

CHAPTER 238
Treasurer

238.01	Treasury investment; distribution of proceeds.	238.03	Cable Television Fund.
238.02	Economic Development Revolving Loan Fund; Administrative Guidelines.	238.04	Investment policy.

CROSS REFERENCES

Charter provisions - see CHTR. § 34
 Trustee of sinking fund - see CHTR. § 48
 Loss of funds; release of liability - see Ohio R.C. 131.18 et seq.
 Uniform Bond Law - see Ohio R.C. Ch. 133
 Uniform Depository Act - see Ohio R.C. Ch. 135
 Accounts - see Ohio R.C. 733.43, 733.45 et seq.
 Annual report to Council - see Ohio R.C. 733.45
 Appropriation and expenditure - see Ohio R.C. 5705.41

238.01 TREASURY INVESTMENT; DISTRIBUTION OF PROCEEDS.

(a) Whenever idle funds exist in the Treasury of the Village they may be invested in a manner agreed upon by the Village Manager and the Village Treasurer, in accordance with Ohio R.C. 731.56 through 731.59.

(b) The interest returned from any investments shall be deposited in the General Fund except as provided otherwise by statute, Federal regulation or a specific act of the Village Council.
 (Ord. 82-3. Passed 3-1-82.)

**238.02 ECONOMIC DEVELOPMENT REVOLVING LOAN FUND;
ADMINISTRATIVE GUIDELINES.**

(a) The following Administrative Guidelines for the Economic Development Revolving Loan Fund are hereby adopted.

(b) The Village Manager is hereby directed to utilize these Guidelines in administering the Economic Development Revolving Loan Program.

**VILLAGE OF YELLOW SPRINGS, OHIO
ECONOMIC DEVELOPMENT REVOLVING LOAN FUND
ADMINISTRATIVE GUIDELINES**

August, 2001

1. Goals/Purpose

The Village has established the Economic Development Revolving Loan Fund Program to support the creation of new, permanent jobs specifically targeting the low and very low income population in an effort to contribute to the overall health and stability of the local economy.

This Fund exists to derive economic development benefits by providing gap financing to ventures that otherwise would not survive. The Fund shall not be used to compete with or replace the service of any local lending institution but will attempt to provide the appropriate missing share that complements participating commercial and personal financing of such ventures. Only those proposals which have utilized personal and commercial investment to their respective limits and still indicate a lack of needed financing will be considered for these funds.

Industrial and commercial projects located in the Yellow Springs School District will be eligible for Fund assistance. Preference will be given to production entities (manufacturing or service industries) over commercial or retailing activities.

2. Standards for the Fund Portfolio

Only private, profit-making organizations are eligible for loan funds. Eligibility of a loan request will be determined based on the number and permanence of jobs created and/or retained and the potential for new jobs. As a minimum standard, a project must create at least one permanent full-time equivalent job for each twenty-five thousand dollars (\$25,000) in assistance. Of the new jobs created and/or those jobs retained, at least fifty-one percent of them must be filled by persons from a low or very low income household, as defined by the Federal HUD Program.

The Fund shall only be applied toward those requests that rely on other lending sources for at least fifty percent of the total project cost. To ensure that the Fund is not being used as a substitute for private capital, the applicant shall provide a "Sources and Uses" summary which outlines the financial participation of the

party (i.e. commercial lender, private investment and Village loan) and where each financial source is being applied in the overall project. If deemed necessary, the Village may request information indicating the denial of needed financial support from other sources prior to further consideration of the loan request.

3. Financing Policies

Due to the nature of the Fund, preference will be given to shorter term projects which will allow relatively prompt reinvestment of the Fund's capital base. As a general guideline, loans may be awarded for no less than five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000) with a repayment term not to exceed five years. Only direct loans will be made from the Fund. Fixed asset loans will be considered according to the useful life of the assets collateralized.

Each loan agreement between the Village of Yellow Springs and any borrower will require that the loan be called and the borrower be found in default if the firm should move its operations from the Yellow Springs School District area anytime during the duration of the loan.

The Borrower will formally commit to compliance with all applicable Federal regulations.

4. Pre-loan Application Assurance and Financial Disclosure

For existing businesses, three prior years of audited financial statements, including balance sheets, profits and loss statements and operating statements, shall be required. Source and Use of Funds statements are also required.

For new business ventures, a complete business plan shall be submitted. This plan must include: 1) Equity Position, 2) Operations Sheet, 3) Proforma Cash Flow, 4) Proforma Profit and Loss Statements, 5) Personnel Requirements and 6) Projected Sales/Growth.

