

**VILLAGE OF YELLOW SPRINGS, OHIO
ORDINANCE 2022-38**

REPEALING AND REPLACING CHAPTER: 238 TREASURER

Whereas, Section 34 of the Charter of Yellow Springs was enacted in 1952 establishing the role of Treasurer; and,

Whereas, in 1974 Village Council authorized the hiring of a new Village position entitled Director of Finance with the newly created Director position responsible for the following tasks: Financial analysis and planning to include cash-flow, budgeting, investment, and capital financing; supervise the keeping of accounting records, and the establishment of accounting procedures consistent with timely information necessary for management and policy decisions and uniform reporting requirements; and,

Whereas, following the creation of the role of Director of Finance, the Treasurer’s role has been relegated to oversight of Village investments as evidenced by Resolution 99-04; and,

Whereas, from time to time over the last fifteen years,, the Village Clerk has also held the title of Village Treasurer, overseeing Village investments and providing quarterly reporting to Village Council regarding same; and,

Whereas, Chapter 238 of the Codified Ordinances of Yellow Springs requires updating to reflect the current role of Village Treasurer within Village government,

NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. Chapter 238 of the Codified Ordinances of the Village of Yellow Springs, Ohio is hereby repealed in its entirety.

Section 2. The new Chapter 238 entitled “Treasurer” of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth on Exhibit A.

Section 3. This ordinance shall be in force and effect at the earliest period allowed by law.

Brian Housh, President of Council

Passed: 11-21-2022

Attest: _____
Judy Kintner, Clerk of Council

ROLL CALL

Brian Housh __Y__ Kevin Stokes __Y__ Marianne MacQueen __Y__
Carmen Brown __Y__ Gavin DeVore Leonard __Y__

Exhibit A to Ordinance 2022-38

CHAPTER 238 Treasurer

238.01 Treasury investment; distribution of proceeds.

~~238.02 Economic Development Revolving Loan Fund; Administrative Guidelines.~~

~~238.03~~ **238.02** Cable Television Fund

238.04 **238.03** Investment policy.

~~238.05~~ **238.04** Collection of fees.

~~238.06~~ **238.05** Utility Overpayment Fund.

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 Finance Director, 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.

~~**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 remark 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.)~~

238.03 238.02 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

238.04 238.03 INVESTMENT POLICY.

(a) Introduction. The intent of the Investment Policy of the Village of Yellow Springs is to define the parameters within which funds are to be managed. In methods, procedures, and practices, the policy formalizes the framework for the Village of Yellow Springs investment activities that must be exercised to ensure effective and judicious fiscal and investment management of the Village's funds. The guidelines are intended to be broad enough to allow the investment officer to function properly within the parameters of responsibility and authority, yet specific enough to adequately safeguard the investment assets.

(b) Governing Authority. The investment program shall be operated in conformance with federal, state, and other legal requirements, including R.C. § 135.14.

(c) Scope.

(1) This policy applies to activities of the Village of Yellow Springs with regard to investing the financial assets of all funds. In addition, funds held by trustees or fiscal agents are excluded from these rules; however, all funds are subject to regulations established by the State of Ohio. The covered funds, and any new funds created by the Village of Yellow Springs, are defined in the Comprehensive Annual Financial Report.

(2) Except for funds in certain restricted and special funds, the Village commingles its funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

(d) General Objectives. The primary objectives, in priority order, of investment activities shall be:

(1) Safety. Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The goal will be to mitigate credit risk and interest rate risk.

(2) Liquidity. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.

(3) Return. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints of safety and liquidity needs.

(e) Standards of Care.

(1) Prudence.

A. The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal liability for an individual security’s credit risk or market price changes, provided deviations from the expectations are reported in a timely fashion and appropriated action is taken to control adverse developments.

B. The “prudent person” standard states that:

“Investments shall be made with judgement and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.”

(2) Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose any material interest in financial institutions with which they conduct business. Disclosure shall be made to the Village Manager. They shall further disclose any person financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking any personal investment transactions with the same individual with whom business is conducted on behalf of the Village.

(3) Delegation of Authority and Responsibilities.

A. Governing Body. The Village Council will retain ultimate fiduciary responsibility for the portfolios. The Council will receive quarterly investment reports, designate investment officers, and review the investment policy making any changes necessary by adoption.

B. Investment Officers.

1. Authority to manage the investment program is granted to the Treasurer as designated by Village Council. Whenever idle funds exist in the treasury of the Village they may be invested in a manner agreed upon by the Finance Director, the Village Manager, the Finance Committee and the Village Treasurer, in accordance with R.C. §§ 731.56 to 731.59.

2. Responsibility for the operation of the investment program is hereby delegated to the Treasurer who shall establish and maintain an inventory of all obligations and securities acquired by the

Village. The inventory shall include the description of the security, type, cost, par value, maturity date, settlement date, and coupon rate. The Treasurer 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 and other special reports as may be deemed necessary. All participants in the investment process shall seek to act responsibly as custodians of the public trust. No officer or designee may engage in an investment transaction except as provided under the terms of this policy and supporting procedures.

