

TITLE 24

STURGIS INDUSTRIAL EXPANSION REVOLVING FUND

(This Title was replaced in its entirety effective 9/21/07, Ordinance 2007-30)

Chapters:

24.01: Established

24.02: Designation of Surplus Revenue

24.03: Use of Funds

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24.01: ESTABLISHED

There is established in the city treasury a special revenue fund to be known as the **Sturgis Economic Development Revolving Fund (SEDRF)** for the purpose of making loans for the promotion of the city.

(Revision of 24.01 effective July 21, 2010, Ordinance 2010-03)

24.02: DESIGNATION OF SURPLUS REVENUE

Previously contributions to the SIECRF fund had been made by the City of Sturgis, private individuals and the South Dakota Community Foundation. Additional contributions may be made to the fund by the City of Sturgis, at the discretion of the common council and the City of Sturgis is authorized to accept donations to the fund from any private or public source.

24.03: USE OF FUNDS

Funds from SIECRF may be used for any of the following purposes:

- A. Loans and grants to organization and entities to which a municipality may appropriate monies under the provisions of SDCL 9-12-11.
- B. Loans and grants to the West River Revolving Loan Fund as constituted and administered by the West River Foundation.
- C. Any other lawful public purpose as determined by the common council, from time to time, for the promotion of the city.
- D. For loans to private persons and entities according to the criteria established pursuant to Section VI hereof. Any repayment of loans made and any interest earned shall be receipted into the SIECRF and all money in the fund is hereby appropriated for the purposes of making loans and expenditures as provided in this ordinance.

24.04: STANDING COMMITTEE – ESTABLISHED

There is established a standing committee to be known as the Sturgis Industrial Expansion Corporation Revolving Fund (SIECRF) Committee for the purpose of:

- A. Providing technical assistance in the completion of application documents to applicants for a SIECRF loan; and
- B. Providing consultation and recommendations to the common council regarding individual SIECRF loan applications and requests for loan services for use by the common council in the review, evaluation, and decision-making thereon; and
- C. To monitor outstanding SIECRF loans.

24.05: APPOINTMENT OF MEMBERS; MEETINGS

- A. Appointment of members. Appointment of members of the SEDRF committee and establishment of the terms of service of members of the SEDRF committee shall be made by the mayor and ratified by the common council. The committee shall consist of six (6) members, as follows:
 - 1. The mayor or a designee of the mayor;
 - 2. One (1) representative from the city council;
 - 3. Two (2) representatives from Sturgis Economic Development Corporation;
 - 4. Two (2) representatives from Sturgis banks or credit unions. No more than one (1) representative from one bank shall be allowed to serve upon the committee at any one time.
 - 5. The City Manager.
- B. Meetings. The SEDRF committee shall meet on an as needed basis. Following each meeting a written record of said meeting shall be prepared and forwarded to the common council for review and comment.

(Revision of 24.05 effective July 21, 2010, Ordinance 2010-03)

24.06: CRITERIA, STANDARDS, AND POLICIES OF SEDRF TO BE USED FOR THE EXPENDITURE OF FUNDS AUTHORIZED UNDER SECTION 24.03 HEREIN

- A. Eligibility Requirements – Any for profit and non-profit business that is a commercial or light industrial business creating new and/or additional jobs, which will result in more employment opportunities in the Sturgis area, will be eligible to apply for a loan from SEDRF.

- B. Use of Funds – Proceeds from a SEDRF loan shall be used only for the following purposes:
1. Business and industrial acquisitions when the loan will keep the business from closing, prevent the loss of employment . opportunities, or provide expanded job opportunities.
 2. Business construction, conversion, enlargement, repair, modernization, or development.
 3. Purchase and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.
 4. Purchase of equipment, leasehold improvements, furniture, fixtures, machinery, or supplies.
 5. Working capital or the purchase of inventory.
 6. Pollution control and abatement.
 7. Transportation services.
 8. Start-up operating costs and working capital.
 9. Interest (including interest on interim financing) during the period before the facility becomes income producing, but not to exceed 3 years.
 10. Feasibility studies.
- C. Targeting Criteria – The SEDRF committee will review, evaluate, and make decisions on each SEDRF application. The committee shall consider the following targeting criteria along with other factors deemed by the committee appropriate with each application:
1. First priority shall be given to eligible applicants who are existing commercial or light industrial businesses located in the City of Sturgis or County of Meade, which propose to either expand or relocate to a more appropriate location in the City of Sturgis or County of Meade.
 2. Second priority shall be given to eligible applicants that propose to relocate an existing commercial or light industrial business to the City of Sturgis or County of Meade, from an area outside the Northern Black Hills of South Dakota.

3. Third priority shall be given to eligible applicants who propose a start-up commercial or light industrial business in the City of Sturgis or County of Meade.
- D. Financing Policies – The following financing policies shall direct the SEDRF committee in its review, evaluation, and decision making process on SEDRF applications:
- E.
1. Loan requests that meet the criteria as identified in Use of Funds, that are creating employment opportunities and/or saving existing jobs, will be eligible to receive consideration for SEDRF loan funds. To be eligible, at least one job must be saved or created for every \$35,000 of SEDRF loan proceeds used for real estate purposes. For non real estate purposes, at least one job must be saved or created for every \$15,000 in SEDRF loan proceeds. This standard may be waived by the SEDRF committee at the time of application approval, if the project presents an unusual opportunity or set of unique circumstances for promotion of the City of Sturgis.
 2. Applicants shall demonstrate through appropriate documentation that a SEDRF loan is justified on the basis of either a financing gap that precludes the project from moving forward to completion without such a loan, or that there exists an unacceptable rate of return on investment based upon market investment interest rates.
 3. Subject to the limit continued in paragraph (a) above, the maximum amount of SIEC revolving funds loaned to single applicant shall be the minimum amount needed to move the project forward to completion in light of other public and private financing sources available as determined by the SEDRF committee.
 4. Amortization for repayment of SEDRF loans will be based on the minimum needs of the applicant, the recapitalization needs of the SEDRF, and the collateral requirements of the loan. The SEDRF committee shall have the discretion to set the loan terms and amortization. Loans may be limited to a maximum of 20 years for land, buildings, and permanent fixtures; 15 years for machinery or equipment (or the useful life of the machinery and equipment, whichever is less); and, 7 years for working capital. All loans shall have a balloon payment as determined by the SEDRF committee.