When the corporate net worth is insufficient to cover the liability of the loan, a personal endorsement of the loan shall be required.

The applicant will give assurances of complying with all applicable Federal regulations as they relate to the operations and employment.

The applicant may be required to provide the certificate or assignment of insurance for fire and general liability, life insurance for the owner(s) and business interruption insurance.

The applicant shall agree that all loan proceeds will be used for their agreed upon purpose. Loan funds shall not be co-mingled with any other purposes other than those stated for the loan.

After a loan has been awarded, the recipient must provide operating statements prepared by a third party, on a quarterly basis, which will be submitted to the Administrator within twenty days of every quarter during the loan duration.

5. Repayments of Funds

The Village has established an Economic Development Revolving Loan Fund to disburse loan moneys awarded and receive loan repayment(s). Loans will be repaid on a monthly basis unless some other formal arrangement is approved by Village Council. The Village is responsible for holding these funds and to administer, invest and account for all funds received.

6. Establishment of Loan Review Committee and Loan Administrator

The Village Council will appoint a Loan Review Committee to review loan applications and advise the Council on its decision to approve or disapprove a loan. The Committee shall consist of three members from the Yellow Springs School District who have appropriate knowledge and ability to fulfill the duties assigned.

Committee members will serve a three-year term without compensation and shall be indemnified under the Village's insurance coverage. The initial appointments to this Committee shall be of three members having terms of one, two and three years so that a single three-year term will expire each succeeding year.

The Committee, by majority vote, may make recommendations to Village Council to approve or disapprove loan requests and recommend an appropriate loan term and specific interest rates for each loan.

A quorum of the Committee shall consist of a majority of appointed members at meetings called on an "as-needed" basis. The Committee shall receive a review summary remarks from the Program Administrator and the Village Treasurer regarding specific loan requests. The Committee will also report to the Village Council on the status of the Fund on a quarterly basis.

The Village Manager or a designee shall be responsible for the ongoing administration of the Loan Fund Program. The following duties are the responsibility of the Administrator:

- Respond to requests for Loan Fund information and perform other associated duties to help promote the use of the Fund;
- Receive loan requests and assure the completeness of such requests to be forwarded to the Review Committee (i.e. meet with the applicant and indicate information gaps);
- Execute loan closing procedures upon loan approval by Village Council;
- Maintain individual loan folders for each loan awarded;
 - Maintain information regarding the Fund activity including out-of-pocket expenditures, deposits, withdrawals, etc.;
 - Provide a management report semi-annually to the Village Council summarizing loan activity and Fund status information; and
- Provide staff support to the Loan Review Committee.

7. Loan Selection and Approval Procedures

Loan requests received by the Loan Review Committee must be in writing and must contain all pertinent information for Committee consideration.

All loans will be reviewed initially for eligibility. Much of this can be determined by the Administrator as part of the preparation work required for Committee review. Any loan being presented to the Review Committee must, at a minimum, fulfill the following eligibility requirements:

1. The project being proposed must create or retain permanent jobs with a majority of the job-holders coming from low or very low income households as defined by the Federal HUD Program.
2. The request for funding does not exceed fifty percent of the total project cost.
3. At least one permanent full-time equivalent job must be created for each twenty-five thousand dollars (\$25,000) requested.
4. The borrower must be a private, for-profit venture.
5. The project must be located in the Yellow Springs School District.

Other pertinent elements that will be considered by the Review Committee in loan selection include: 1) proceeds used for fixed asset financing will hold those assets as collateral; 2) proceeds used for operating costs must be secured with personal or business liens; and 3) an indication that the requested financing is not available through any other (personal or commercial) lending sources.

The interest rate for any loan will be assigned at the current Treasury Bill rate, as required by the Federal Government. Any action to assign some other rate must be clearly substantiated.

Special considerations for extremely unique circumstances may be considered in the strict enforcement of the fifty percent gap-funding limit of the loan as it reflects to the total project.

8. Loan Servicing Procedures

After loan approval by the Village Council, the Administrator will prepare and execute the closing documents and establish a loan service folder which will contain: 1) all closing documents including the Village Resolution awarding the loan; 2) a loan services checklist verifying that required application information has been submitted and/or completed; 3) any correspondence relating to the loan including the quarterly reports required from the recipient; and 4) a completion summary indicating the final performance of the loan.

