**ORDINANCE 16-1337**

AN ORDINANCE OF THE CITY OF WOODBURN, INDIANA

COMMON COUNCIL REGARDING

THE WOODBURN PLAZA

WHEREAS, I.C. 36-1-10.5 *et seq.* regulates the purchase of real property by municipalities but does not apply to real property having a total price of Twenty Five Thousand and 00/100 Dollars ($25,000) or less;

WHEREAS, the City has been notified that private parties wish to develop certain real property being located on or near 22315 Main Street for the development of a “Woodburn Plaza”;

WHEREAS, the City shall not contribute or expend any sums toward the cost of initial development of the Woodburn Plaza, but upon development thereof, intends to purchase and hold such property as a public space for public purposes and shall undertake such duties necessary to maintain and preserve the Woodburn Plaza;

WHEREAS, the City desires to establish a Fund for providing maintenance and preservation of the Woodburn Plaza;

NOW, THEREFORE, the City of Woodburn, Indiana Common Council (“Council”) hereby resolves as follows:

Section 1. The Council hereby declares that upon development of the Woodburn Plaza to the City’s satisfaction, the City intends to purchase the Woodburn Plaza for a sum not to exceed Five Thousand and 00/100 Dollars ($5,000) from 3Ms LLC or such other person or entity that may hereafter acquire such real property located on or near 22315 Main Street (the “Developer”) for purposes of holding the same as a public space. The purchase of Woodburn Plaza shall be conditioned upon and subject to the City agreeing to and entering into a binding real estate purchase agreement with the Developer.

Section 2. The Council hereby declares that the City shall not contribute or expend any sums toward the cost of initial development of the Woodburn Plaza, but upon purchasing and assuming ownership thereof from the Developer, intends to hold such property as a public space for the benefit and enjoyment of the residents of Woodburn, Indiana, and shall undertake such duties necessary to maintain and preserve the Woodburn Plaza.

Section 3. Notwithstanding the above declarations, the Council declares that any and all future sums expended or appropriated for maintenance and preservation of the proposed Woodburn Plaza shall be solely directed at the discretion of the City and that the City makes no binding representation beyond its stated intentions at the time of entering into this Ordinance. Accordingly, this Ordinance shall in no way be interpreted to limit the City’s municipal authority granted it by Indiana law governing the use or disposition of real property. Further, no commitment to expend any funds in relation to the purchase of the Woodburn Plaza shall be assumed until such time as a binding purchase agreement is entered into by the City; nor shall the City be obligated to expend any funds in excess of those which may be set forth in said purchase agreement.

Section 4. Nothing herein shall be construed as the City granting or conveying to members of the general public any rights of access, ownership, interest in, or use of, the Woodburn Plaza, except as may be allowed by the City, and the right to allow, control or prohibit public access to, or use of, all or part of the Woodburn Plaza shall be at times or on occasions, and under such terms and conditions as may be approved or established from time to time by the City.

Section 5. The City hereby establishes the “Woodburn Plaza Fund” for purposes of accounting for future maintenance and preservation obligations. Revenue to the fund shall come from general property tax revenue. The Woodburn Plaza Fund shall be perpetual. Any fund balance existing therein at the time of termination of the Woodburn Plaza Fund shall revert to the General Fund. The Woodburn Plaza Fund shall be administered in accordance with Indiana law, general rules, ordinances and policies of the City.

Section 6. No part of this Ordinance shall be interpreted to conflict with any local, state, or federal laws and all reasonable efforts should be made to harmonize the same. Should any section or part thereof of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole, or any other portion thereof other than that portion so declared to be invalid, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Adopted and Resolved this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2016.

**AYES: \_\_\_\_\_\_\_\_\_\_**

**NAYS: \_\_\_\_\_\_\_\_\_\_**

**ABSTENTIONS: \_\_\_\_\_\_\_\_\_\_**

**COMMON COUNCIL OF THE CITY OF WOODBURN, INDIANA**

By: By:

Daniel Watts, Councilman Dean Gerig, Councilman

By: By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

John Renner, Councilman Mike Voirol, Councilman

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michael Martin, Councilman

ATTEST:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Timothy Cummins, Clerk-Treasurer

**WAIVER OF SECOND READING**

On motion duly made and seconded, the second reading of the foregoing Ordinance was unanimously waived and the Ordinance was deemed effective as of the date of passage.

**COMMON COUNCIL OF THE**

**CITY OF WOODBURN, INDIANA**

By: By:

Daniel Watts, Councilman Dean Gerig, Councilman

By: By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

John Renner, Councilman Mike Voirol, Councilman

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Michael Martin, Councilman

ATTEST:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Timothy Cummins, Clerk-Treasurer

The foregoing Ordinance passed by the Council is signed and approved ( ) / not approved ( ) by me on the same date.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joseph Kelsey

Mayor of the City of Woodburn