be transferred for any other purpose. To the extent that there are outstanding revenue bonds of the Town issued pursuant to the provisions of Indiana Code 36-9-23, as amended, revenues deposited in the Stormwater Revenue Fund shall be subject to the covenants contained in the ordinance or ordinances authorizing such outstanding bonds. Disbursements from the Stormwater Revenue Fund shall be authorized by the Westfield Clerk-Treasurer and, as required by law, the Town Council. Such disbursements shall be used exclusively for the operation, maintenance and improvement of the Town's Stormwater Division, which includes, but is not limited to, the following:

a. Stormwater management services, such as public education and outreach, studies, design, permit review, plan preparation and development review.

b. Operation, maintenance, repair and replacement of the stormwater collection, storage, conveyance, and/or treatment infrastructure.

c. Project costs related to constructing major or minor structural improvements to the Town's stormwater system.

d. Administrative costs associated with the management of the stormwater department.

e. Debt service financing of the Town's stormwater-related capital improvements.

f. Funding of studies such as water quantity and quality monitoring, aerial photography, associated with the planning of the stormwater related infrastructure.

g. Implementation of long range stormwater plans developed and approved by the Indiana Department of Environmental Management for elimination of combined sewer overflows.

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

This ordinance shall be in full force and effect from and after its passage, approval, recordings and publications as provided by law.

ADOPTED AND PASSED THIS 12 DAY OF Nov, 2007, BY THE WESTFIELD TOWN COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD TOWN COUNCIL
Hamilton County, Indiana

WESTFIELD TOWN COUNCIL

Voting For	Voting Against	Abstain
J. Andrew Cook	J. Andrew Cook	J. Andrew Cook
Jack Hart	Jack Hart	Jack Hart
John Dippel	John Dippel	John Dippel
Bob Smith	Bob Smith	Bob Smith
Ron Thomas	Ron Thomas	Ron Thomas
Robert Horkay	Robert Horkay	Robert Horkay
Joseph Plankis	Joseph Plankis	Joseph Plankis

ATTEST:

Clerk-Treasurer, Cindy Gossard

"I affirm, under the penalties of perjury, that I have taken reasonable care to reduct each Social Security Number in this document, unless required by law"

Signed

This ordinance prepared by
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