9. Delinquent Loans

Delinquent loans are those that are ten days past due on monthly payment. If delinquency occurs, notification will be sent to the recipient regarding the delinquency and also include a request that the recipient contact the Administrator within five days. Pending that response, the Administrator will discuss remediating the delinquency. If no action is implemented within thirty days of the delinquency, the loan may be considered in default and called in for full payment.

10. Other Requirements

All loans awarded from the Loan Fund are made available on a non-discriminatory basis without regard to race, sex, national origin, disability, religion, age, sexual orientation or political affiliation.

Borrowers shall sign assurances that they will not discriminate in any manner in their employment practices as they pertain to the use of the loan money.

Borrowers shall sign assurances they will comply with Section 504 of the Rehabilitation Act, that they have appropriate Flood Hazard Insurance and that an Environmental Review will be completed prior to any work being initiated on the project.

Any funded project that re-locates outside of the Yellow Springs School District at any time during the life of the loan will result in the loan being recalled and immediately payable in full.

All covenants contained in the Loan Agreement between the Village of Yellow Springs and the Borrower will be upheld by the Borrower and failure to do this shall constitute a default under the Loan Agreement.

11. Loans from Fund to the Village.

Notwithstanding anything to the contrary in these guidelines or elsewhere in these Codified Ordinances, the Village is hereby expressly authorized to make loans and/or grants from the Fund to the Village of Yellow Springs and Miami Township Community Improvement Corporation ("CIC"), also commonly known as "Community Resources" for use by the CIC for the purpose of promoting and managing economic development in the district identified in that certain Community Economic Development Agreement among the Village and Miami Township, Ohio. All loans and/or grants of the Funds to the CIC shall be made pursuant to such terms and conditions as may from time to time be approved by the Village Council upon recommendation from the Village Manager and/or the Loan Review Committee.

(Ord. 95-06. Passed 5-15-95; Ord. 2001-15. Passed 9-4-01; Ord. 2003-5. Passed 5-5-03.)

238.03 CABLE TELEVISION FUND.

(a) The Village Manager is hereby authorized to establish a new fund to be identified as the Capital Projects Fund - Cable Television.

(b) The Village Manager is hereby authorized to annually transfer any proceeds from cable television franchise fees which exceed the actual annual operating expenses associated with the Cable Television Department into the Capital Projects Fund - Cable Television.

(Res. 99-2. Passed 1-4-99.)

238.04 INVESTMENT POLICY.

(a) Policy Statement. It is the policy of the Village to invest all public funds in a manner which will provide maximum safety and preservation of principal, while meeting all the liquidity and operating demands, at reasonable market interest rates available. All investments made will conform to all applicable laws and regulations governing the investment of public moneys, including Ohio R.C. Chapter 135.

- (b) Objectives. The objectives of this investment policy shall be:
- (1) To invest all moneys in accordance with the guidelines of Ohio R.C. 135.14, with the priorities being the safety, liquidity and yield of such investments, in that order. The primary objectives are the preservation of capital and the protection of investment principal.
 - (2) To limit market risk and ensure reliable return on investments thorough diversity and management of securities held in the investment portfolio.
 - (3) To safeguard repurchase agreement transactions so as to avoid all security risk, and to limit and track the market risk.
 - (4) To ensure that all entities conducting business with the investing authority are knowledgeable concerning the provisions of Ohio R.C. Chapter 135 and this investment policy.
 - (5) To ensure that the portfolio remains sufficiently liquid to enable the investing authority to meet operating requirements which might be reasonably anticipated.

The portfolio is not for speculation and will not be leveraged under any circumstances.

(c) Maturity Guidelines. To the extent possible, the Treasurer will attempt to match its investments with anticipated cash flow requirements to take best advantage of prevailing economic and market conditions. The maximum maturity of any eligible instrument is five years from the settlement date, unless the investment is matched to a specified obligation or debt of the Village. Any investment made must be purchased with a reasonable expectation that it is to be held to maturity.

