

City of Atkinson ECONOMIC DEVELOPMENT PLAN

Policy & Procedure Manual

LB840- Local Option Municipal Economic Development Act

Pursuant to the Local Option Municipal Economic Development Act Ne. Rev. Stat. §§18-2701 to 18-2738

6/2/2003 Adopted by Ordinance 900

5/15/2012 Amended by Ordinance

5/10/16 Amended & Renewed by Ordinance 1130

1-2-18 Amended by Ordinance 1138

City of Atkinson
ECONOMIC DEVELOPMENT PROGRAM
LB840

I. GENERAL COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY

Nebraska's voters enacted a constitutional amendment in November 1990 granting cities and villages the power to use local sources of revenue for economic or industrial projects and programs. In 1991, the Unicameral implemented this amendment with the passage of Legislative Bill 840, the Local Option Municipal Economic Development Act. This Act is based on the premise that communities should use their own tax dollars in ways that best meet local needs.

As towns have witnessed population declines and a loss of younger people, they have thought about their futures and the types of actions investments needed to reverse these past trends. At the same time, smaller towns and cities are beginning to realize a period of significant opportunity. Smaller communities are becoming uniquely attractive. The improvement of communication technology and increased distribution in rural areas has reduced the isolation of small towns. As a result, it is increasingly possible to operate a significant business in growth areas outside of major urban centers.

Atkinson's community and economic development strategy involves building on our strengths to promote our existing industries, and the retention of the jobs which support that business. It also involves recruiting new industries and jobs to the community. The principal strategy is directed at maintaining a good quality of life for our citizens by focusing on the following: creating a stronger workforce, developing community resources, attracting new capital investment, broadening the community's tax base, and ensuring economic stability and viability for Atkinson.

Diversification will continue to be a critical priority for Atkinson's economic development program. The recruitment and incubation of new businesses will strengthen diversification. A small business development program can establish the city as a nurturing environment for small business, and as a center for economic opportunity. This atmosphere, in turn, can encourage people with skills and ideas to move or return to Atkinson to make a start in business.

In addition to recruitment, the city can create job opportunities by helping existing businesses in the city to expand their markets so they may compete more successfully. The successful marketing of Atkinson as a center for opportunity is important to the city's effort to expand its labor force and attract new residents. Atkinson is uniquely located to become a strong business and service center.

The City of Atkinson recognizes that the attraction or expansion of new or existing business and industry to a community, takes place in a very competitive marketplace. In order to keep Atkinson as competitive as possible in the marketplace, the community will strive to use all financial and human resources available in a partnership with federal, state, municipal and private sources.

II. STATE OF PURPOSE, GENERAL INTENT AND GOALS

It is the intent of the City of Atkinson, Nebraska to maintain and continue to develop the current economic development program. The purpose and goals of which will be: to create jobs and generate employment opportunities, to expand the labor markets of Atkinson and Holt County, to attract new capital investment to the community that may broaden the tax-base, to retain jobs and make existing businesses more competitive and profitable, and to provide economic diversification to ensure economic stability and vitality for the community of Atkinson and the surrounding area.

1. ECONOMIC DEVELOPMENT FUND

Funds that shall be deposited into the separate economic development fund as established by the City of Atkinson Economic Development Program are as follows:

- a. All funds derived from local sources of revenue for the economic development program
- b. Any earnings from the investment of such funds
- c. Any loan payments
- d. Any proceeds from the sale of assets purchased by the municipality under its economic development program
- e. Any other money received by the municipality by reason of the economic development program

2. ELIGIBILITY FOR FUNDS

a. Eligible Applicants

A qualifying business shall mean any corporation, partnership, limited liability company or sole proprietorship which derives its principal source of income from any of the following:

- 1) The manufacturer of articles of commerce
- 2) The conduct of research and development
- 3) The processing, storage, transport or sale of goods or commodities that are sold or traded in interstate commerce
- 4) The sale of services in interstate commerce
- 5) Headquarters facilities relating to eligible activities as listed in this section
- 6) Telecommunications activities
- 7) Tourism related activities
- 8) Any business that derives its principal source of income from the construction or rehabilitation of housing
- 9) Retail or any other business deemed as a qualifying business through future action of the legislature

The revolving loan fund can provide loans or loan guarantees to any business eligible for assistance under LB840. While not meant to restrict the scope or flexibility of the fund, evaluation of applications should give special priority to businesses which meet one or more of the following criteria:

