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ORDINANCE 12-23

WATER CONSERVATION ORDINANCE OF THE 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, The Mayor has advised the Council that this matter is a result of the emergency conditions present in Central Indiana by the continuing dry conditions with little to no relief in the immediate future that creates an urgent necessity and requires immediate effectiveness of this Ordinance; and,

WHEREAS, it is the duty and the responsibility of the Council to maintain the integrity of the water supply system as well as best preserve the water pressure within the system for possible fire suppression activities, and

WHEREAS, after being duly advised in the issues regarding the City's water supply and pressure issues, that the Mayor has informed the Council of the urgent necessity, now finds that the implementation of the following Ordinance is in the best interests of the citizens of the City of Westfield.

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

Section 1. The Council does now adopt this Water Conservation Ordinance, the provisions of which are attached hereto as Exhibit "A" and incorporated herein.

Section 2. That the Director of Public Utilities shall administer the provisions of this Ordinance and shall cause the same to be implemented into the Westfield Code of Ordinances.

Section 3. The Council pursuant to the proclamation of the Mayor now finds that there exists an urgent necessity requiring immediate effectiveness of this Ordinance pursuant to I.C. 36-4-6-14.

Section 4. 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 All ordinances or parts thereof in conflict herewith are hereby ordered amended or repealed.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.

ALL OF WHICH IS ORDAINED THIS 3rd DAY OF July 2012.

WESTFIELD CITY COUNCIL

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

I hereby certify that ORDINANCE 12-23 was delivered to the Mayor of Westfield

on the 5th day of July, 2012, at 8:30 a. m.

Cindy J. Gossard, Clerk Treasurer

I hereby APPROVE ORDINANCE 12-23

this 6th day of July, 2012.

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 12-23

this _____ day of _____, 2012.

J. Andrew Cook, Mayor

ATTEST:

Cindy J. Gossard, Clerk Treasurer

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

"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

EXHIBIT "A"

Sec. 1. Application.
Sec. 2. Definitions.
Sec. 3. Voluntary conservation.
Sec. 4 Declaration of need; notice.
Sec. 5 Mandatory water conservation; exemptions.
Sec. 6. Violations. Subject to admission and payment
Sec. 7. Enforcement.
Sec. 8. Nonexclusive.

Sec. 1. Application.

This chapter applies to the use of water from the City of Westfield Public Works water system which supplies the Cities of Westfield and Noblesville. The City of Westfield's Water Conservation Plan covers both Westfield and the area served by Westfield in Washington Township and within the Noblesville Municipal jurisdiction.

Sec. 2. Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"**ADVISORY CONDITIONS**." Conditions under which voluntary conservation measures are appropriate due to demands on the Westfield Water Utility, or other circumstances, reducing the amount of treated water available to customers, as determined by Westfield.

"**CUSTOMER**." An individual, firm, corporation, government agency or other entity being supplied with water utility service by Westfield at a location within the Westfield Service Area which includes Westfield, Washington Township, Noblesville, or Noblesville Township.

"**MANDATORY CONSERVATION**." Compliance with restrictions imposed by the Mayor of the City of Westfield, based on recommendations by one or more of the water companies, which are designed to reduce certain types of water use.

"**NORMAL CONDITIONS**." Conditions under which water supply and treatment capacity are adequate to meet all demands.

"**TREATED WATER**." Water treated in a manner that it is suitable for human consumption or for another designated use.

"**VEGETABLE GARDEN**." A garden where substantially all of the plants are suitable and grown primarily for human consumption.

"**VOLUNTARY CONSERVATION**." Compliance with the City of Westfield's requests to reduce water use.

"**WATER EMERGENCY**." An occurrence wherein mandatory conservation measures are appropriate due to the following:
(1) Groundwater wells not functioning properly due to reduced groundwater levels; or

(2) The existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Westfield; or
(3) Consumer demand during peak operational hours place an unnecessary burden on the distribution and storage systems of the water utility.

