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Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented

ORDINANCE 08-42

WHEREAS, The City of Westfield, ("City") is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and City Council ("Council"); and,

WHEREAS, it is the responsibility of the City government to investigate and initiate those measures that are beneficial to the citizens of the City, and

WHEREAS, the Council is aware that garbage and rubbish removal is currently being conducted by individual contracts between citizens and the various service providers within the City; and,

WHEREAS, the Council is aware that the ability of the City to negotiate universal garbage and rubbish removal on a City wide basis would provide for better rates as well as reduce the number of days for its removal thereby reducing large truck traffic and disturbances.

NOW, THEREFORE, BE IT ORDAINED by the Westfield City Council meeting in session as follows:

Section 1. The Director of Public Works is hereby authorized to create a Division of Solid Waste within the Department of Public Works and appoint a Supervisor thereof. The Westfield Public Works Department through the Division of Solid Waste of the City of Westfield, Indiana is hereby authorized and empowered to collect and dispose of all garbage and rubbish within the City.

Section 2. Garbage, within the meaning of this ordinance, shall be construed to mean rejected food wastes, and to include every waste accumulation of animal, fruit or vegetable matter, used or intended for food, or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.

Rubbish within the meaning of this ordinance, shall be construed to mean such matter as ashes, cans, metalware, broken glass, crockery, dirt, sweepings, boxes, wood, grass, weeds, or litter in any kind.

Section 3. Said Division is hereby authorized, subject to the approval of the Westfield City Council to prescribe and promulgate regulations providing methods to be used, in the storage, collection and disposal of all garbage and rubbish.

Section 4. Said Division is hereby authorized and empowered to appoint a superintendent of garbage and rubbish collection and disposal to supervise said collection and disposal. In the absence of such appointment, the Director of Public Works shall serve as superintendent of garbage and rubbish collection, and shall be responsible for the administration of the regulations set up by Said Division governing the collection and/or disposition of such garbage and rubbish.

Section 5. In its discretion Said Division and the Westfield City Council may ask for and accept bids from a private contractor for the handling of the service described in this ordinance, said contractor shall be subject to the regulations of Said Division as to the manner and method of collection and disposal of garbage and rubbish, and any other unlicensed private person, firm, or corporation engaged in the business of rubbish collection shall be subject to the regulations of Said Division.

Section 6. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 7. This ordinance shall be in full force and effect from and after its passage, and approval by the City Council and publication as by law required.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

ALL OF WHICH IS ORDAINED THIS 8 DAY OF Sept 2008.

WESTFIELD CITY COUNCIL

Voting For	**Voting Against**	**Abstain**
John Dippel	John Dippel	John Dippel
Bob Horkay	Bob Horkay	Bob Horkay
Ken Kingshill	Ken Kingshill	Ken Kingshill
Bob Smith	Bob Smith	Bob Smith
Thomas Smith	Thomas Smith	Thomas Smith
Rob Stokes	Rob Stokes	Rob Stokes
Melody Sweat	Melody Sweat	Melody Sweat

I hereby certify that ORDINANCE 08-42 was delivered to the Mayor of Westfield on the 10 day of Sept, 2008, at 11:30A m.

Cindy Gossard

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 08-42 this 17 day of September, 2008.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 08-42 this _____ day of _____, 2008.

J. Andrew Cook, Mayor

ATTEST:

Cindy Gossard

Cindy Gossard, Clerk Treasurer

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

C. Gossard

Signed

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT, LLP.

Ordinance 08-42
Garbage and rubbish service

Exhibit "A"

City of Westfield

Public Works Department Rates and Charges For Residential Solid Waste Removal Services

Section A. **Constant Charges.**

Section A.1 Collection Fee Amount To Be Determined by Public Bid

Section A.2 Disposal Fee Amount To Be Determined by Public Bid

Section B. **Other Charges.** In addition to the fees set forth above, all customers located within the corporation limits of the City shall be billed the following charges when deemed appropriate.

Section B.1 Administrative Account Change Fee. All customers shall be subject to an administrative account change when the customer requests changes to be made to their account (for example, name change, billing address change, etc.) in the amount listed below:

Effective January 1st

Administrative Account Charge Fee	2009	2010	2011
	$17	$18	$19

Section B.2 Administrative Fee. All customers shall be subject to a monthly administrative fee to recoup administrative costs associated with management and billing in an amount to be determined per month once sections A.1 and A.2 have been accepted. At no time shall this fee exceed one dollar ($1) per month.

