

Ordinance No. 868-2019

Council Member Kelley
(by departmental request)

AN EMERGENCY ORDINANCE

To amend Sections 178.03, 178.05, 178.06, and 178.07 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to the deposit and investment of City funds.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 178.03 as amended by Ordinance No. 2353-93, passed February 14, 1994,

Section 178.05, as amended by Ordinance No. 1233-15, passed November 9, 2015, and

Section 178.06, as amended by Ordinance No. 2353-93, passed February 14, 1994, and

Section 178.07, as amended by Ordinance No. 45-03, passed January 13, 2003

are amended to read as follows:

Section 178.03 Designation of Eligible Depositories

(a) The City Treasurer shall provide ~~written notification by mail notification,~~ electronically or written by first-class mail, to all depositories having an office which receives deposits within the City, and such other depositories as determined by the Director of Finance, at least sixty (60) days prior to the date of designation of eligible depositories by the Director of Finance pursuant to division (b) of this section. Such notice shall:

(1) Request the depository to apply in writing for all or a portion of the City's public deposits on or before a date specified in the notice;

(2) Identify the term of the proposed agreement with the depository, which period shall ~~not exceed~~ be two (2) years unless extended under the terms of the agreement;

(3) Require each depository to submit in its application for designation as an eligible depository the following:

A. The amount of the City's active deposits that the depository will accept for deposit;

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B. The rate or rates of interest, if any, that will be paid on the City's active deposits;

C. The location of the depository's offices in the City or, if no offices are located in the City, the location of its nearest offices;

D. A complete listing of all services provided by the depository and the amount of any service charges to be paid by the City for such services;

E. Audited financial statements of the depository;

F. The information, statement and affidavit required by Sections 178.04 to 178.07; and

G. Such other data or information deemed relevant by the Director of Finance.

The application submitted by the depository shall be used by the Director of Finance to designate the City's eligible depositories in accordance with division (b) of this section and shall be made available to the Council for review.

(b) The Director of Finance shall designate one (1) or more depositories as the eligible depository or eligible depositories of the City's active deposits. The designation of such eligible depository or eligible depositories shall be for a period of ~~not to exceed~~ two (2) years unless extended under the terms of the agreement, provided that, if more than one (1) depository is designated an eligible depository, the period of such designations shall be the same for all of the eligible depositories. The Director of Finance shall consider the following in making such designation:

(1) The rate or rates of interest paid on active deposits;

(2) The convenience of the location of the depository's offices;

(3) The service charges, if any, that will have to be paid for the services of the depository;

(4) The financial stability of the depository;

(5) Compliance with the requirements of Sections 178.04 through 178.07;

(6) Such additional information as may be required by the cash management and investment policy promulgated pursuant to Section 178.14; and

(7) Any terms or conditions of the depository before accepting the City's active deposits.

(c) The Director of Finance shall submit the names of all eligible depositories to the City Council at the time of their designation by the Director. The City Council shall have thirty (30) days from the date of submission of the names by the Director of Finance to disapprove the designation of any depository as an eligible depository. Upon

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expiration of the thirty (30) day period, the Director of Finance may enter into a contract pursuant to Section 178.08 with any eligible depository not disapproved by the City Council within the thirty (30) day period.

(d) As an exception to the process set forth in divisions (a), (b) and (c) of this section, the Director of Finance is authorized to designate as an eligible depository any depository which did not receive the ~~written~~ notification required by division (a) of this section and which has opened an office which receives deposits in the City during the term of a contract entered into pursuant to Section 178.08 with the City's other eligible depositories. Any depository seeking such designation shall submit an application in writing to the Director of Finance containing the information specified in division (a)(3) of this section and the Director of Finance shall consider the factors delineated in division (b) of this section in making such designation. The period of such designation and the term of the contract entered into with the eligible depository pursuant to Section 178.08 shall expire on the same date that the contracts with the City's other eligible depositories expire. The Director of Finance shall notify the Council of the name of any eligible depository designated pursuant to this division but the provisions of division (c) of this section shall not apply and the Director of Finance is authorized to enter into a contract with the eligible depository pursuant to Section 178.08 upon designation.

