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Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented

# ORDINANCE 11-22

## ORDINANCE ESTABLISHING WESTFIELD PARKS TRAILS ACCESS, RULES, PROCEDURES AND FORMS

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

**WHEREAS,** the City maintains park areas and trails for the benefit of the citizens of the greater Westfield area and is authorized to establish rules and restrictions for the orderly use of those park areas and trails, and

**WHEREAS,** it has been determined that rules, regulations, procedures and forms proposed are appropriate, reasonable and necessary for the orderly permissive access to the trails within the City.

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

**Section 1.** That Section 44-1 of the Westfield Code of Ordinances shall be amended to include the Park Access Rules as contained in Exhibit "A" attached hereto and incorporated by reference herein.

**Section 2.** This Ordinance shall be in full force and effect in accordance with Indiana law, upon the passage of any applicable waiting periods, all as provided by the laws of the State of Indiana. All Ordinances or parts thereof that are in conflict herewith are hereby ordered repealed. Any portion of this Ordinance later deemed invalid shall not operate to invalidate the remaining portions.

**ALL OF WHICH IS ORDAINED THIS 12 DAY OF Sept 2011.**

**WESTFIELD CITY COUNCIL**

| **Voting For** | **Voting Against** | **Abstain** |
|---|---|---|
| John Dippel | John Dippel | John Dippel |
| Steven Hoover | Steven Hoover | Steven Hoover |
| Robert L. Horkay | Robert L. Horkay | Robert L. Horkay |
| Kenneth Kingshill | Kenneth Kingshill | Kenneth Kingshill |
| Robert J. Smith | Robert J. Smith | Robert J. Smith |
| Thomas Smith | Thomas Smith | Thomas Smith |
| Robert W. Stokes | Robert W. Stokes | Robert W. Stokes |

ATTEST:

Cindy J. Gossard, Clerk Treasurer

WESTFIELD CITY SEAL WESTFIELD, IN

"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

I hereby certify that ORDINANCE 11-22 was delivered to the Mayor of Westfield on the 13 day of Sept, 2011, at 9:30 Am.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE ORDINANCE 11-22 this 13 day of Sept, 2011.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 11-22 this _____ day of _____, 2011.

J. Andrew Cook, Mayor

"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"

Signed

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT, LLP
(317) 238-6266

**Policy PK 06-11**
**Policy Title: Trail Access Permit**
**Policy Purpose: Set Forth Procedure to Obtain Trail Access Permit**
**Implementation Date: 2011**
**Revision Date: NA**

# CITY OF WESTFIELD
# PARKS AND RECREATION DEPARTMENT
# Trail Access Permit Policy

1. PURPOSE
   A. The trails throughout Westfield are for the enjoyment of the residents and visitors to our community. The Westfield Parks and Recreation Department must assure safe access to the trails for public and private use.
   B. The City of Westfield is responsible for maintaining all named trails and linear parks specified in the Alternative Transportation Plan in the Westfield Thoroughfare Plan and in Trail Overlay Zoning Ordinance (XXXX), and it is therefore necessary to set minimum standards for construction of all improvements for which the City will be responsible in order to avoid assuming unnecessary maintenance cost and inconvenience to the citizens and businesses of the City of Westfield.
   C. In order to not compromise the drainage along trails, the Director of Parks and Recreation may require an engineered drainage plan to be submitted from a licensed engineering firm. Such a plan will be at the cost of the applicant.
   D. All improvements intended for public or private use to be constructed on the City's named trail corridors as a privately maintained improvement must be approved by the Director of Parks and Recreation using this permitting process
   E. Anyone wishing to have access to the trails where a public access point has not been provided by the City must complete the Trail Access Permit Process.

2. AUTHORITY
   A. The Westfield Parks and Recreation Department has the legal responsibility for managing all City Parks and Trail property. All trail access permits shall be in accordance with this ordinance and subject to the authority of the Director of Westfield Parks and Recreation.
   B. The Westfield City Council shall hereby grant the Director of Parks and Recreation the authority to approve trail access permits, as an agent of the City.
   C. The Director shall have the right to appoint a deputy to perform the duties of the trail access permit administration.

