

Chapter 27

**REVENUE BONDS (Industrial, Commercial and Housing Assistance Projects; Refunding Bonds; Intergovernmental Cooperation)**

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**Section 27.1SEC. Short title.**

This Chapter may be cited and referred to for all purposes as "Downers Grove Revenue Bond Ordinance." (Ord. No. 1805, § 1; Ord. No. 2294, § 2.)

**Section 27.2. Purpose of chapter.**

In the exercise of the Village's powers and the performance of its functions pertaining to its government and affairs and in order to promote the public health, safety, morals and welfare, this chapter has been enacted for the following specific purposes:

(a) To provide a financing device that will aid in financing the cost of industrial, commercial, retail and housing assistance revenue bond projects (including housing assistance for senior citizens).

(b) To encourage the increase of industry within the Village and within ten miles of the Village, thereby reducing the evils attendant upon unemployment.

(c) To provide a financing device which will aid in financing the cost of pollution control facilities in order to eliminate, abate or reduce the serious dangers to the public health and welfare caused by environmental pollution; and the same are hereby declared and determined to be public purposes and functions pertaining to the government and affairs of the municipality.

(d) To assist residents of the Village, including senior citizens, in acquiring, maintaining and owning decent, safe and sanitary housing that they can afford, and to promote the integration of families of varying economic means and ages.

(e) To provide for the increased welfare and prosperity of the residents of the Village. (Ord. No. 1805, § 1; Ord. No. 2294, § 3; Ord. No. 2697, § 1.)

**Section 27.3. Definitions.**

For the purposes of this Chapter (except as otherwise expressly provided in Article IV hereof), the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Economic development project.* Any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery or equipment or any combination thereof and all real and personal property deemed necessary in connection therewith, for use by any person; provided, that the existence of such economic development project will create or retain employment opportunities in a municipality.

*Housing assistance project.* Any program involving mortgages or other financial interests in or upon residential real property of any sort, including without limitation single-family dwellings, multi-family dwellings, condominium units, cooperatives, or any combination thereof, situated within the corporate limits of the Village.

*Industrial development bond.* Any bond or bond issue that constitutes an "industrial development bond" as said term is defined and used in Section 103(b)(2) of the Internal Revenue Code of 1954 of the United States of America, as heretofore or hereafter amended, or in any regulations issued under or in connection with said section.

*Lending institution.* Any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution, or governmental agency that customarily provides service or otherwise aids in the financing of mortgages on single-family residential housing or multi-family residential housing located in the Village, or any holding company for any of the foregoing.

*Person.* Any individual, partnership, copartnership, firm, company, corporation (including public utilities), association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity or its legal representative, agent or assignee.

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*Pollution.* Any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination or noise pollution as determined by the various standards prescribed by this state, the federal government or other governmental entities and including but not limited to, anything which is considered as pollution or environmental damage in the Environmental Protection Act, (415 ILCS 5/1 et seq.) and any amendment thereto and substitution therefor.

*Pollution control facility.* Any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, addition, machinery or equipment or any combination thereof and all real and personal property deemed necessary therewith, having to do with or the end purpose of which is reducing, controlling or preventing pollution.

*Project.* Any economic development project or pollution control facility or any combination thereof.

*Project costs.* The sum total of all reasonable or necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of a project including without limitation the cost of studies and surveys; plans, specifications, architectural engineering services; legal, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new rehabilitative buildings, rehabilitation, reconstruction, repair or remodeling of existing buildings and all other necessary and incidental expenses, including an initial bond and interest reserve together with interest on bonds issued to finance a project to a date six months subsequent to the estimated date of completion.

*Senior citizen.* Any individual person who has attained age sixty-two and is (or whose spouse is) the head of the household occupying a dwelling unit that constitutes a part of a project to be financed under this chapter. A person shall not be disqualified from being a "senior citizen" within the meaning of this chapter by reason of other members of such person's immediate family living in the same dwelling unit, provided that such person (or such spouse) is the bona fide head of household. (Ord. No. 1805, § 1; Ord. No. 2294, § 4; Ord. No. 2411, § 2; Ord. No. 2697, § 2.)