(e) The limitations on the aggregate amount of public monies (as defined in the Uniform Depository Act) which may be deposited with eligible depositories as set forth in the Uniform Depository Act shall be applicable to deposits made by the City in eligible depositories pursuant to this chapter.

Section 178.05 Annual Lending Disclosure and Affidavit of Intent

~~(a) Any depository desiring designation as an eligible depository shall submit to the Director of Finance, the following information needed for evaluation of policies and practices regarding housing and economic development of such depository:~~

The Director of Community Development, shall collect, evaluate, and analyze and provide to the Director of Finance, a report summarizing his or her findings relating to the following information which must be submitted by any depository desiring designation as an eligible depository:

~~(1) (a) Residential Lending Information.~~ The total number and the total dollar value of residential loans for one (1) to four (4) family dwellings applied for and originated during the previous calendar year in each of the following categories:

- A. ~~(1)~~ Home purchase loans, both federally subsidized and conventional;
- B. ~~(2)~~ Refinancings of home purchase loans;
- C. ~~(3)~~ Home improvement loans;
- D. ~~(4)~~ Home equity loans;
- E. ~~(5)~~ Multi-family loans; and
- F. ~~(6)~~ Non-occupant loans.

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These totals shall be provided for the entire City, for each Statistical Planning Area within the City and for all of Cuyahoga County.

~~(2)~~ (b) *Commercial Lending Information.* The total number and the total dollar value of commercial loans applied for and originated during the previous calendar year ~~(a)~~ (1) for the entire City, ~~(b)~~ (2) for each Statistical Planning Area within the City, ~~(c)~~ (3) for all of Cuyahoga County, ~~(d)~~ (4) for minority business enterprises in each Statistical Planning Area within the City and for the entire City, and ~~(e)~~ (5) for female business enterprises in each Statistical Planning Area within the City and for the entire City;

~~(3)~~ (c) The most recent annual report or SEC 10-K report with quarterly financial updates;

~~(4)~~ (d) A statement with timetable(s) describing current and proposed initiatives to address the credit needs of the City, its residents and businesses, including low and moderate income and minority residents, in the following categories:

~~A.~~ (1) Home purchase mortgage loans;

~~B.~~ (2) Mortgage loans to non-occupant borrowers for small rental properties;

~~C.~~ (3) Home improvement loans;

~~D.~~ (4) Small personal loans;

~~E.~~ (5) Consumer product(s) and service(s);

~~F.~~ (6) Commercial loan product(s) for small businesses, minority business enterprises and female business enterprises;

~~G.~~ (7) Participation in City-sponsored neighborhood development programs and consortiums;

~~H.~~ (8) Equitable contributions to community based non-profit organizations in the City;

~~I.~~ (9) Provision of full service banking in City neighborhoods;

~~J.~~ Reserved;

~~K.~~ (10) Program to market loan products and services throughout the City to include ~~(1)~~ (i) low and moderate income neighborhoods, ~~(2)~~ (ii) minority neighborhoods, ~~(3)~~ (iii) small businesses, ~~(4)~~ (iv) minority business enterprises and ~~(5)~~ (v) female business enterprises;

~~L.~~ (11) Goals established for service and production levels for target groups identified in ~~K.~~ above.

~~(5)~~ (e) The affidavit set forth in Section 178.07, executed by a duly authorized officer of such financial institution;

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(6) (f) The most recent "Community Reinvestment Act Statement" issued by the depository;

(7) (g) The most recent "Community Reinvestment Act Evaluation" issued by the federal regulatory agency authorized to conduct such evaluations;

(8) (h) A copy of the depository's branch closing policy;

(9) (i) A written initiative (a "Community Reinvestment Initiative") regarding community reinvestment within the City containing provisions acceptable to the Director of Community Development;

(10) (j) Information regarding the number of minorities, females and City residents employed by the depository as lending officers and as members of its board of directors and senior management staff;

(11) (k) Any additional information requested by the Director of ~~Finance~~ Community Development.

Except where otherwise specified, the information shall be made on forms provided by or prescribed by the Director of ~~Finance~~ Community Development.

