

ARTICLE II. - REVOLVING LOAN PROGRAM

DIVISION 1. - GENERALLY

Sec. 34-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fixed asset means permanent business properties such as land, buildings, machinery, and equipment.

Gap funding means the portion of funds supplied by the city through the revolving loan fund that allows a business to remain in operation, expand operations, or start up that would not take place without this financial assistance.

Job means full-time employment for a period not less than 365 days.

Job retained means a job that would be lost if the financial assistance from the city were not provided. The business applying for the funds must prove to the satisfaction of the loan review committee of the revolving loan fund that these funds are necessary.

Loan advisory commission means citizens, who are professionals in the area of finance, appointed by the mayor and city council to review all loan applications for the revolving loan fund.

Low and moderate income means income levels as published by the U.S. Department of Housing and Urban Development for the Section 8 Assistance Program. The levels are usually calculated as 80 percent of a county's median income adjusted for family size. The most recent data for such determinations may be obtained from the state department of community affairs at (404) 656-2900. Applicants should note that jobs paying minimum wage do not necessarily qualify as low/moderate income jobs. Individual family income levels at the time of application for employment determine qualifications.

Market analysis means an objective process whereby the need, market potential, and expected return on investment are determined for a particular product and/or service.

New job created means a job that was not in existence and represents a new budgeted position that will be filled within six months. This job must be tangible and the applicant must commit that this job will be filled after the loan from the city.

Pro forma means estimation of anticipated expenditures, revenues, and cash flow for a given period of time.

Start-up means the creation of a new business that was not previously in existence.

Working capital means funds available and necessary for normal business operations.

(Code 1988, § 16.6-4)

Cross reference— Definitions generally, § 1-2.

Sec. 34-32. - Goal of program.

The goal of the revolving loan program is the creation and/or retention of jobs, primarily for low and moderate income persons, in the city by providing financial assistance to existing businesses and/or start-up ventures where the city's involvement is necessary for the project's viability.

(Code 1988, § 16.6-1)

Sec. 34-33. - Objective of program.

The objective of the revolving loan program is to provide loan funds to local small businesses and industry from public resources. The provision of loan funds must result in the creation or retention of the maximum number of low and moderate income jobs for the least amount of public expenditure possible.

(Code 1988, § 16.6-2)

Sec. 34-34. - Scope of program.

- (a) The revolving loan program is designed to assist small service, commercial, and industrial businesses in the city by providing gap financing. This financial assistance must result in the meeting of the overall program objectives, the creation or retention of permanent jobs for low and moderate income persons.
- (b) Two hundred thousand dollars of the resources of the revolving loan pool shall be designated for loans for new construction or renovation of the downtown area as designated by the boundaries of the downtown development authority. The remainder of the pool shall be available for loans within the total corporate city limits.

(Code 1988, § 16.6-3)

Sec. 34-35. - Eligibility.

- (a) The economic development revolving loan fund for the city is limited to businesses located within the city limits or to businesses that propose to startup businesses within the city as a result of this program. Highest consideration will be given to those businesses which demonstrate that they will create and/or retain the highest number of jobs for low/moderate income persons for the least amount of public expenditure.
- (b) In order to qualify for this program, a business must have a net worth of less than \$6,000,000.00 and a net profit after taxes of less than \$2,000,000.00 annually. No loans will be considered if the proposed jobs retained or created are less than the ratio of one job per ~~\$15,000.00~~ **\$25,000.00** of loan funds. At least 51 percent of the jobs created or retained must be for low/moderate income persons.

(Code 1988, § 16.6-5; Ord. No. 640, § 1(20-5), 7-13-1998)

Sec. 34-36. - Application for loan.

- (a) Applications will be provided by the city to all small businesses interested in the revolving loan program.
- (b) A profit and loss statement is required for the past three years. A current statement is also required.
- (c) Personal financial statements will be required if the personal investment exceeds 40 percent of the city's loan amount. Tax returns for the prior two years are also required.
- (d) A cash flow pro forma will be required to indicate future needs of the business. (Should be at least three years.)
- (e) A market analysis should be made for each small business making an application to the revolving loan fund. The market analysis should include:
 - (1) Business or product definition, such as the mix of goods, merchandise, and/or services to be produced or sold.