- 1) Businesses which create one job for each \$25,000 or less in public financing assistance
- 2) Applications which provide for the expansion or enhancement of existing businesses in Atkinson or its surrounding area
- 3) New business starts
- 4) Businesses that in the opinion of the loan board have unusual potential for growth
- 5) Businesses that are relocating from outside Nebraska
- 6) Businesses that provide for important local or regional needs

***NOTE:** If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at anytime during the first year following application for participation in the program, it shall be a qualifying business only if in each city it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its program at a level not

less than its average employment in such city over the twelve month period preceding participation. In addition, a qualifying business need not be located within the territorial boundaries of the city if the city council determines that there is a clear economic benefit to the city. Eligible qualifying businesses may apply more than once and receive program benefits more than once. In communities with population of less than 2500 such as in the case of Atkinson, any business is eligible for benefits under LB840.

b. Eligible Activities

Eligible activities under the economic development program may include, but shall not be limited to the following:

- 1) The purchase of real estate, options for such purchases, and the renewal or extension of such options
- 2) Business recruitment and development including expansion of existing businesses
- 3) Grants or agreements for job training programs and workforce development
- 4) Expand and promote Atkinson through marketing, workforce attraction, and tourism related activities
- 5) Development of housing related programs to foster population growth or residential infrastructure as necessary for successful economic development projects
- 6) Activities to revitalize and encourage growth in the downtown area
- 7) Demolition of buildings to assist with the future development of commercial, industrial and residential investment
- 8) Construction of spec buildings or rehabilitation of commercial buildings or potential commercial buildings
- 9) Provision of technical assistance to businesses, such as marketing assistance, management counseling, preparing financial packages, or potential commercial buildings
- 10) Grants or loans to businesses or industries for fixed assets, working capital, public works, essential to expansions, or job training
- 11) Payments for salaries and support of municipal staff or the contracting with an outside entity to implement the economic development program
- 12) Expenses for the conduct of business recruitment activities
- 13) The authority to issue bonds pursuant to the Local Option Municipal Economic Development Act
- 14) Recruitment and activities related to recruitment of new businesses
- 15) The creation of a revolving loan fund from which low interest or performance based loans will be made to qualifying business and based on job creation and/or retention.

NOTE: The eligible activities described above are considered priority activities for the use of funds generated under the Local Option Municipal Economic Development Act (LB840). The City of Atkinson recognizes that the attraction of new business to a community or the expansion of existing businesses take place in a very competitive market place. In order to keep Atkinson as competitive as possible in the market place and in the creation of new jobs in the area, the City retains the right to include as eligible activities those additional activities allowable by law. The Local Option Municipal Economic Development Act has been changed in several Legislative sessions since it was signed into law on June 3, 1991. It is reasonable to assume the law will change during the course of Atkinson's economic development program when such amendment pertains to changes made to the Local Option Municipal Economic Development Act or to other statutes that affect Atkinson's program. Such amendments can only be made after a public hearing and a majority vote of Atkinson's City Council.

III. Workforce Housing Plan

“Workforce Housing Plan” means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the city to attract new businesses or impairs the ability of existing businesses to recruit ne employees. In connection with the Workforce housing plan:

1. In 2015, Miller & Associates completed for the City a Community Housing Study with Strategies for Affordable Housing (the “Housing Study”). The Housing Study found that the current housing stock in the City, including both single-family and market rate multi-family housing, was deficient with a need for larger, more affordable housing units to meet the demand of families, as well as a need for housing rehabilitation for homes that are cost effective for such activity.
2. The Workforce housing Plan is intended to include all single-family housing and market rate multi-family housing. No special provisions for housing for persons of low or moderate income are provided for.
3. Due to the lack of available housing within the City of Atkinson, existing businesses have difficulty in recruiting new employees. The Plan encouraged the creation of a Housing Partnership in order to take the lead role to design and implement a Workforce Housing Assistance program for local major employers to become directly involved with assisting their employees in securing appropriate and affordable housing, with the eventual goal of becoming homeowners in the City of Atkinson.
4. Construction costs, and the cost of providing infrastructure for housing (to include streets and utilities) are adversely impacting the ability of housing for persons seeking new or rehabilitated housing in the City of Atkinson.
5. The Plan provided that there is a need for expanded housing options that include safe, decent and affordable housing and rehabilitation or demolition of distressed housing structures. Future housing activities should be directed towards providing the local workforce and first-time homebuyers with a variety of housing options through both new construction and the moderate or substantial rehabilitation of current housing stock.

IV. BUDGET

This section describes the source of funds and budget for Atkinson’s economic development program. It is important to note that this budget must be developed annually and may be modified from time to time by the Economic Development Board and/or the City Council. In the field of economic development, it is impossible to anticipate every condition or requirement. The city should maintain the flexibility to respond to specific requirements and opportunities on a short-term basis.