### **Section 27.4. Powers generally.**

In addition to powers which it may now have, the Village shall have the power under this Chapter:

(a) To construct, acquire by gift, purchase or lease, to reconstruct, improve, better or extend and to finance one or more projects, whether or not now or hereafter in existence, within the Village and within ten miles of the Village and, if desirable, to acquire by gift, purchase or lease lands or rights in land in connection with any project.

(b) To issue its revenue bonds to defray in whole or in part the project costs of any project and to designate an appropriate name for such bonds.

(c) To rent, lease or sell any project to any person in such manner that payments to be received with respect to the project shall produce income and revenues sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance the cost of such project.

(d) To pledge to the punctual payment of bonds authorized under this chapter, the interest thereon and the redemption premiums, if any, the income and revenues to be received from such project.

(e) To mortgage such project in favor of the holder or holders of bonds issued therefor.

(f) To sell and convey such project, including without limitation the sale and conveyance thereof subject to a mortgage, if any, as provided in this chapter, for such price and at such time as the Village Council may determine. However, no sale or conveyance of such project shall ever be made in such manner as to impair the rights or interests of the holder or holders of any bonds issued to finance the project costs of such project.

(g) To authorize one or more lending institutions to originate home mortgages to be funded out of the proceeds of revenue bond issues pursuant to the provisions of this chapter, and to provide administration and services with respect to said mortgages so long as any bonds or other obligations of the Village issued

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in connection with the funding of such mortgages remain outstanding.

(h) To issue its bonds to refund in whole or in part, bonds theretofore issued by the Village under authority of this chapter.

(i) To enter into an agreement with any person, in lieu of a lease or sale agreement with respect to a project, whereby the Village agrees to lend the proceeds of its revenue bonds to such person in order to cause the acquisition, construction or equipping of a project, or any combination thereof, and such person shall agree to pay to the village or for its account an amount sufficient to pay the principal of, and interest and redemption premium, if any, on the revenue bonds of the Village issued with respect to such project; and in connection with any such agreement it shall not be necessary for the Village to take or hold title to any such project financed under authority of this ordinance. (Ord. No. 1805, § 1; Ord. No. 2294, § 5; Ord. No. 2538, § 1.)

### **Section 27.5. Taxes.**

Property acquired by the Village pursuant to the provisions of this Chapter shall be exempt from the imposition and collection of taxes thereon while owned by the Village, but the use of such property is subject to taxation to be paid by the lessee or occupant as provided in Section 26 of the "Revenue Act of 1939" filed May 17, 1939, or as such section may hereafter be amended.\* (Ord. No. 1805, § 1.)

\* See Ill. Rev. Stat., ch. 120. § 507.

### **Section 27.5ART. Article II. Administration**

### **Section 27.6. Exercise of powers generally; specifications; interim receipts, etc.**

(a) The exercise of all powers granted by this Chapter may be authorized and bonds may be authorized to be issued under this Chapter for the purposes set forth in this Chapter, by ordinance of the Village Council, which may be adopted in such manner as provided in this Code.

(b) Bonds shall bear interest at such rate or rates, payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions and may be in such form, either coupon or registered, as such ordinance may provide or as may be subsequently determined by the Village Council before the bonds are issued. Bonds may be sold at public or private sale in such manner and upon such terms as may be deemed advisable by the Village Council. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the Village Council may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this Chapter. Bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code. (Ord. No. 1805, § 1.)

### **Section 27.7. Covenants.**

(a) Any ordinance authorizing the issuance of bonds under this Chapter may contain covenants as to any one or more of the following:

(1) The use and disposition of the income and revenues from the project for which the bonds are to be issued, including the creation and maintenance of reserves;

(2) The issuance of other or additional bonds relating to the project or any rehabilitation, improvements, renovations, enlargements or additions thereto;

(3) The maintenance and repair of such project;

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- (4) The insurance to be carried thereon and the use and disposition of insurance monies;
- (5) The appointment of any bank or trust company within or outside the state, having the necessary trust powers as trustee for the benefit of the bondholders, paying agent and bond registrar;
- (6) The investment of any funds held by such trustee;
- (7) The terms and conditions upon which the holders of the bonds or any portion thereof or any trustees therefor, are entitled to the appointment of a receiver; and
- (8) The designation of, and the fulfillment of financial and administrative obligations by, one or more lending institutions in connection with such projects; and
- (9) Such additional terms as the Village Council shall deem necessary and proper.

