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Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented

ORDINANCE 12-20

ORDINANCE OF THE CITY OF WESTFIELD REPLACING CHAPTER 34-ARTICLE IV "WEEDS AND OTHER VEGETATION" IN OF THE CODE OF ORDINANCES, CITY OF WESTFIELD

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, it is the duty and the responsibility of the Council to maintain the health and safety of the citizens of the City and to maintain the Code of Ordinances, of Westfield, Indiana ("Code") in an updated and efficient manner, and;

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

Section 1. **Replacement of Previous Ordinance** As of the effective date of this Ordinance, Chapter 34-Article 4 of the Code shall be replaced by the provisions contained in this Ordinance. The Director of Department of Community Development is hereby directed make all necessary changes.

Section 2. **Definitions.**

"Debris" shall include the remains of something broken-down or destroyed.

"Rank Vegetation" shall include those weeds and growing vegetation which is excessively vigorous in growth, shockingly conspicuous, malodorous and/or flagrant. This definition shall also apply to any and all vegetation that inhibits a safe field of view along any public roadway.

"Weeds" shall include any plant that is not valued where it is growing, and is of rank growth, tends to overgrow or choke out more desirable plants and/or is listed as a weed in the U.S. Department of Agriculture publication entitled *Common Weeds of the United States*, or in any similar government publication.

Section 3. **Violation.** It is a violation of this Chapter to have weeds, rank vegetation and/or debris on any real property ("property") located within the City's corporate limits.

Section 4. **Requirement to cut.** All owners of property located within the City shall cut and remove weeds and other rank vegetation growing thereon that exceeds a height of twelve inches, and shall keep their property clear of debris.

Section 5. **Violation Notice.** In the event of a violation of this Chapter, the Director and/or his designee, or an officer of the Police or Fire Department shall issue a written notice ("Violation Notice") to the violating landowner. The Violation Notice shall identify the violation and order the landowner to correct the same within ten calendar days from the date on which the Violation Notice is served on the landowner ("Abatement Period"). Posting notice conspicuously on the property in violation, personal service, service by U.S. certified mail, regular mail or any other manner service recognized in the Indiana Rules of Trial Procedure shall constitute proper service upon the landowner for purposes of this Chapter.

Section 6. **Appeal** Any Violation Notice issued pursuant to this Chapter may be appealed to the Board of Public Works and Safety ("Board") if written notice of appeal is served by the landowner on the City within the time period contained in the Violation Notice. The timely appeal of a Violation Notice shall toll the abatement period pending the issuance of a decision thereon by the Board. Service of this Notice shall be to the Community Development Department.

Section 7. **City to abate.** If the landowner fails to timely abate each violation set forth in a Violation Notice, the landowner shall be deemed to have granted permission to the City to enter the landowner's property for the limited purpose of inspecting, cutting and/or removing such debris, weeds or rank vegetation located thereon and identified in the Violation Notice. In such case, the Director, or his designee, shall prepare a certified statement as to the actual administrative and other costs incurred by the City in taking such action, and serve a copy of the invoice on the landowner. The landowner shall, within seven calendar days from the date on which the landowner is served with such invoice ("Payment Period"), pay in full the amount stated thereon to the Department of Community Development ("Department").

Section 8. **Appeal of costs.** Any invoice issued pursuant to this Chapter may be appealed to the Board of Public Works and Safety if written notice of appeal is served on the Director within seven calendar days from the date on which the invoice is served on the landowner. The timely appeal of an invoice shall toll the payment period pending the issuance of a decision thereon by the Board.

Section 9. **Failure to pay.** If the landowner fails to timely pay an invoice issued pursuant to this Chapter, the Director, or his designee, shall certify to the County Auditor the amount of the invoice, plus any additional administrative costs incurred in the certification of the same. The Auditor shall

place the total amount so certified on the tax duplicate for the property at issue, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the City.

Section 10. **Time of appeals.** The Board shall hear any timely requested appeal of a Notice of Violation or invoice within 30 calendar days following receipt of the same, and shall thereafter promptly issue a written decision granting or denying, in whole or in part, the appeal. The date on which the Board's decision is served on the landowner shall thereafter become the first calendar day of the abatement period or payment period, as applicable.

Section 11. **Penalty.** Any person who violates any provision of this Chapter shall be subject to the General Penalties set forth in § 1-6 of the Code. Each day that a violation continues shall constitute a separate offense.

Section 12. The Noblesville City Court shall be the court of proper venue and jurisdiction for enforcement pursuant to the Interlocal Agreement between the Cities of Westfield and Noblesville. The Hamilton Circuit or Superior courts may also be utilized as determined by the City Attorney.

Section 13. This Chapter supplements and does not limit any other remedy or action available in law or in equity regarding the subject matter hereof.

Section 14. The following provisions in this Section 14 shall not apply to lots located within a residential subdivision secondary plat recorded after September 7, 1977. This Chapter is not intended to apply to properties being utilized in an agricultural manner, or properties or portions of property that are clearly intended to remain in a natural state, such as, but not limited to, woods, forests, creeks, hedgerows, wetlands, wildflower preservation areas, nature preservation areas, and/or natural wildlife habitats. The Director shall have discretion to determine whether the property in question qualifies under the exception stated herein.

Section 15. This Ordinance shall be in full force and effect in accordance with Indiana Law, upon its passage by the City Council, its publication in accordance with law and upon the passage of any applicable waiting period, all as provided by the laws of the State of Indiana. All ordinances or parts thereof in conflict herewith are hereby ordered amended or repealed. In the event any portion of this Ordinance is later deemed invalid all remaining portions shall remain in place. All acts taken pursuant to the adoption of this Ordinance are hereby ratified.

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ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD, HAMITON COUNTY, INDIANA THIS 9 DAY OF 2012, 2012.

WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA

Voting For	Voting Against	Abstain
Jim Ake	Jim Ake	Jim Ake
John Dippel	John Dippel	John Dippel
Steven Hoover	Steven Hoover	Steven Hoover
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
Robert J. Smith	Robert J. Smith	Robert J. Smith
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
Robert W. Stokes	Robert W. Stokes	Robert W. Stokes

ATTEST:

Cindy J. Gossard, Clerk Treasurer

WESTFIELD CORPORATION SEAL WESTFIELD INDIANA

"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

I hereby certify ORDINANCE 12-20 was delivered to the Mayor of Westfield on the

10 day of July, 2012, at 2:30 p m.

Cindy J. Gossard, Clerk Treasurer

I hereby APPROVE ORDINANCE 12-20
this 12th day of July, 2012.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 12-20
this_____day of_____ _____, 2012.

J. Andrew Cook, Mayor

This document prepared by
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