- (d) Permissible Investments. The Treasurer may invest in any instrument or security authorized in Ohio R.C. 135.14, as amended. Permissible investments include:
- (1) United States Treasury bills, notes, bonds or any other obligation or security issued by the United States Treasury or any other obligation guaranteed as to principal and interest by the United States. Stripped principal or interest obligations of such eligible obligations are strictly prohibited.
 - (2) Bonds, notes, debentures or any other obligations or securities issued by any Federal government agency or instrumentality, including, but not limited to, the Federal National Mortgage Association, Federal Home Loan Bank, Federal Farm Credit Bank, Federal Home Loan Mortgage Corporation, Government National Mortgage Association and Student Loan Marketing Association. All Federal agency or instrumentality securities must be direct issuances of the Federal agency or instrumentality.
 - (3) STAR Ohio is eligible as long as the fund maintains the highest letter rating provided by at least one nationally recognized standard rating service as outlined in Ohio R.C. 135.45.
 - (4) Bonds and other obligations of the State.

- (5) Interim deposits (such as certificates of deposit) in the eligible institutions applying for interim moneys, as provided in Ohio R.C. 135.08.
- (6) No-load money market mutual funds consisting exclusively of obligations described in paragraphs (d)(1) or (2) hereof and expressly excluding derivatives in accordance with Ohio R.C. 135.14.
- (7) Written repurchase agreements (repos) with any eligible public depository mentioned in Ohio R.C. 135.03, or with any dealer who is a member of the National Association of Securities Dealers (NASD). The market value of the securities subject held as collateral for an overnight repo (including sweep accounts) or term repo must exceed the principal by at least two percent, and the securities must be marked to market daily. Term repurchase agreements may not exceed thirty days. Any repurchase agreement with an eligible securities dealer must be transacted on a deliver versus payment basis. All securities purchased pursuant to a repurchase agreement must be delivered into the custody of the Treasurer or an agent designated by the Treasurer. Such institution or dealer must agree in writing to unconditionally repurchase any of the securities used for any repo transaction.

Reverse repurchase agreements are strictly prohibited.

- (e) Prohibited Practices. The following practices shall be prohibited:
 - (1) Using current investments assets as collateral for purchasing other assets (leverage);
 - (2) Issuing taxable notes for purposes of arbitrage; or
 - (3) Contracting to sell securities not yet acquired.

(f) Derivatives. Investments in derivatives are strictly prohibited. A derivative is defined in Ohio R.C. Chapter 135 as a financial instrument or contract or obligation whose value is based upon or linked to another asset or index or both, separate from the financial instrument, contract or obligation itself. However, any eligible investment with a variable interest rate payment based upon a single interest payment or single index comprised of other investments consisting of United States Government or Federal agency or instrumentality obligations is not considered a derivative if it matures in two years or less.

(g) Pooling. The pooling of funds by two or more political subdivisions of the State is prohibited except as provided in Ohio R.C. 715.02 or Section IV, Article XVIII, of the Ohio Constitution, and STAR Ohio.

(h) Eligible Institutions. Any financial institution located within the State of Ohio as defined by Ohio R.C. 135.03 is eligible to serve as an approved depository and/or investment provider. Only securities dealers and brokers that are members of the National Association of Securities Dealers (NASD) are eligible to be an investment

provider. Investment advisors must be an eligible financial institution as defined by Ohio R.C. 135.03, or an advisor that is registered with the Securities and Exchange Commission (SEC).

(i) Training. The Village Treasurer is required to receive continuing investment training given annually by the Treasurer of the State or be limited to investing solely in interim, deposits in eligible institutions as provided in Ohio R.C. 135.08 and/or STAR Ohio as outlined in paragraph (d)(3) hereof.

(j) Collateral. All deposits shall be collateralized pursuant to Ohio R.C. Chapter 135. Letters of credit are eligible as specifically pledged collateral.

(k) Reporting. The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority. The inventory shall include the description of the security, type, cost, par value, maturity date, settlement date, and coupon rate. The investing authority shall produce a quarterly portfolio report detailing the current inventory of all obligations and securities, and all transactions during the quarter, income received and investment expenses paid.

(l) Ethics and Conflicts of Interest. Employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees shall disclose to the Village Manager any material financial interests in financial institutions that conduct business within this Village and they shall further disclose any large personal financial/investment positions that could be related to the performance of the Village, particularly with regard to the time of purchases and sales.

(m) Adoption of Policy. The Village's investment policy shall be adopted by resolution of the Village Council. The policy shall be reviewed annually by the Village Council and any modifications made thereto must be approved by the Village Council.

(n) Acknowledgments. Pursuant to Ohio R.C. Chapter 135, all brokers, dealers and financial institutions initiating transactions with the investment authority by giving advice or making investment policy, or executing transactions initiated by the investment authority, must acknowledge their agreement to abide by the investment policy's consent.
(Res. 99-14. Passed 3-15-99.)