(b) Any ordinance authorizing the issuance of bonds under this Chapter may provide that the principal of and interest on any bonds issued under this Chapter shall be secured by a mortgage or indenture of trust covering such project for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage or indenture of trust may contain such covenants and agreements properly to safeguard the bonds as may be provided for in the ordinance authorizing such bonds and shall be executed in such manner as may be provided in such ordinance. The provisions of this Chapter and any such ordinance or ordinances and any such mortgage or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and redemption premiums, if any, on the bonds so issued have been fully paid and the duties of the Village and its corporate authorities and officers under this Chapter and any such ordinance or ordinances and any such mortgage or indenture of trust shall be enforceable by any bondholder by mandamus, foreclosure of any such mortgage or indenture of trust or other appropriate suit, action or proceedings in any court of competent jurisdiction; provided, that the ordinance or any mortgage or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee for the benefit of all the bondholders, which trustee shall be subject to the control of a majority of the holders or owners of any outstanding bonds. (Ord. No. 1805, § 1; Ord. No. 2294, § 6.)

### **Section 27.8. Signatures; validity.**

Bonds shall bear the signatures of such officers of the Village as may be designated in the ordinance authorizing such bonds and such signatures shall be the valid and binding signatures of the officers of the Village notwithstanding that before the delivery thereof and payments therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the Village issuing such bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, equipping, betterment or extension of the project for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. (Ord. No. 1805, § 1.)

### **Section 27.9. Liens.**

All bonds issued under this Chapter shall have a lien upon the income and revenues derived from the project for which the bonds have been issued, and the Village Council may provide in the ordinance or ordinances authorizing such bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon such income and revenues or may provide that the lien upon such income and revenues is subordinate. (Ord. No. 1805, § 1.)

### **Section 27.10. Liabilities.**

All bonds issued under and pursuant to this Chapter shall not be general obligations of the Village, but shall be limited obligations payable solely out of the income and revenues derived from the project with

respect to which such bonds are issued. No holder of any bonds issued under this Chapter shall have the right to compel any exercise of taxing power of the Village to pay the bonds, the interest or premium, if any, thereon and the bonds do not constitute an indebtedness of the Village or a loan of credit thereof within the meaning of any constitutional or statutory provision. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this Chapter and that it does not constitute an indebtedness of the Village or a loan of credit thereof within the meaning of any constitutional or statutory provisions. (Ord. No. 1805, § 1.)

**Section 27.11. Investment of funds.**

(a) Funds held by the Village pursuant to this Chapter may be invested in (i) bonds, notes, certificates or indebtedness, treasury bills or other securities constituting direct obligations of or guaranteed by the United States of America; (ii) certificates of deposit or time deposits constituting direct obligations of any bank, as defined by the Illinois Banking Act, as heretofore and hereafter amended, or of any savings and loan association; provided, however, that investments under this clause (ii) may be made only in those certificates of deposit or time deposits issued by banks or savings and loan associations which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation, respectively, if then in existence; (iii) short term discount obligations of the Federal National Mortgage Association; and (iv) any other debt obligation or obligations issued by any corporation or corporations organized under the laws of the United States or any state of the United States; provided, that in each case, investments under this clause (iv) shall be expressly authorized by the Village Council stating with particularity the amount of such investment and the issuer of such debt obligation and expressly finding in each case that such investment will not involve any undue risk or loss of funds derived from the general revenues of the Village. Any such securities may be purchased at the offering or market price thereof at the time of such purchase.

(b) The investment of funds authorized in subsection (a) of this section may be made on behalf of the Village by the Village's Treasurer or finance director, without further authorization, or such other person as may be authorized in a lease, indenture, purchase contract, loan agreement or other contract authorized by the Village Council; provided, that such other person agrees in writing to bear the risk of any loss that may occur as a result of such investment of funds; and further provided, that the Village Council expressly finds that such authorization will not involve any undue risk or loss of funds derived from the general revenue of the Village. (Ord. No. 1805, § 1; Ord. No. 2538, § 2; Ord. No 2697, § 3.)