5. The interest rate of a SEDRF loan shall be structured on a case by case basis and will be determined by the SEDRF committee based upon the minimum needs of the applicant and the recapitalization needs of the SEDRF.
 6. Applicant equity shall be based upon a combination of the total financial position of the applicant and the equity in the funded project.
 7. SEDRF loans shall be collateralized by fixed assets of the applicant as determined by the SEDRF committee. The valuation of such assets shall be of reasonable documented value as determined by the SEDRF committee and by such additional collateral as may be required by the SEDRF. The preferred minimum security position for a SEDRF loan shall be a second mortgage or security interest, as the case may be, upon the loan collateral. In the event the SEDRF applicant cannot provide a minimum second position security position due to factors such as S.B.A. financing or other financing, the SEDRF loan application may be approved with a security position inferior to a second position, provided however, that the SEDRF applicant **shall** provide such additional collateral (including but not limited to assignment of life insurance proceeds) and/or such co-signatures and/or such personal guaranties as may be required by the SEDRF committee to provide for a reasonable credit risk.
 8. A SEDRF loan origination fee may be levied in a maximum amount equal to 1% of the loan amount plus the actual amount of any and all settlement costs and fees incurred by the SEDRF for the processing, approval, and closing of the loan.
 9. Subject to the provision of sub-paragraph (5) above, restructuring or modification of the terms of a SEDRF loan shall be considered on a case by case basis by the SEDRF committee as needed.
- F. Application and Review Process – Application for a SEDRF loan shall be made on forms available from the SEDRF committee. Applicants will submit a completed application and all supporting financial documentation to the SEDRF committee, who shall review the application for completeness and shall notify the applicant what further or additional information is required from the applicant, if any, before the committee will declare the application complete. Upon the committee declaring the application complete, the committee shall review the application and shall, within 45 days

thereafter, make a recommendation to the City Council for approval or denial of the application or request additional information from the applicant. The City Council shall, within 15 days of the date of the committee recommendation to the City Council, either approve or deny the application. No application shall be declared complete unless it includes the following:

1. Name and address of applicant;
2. Names, addresses, resumes, and references of owner, investors, and management of the business;
3. Articles of incorporation and bylaws or other agreements that describe the legal operation or structure of the business;
4. Name and address of the owner or operator of the business during the term of the loan;
5. A business plan which contains information regarding the products or services to be offered by the applicant; new jobs to be created; job descriptions with attendant salary or wage information by job category; educational requirements by job category; methods of accounting, financing, marketing, sales, merchandising and other disciplines proposed to be used for business growth and expansion;
6. Letters of commitment from all participating commercial and or public funding sources;
7. Up to three years of historical balance sheets, cash flow statements, income statements, and federal income tax returns as are applicable to the individual loan application;
8. Pro forma balance sheets, cash flow statements for the term of the loan, or for a period of three years, whichever is less;
9. A statement of licensing requirements;
10. Assurance of compliance with local zoning laws and building codes, and that the necessary public utilities are available or will be available when needed by the project;
11. Approximate date construction will commence, construction completion date, and the date by which the project will be fully operational;

12. Documentation that the preliminary design stage has been completed;
 13. Any other information as required by the City Council or SEDRF committee in order to make a sound loan decision; and,
 14. All schedules A through M as defined in the application beginning on page 20.
- G. Approval of Applications – In the event an application is approved by the City Council, the City and the applicant shall execute such agreements and documents as necessary, which shall provide the rights and responsibilities of all parties and the terms and conditions of the loan. SEDRF loan documentation shall be provided by the City's designated loan servicing agent at that time.
- H. There shall be no commitment of a SEDRF loan without the specific resolution of the City Council, notwithstanding any assurance, guarantee, communication or representation to the contrary.
- I. Confidentiality – The application and supporting documents submitted to the SEDRF committee and the City Council shall be the property of the City. To the extent permitted by law, said documents shall be handled by the committee and the City in a confidential manner.
- J. Servicing SEDRF loans – SEDRF loans shall be repaid in accordance with loan documentation provided by and serviced by the City's designated loan servicing agent at that time.

In the event that the borrower requests any modification or change of any loan term or condition, including without limitation variations in security position, insurance requirements, payment dates or amounts, or the like, or if there arises a need for management of insurance proceeds in the event of damage or loss or such other insurable event, the borrower shall notify the then acting chairperson of the SEDRF committee and the loan servicing request shall be handled on an as-needed, case by case basis by the committee. Any and all changes in loan terms or conditions of any kind whatsoever, and any disbursement of insurance proceeds requiring City approval by the terms of the loan or the insurance policy, shall be considered by the committee and submitted to the City Council for action upon committee recommendation.

(This Title was replaced in its entirety effective 9/21/07, Ordinance 2007-30)
(Revision of 24.06 effective 7-21-2010, Ordinance 2010-03)