

ORDINANCE NO. 2012 - 1756

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEBSTER CITY, IOWA, 1996, BY ADDING A NEW CHAPTER 171, ESTABLISHING A MICRO ENTERPRISE LOAN PROGRAM

SECTION 1. CHAPTER ADDED. The Code of Ordinances of the City of Webster City, Iowa, 1996, is hereby amended by adding new a Chapter 171, establishing a Micro Enterprise Loan Program as follows:

171.01 PURPOSE. It is the intent of the City of Webster City to establish a micro enterprise loan program that will encourage the revitalization of the community through the establishment of new business enterprises that are likely to:

1. Result in the creation of new small businesses
2. Result in the diversification of the City's employment base
3. Create opportunities to attract and retain new businesses and new entrepreneurs
4. Recruit young workers and entrepreneurs to rural Iowa
5. Slow the outmigration of skilled workers
6. Require longer periods of time to grow from micro enterprises (less than 5 employees) into small and medium sized businesses
7. Create new employment opportunities that are likely to appeal to both former and younger residents of Webster City or similar rural communities
8. Match new businesses and new employment opportunities with:
 - a. The knowledge, skills and abilities of our existing workforce; and/or
 - b. Our educational infrastructure and the ability to produce a future workforce that will sustain that business or industry

171.02 TYPES OF LOANS. The City hereby creates a Micro Enterprise Loan Program to assist in the attraction and retention of small businesses and new entrepreneurs. Loans shall hereby be available to eligible businesses as defined in Section 171.04. This program shall provide loans as follows:

Tier 1: Small Micro Enterprise Loans

These loans may be made to any of the eligible businesses listed below in Section 171.04(2). The minimum loan amount shall be \$5,000 and the maximum shall be \$15,000.

Tier 2: Large Micro Enterprise Loans

These loans may be made only to the following eligible businesses:

- a. Manufacturing
- b. Product Development or Testing

c. Production or assembly

The minimum loan for this tier level shall be \$15,000 and the maximum loan \$75,000.

171.03 DEFINITIONS. The following terms have been defined for purposes of this chapter:

"Approved business accelerator program" shall include any recognized Iowa Business Accelerator, SBA small business development center, or John Pappajohn Entrepreneurial Development Center.

'Offering for sale' shall include any attempt to sell assets, including, but not limited to, advertising said assets for sale in any print, online or other venue, or indicating orally or in writing that such assets are available for sale.

'Offering as security' includes, but is not limited to, any attempt to offer assets as security for any financial transaction other the original transaction that pledged said assets as security.

171.04 BUSINESS ELIGIBILITY. To be eligible for a loan through this program, an applying business shall meet the following criteria:

1. Have been formed within the last 24 months and shall either have a valid certificate of existence from the Secretary of State or have filed their sole proprietorship or partnership with the County Recorder to obtain an official certificate
2. Be involved in manufacturing, product development or testing, software development, computer hardware development, software engineering, computer engineering, software applications and programming, new technology development or testing, production or assembly, or interstate financial services
3. Have received technical assistance from an approved business accelerator program
4. Have 5 or fewer employees as of the date of its loan application
5. Be located or be willing to locate within the corporate limits of Webster City
6. Have the potential to create jobs within 5 years
7. Provide an acceptable form and amount of collateral as required by Section "X"
8. Submit a loan application on a form provided by the City, along with all documents directed to be provided as exhibits to the loan application

171.05 TERMS. Loans made under this program shall come with the following terms and conditions. These terms shall be applied uniformly among all applicants and shall not be permitted to be waived:

1. Loans shall not exceed \$15,000 for a Tier 1 business or \$75,000 for a Tier 2 business
2. Loans shall be for a maximum term of 5 years at an interest rate of 2.0%

3. Interest only payments shall be made during the first two years
4. The business shall, at a minimum, provide the city with quarterly business reports that include:
 - a. A current financial statement showing at a minimum the business's profit and loss, assets, and liabilities
 - b. An updated cash flow analysis
5. The business shall provide an annual report to the City that shall include at a minimum an updated asset inventory, balance sheet and copies of the most recent tax returns for the business
6. The business shall be required to reside within the corporate limits of Webster City for the duration of the loan and shall be required to pay the loan back in full should the business cease to reside in Webster City during the term of the loan
7. The business shall provide notice prior to 'offering for sale' or 'offering as security' any collateral the business has used to secure this loan
8. The business shall provide evidence of the owner(s)' investment of unencumbered cash equity into the business, which is equal to the loan amount requested under Tier 1 or 50% of the loan amount requested under Tier 2