**Section 27.12. Exemptions from certain requirements.**

The acquisition and construction of a project shall not be subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the Illinois Compiled Statutes or any other similar requirements which may be lawfully waived by this section and any requirement of competitive bidding or restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the Village is not applicable to any action taken under authority of this Chapter. (Ord. No. 1805, § 1.)  
(4000, Amended, 01/19/1998)

**Section 27.13. Powers deemed supplemental.**

The powers conferred by this Chapter are in addition and supplemental to, and the limitations imposed by this Chapter shall not affect, the powers the Village may have by any law or any other Chapter. Projects may be acquired, purchased, constructed, reconstructed, improved, bettered, equipped, extended and financed and bonds may be issued under this Chapter for such purposes, notwithstanding that any law or any other ordinance may provide for the acquisition, purchase, construction, reconstruction,

improvement, equipping, betterment, extension and financing of a like project or the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or other provisions contained in any law or any other ordinance. (Ord. No. 1805, § 1.)

**Section 27.14. Severability.**

The provisions of this Chapter are severable and if any of its provisions or any sentence, clause or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Ord. No. 1805, § 1.)

**Section 27.14ART. Article III. Refunding**

**Section 27.15. Refunding revenue bonds.**

In addition to powers which it may now have under this Chapter or otherwise under applicable law, the Village shall have the power under this article to issue its bonds to refund in whole or in part:

(a) Bonds theretofore issued by the Village, or

(b) Bonds theretofore issued by any other unit of local government or school district, or any combination thereof, to the extent that such refunding bonds of the Village are or may be payable solely out of revenues to be received by the Village under the provisions of an intergovernmental cooperation contract or arrangement with one or more, or any combination of, other units of local government and school districts.

Such refunding bonds of the Village shall be issued, sold and administered in accordance with the provisions of Articles I and II of this Chapter and otherwise in accordance with applicable law. All bonds of the Village issued under the provisions of this article shall be payable solely out of the revenues specifically described in the ordinance authorizing the issuance and sale thereof, and shall in no way constitute general obligations of the Village or otherwise pledge or encumber, or obligate the Village to levy, any general real estate tax to be levied by the Village. (Ord. No. 2294, § 7.)

**Section 27.16. Use of proceeds.**

The proceeds of any refunding bonds issued by the Village under the provisions of this article may be applied:

(a) Directly to the purchase or redemption of outstanding bonded indebtedness of the Village, or outstanding revenue bonds of the Village, or outstanding bonded indebtedness of any other unit of local government or school district with which the Village has entered into a legally binding intergovernmental cooperation contract or association providing for the payment of specified revenues to the Village for the express purpose of paying such refunding bonds of the Village, or

(b) For deposit in a sinking fund established for any such purpose. (Ord. No. 2294, § 7.)

**Section 27.17. Intergovernmental cooperation--Pledge of revenue.**

To the full extent contemplated under the provisions of Article VII, Section 10 of the Illinois Constitution of 1970, the Village shall have full power and authority to contract or otherwise associate with any other unit of local government or school district, or any combination thereof, to obtain, provide or share services rendered to residents of the Village, in whole or in part, and to exercise, combine or transfer any power or function, in any manner not prohibited by applicable law, in connection with the execution of or performance of its obligations under any such contract or association. For such purpose the Village may use

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its credit, revenues and other technical and financial resources to pay costs and to service indebtedness directly or indirectly related to such intergovernmental activities, and in connection therewith the Village may pledge revenues received and to be received under any such intergovernmental cooperation contract or association for payment of principal of and interest on any revenue bonds or refunding bonds issued by the Village under the provisions of this Chapter. (Ord. No. 2294, § 7.)

### **Section 27.18. Severability of Article 3.**

The provisions of this Article 3 are severable, and if any of its provisions or any sentence, clause or paragraph hereof shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions of this Chapter. (Ord. No. 2294, § 7.)

### **Section 27.18ART. Article IV. Mortgage Revenue Bonds**

#### **Section 27.19. Short title.**

This Article 4 may be cited and referred to for all purposes as the "Downers Grove Mortgage Revenue Bond Ordinance." (Ord. No. 2411, § 1.)

#### **Section 27.20. Purpose of Article.**

It is hereby determined and declared that the purpose of this Article IV is to provide a means of financing the cost of residential ownership that will provide decent, safe and sanitary housing for residents of the Village at costs that are more affordable; it is further determined and declared that such residential ownership will (a) provide for and promote the public health, safety, morals and welfare; (b) assist persons in acquiring and owning decent, safe and sanitary housing which they can better afford; (c) promote the integration of families of varying economic means; and (d) preserve and increase the Village's ad valorem tax base; and the foregoing are hereby determined and declared to be public purposes and functions pertaining to the government and affairs of the Village. (Ord. No. 2411, § 1.)