- (2) Market description, including primary and secondary trade areas, potential customer categories, major competitors, and marketing strategies.
- (3) Development of a needs assessment through the use of statistical data and an evaluation of such things as market trends, unmet customer demands, customer surveys and data supporting this need and the potential for success.
- (4) Projection of return on investment based on the information gathered and analyzed for the particular product and/or service.
- (f) The applicant must fully address the purpose of the loan, and the time schedule for implementation if funded.
- (g) A letter of commitment must accompany the initial application regarding the creation and retention of jobs.
- (h) The purpose of this program is the creation/retention of jobs for low/moderate income persons. The loan agreement will require a commitment to hire at least 51 percent of new employees from low/moderate income levels. The loan agreement will require continued monitoring of the percentage of low/moderate income employees during the life of the loan.
- (i) Described and documented ownership of collateral and its certified market value to be used for the loan is required.
- (j) A list of credit references and how they can be contacted is required.
- (k) Funds awarded under this program must begin to be utilized within 60 days of award.
- (l) A public hearing by the mayor and council will be required prior to loan approval or denial. The hearing date will be set at the first reading of the application by the mayor and council.
- (m) Depending on the type of activity to be undertaken with the loan funds, various federal, state, and local laws may apply.
- (n) Applications regarding construction must comply with Davis-Bacon wage rate determinations and adequate environmental assessments. All loans must meet federal and state labor standards. Applicants will be reminded of these during the application process.
- (o) The city and the loan advisory commission reserve the right to request and require further information that they deem necessary in order to make a decision as to whether or not to approve an application under this program.
- (p) It should be noted that, if new construction is a part of the overall project, special conditions may apply. Site improvements may also necessitate special considerations.

(Code 1988, § 16.6-6; Ord. No. 640, § 1(20-6), 7-13-1998)

Sec. 34-37. - Loan terms and conditions; approval of loans.

- (a) All applicants for the economic development revolving loan fund are required to obtain 50 percent of the funds for the project from a private lending institution. For purposes of this section, the term "lending institution" means any person, firm or corporation that will lend the necessary funds for private investments required for this program. As part of the application process, each applicant is required to provide a letter of commitment from the lending institution, acknowledging its agreement to finance 50 percent of the asset or working capital. This letter must include the following terms: interest rate, term of loan, collateral, and any other requirements stated as part of the loan. The letter must be signed by the lending institution or a person authorized to make such a commitment for that lending institution. All applicants must prove to the satisfaction of the loan review committee that they have the ability to cover all debt services.
- (b) Fixed asset loans will be made at an interest rate to be determined by the loan advisory commission based on prevailing market rates and approved by the mayor and city council. The life of the loan is

not to exceed the life of the asset. Applicants for fixed asset loans are also eligible for a one-year deferral on payment of principal, followed by a five- to ~~fifteen~~-year payback of the loan. The length of the loan will be determined by the loan advisory commission.

- (c) Working capital loans will be made at an interest rate to be determined by the loan advisory commission based on prevailing market rates and approved by the mayor and city council. Eligible applicants for working capital loans are also eligible for a one-year deferral on payment of principal followed by a five-year payback on the principal and interest. A five-year payback is the maximum for a working capital loan.
- (d) Applicants that cannot meet the 50 percent financing requirements from the private sector may participate in the revolving loan fund program provided they inject equity equivalent to 25 percent of the funds requested from this program. The remaining 75 percent may be loaned from the revolving loan fund with a seven-year payback ~~at ten percent interest.~~ **an interest rate to be determined by the loan advisory commission based on prevailing market rates and approved by the mayor and city council.** An applicant eligible for an equity injection loan may also be eligible for a one-year deferral on payment of the principal, paying the amortized principal and interest over the remaining six years.
- (e) All loans will be screened and approved after review of each of the following, in order of approval:
 - (1) The loan advisory commission of the revolving loan fund.
 - (2) **DCA RLF Loan Compliance Review Form submitted to DCA for review.**
 - (3) The mayor and council, who have the final authority to approve a project for funding.
- (f) The mayor and council and the loan advisory commission for the economic development revolving loan fund reserve the right to request and require further information.
- (g) The city will not discriminate due to race, creed, color, age, sex, national origin or disability in approving loan applications under this program.
- (h) The loan advisory commission may consider the following guidelines in evaluating the applications submitted for revolving loan funds, but the commission is not necessarily limited to these guidelines:
 - (1) Credit worthiness, considering equity position and personal guaranty.
 - (2) Date of application.
 - (3) Additional jobs provided as a result of the loan.
 - (4) Additional taxes generated as a result of the loan.
 - (5) Length of the loan requested.
 - (6) Limit of \$50,000.00 for small business applications, with industrial requests to be considered on an individual basis.
- (i) A semiannual report will be published in the legal organ of the city following January 1 and July 1 of each year.