C. Finance Committee. All investment decisions should be made jointly with a Finance Director, the Village Manager, one-to-two Council members and the Village Treasurer and should conform to all applicable laws and regulations governing the investment of public moneys.

D. Investment Advisor. The Village may engage the services of one or more external investment managers to assist in the management of the entity's investment portfolio in a manner consistent with the Village's objectives. Such external managers may be granted discretion to purchase and sell investment securities in accordance with this Investment Policy. Such managers must be registered under the Investment Advisors Act of 1940.

(f) Safekeeping and Custody.

(1) Delivery vs. Payment. All trades of marketable securities will be executed (cleared and settled) on a delivery vs. payment (DVP) basis to ensure that securities are deposited in the Village's safekeeping institution prior to the release of funds.

(2) Third-party Safekeeping. Securities will be held by an independent third-party safekeeping institution selected by the Village. All securities will be evidenced by safekeeping receipts in the Village's name. The safekeeping institution shall provide a copy of its most recent report on internal controls - Service Organization Control Reports (formerly 70 or SAS 70) prepared in accordance with the Statement on Standards for Attestation of Engagements (SSAE) No. 16 (effective June 15, 2011.)

(3) Internal Controls. Management shall establish a system of internal controls, which shall be documented in writing. The internal controls shall be reviewed by the Finance Committee, where present, and with the independent auditor. The controls shall be designed to prevent loss of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets or imprudent actions by employees and officers of the Village.

(g) Permissible Investments. The Treasurer may invest in any instrument or security authorized in 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 R.C. § 135.45.

~~(4) STAR Plus eligible and is a fully FDIC Insured Bank Deposit program endorsed through the State Treasurer's Office.~~

(4) Bonds and other obligations of this state.

(5) Interim deposits (such as certificates of deposit) in the eligible institutions applying for interim monies as provided in R.C. § 135.08.

(6) No-load money market mutual funds consisting exclusively of obligations described in divisions (g)(1) or (g)(2) of this policy and expressly excluding derivatives in accordance with R.C. § 135.14.

(7) Written repurchase agreements (repos) with any eligible public depository permitted in R.C. § 135.03.

(8) Reverse repurchase agreements are strictly prohibited.

(9) The Treasurer is authorized to invest up to a maximum of 40% of Village funds in either of the following;

A. Commercial paper notes issued by a for-profit corporation, business trust or association, real estate investment trust, common-law trust, unincorporated business, or general or limited partnership which has assets exceeding five hundred million dollars (\$500,000,000). Such notes must:

1. Be rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating servicers;

2. Have an aggregate value that does not exceed 10% of the outstanding commercial paper of the issuing entity;

3. Mature not later than 270 days after purchase; and

4. Be limited to the aggregate of 5% of interim monies available for investment at the time of purchase, when issued by a single issuer.

B. Bankers' Acceptance of banks that are insured by the Federal Deposit Insurance Corporation (FDIC) and that mature no later than the extent permitted by Ohio Revised Code

C. No investment shall be made under divisions (10)A. and (10)B. above unless the Treasurer has completed additional training that has been approved by the Treasurer of State and is either conducted by or provided under the supervision of the Treasurer of State.

(h) 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 subdivision. Any investment made must be purchased with a reasonable expectation to be held to maturity.

(i) Prohibited Practices.

- (1) Using current investments assets as collateral for purchasing other assets (leverage) is prohibited.
- (2) Issuing taxable notes for purposes of arbitrage is prohibited.
- (3) Contracting to sell securities not yet acquired is prohibited.

(j) Derivatives. Investments in derivatives are strictly prohibited. A derivative is defined in R.C. Chapter 135 as a financial instrument or contract or obligations 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 U.S. government or federal agency or instrumentality obligations is not considered a derivative if it matures in two years or less.

(k) Pooling. The pooling of funds by subdivisions is prohibited except as provided in R.C. § 715.02 or Sec. IV Article XVIII of the Ohio Constitution, and STAR Ohio and Star Plus.

(l) Eligible Institutions. Any financial institution located within the State of Ohio as defined by 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 R.C. § 135.03, or an advisor that is registered with the Securities and Exchange Commission.

(m) 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 R.C. § 135.8 and/or STAR Ohio ~~and STAR Plus~~ as outlined in division (g)(3) ~~and (g)(4)~~ above.

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

(o) Performance Standards/Evaluation. The performance of investments will be measured against the performance of a combination of benchmarks: Star Ohio ~~and Star Plus~~ (local Government Investment Pool) and a 3-year Treasury or Agency Index may be used. All fees and expenses involved with managing the portfolio shall be included in the computation of the portfolio's rate of return.

(p) Investment Policy Adoption. 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.

(q) Acknowledgments. Pursuant to 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.

~~238.06~~ **238.05** UTILITY OVERPAYMENT FUND.

- (a) The Finance Director is hereby authorized to create the Utility Overpayment Fund.
- (b) The Finance Director is hereby authorized to receive funds into the Utility Overpayment Fund as directed when necessary due to overpayment, and to make expenditures therefrom as the law allows.