3. TRAIL ACCESS PERMIT PROCEDURES
   A. Application
      a. All trail access permit applications shall be in written form using the Trail Access Permit Application (exhibit A).
      b. The permit must be submitted and approved before any work can be done on City property. No work will be allowed prior to the review. A penalty fee of up to $500 will be enforced by the City with a stop work order for unauthorized work performed before permits are approved.
      c. Upon receipt of the application to the Westfield Park and Recreation Administrative Office (2728 E. 171st Street), the application will be dated and time stamped.
      d. Upon review of the application, if it is found to be incomplete or if an engineering plan is necessary, the applicant will be notified of what documentation is required to process the application.
      e. If an engineering plan is required the application cannot be considered until the engineering plan is received.
      f. Westfield Park and Recreation Administration Office shall take up to ten working days to review the engineering plan.
      g. The application must include a maintenance plan
      h. The applicant shall be notified after a review period of up to ten working days of the approval or denial.
      i. Any changes to the original permitted trail access must go back through the permitting process.
   B. Trail Access Detail
      a. An 11"x17" drawing of the proposed access point must be included with the application.
      b. Site photographs showing the location of the proposed access point and the proximity to the trail must be provided.
      c. Specifications and/or descriptions of the materials to be used must be included with the application
   C. Notification
      a. The permittee shall be notified after a review period of the approval or denial of said plan.
      b. All written notification will be done by e-mail or by US Mail.
      c. Approved permits will be available for pick up at the Parks and Recreation Administration Office once all requirements are met and a written notification has been provided to the applicant.
   D. Upon Approval - other requirements include:
      a. Maintenance Agreement: the applicant must provide a signed maintenance agreement for the improvements to City property. Each Access Permit Maintenance Agreement will be specific to the improvement planned at that location. Areas of maintenance that should be included but are not limited to are:
         i. Landscaping maintenance
         ii. Hard scape maintenance

iii. Drainage maintenance

b. Certificate of Insurance: a certificate of liability insurance will be required naming the City of Westfield as an additional insured in the amount of $100,000 property damage per occurrence and $1,000,000 bodily injury per occurrence.

E. Permit Life

a. A permit is good for two years for the original applicant only.

b. If the property is sold, a new application must be requested.

c. Any changes to the original access permit design must be resubmitted for approval before the changes can be made.

d. The permit can be automatically renewed by the original applicant if the following stipulations are met:

i. Access has been maintained per maintenance agreement

ii. Certificate of Insurance is current and updated for additional year

iii. No problems have arisen as a result of the permit being granted

F. Permit Cancellation Procedures

a. If at any time the requirements of the original permit are not being met, the Director of Parks and Recreation can revoke the permit and remove all improvements within the trail corridor.

b. Any cost incurred by such removal will be charged to the permittee, and fees may be accessed.

G. Penalties

a. Any person, firm, corporation or any other entity that shall be in violation of this ordinance, or any amendment thereto, shall receive a fine of not more than $500. Each day an entry or access is made without the issuance of a proper permit shall constitute a separate offence and each separate offense shall subject the violator to a separate fine.

b. A person, firm, corporation or any other entity that fails to maintain the approved improvement in accordance with the access permit shall be liable to the City of Westfield in a civil action for damages in an amount equal to the cost of court cost, litigation expenses and attorney's fee incurred by the City.

H. Severalty

If any portion, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance, it being the intent of the City of Westfield Parks and Recreation Department that this Ordinance shall stand, notwithstanding the invalidity of any portion, section subsection, clause or phrase, hereof.

**PERMIT FOR TRAIL ACCESS**
**WESTFIELD PARKS AND RECREATION DEPARTMENT**

*ALL REQUESTS ARE TO BE SUBMITTED PRIOR TO WORK BEGINNING* (Exhibit A-Policy PK 06-11)

TODAY'S DATE: _____ NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____ EMAIL: _____

Application Checklist:

- ☐ 11"x17" drawing of proposed site
- ☐ Site photographs showing the location of the proposed access point
- ☐ Specifications and/or descriptions of the materials to be used
- ☐ Maintenance Plan

***A Certificate of Liability Insurance in the amount of $100,000 property damage per occurrence and $1,000,000 bodily injury per occurrence naming the City of Westfield as additional insured is required upon approval. Certificate must be on file with the City prior to the work beginning.***

***Upon approval, a signed maintenance agreement for the improvements to City property must be provided. Each Access Permit Maintenance Agreement will be specific to the improvement planned at that location. Areas of maintenance that should be included but are not limited to are: landscape, hard scape, drainage.***

***A signed Permit For Trail Access form must be on file with the Park Administration Office to confirm scheduling of your event.***

_____ _____
**APPLICANT SIGNATURE** **DATE**

OFFICE USE ONLY

DATE RECEIVED: _____ TIME RECEIVED: _____ REVIEW DATE: _____ REVIEWED BY: _____

ENGINEERING PLAN REQUIRED Y/N: _____ DATE RECEIVED: _____

APPROVED/DENIED: _____ REASON FOR DENIAL: _____

PERMIT NUMBER: _____ PERMIT EXPIRATION DATE: _____

NOTIFICATION DATE: _____ CERTIFICATE OF INSURANCE RECEIVED: _____