#### **Section 27.21. Definitions.**

Whenever used in this Article IV, each of the following words and phrases shall have the meaning indicated below unless a different meaning clearly appears from the context:

(a) *Bonds*. The revenue bonds authorized under this article and notes and any and all other limited obligations payable as provided hereunder.

(b) *Village*. The Village of Downers Grove, DuPage County, Illinois.

(c) *Person*. Any individual, partnership, copartnership, firm, company, corporation, lending institution, association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity, or its legal representative, agent or assigns.

(d) *Lending institution*. Any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single-family residential housing or multi-family residential housing located in the Village or any holding company for any of the foregoing.

(e) *Home mortgage*. An interest bearing loan to a mortgagor for the purpose of purchasing or improving a home, evidenced by a promissory note and secured by a mortgage on such home, but shall not

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include a loan primarily for the purpose of refinancing an existing loan.

(f) *Home*. Real property and improvements thereon located within the Village consisting of a single-family residence, including condominium units, or a two-family residence to be occupied by a mortgagor as such mortgagor's principal place of residence.

(g) *Mortgagor*. A person or persons who has received a home mortgage on a home and whose adjusted gross aggregate income, together with the adjusted gross aggregate income of all persons who intend to reside with such person or persons in such dwelling unit, shall not have been greater than the amount or amounts to be provided for in or pursuant to the ordinance or ordinances authorizing issuance and sale of a particular issue or series of bonds. (Ord. No. 2411, § 1.)

### **Section 27.22. Additional powers.**

In addition to powers which the Village may now have, the Village shall have all powers necessary to accomplish the purposes of this Article IV including, but not limited to, the following:

(a) *Home mortgages*. The Village shall have the power:

(1) To acquire, and contract and enter into advance commitments to acquire, home mortgages owned by lending institutions at such purchase prices and upon such other terms and conditions as shall be determined by the Village or such other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts.

(2) To establish, by rules or regulations, in ordinances relating to any issuance of bonds or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgages as the Village deems necessary or desirable, including but not limited to: (i) the time within which lending institutions must make commitments and disbursements for home mortgages; (ii) the location and other characteristics of homes to be financed by home mortgages; (iii) the terms and conditions of home mortgages to be acquired; (iv) the amounts and types of insurance coverage required on homes, home mortgages and bonds; (v) the representations and warranties of lending institutions confirming compliance with such standards and requirements; (vi) restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions; (vii) the type and amount of collateral security to be provided to assure repayment of bonds; and (viii) any other matters related to the purchase of home mortgages as shall be deemed relevant by the Village.

(3) To require from each lending institution from which home mortgages are purchased the submission, at the time of such purchase, of evidence satisfactory to the Village of the ability and intention of such lending institution to make home mortgages, and the submission, within the time specified by the Village for making disbursements for home mortgages, of evidence satisfactory to the Village of the making of home mortgages and of compliance with any standards and requirements established by the Village.

(b) *Bonds*. The Village shall have the power:

(1) To issue bonds to defray, in whole or in part, (i) the costs of purchasing home mortgages, (ii) the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of such bonds, including bond and interest reserve accounts and trustee, custodian and rating agency fees, and (iii) such other costs as are reasonably related to the foregoing.

(2) To sell or otherwise dispose of any home mortgages, in whole or in part, so that the revenues and receipts to be derived with respect to the home mortgages, together with any insurance proceeds, reserve accounts and earnings thereon shall be designed to produce revenues and receipts at least sufficient to provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance such costs.

(3) To pledge any revenues and receipts to be received from any home mortgages to the punctual payment of bonds authorized under this article, and the interest and redemption premiums, if any, thereon.

(4) To mortgage, pledge or grant security interests in any home mortgages, notes or other

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property in favor of the holder or holders of bonds issued therefor.

(5) To sell and convey any home mortgages for such prices and at such times as the Council of the Village may determine.

(6) To issue its bonds to refund in whole or in part at any time bonds theretofore issued by the Village under authority of this article.

(7) To make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted herein.

Bonds shall not be issued under the powers granted by this article unless such bonds are rated "A" or better by one of the nationally recognized rating agencies. (Ord. No. 2411, § 1.)