~~(b) No depository shall be eligible to be designated as an eligible depository under this chapter unless it has executed a Community Reinvestment Initiative.~~

Section 178.06 Annual Submission and Review of Disclosure; Creation of Reinvestment Review Committee; Annual Report

(a) On an annual basis, each eligible depository shall submit to the Director of ~~Finance~~ Community Development the information set forth in Section 178.05, as well as a statement describing its new level of participation in residential and commercial development as required in the sworn affidavit set forth in Section 178.07.

This information and this statement shall be used to determine whether the eligible depository has acted in compliance with its sworn affidavit and whether it will be considered for designation as an eligible depository in the future and as well as to inform policy decisions by the City regarding investment of City funds and purchase of services.

All such information required in this section will be available for public inspection.

(b) The annual review process will be administered by the Reinvestment Review Committee, composed of eight (8) members, including:

(1) The Director of Finance, who shall serve as ~~Chairman~~ Chairperson and shall select committee members as set forth below;

(2) One (1) member of the ~~administration~~ chosen from the Department of Economic Development;

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(3) One (1) member of the administration chosen from the Department of Community Development;

(4) One (1) representative from the citywide bank clearinghouse;

~~(6)~~ (5) Two (2) members of community organizations whose principal purpose is neighborhood development; and

~~(5)~~ (6) Two (2) members of from City Council chosen by City Council; and

~~(6)~~ Two (2) members of community organizations whose principal purpose is neighborhood development; and

The Committee shall coordinate the implementation of Sections 178.05 to 178.07, inclusive. The Committee shall issue a report analyzing and evaluating the information contained in the depository applications submitted pursuant to ~~division (a)~~ of Section 178.03 prior to submission of the names of the eligible depositories by the Director of Finance to the Council pursuant to ~~division (c)~~ of Section 178.03. In the report, the Committee shall make a recommendation to City Council as to which institutions have acted in compliance with their sworn affidavit and any applicable federal law requirements.

Section 178.07 Affidavit

The affidavit required by ~~division (a)~~ of Section 178.05 shall be in the following form and shall contain the information herein required:

STATE OF OHIO
COUNTY OF CUYAHOGA
SS: AFFIDAVIT OF INTENT

I, _____, a duly-authorized representative of _____
(hereinafter "Financial Institution"), being first sworn, depose and say as follows:

1. That for the purpose of becoming an eligible depository for active deposits of the City of Cleveland, the undersigned affiant states that it Financial Institution will develop or continue lending and financing opportunities and make "best efforts" to undertake a defined lending program of committed action in support of residential and commercial development in Cleveland's neighborhoods.

Affiant states that such best efforts shall include, but are not limited to:

A. The presence of identifiable trained personnel in real estate with sole-responsibility and lending authority and a clearly defined focus on "neighborhood development" finance as defined in Section 178.04 of the Codified Ordinances of Cleveland, Ohio, 1976.

B. Cooperation with and support of non-profit neighborhood development organizations in the successful implementation of "neighborhood development" finance, through vehicles such as grants, below-market financing and equity investments.

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C. A willingness to participate in the financing of publicly-subsidized neighborhood development projects.

D. A commitment to affirmatively market and make available banking services throughout Cleveland's neighborhoods.

E. The cooperative establishment of investment services through incentive programs such as linked deposits and compensating balance transactions.

2. Further, the affiant certifies that neither ~~[insert institution desiring to become City depository]~~ Financial Institution, nor any of its affiliates, (i) will make predatory loans as defined in Chapter 659 of the Codified Ordinances of the City of Cleveland, Ohio, 1976; (ii) will violate RC Section 1349.27 of the Ohio Revised Code.

3. Further, the affiant agrees to submit the information required in Section 178.05 of the Codified Ordinances of Cleveland, Ohio, 1976, to the Director of Finance Community Development on an annual basis.

4. Further, the affiant agrees to submit statements and information of such affirmative participation as required in this affidavit which has occurred within the annual review period.

Section 2. That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 178.03 as amended by Ordinance No. 2353-93, passed February 14, 1994,

Section 178.05, as amended by Ordinance No. 1233-15, passed November 9, 2015,

Section 178.06, as amended by Ordinance No. 2353-93, passed February 14, 1994, and

Section 178.07, as amended by Ordinance No. 45-03, passed January 13, 2003

are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:nl
7-24-19
FOR: Director Dumas