171.06 SECUTIRY AND COLLATERAL.

All loans shall be secured in a form and

manner based on the following schedule:

1. Loans under Tier 1 shall have collateral securing at least 50% of the loan
2. Loans under Tier 2 shall have collateral securing at least 75% of the loan
3. Acceptable collateral for either Tier 1 or 2 loans shall include:
 - a. 1st mortgage
 - b. Shared 1st mortgage
 - c. Irrevocable letter of credit
 - d. Equipment lien
4. For purposes of determining the value of collateral:
 - a. Real estate shall be valued at 80% of its assessed value unless an appraisal is provided
 - b. Real estate with an appraisal completed within the last 12 months by an independent and reputable appraiser shall be valued at 90% the appraised value
 - c. Equipment shall be valued at 50% of its book value
5. The City shall reserve the right to independently determine the fair market value of any collateral; however, it shall be the responsibility of the borrower to pay the costs of any such appraisal

171.07 LOAN REVIEW CRITERIA. In reaching a determination on a loan application, said loans shall be evaluated based on the following criteria:

1. Quality, thoroughness, and feasibility of the business plan, business model, financial plan, cash flow projections, and other financial projections
2. Quality and quantity of available collateral
3. The level of equity invested by the person(s) starting the business
4. The overall strength of the applicant's financials
5. The involvement of qualified and experienced mentors and advisors the business can rely on for on-going advice and counsel
6. The participation of other financial institutions and ability to build partnerships
7. The experience and education of the business's management team
8. The degree to which the applicant has involved an entrepreneurial development program or business accelerator
9. Letters of recommendation, references and other testimonials

Additionally, in evaluating loans the City shall give preference to businesses:

1. Whose owner is an existing resident of Webster City
2. Whose owner is a former graduate of Webster City Community Schools or another local school district within Hamilton County
3. Whose owner is a native of Iowa that will return or has returned to Iowa within the past 3 years
4. Whose owner graduated from an accredited Iowa college, university or technical program
5. That would create synergies within the existing business community that might result in the creation of new opportunities for other existing Webster City businesses

171.08 LOAN REVIEW PROCESS. Loan applications submitted under this program shall be reviewed as follows:

1. Applications shall be accepted on an on-going basis and will be reviewed in a timely manner
2. Applications shall first be reviewed by the City's Economic Developer to verify that the application is complete and includes the required documents and exhibits therein requested

3. Upon determining that the application is complete, the Economic Developer shall schedule a loan presentation between the applicant and the City's Economic Development Loan Advisory Board (EDLAB)
4. Copies of the application shall be submitted to the EDLAB prior to the scheduled presentation
5. The loan applicant will be allowed to give a brief presentation to the EDLAB followed by the EDLAB having the opportunity to ask the applicant questions about the business, the application materials, and other relevant matters
6. Upon completing this presentation and question and answer session, the EDLAB shall meet to review the loan and reach a recommendation
7. Upon finding the loan satisfies evaluation criteria and intent of this program, the EDLAB shall make a recommendation to the City Council
8. Upon finding the loan does not satisfy the criteria and intent of this program, the EDLAB shall either deny the application or request the applicant provide additional information that might enable the application to meet the loan criteria established
9. Loan recommendations from the EDLAB shall then be scheduled at the next regular meeting of the City Council unless a special session or closed session of the City Council is warranted and permitted by law

171.09 CITY COUNCIL REVIEW AND APPROVAL. Upon receiving a loan recommendation from the EDLAB, the City Council set a time and date on which to consider the loan. The City Council shall have the ability to approve the loan, deny the loan or send the loan application back to the EDLAB for additional consideration. Prior to approving any loan, the City Council shall find that the loan meets all the requirements and conditions of this program, furthers the intent of the program, and is in the best interest of the City.

171.10 PAYMENTS AND LATE FEES. Borrowers under this loan program are expected to make payments in full and on time based on the schedule provided with the approved loan.

1. Delayed Payment Fee. Payments made after the due date, but before the expiration of 30 calendar days, shall be assessed a delayed payment fee of \$50 per occurrence.
2. Late Fees. Accounts more than 30 days past due will be assessed a late fee of 15% of the outstanding balance.

