**RESOLUTION 20-246**

A RESOLUTION OF THE CITY COUNCIL OF WOODBURN, INDIANA

GRANTING CREDIT TO CUSTOMER UTILITY ACCOUNTS AS FINANCIAL ASSISTANCE DURING A COVID-19 RELATED PUBLIC HEALTH EMERGENCY

**WHEREAS**, the Governor of Indiana has declared a public health emergency regarding the Coronavirus Disease 2019 (“COVID-19”); and

 **WHEREAS**, the Common Council of the City of Woodburn (“Common Council”) is the legislative body on behalf of Woodburn, Indiana (“City”); and

 **WHEREAS,** the Common Council finds that a financial emergency exists for individuals, businesses, and other institutions located in the City; and

**WHEREAS,** the Common Council desires to reduce the negative financial impact that the provision of utility services will have on its customers; and

**WHEREAS,** the Common Council has determined that a Fifty-Dollar ($50.00) credit on each customer’s utility account would lessen the financial strain on its customers; and

**WHEREAS,** the Indiana State Board of Accounts issued a March 31, 2020 Memorandum on Policies on Assistance during COVID-19 public health emergency indicating that it would not take exception to public assistance as a use of public funds; and

**WHEREAS,** except where prohibited, pursuant to Indiana Code § 36-1-3-4, the Common Council has all powers necessary or desirable in the conduct of its affairs.

**NOW,** **THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF WOODBURN, INDIANA, THAT:**

## SECTION I – WATER BILL CREDIT

1. As used in this resolution, the term “customer” shall mean the person, firm, corporation, governmental agency or association having interest, whether legal or equitable, sole or only partial, as tenant or owner, in any property which is, or is to be, supplied with a utility service (water, sewer, or trash), provided by the City during the billing period of April 15 through May 15, 2020.
2. Notwithstanding any other City ordinance or Code to the contrary, the Clerk-Treasurer is hereby directed to take all action necessary or proper to effect a one-time Fifty-Dollar ($50.00) credit (“credit”) on each customer’s combined utility account.
3. The credit shall be applied to the utility bill sent to customers on or about May 20, 2020 for the April 15 to May 15 billing cycle and only for those customers who have incurred a rate or charge during said billing cycle for a utility service provided by the City.
4. If the credit is not fully exhausted by the issuance of the utility bill sent on or about May 20, 2020, the positive credit balance shall remain on the account to help defer future rates or charges applied to a customer’s utility bill; provided, however, that nothing in this resolution shall be construed to: (i) credit more than one (1) credit of Fifty Dollars ($50.00) to a single customer, regardless of the number of utility services provided; nor (ii) allow any applied, but unused credit or portion thereof, to be cashed out, redeemed, or refunded to a customer for any reason other than to offset rates or charges incurred for utility services rendered. If an applied, but unused credit remains at the time of discontinuation of a utility service, for whatever reason, said applied but unused credit shall be deemed forfeited by the customer.
5. Notwithstanding anything in this resolution to the contrary, the Clerk-Treasurer shall not apply any credit to any customer who refuses the credit in writing.
6. The Clerk-Treasurer may incorporate any procedures or protocols generally or specifically required by the State Board of Accounts, the Indiana Department of Revenue, or the Indiana Department of Local Government Finance to implement or account for this resolution.
7. The Clerk-Treasurer shall inform the Common Council of the total fiscal impact of any action taken pursuant to this resolution.

## SECTION II – DISCLAIMER

The City hereby intends to make a good-faith effort to help its public works customers during the COVID-19-related health emergency. Nevertheless, notwithstanding anything in this resolution to the contrary, nothing in this resolution shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the City, its agencies, its officers or employees, or any person; nor to waive or diminish any protection that may be applicable to the City or any of its elected or appointed officials, employees, agents, or representatives under any applicable statues, rules, or regulations providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the City or such related parties are provided by law.

## SECTION III – MISCELLANEOUS

 No part of this resolution shall be interpreted to conflict with any local, state, or federal law, and all reasonable efforts should be made to harmonize same. Should any section or part thereof of this resolution be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the resolution as a whole, or any other portion thereof, and for this purpose the provisions of this resolution are hereby declared to be severable. This resolution shall be effective immediately upon adoption.

Adopted and Resolved this 4th day of May, 2020.

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

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Michael Voirol, Councilor

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Michael Martin, Councilor

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Tonya Thompson, Councilor

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Dean Gerig, Councilor

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ YEA\_\_\_\_\_ NAY\_\_\_\_\_ ABS\_\_\_\_\_

 Daniel Watts, Councilor

ATTEST:

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

 Timothy Cummins, Clerk-Treasurer

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

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

 Joseph Kelsey, Mayor for the City of Woodburn