"**WATER USER**." A customer or other individual, firm, corporation, government agency, or other entity using water from the Westfield water supply.

"**WATER WARNING**." An occurrence wherein mandatory conservation measures are appropriate due to groundwater wells of one or more of the water companies not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by Westfield.

"**WESTFIELD**." The City of Westfield.

Sec. 3. Water Shortage Watch Advisory - Voluntary Conservation.

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the Water Conservation Policy adopted by the City of Westfield Public Works Board.

Sec. 4 Declaration of Need; Notice.

(A) Upon being notified by Westfield that the water system is in a condition of water shortage, the Mayor of Westfield may declare the existence of a water warning or water emergency, whereupon the respective water conservation measures described in Section 5 of this chapter shall apply until the water warning or emergency is terminated. Whenever the Mayor of Westfield finds that some or all of the conditions that gave rise to the declaration of a water warning or water emergency no longer exist, the Mayor of Westfield may declare the water warning or water emergency terminated.

(B) Notice of the declaration or termination of a water warning or water emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

Sec. 5. Mandatory Water Conservation.

(A) During a water warning or a water emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:

(1) Sprinkling, watering, or irrigating of grass and/or other landscaping is only allowed on Monday and Wednesday for even number addresses and Tuesday and Thursday for odd number addresses only. No sprinkling, watering, or irrigating of grass on Friday, Saturday or Sunday. Additional measures may be implemented

(2) Washing cars, trucks, trailers, mobile homes, or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;

(3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;

(4) Filling empty swimming pools;

(5) Installing new landscaping or new lawn by using sod until return to normal conditions are declared by the Mayor of Westfield;

(6) Using hydrants except for fire suppression or as otherwise directed by Westfield or Noblesville's Fire Departments; and

(7) Operating water fountains that are non-recycling.

(B) In addition to the prohibitions listed in subsection (a), it shall be unlawful during a water emergency for a water user to cause, permit, allow, do, or engage in any outdoor watering; provided, however, that vegetable gardens, potted flowers, and newly installed landscaping (1year) may be watered every other day by container or hand-held hose equipped only with shut- off nozzle.

(C) The following water users and water uses shall be exempt from the prohibitions contained in subsections (A) and (B) of this section: Nurseries, provided water use is limited to the amount essential to preserve inventories.

(D) The following water users and water uses may be exempted by the mayor from the prohibitions contained in subsections (A) and (B) of this section:

(1) Automatic commercial car washes, provided a majority of the water used is recycled;

(2) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized;

(3) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday;

(4) Any watering of property owned or controlled by the Department of Parks and Recreation as directed by the Mayor of Westfield or the mayor's designee where such watering is necessary or appropriate for asset preservation.

Sec. 6. Violations.

(A) Each property owner and/or person within the City of Westfield Service Territory shall be responsible for compliance with Section 5 with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(B) A person's first and second violations admitted in any 12-month period shall be subject to a fine of $20 for the first violation and $40 for the second violation, if paid within ten days of issuance.

(C) If:

(1) Payment is not made within 10 days of issuance.

(2) The alleged violation will be filed in the Noblesville City Court pursuant to the Interlocal Agreement between the Cities of Westfield and Noblesville.

(3) The alleged violation shall be docketed in the Noblesville City Court and a notice of hearing issued to the alleged offender. Penalties under this division shall include but not be limited to no more than $500.00 per day, costs and attorney fees.

(D) For purposes of this section, each day of a violation shall be deemed a separate offense.

(E) All fines collected from violation of this chapter shall be deposited in City Water Utility Fund.

Sec. 7. Enforcement.

This chapter shall be enforced by the Mayor of Westfield, or the mayor's designee, which may be but not limited to law enforcement, the department of code enforcement, Director of Public Works),Director of Economic and Community Development, Fire Chief), or their designees.