171.11 DEFAULTS AND REMEDIES. Upon missing more than two payments, the City shall consider the Borrower of funds to be in default of the loan. In such circumstances, the City shall proceed as follows:

1. Notice to Cure. Any time after a borrower has missed two consecutive payments, the City Council may direct the City Attorney to proceed with providing to Borrower a 'Notice to Cure' the default.

2. The Borrower shall then be required to cure the default by either paying the loan current, including fees, or by negotiating a payment agreement that is approved by the City Council. At no time shall the City be obligated to agree to any repayment plan.
3. Should the Borrower fail to cure the default or fail to make payments under a negotiated payment agreement, the City Council shall be entitled to direct the City Attorney to move forward with action to secure the City's claim.

171.12 CONFIDENTIAL RECORDS. The loan application and any documents submitted by the applicant may be subject to public disclosure. The following are general guidelines as to how the City intends to handle confidential and proprietary information:

1. The City shall withhold the applicant's confidential information in accordance with any approved local public records policies and in accordance with any other laws protecting said information (e.g. HIPPA, Right to Financial Privacy Act of 1978, etc.). This may include, but is not limited to:
 - a. Personal financial records including personal financial statements, social security numbers and any information required to be protected by law
 - b. Information on personal health matters, health plans, and other such health related information that is required to be protected under HIPPA
 - c. Business financial records that serve no useful public purpose and might place the business at a competitive disadvantage
 - d. Records containing information on products, products in development, designs, plans, research, testing, and other trade secret information that might place the business at a competitive disadvantage
 - e. Information on the negotiation of acquisitions, mergers, real estate purchases or leases, which might place the business at a competitive disadvantage or endanger such business activities
 - f. Marketing plans and similar strategic business documents that might place the business at a competitive disadvantage
 - g. Records and information that is related to a matter of litigation of which the business is presently involved or which is pending, where such release of information would serve no useful public purpose, would place the business at a competitive disadvantage or could result in the release of information that would otherwise be protected
2. Prior to the release of any records, the City may consult with the City Attorney and/or the business and its legal counsel to confirm whether or not said information might place them at a competitive disadvantage or result in the disclosure of sensitive or protected information (e.g. trade secrets)

171.13 FUND AND LIMIT ESTABLISHED. The City shall set aside \$200,000 which may be used for the purpose of making loans under this program. Interest earned on loans may be treated as revolving funds and be subsequently loaned to other eligible businesses.

171.14 LOAN ADVISORY BOARD ESTABLISHED. The City Council authorizes the creation of an Economic Development Loan Advisory Board for purposes of evaluating loan applications submitted under this program for the purposes of making recommendations to the City Council. This board shall be established as follows:

1. The board shall include three members which all reside within the corporate limits of the City and are appointed by the City Council
2. The membership of the board shall be made up of
 - a. An active or retired business owner with at least five (5) years of experience owning and operating a business
 - b. An active or retired financial services executive, which may include, but is not limited to, a loan officer, mortgage specialist, financial services agent, certified financial planner, or wealth management specialist with at least five (5) years of experience in that or a similar capacity
 - c. An active or retired employee of a local business with at least five years (5) of executive management experience in operations or finance
3. Members of the board shall be appointed by the City Council

171.15 ANNUAL PROGRAM REVIEW. At least one time per year, the City's Economic Developer shall provide a report to Council on this program and, upon request, meet with the City Council to review this program, including loans made, loans outstanding, and any other outcomes. After such evaluation, the City Council may at its discretion terminate said program with the exception of any outstanding loan(s) yet to be repaid.

171.16 SUNSET DATE. Unless otherwise terminated or extended by Council this loan fund shall expire on December 31, 2018 or such a date and time when all outstanding loans have been repaid.

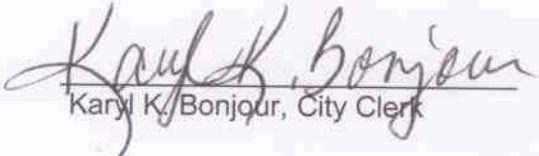
171.17 SEVERABILITY AND SAVINGS. Should any section, sentence, phrase, or clause of this ordinance be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, phrase or clause of this ordinance.

Passed and adopted this 21st day of May, 2012.



Janet Adams, Mayor

ATTEST:



Karyl K. Bonjour, City Clerk