Proposed Funds to be Collected and Length of Time the Program Will Exist

By approval of its citizenry, registered voters, the City of Atkinson will be funded a one-half percent local option sales tax. The full amount of such tax collected shall be subject to appropriation for purposes of the Economic Development Program provided that appropriations in any one year shall not exceed the restrictions imposed by law (Ne. Rev. Stat. 18-2717, as amended). Currently, annual appropriations may not exceed four-tenths of one percent of the taxable valuation of the city, or a maximum of one million dollars.

As approved by the citizenry, registered voters, this tax will remain in effect for a period of fifteen years. The first approved program will end on October 1, 2018. On May 10, 2016 the question of renewal of the program and renewal of the tax was taken to the voters and once again it was approved. The new economic development program will begin on October 1, 2018 and end on September 31, 2033. The total amount to be collected, the amendment of the previous program being approved by the voters, being \$215,000 annually or up to four-tenths of one percent of the city's valuation, based on current retail sales.

Uncommitted funds and revenues including but not limited to repayment of loans, return on investments, fees for activities such as loan guarantees, and sales proceeds from properties may continue to be used for activities contained within the Economic Development Program for an additional fifteen year period, September 31, 2048.

Bond Authority

Atkinson may have a business opportunity or other economic development project that requires initial funds that exceed the single year proceeds of the local option sales tax. In order to take advantage of such an opportunity, Atkinson should have the ability to issue bonds. Future sales tax receipts then retire these bonds. The City Council may authorize the issuance of bonds to carry out the Economic Development Program following a public hearing.

V. ADMINISTRATION OF ECONOMIC DEVELOPMENT PROGRAM

It is the intent of the program that the majority of the funds be used for supporting eligible activities and only the minimum required amount is to be spent to assist the administration of the program.

1. Program Administrator

- a. Will be responsible for the day-to-day activities of administering the program
- b. Assists applicants and conduct active recruiting for potential applicants
- c. Review all applications to deem complete with application materials, checklists and loan closing documents.
- d. Work with City Clerk to create an annual budget for approval by City Council
- e. Track participating businesses' employment figures for two years if said business employs persons from other Nebraska communities. (Section 18-2709)
- f. Will serve as an ex-officio, non-voting member to Economic Development Program Loan Board and the Citizen Advisory Review Committee who will provide that committee with necessary advice and information.

2. LB840 Loan Board

A group of citizens who are registered voters of the City of Atkinson, who will evaluate each economic development program application and advise the City Council with regard to the application.

- a. The Loan Board shall consist of five members, 2 recommended by the Chamber of Commerce and three recommended by the City Council. All members must be approved by and appointed by the City Council. Terms shall be for four years. No member may be an elected or appointed municipal official, employee of the City, or anyone who is an applicant, employee, agent, shareholder, or officer of an applicant for program funds.
- b. The Board shall set terms of the loan and recommend them to the Atkinson City Council

- c. The Board shall ensure that all procedures are followed regarding loan application and paperwork.

3. Citizens Advisory Review Committee

A group of citizens who are registered voters of the City of Atkinson, who will review the functioning and progress of the economic development program and advise the City Council with regard to the program.

- a. Committee organization will consist of five members recommended by community organizations and appointed by the City Council.
- b. Terms shall be for four years
- c. At least one individual on the committee must have expertise or experience in the field of business, finance, or accounting.
- d. This committee will meet regularly, as required, to review the program and will report to the City Council at least once in every six month period on its findings and suggestions at a public hearing called for that purpose.

4. City Council

- a. Will have final authority on expenditure of funds in support of the economic development program. These decisions should be made after considering the recommendations of the LB840 Loan Board
- b. Will work with the Economic Development Director to act as program administrator
- c. Will have the ultimate responsibility for the economic development program

5. City Clerk/Treasurer

- a. Manage the bookkeeping of the financials: sales tax income, loan payments, investments, etc.
- b. Work with program administrator to create an annual budget for approval by the City Council

VI. OPERATION OF THE REVOLVING LOAN FUND

This section will describe details of the operation of the revolving loan fund. The size and special features of this fund, combined with the requirements of LB840 requires that its operation be outlined.

1. GENERAL GUIDELINES

- a. The amount of funds available for any single project shall not exceed the amount of funds available under the Economic Development Program during the project term. An applicant must provide participation and evidence of participation through private funding as distinguished from federal, state, or local funding in the minimum amount of ten percent (10%) equity investment. The right is reserved to negotiate the terms and conditions of the loan with each applicant. Terms and conditions may differ substantially from applicant to applicant.