(Code 1988, § 16.6-7; Ord. No. 640, § 1(20-7), 7-13-1998; Ord. No. 888, § 1, 4-26-2010)

Sec. 34-38. - Use of recaptured funds.

All funds recaptured by the city from the revolving loan program shall be held in a separate account and used only for future economic development loan purposes.

(Code 1988, § 16.6-8)

Sec. 34-39. - Loan applicant assurances.

The following loan applicant assurances are required under this article:

- (1) It possesses legal authority to apply for the loan and execute the proposed program.
- (2) Its governing body has duly adopted or passed as an official act, a resolution, a motion or a similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- (3) It will comply with the requirements for historic preservation identification and review set forth in section 106 of the National Historic Preservation Act of 1966 (16 USC 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1974 (16 USC 469a et seq.), regulations of the Advisory Council on Historic Preservation at 36 CFR 801, and any other regulations promulgated pursuant to section 121 of the Housing and Community Development Act of 1974, as amended.
- (4) It has identified all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project; it has identified all other properties, if any, which will be affected by the project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion in the register, together with the documentation relating to the inclusion of such properties on the register; and it has determined the effect, as determined by the applicant, of the project on the identified properties.
- (5) It will comply with:
 - a. Title VI of the Civil Rights Act of 1964 (PL 86-352), and implementing regulations issued at 24 CFR 1, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives federal financial assistance and will immediately take measures necessary to effectuate this assurance.
 - b. Title VIII of the Civil Rights Act of 1968 (PL 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and will take action to affirmatively further fair housing.
 - c. Section 109 of the Housing and Community Development Act of 1974 as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under 24 CFR 570.
 - d. Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations at 24 CFR 135, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.
 - e. Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR 60, which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts.
 - f. Executive Order 11063, and implementing regulations at 24 CFR 107, on equal opportunity housing and nondiscrimination on the sale or rental of housing built with federal assistance.
 - g. Section 504 of the Rehabilitation Act of 1973, as amended (PL 93-112) and implementing regulations when published for effect. Section 504 provides that no qualified disabled

person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

- h. The Age Discrimination Act of 1975, as amended (PL 94-135) and implementing regulations (when published for effect).
 - i. The relocation requirements of title II and the acquisition requirements of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, implementing regulations at 24 CFR 42, and the special provisions of 24 CFR 570.457 concerning the relocation of residential tenants not covered by the Uniform Act.
 - j. The labor standards requirements as set forth in 24 CFR 507.605 and U.S. Department of Housing and Urban Development regulations issued to implement such requirements.
 - k. The flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (PL 93-234).
 - l. The regulations, policies, guidelines, and requirements of OMB Circular No. A-102, Revision A-87, as they relate to the acceptance and use of federal funds under this article.
 - m. All requirements imposed by the U.S. Department of Housing and Urban Development concerning special requirements of law, program requirements and other administrative requirements approved in accordance with OMB Circular No. A-102, Revised.
- (6) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
 - (7) It will give the city, the U.S. Department of Housing and Urban Development and the comptroller general, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the loan.
 - (8) It will ensure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the program are not listed on the federal Environmental Protection Agency's list of violating facilities and that it will notify the U.S. Department of Housing and Urban Development of the receipt of any communication from the director of the Environmental Protection Agency office of federal activities indicating that a facility to be used in the project is under consideration for a listing by the Environmental Protection Agency.
 - (9) It will not, in carrying out the project, discriminate against any employee because of race, color, religion, sex, disability, or national origin, and it will take affirmative action to ensure that applicants for employment, reemployed employees, and current employees are treated during employment without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The applicant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the U.S. Department of Housing and Urban Development setting forth the provisions of this nondiscrimination clause. The applicant will in all solicitations or advertisements for employees placed by or on behalf of the applicant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin. The applicant will incorporate the requirements of this subsection in all of its contracts for project work, except contracts for standard commercial supplies or raw materials or contracts covered under 24 CFR 570, subsection (c) (14) (ix) (E), and will require all of its contracts for such work to incorporate such requirements in all subcontracts for work done with funds provided under 24 CFR 570.
 - (10) It will certify that it has not knowingly and willfully made or used a document or writing containing any false, fictitious, or fraudulent statement or entry. The provisions of 18 USC 1001 provide that whoever does so within the jurisdiction of any department or agency of the United

States shall be fined not more than \$10,000.00 or imprisoned for not more than five years, or both.