### **Section 27.23. Exercise of powers, bonds.**

(a) The exercise of any or all powers granted by this article may be authorized, and the bonds may be authorized to be issued under this article, for the purposes set forth in this article, by ordinance adopted by the Village Council, and said ordinance may be adopted at the same meeting at which it is introduced and shall take effect immediately upon adoption. Any such ordinance shall set forth a legislative finding and declaration (i) of the public purpose therefor, and (ii) that such ordinance is being enacted pursuant to the powers granted by this article.

(b) The bonds shall bear interest at such rate or rates, may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions, may be in such form, either coupon or registered, and may bear such name as such ordinance may provide. The bonds may be sold at private sale in such manner and upon such terms as may be provided in such ordinance. Pending the preparation of definitive bonds, interim receipts or certificates in such form and with such provisions as may be provided in such ordinance, may be issued to the purchaser or purchasers of bonds sold pursuant to this article. The bonds and interim receipts or certificates shall be deemed to be securities and negotiable instruments within the meaning and for all purposes of the "Uniform Commercial Code". (Ord. No. 2411, § 1.)

### **Section 27.24. Covenants in bonds.**

Any ordinance authorizing the issuance of bonds authorized under this article may contain covenants as to (a) the use and disposition of the revenues and receipts from any home mortgages for which the bonds are to be issued, including the creation and maintenance of reserves; (b) the insurance to be carried on any home, home mortgage or bonds and the use and disposition of insurance moneys; (c) the appointment of one or more banks or trust companies within or outside the State of Illinois, having the necessary trust powers, as trustee or custodian, or both, for the benefit of the bondholders, paying agent or bond registrar; (d) the investment of any funds held by such trustee, custodian or lending institution; (e) the maximum interest rate payable on any home mortgage; and (f) the terms and conditions upon which the holders of the bonds or any portion thereof, or any trustees therefor, are entitled to the appointment of a receiver by a court of competent jurisdiction, and said terms and conditions may provide that the receiver may take possession of the home mortgages, or any part thereof, and maintain, sell or otherwise dispose of such mortgages, prescribe other payments and collect, receive and apply all income and revenues thereafter arising therefrom. Any ordinance authorizing the issuance of bonds under this article shall provide that the principal of and interest on any bonds issued under this article shall be secured by a mortgage, pledge, security interest, insurance agreement or indenture of trust covering such home mortgages for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage, pledge, security interest, insurance agreement or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the ordinance authorizing such bonds and shall be

executed in the manner as may be provided for in the ordinance. The provisions of this article and any such ordinance and any such mortgage, pledge, security interest or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor, and the duties of the Village and its corporate authorities and officers under this article and any such ordinance and any such mortgage, pledge, security interest or indenture of trust shall be enforceable as provided therein by any bondholder by mandamus, foreclosure of any such mortgage, pledge, security interest or indenture of trust or other appropriate suit, action or proceeding in any court of competent jurisdiction; provided, the ordinance or any mortgage, pledge, security interest or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders, which trustee shall be subject to the control of such number of holders or owners of any outstanding bonds as provided therein. (Ord. No. 2411, § 1.)

**Section 27.25. Signatures of officers on bonds--Validity of bonds.**

The bonds shall bear the manual or facsimile signatures of such officers of the Village as may be designated in the ordinance authorizing such bonds and such signatures shall be the valid and binding signatures of the officers of the Village, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the Village issuing such bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to the home mortgages for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this article, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. (Ord. No. 2411, § 1.)

**Section 27.26. Lien of bonds.**

Bonds issued under this article shall be secured by a pledge of or lien upon the revenues and receipts derived from the home mortgages with respect to which the bonds have been issued. (Ord. No. 2411, § 1.)

**Section 27.27. Liability for bonds.**

All bonds issued under and pursuant to this article shall be limited obligations of the Village payable solely out of bond proceeds, fees from lending institutions, and the revenues and receipts derived from the home mortgages or from any notes or other obligations of lending institutions with respect to which such bonds are issued. No holder of any bonds issued under this article has the right to compel any exercise of the taxing power of the Village to pay the bonds, the interest or redemption premium, if any thereon, and the bonds shall not constitute an indebtedness, liability, general or moral obligation of the Village or a pledge of the faith or a loan of credit on the part of the Village with respect to the payment of such bonds. It shall be plainly stated on the face of such bond that it has been issued under the provisions of this article and that it does not constitute an indebtedness of the Village or a loan of credit thereof. (Ord. No. 2411, § 1.)