- b. The interest rate shall be fixed and negotiated on an individual basis; usually one –half the rate of the lending rate for the project at a traditional banking source. Rates shall not be less than the index of Applicable Federal Rates (AFR) published monthly at [apps.irs.gov/appl](https://www.irs.gov/publications/app1). The term shall not exceed fifteen (15) years for loans used for capital assets (real estate) and seven (7) years for loans involving any other asset category. Security for loans will include but will not be limited to Promissory Notes, Mortgages or Deeds of Trust, Business Blanket Chattels, and Personal and/or Corporate Guarantees as appropriate and may be in a subordinate position to the primary lender. Decisions will be made on an individual basis.
- c. If the loan is approved as performance based, a qualifying business may be approved to recapture a portion of the loan amount on a grant basis. The recaptured amount will be determined by the LB840 Loan Board, based upon job creation or retention and economic impact of the project to the community.
- d. A loan repayment schedule providing for monthly, quarterly, or annual payments will be approved in conjunction with project approval. Repayments will be held in the revolving loan fund for future projects when approved.
- e. The Economic Development Director or contracted Program Administrator is responsible for auditing and verifying job creation and retention, and determining grant credits toward any loan made. No grant credits are available unless pre-approved in the initial application and project approval. No grant credits will be made available beyond the level initially approved.
- f. A selected firm of certified public accountants will audit the revolving loan fund annually.
- g. It is anticipated that the program can be fully administrated by the Director of Economic Development or contracted Program Administrator. Administration cots for the loan fund will be defrayed by loan fees and the portion of sales tax revenue directed to administration expenses as outlined in the plan budget.

VII. APPLICATION PROCESS

1. Discussion of the project with the Program Administrator to see if the LB840 program is the “right fit” for the project. Obtain an application from the Program Administrator.
2. Submit the completed application to the Program Administrator, who will then review the documents to make sure the application is complete. The Program Administrator and the LB840 Loan Board will then review the application. Additional information as necessary to determine the eligibility and economic viability of the proposed project may be requested. Applications will be reviewed in the order in which they are received. Upon completion of the review, the LB840 Loan Board will make their decision on what to recommend to the City Council.
3. Based on the minutes of the LB840 review meeting and the recommendation of the Loan Board, the City Council will make their decision whether or not to allocate funds.

4. The Program Administrator will notify the applicant of the Council's decision.

NOTE: If there is a conflict of interest of any committee or council member due to a business relationship involving the sales tax application, immediate relation by family or marriage, the member of the committee will abstain from voting on that specific loan application.

VIII. REQUIRED TIMELINE TO MEET GOALS

A business receiving a loan shall have 18 months from the date of loan approval to meet the employment and/or expansion goals as indicated in the application on file.

IX. LOAN DEFAULT

The Program Administrator will be responsible for contacting the borrower if a payment is in default. If a payment is more than 30 days in default, a letter will be sent by the Program Administrator to the borrower and the primary lender, if applicable, requesting immediate payment. If payment is not made within 10 days of the letter, a committee composed of the City Attorney, City Clerk, Mayor and Program Administrator will meet to determine appropriate action.

X. LOAN FORGIVENESS

Loan Forgiveness is an option in the Economic Development Plan. Forgivable, performance based loans will be considered by the Loan Board with any of the following criteria taken into consideration:

1. The levels of job creation/job retention, and duration of those job commitments, being proposed as job performance requirements to be met by the benefited business
2. Level of economic impact to the community
3. The overall wage levels being paid by the benefited business
4. Benefited business' commitment to providing a minimum annual wage increase for all employees through a period of time
5. The level of equity investment by owners
6. An assessment of the ability of the benefited business to repay the loan if job performance requirements are not met

NOTE: Any negation for loan forgiveness must be approved by the Atkinson City Council. The applicant must submit a written request for loan forgiveness that outlines the reasons for the request to the Program Administrator. This must be negotiated prior to closing.

XI. PROCESS TO INSURE CONFIDENTIALITY OF BUSINESS INFORMATION RECEIVED

In the process of gathering information about a qualifying business, the City may receive information about the business which is confidential and if released could cause harm to the business or give unfair advantage to its competitors. State law authorizes cities and other public entities to maintain the confidentiality of business records which come into their possession.