Section B.3 Service Cycle. All customers must pay for service one month in arrears.

Section B.4 Deposit to insure payment of bills.

Section B.4.1 The City shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

a.) Without regard to the economic character of the area wherein the applicant or customer resides; and

b.) Solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.

Section B.4.2 Each new applicant for residential trash service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:

(1) If the applicant has been a customer of any utility within the last two (2) years, and the applicant:

a.) Owes no outstanding bills for service rendered within the past four (4) years to any such utility;

b.) During the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than (1) delinquent bill in such period; and

c.) Within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.

(2) If the applicant has not been a customer of the City during the previous two (2) years, any two (2) of the following criteria are met:

A. The applicant either:

1. Has been employed by his or her present employer for two (2) years.

2. Has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

a.) Graduating from a school, university, or vocational program; or

b.) Being discharged from the military service.

B. The applicant either:

1. Owns or is buying his or her home; or

2. Is renting a home or an apartment and has occupied the premises for more than two (2) years.

C. The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default of any such account more than twice within the last twelve (12) months.

Section B.4.3 If the City requires a cash deposit as a condition of providing service, then it must immediately notify the applicant in writing stating the precise facts upon which the City based its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating his or her creditworthiness.

Section B.4.4 The City may require a present customer to make a reasonable cash deposit when:

1. The customer has been mailed disconnect notices for two (2) consecutive months;

2. The customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period;

3. The service to the customer has been disconnected within the past four (4) years pursuant to Rule 17 of the Westfield Rules and Regulations for Water Service, adopted by Ordinance 03-21 and as amended.

Section B.4.5 The amount of such deposit may not exceed an amount equal to three (3) months of service. In all cases where deposits are requested, the full deposit must be paid in order to receive service.

Section B.4.6 Requirements for refunds shall be as follows:

1. Any deposit shall be promptly refunded to the customer upon the customer's request when the customer;

2. Submits satisfactory payment for a period of either:
   a. nine (9) successive months; or

   b. ten (10) out of any twelve (12) consecutive months without late payment in two (2) consecutive months; or

   c. demonstrates his or her creditworthiness as provided in subsection B.4.2

Section B.4.7 All refunds will be issued in the form of credits on the appropriate account whenever possible.

Section B.4.8 Following customer-requested termination of service, the City shall:

1. Apply the deposit to the final bill and distribute any remaining balance to the customer through the City's claim process.

Section B.4.9 The City shall maintain a record of each applicant or customer making a deposit that shows the following:

1. The name of the customer

2. The current address of the customer so long as he or she maintains an active account with the City in his or her name

3. The amount of the deposit

4. The date the deposit was made

5. record of each transaction affecting such deposit

Section B.4.10 Each customer shall be provided a written receipt from the City at the time his or her deposit is paid in full. The City shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit.

Section B.4.11 Any deposit made by the applicant, customer, or any other person to the City (less any lawful deductions), or any sum the City is ordered to refund for utility service, that has remained unclaimed for one (1) year after the City has made diligent efforts to locate the person who made such deposit or heirs of such person, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).

Section B.4.12 A deposit may be used by the City to cover any unpaid balance following disconnection of service under Rule 17, supra.

Section B.4.13 The City may require from any non-residential Applicant, as a guarantee against the non-payment of bills, a cash deposit equal to the amount payable for service for any

regular billing period plus thirty (30) days as estimated by the City. In all cases, where the consumption in a billing period is in excess of that covered by the deposit, the City may increase the amount of deposit required, but such deposit shall not exceed an amount for service for billing period plus thirty (30) days.

Section B.5 User rates and charges.

1. The rates and charges for associated trash/recycling service and fees will be billed to the tenant or tenants occupying the property served, unless otherwise requested in writing by the owners, but such billing in no way relieves the owner from liability if payment is not made as required. The owners of the property served, which are occupied by tenants, shall have the right to examine the collection records of the City for the purpose of determining whether the rates and charges have been paid by the tenants, provided that such examination shall be made in the office in which the records are kept and during the hours that the office is open for business.

2. All bills shall be due and payable as indicated on the bill. Bills unpaid 15 days following date of billing shall include a collection charge of ten (10) percent on the first $3.00 of unpaid billing and three (3) percent on the balance of the unpaid billing in excess of $3.00.

Section B.6 Bad Check or Insufficient Funds Charge. All customers submitting checks returned as non negotiable or deemed to have insufficient funds will be charged a fee of $25.00. Said fee will be added to the proceeding billing cycle and become part of the balance due.