- (11) The city or the loan advisory commission are authorized to check the credit and employment history. The applicant shall certify as follows: "I/We certify that I/We have attained the age of majority and that all information given on this application is true and correct. I/We acknowledge a copy of this application."

(Code 1988, § 16.6-9)

Secs. 34-40—34-60. - Reserved.

DIVISION 2. - REVOLVING LOAN ADVISORY COMMISSION^[2]

Footnotes:

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Cross reference— Boards and commissions, § 2-331 et seq.

Sec. 34-61. - Established; duties.

There is hereby established an advisory revolving loan commission to be known as the Revolving Loan Advisory Commission of Calhoun, Georgia, and its duties shall be to advise and make recommendations to the mayor and council on all matters of policy relating to the city revolving loan program, including but not limited to program amendments, loan application amendments, policy amendments, credit review of loan applications, and recommendations to the mayor and council in reference to all revolving loan applications.

(Code 1988, § 16.6-21)

Charter reference— Authority to create boards, § 4-301.

Sec. 34-62. - Membership.

- (a) The advisory revolving loan committee shall be composed of eight members, of which one shall be the finance officer of the city and shall be appointed annually by the mayor and council. The other seven members shall also be appointed by the mayor and council and must be either a resident of the city or person with an economic interest located within the city. Further, such person shall have commercial lending experience.
- (b) The terms of office of each member shall begin on the beginning date of the fiscal year of the city, i.e., July 1, and run until June 30 of the expiration year of the appointment. The initial terms shall be staggered, with two members appointed for two years, two members for four years, and the final three members for six years. After the initial terms as designated in this subsection, each member except the city finance officer shall serve a six-year term.
- (c) Any vacancy which occurs on the revolving loan committee for reason of death, retirement, resignation, or removal shall be filled by appointment by the mayor and council for the remaining unexpired portion of the term of the member whose position has been vacated.

(Code 1988, § 16.6-22)

Charter reference— Board composition, appointment, § 4-302.

Sec. 34-63. - Meetings.

- (a) All meetings of the revolving loan advisory commission shall be open to the public.
- (b) The revolving loan advisory commission shall comply with all state laws and city ordinances relating to open meetings and public records, which require minutes to be kept of all meetings, which shall be maintained at the city hall or other place designated by the mayor and council.
- (c) The revolving loan advisory commission shall meet as often as necessary and shall be authorized to designate the time, date and place of such meetings. The commission shall submit notification of this to the mayor and council and also publish a notice to the public of when the meetings are scheduled. Special meetings may be held on the call of the chairman or at the request of at least three members, provided public notice of the special meeting is in compliance with state laws and city ordinances.
- (d) Five members present shall constitute a quorum and a majority vote of those present shall be required to take official action on any recommendations as to policy, rules, regulations or loan recommendations.

(Code 1988, § 16.6-23; Ord. No. 640, § 1(20-22(d)), 7-13-1998)

Sec. 34-64. - Officers; agenda.

- (a) *Election of chairman and vice-chairman.* The revolving loan advisory commission shall elect one of its members to serve as chairman and one to serve as vice-chairman on an annual basis, which election shall be at the first meeting of each term year as defined in this division.
- (b) *Secretary.* The commission shall be authorized to either elect from its membership or appoint a city employee to serve as secretary of the commission, who shall be responsible for keeping, preparing, and safeguarding and maintaining records of the commission.
- (c) *Presiding officer; duties of chairman; agenda.* The chairman shall preside at each meeting, and in his absence the vice-chairman shall preside. Further, the chairman shall attend and report to the mayor and council at their meeting when necessary or required by the mayor and council. The chairman shall also be responsible for establishing the agenda for each meeting and ensuring that a written agenda is posted prior to the meeting and distributed to each commission member at or before the meeting. No matter will be considered by the commission that is not on the written agenda, except in cases of emergency and upon approval by a majority of the commission in attendance to allow any additional matter on the agenda.

(Code 1988, § 16.6-24)