To protect the businesses applying for funds and to encourage them to make full and frank disclosure of business information relevant to their application, the city may take the following steps to ensure the confidentiality of the information it receives:

1. The adoption of an ordinance, which makes such information confidential and punishes disclosure
2. A restriction on the number of people with access to the files with the Program Administrator primarily responsible for their safekeeping
3. A requirement that personnel involved in the program sign statements of confidentiality regarding all personal and private submittals by qualified businesses
4. All loan applications will be referred to with their assigned loan number.
5. Each loan board member will receive a copy of the application materials prior to the loan review meeting. These materials will be in envelopes addressed to the board member. After the final meeting for a particular application, all committee members are required to return all loan forms and copies to the Program Administrator for shredding.

XII. PURCHASE OF LAND AND IDENTIFICATION OF REAL ESTATE

Eligible activities include the purchase directly or indirectly through the City and Program Administrator of commercial or industrial sites and obtaining options for the purchase of such real estate. Land to be purchased or optioned may be within or outside the corporate limits of the City of Atkinson and will be identified and may then be considered for option or purchase and further development.

In addition, the funds may be used to provide the infrastructure to these sites or other sites to make them attractive to new or expanding businesses. Eligible infrastructure improvements will include, but not be limited to, street, storm drainage, water, sewer, and gas and electric. Infrastructure improvements and costs may extend beyond the corporate limits of the City of Atkinson. The funds may be used to construct facilities, structures, and/or appurtenances for new or proposed development or to attract new business or industry. These sites and facilities will improve the attractiveness of Atkinson, Nebraska as a location for new business and industry and may be used as an incentive to aid in the location, relocation or expansion of a business. These sites and facilities may be sold or leased at a price at or below current market value. The proceeds from the sale of lease of land purchased and developed with funds generated by LB840 may be used for the purchase and development of additional land and may be used for all other eligible activities.

The attraction of a new business or industry may require an incentive to ensure its location in Atkinson. Any investment in land and infrastructure can provide that incentive while at the same time provide a benefit that will remain in the community. Developed industrial sites, buildings, and infrastructure will be of long-term benefit to the community regardless of future ownership.

XIII. INVESTMENT OF ATKINSON ECONOMIC DEVELOPMENT FUNDS

The City of Atkinson will establish a separate Economic Development Fund. All funds derived from local sources of revenue for the Atkinson Economic Development Program, any earnings from the investment of such funds, any loan payments, any proceeds from the sale of assets purchased by the City of Atkinson under the Economic Development Program, or other money received by the City of Atkinson by reason of the Economic Development Program shall be deposited into the fund. No money in the Economic Development Fund shall be deposited into the General Fund of the City of Atkinson except as provided by statute. The City of Atkinson shall not transfer or remove funds from the Economic Development Fund other than for the purposes prescribed in the state act and this plan, and the money in the Economic Development Fund shall be invested in the City of Atkinson's pooled investment account. In the event the

Economic Development Program is terminated, any funds not committed will be transferred as provided by statute to the General Fund of the City of Atkinson and will be used on an installment basis to reduce the property tax levy of the city. If there is a conflict between this plan and the state statute, the state statute will control.

XIV. LEGAL AND REGULATORY COMPLIANCE

In order to ensure that all laws and regulations are being complied with, the City Attorney will review the Economic Development Program and all laws and regulations pertaining to it annually.

	Sole Proprietorship	"S" Corporation	"C" Corporation	General Partnership	Limited Partnership	Limited Liability Companies	Limited Liability Partnership
Submit Economic Development Loan Fund Application	X	X	X	X	X	X	X
Business Plan	X	X	X	X	X	X	X
2 yrs. Complete Individual Federal Tax Return (signed)	X	X	X	X	X	X	X
2 yrs. Complete Individual Federal Tax Return, if over 25% ownership		X	X	X		X	X
2 yrs. Complete Corporate Tax Return (signed)		X	X				
2 yrs complete Partnership Returns (signed)				X	X		
Tax Return for General Partners & Limited Partners, if over 25%					X		
2 yrs complete Entity Tax Return (signed)						X	X
Current Year-to-Date Profit & Loss Statement (signed)	X	X	X	X		X	X
Recent Personal Balance Sheet, if over 25% ownership	X	X	X	X	X	X	X
Recent Business Balance Sheet	X	X	X	X	X	X	X
Articles of Inc., Bylaws & Minutes of last meeting		X	X				
Corporate Res. Authorizing loan Application & execution of req. docs.		X	X				
Complete Partnership Agreement				X	X		
Credit Bureau Report	X						
Credit Bureau report for shareholders of over 25% ownership		X	X				
Credit Bureau Report for General Partners				X	X		
Credit Bureau Report for Managers						X	X
Other Information as Required	X	X	X	X	X	X	X