**Section 27.28. Investment of funds.**

The Village, or any trustee or custodian on behalf of the Village, may invest any funds held by it as provided in the ordinance authorizing the issuance of the bonds. (Ord. No. 2411, § 1.)

**Section 27.29. Exemption from bidding requirements.**

Any requirement of competitive bidding or restriction imposed on the procedure for award of contracts for the sale or other disposition of property of the Village is not applicable to any action taken under authority of this article. (Ord. No. 2411, § 1.)

**Section 27.30. Powers conferred as additional and supplemental; limitations imposed--Effect.**

The powers conferred by this article are in addition and supplemental to, and the limitations imposed by this article shall not affect, the powers conferred by any other ordinance. Home mortgages may be acquired, purchased and financed, and bonds may be issued under this article for such purposes, notwithstanding that any law or any other ordinance may provide for the acquisition, purchase and financing of like home mortgages, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any law or any other ordinance. (Ord. No. 2411, § 1.)

(4000, Amended, 01/19/1998)

**Section 27.31. Severability clause.**

The provisions of this article are severable and if any of its provisions or any sentence, clause or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Ord. No. 2411, § 1.)

**Section 27.32. Construction.**

This article is necessary for the health, welfare and safety of the Village and its inhabitants; therefore, it shall be liberally construed to effect its purposes. (Ord. No. 2411, § 1.)

**Section 27.32ART. Article V. Public Hearing and Public Notice Requirements for Industrial Development Bonds**

**Section 27.33. Public hearing required.**

Notwithstanding any other provision of this Chapter to the contrary, no ordinance authorizing the issuance or sale of any industrial development bond may be adopted by the Village Council, unless prior to such adoption a public hearing respecting said industrial development bond issue shall be held by the Village Council, following public notice thereof, in accordance with the provisions of this article. (Ord. No. 2697, § 4.)

**Section 27.34. Notice.**

Notice of the time and place of the public hearing on any industrial development bond issue shall be given not more than thirty nor less than fifteen days prior to the hearing, by publishing written notice thereof at least once in one or more newspapers published within the Village. Such notice shall state the time and place of such public hearing, the title and principal amount of the proposed bond issue, the name of the owner and principal user of the project or facilities proposed to be financed by such bond issue, a general description of the location of such project or facilities (by street address or other common description reasonably sufficient to identify such location; legal description of real estate shall not be required), and a

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general description of the nature of such project or facilities. (Ord. No. 2697, § 4.)

### **Section 27.35. Procedure.**

The Mayor, or a member of the Village Council designated by the Mayor for such purpose, shall preside at any public hearing held pursuant to this article, and such hearing shall be conducted in accordance with procedures, approved by the Village Council, that will afford a reasonable opportunity for the proposed owner or principal user of the project, the Village Manager or other members of the Village staff, proponents of the project, opponents of the project, and other members of the public to be heard with respect thereto. Minutes of such public hearing shall be kept by the Village Clerk, but a verbatim transcript of the testimony and other proceedings taken at such public hearing shall not be taken, unless specifically ordered by the Mayor or the Village Council. Such hearing may be adjourned from time to time without giving any additional notice of the time and place for reconvening the adjourned hearing, provided such time and place are announced publicly during such hearing and prior to such adjournment. In conducting any such public hearing, the Village Council shall comply with such further procedural requirements as may from time to time be necessary or advisable in order to assure the continued tax-exempt status under applicable federal law and regulations of industrial development bonds issued or to be issued by the Village. After the conclusion of any such public hearing, the Village Council may in its discretion make any changes it deems appropriate in the terms and provisions of the bond issue under consideration, or in the project or facilities to be financed thereby, without any further public hearing, provided that the final terms and provisions of such bond issue are approved by ordinance duly adopted at a meeting of the Village Council that is open to the public. (Ord. No. 2697, § 4.)

### **Section 27.36. Reporting.**

Within the time prescribed by applicable federal law and any regulations thereunder, the Village Clerk shall prepare and file such written statement or reports as may be required under such law or regulations respecting any industrial development bonds or other revenue bonds issued by the Village. (Ord. No. 2697, § 4.)