



Village of Downers Grove

Official Village Policy Approved by Village Council

Description:	Industrial Revenue Bonds	
Res. or Ord. #:	Res. 4604	Effective Date: 8/3/04
Category:	Legislative and General Management	
	<input type="checkbox"/>	New Council Policy
	<input checked="" type="checkbox"/>	Amends Previous Policy Dated: 3/11/85 and 5/28/91
	Description of Previous Policy (if different from above): _____	

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A PROCEDURE AND CERTAIN CRITERIA FOR DETERMINING WHETHER THE VILLAGE OF DOWNERS GROVE SHOULD PARTICIPATE IN THE ISSUANCE OF COMMERCIAL OR INDUSTRIAL REVENUE BONDS

WHEREAS, the Council of the Village of Downers Grove has been authorized by the Downers Grove Revenue Bond Ordinance passed and approved as Ordinance No. 1805, August 10, 1974, as heretofore amended and codified as Chapter 27 of the Downers Grove Municipal Code, to issue revenue bonds for the financing of commercial or industrial projects in the Village; and

WHEREAS, the United States Congress has passed the Tax Reform Act of 1986, which has subsequently been signed into law by the President and said law places a volume cap on the annual issuance of industrial revenue bonds by local governments; and

WHEREAS, it has been determined by the Village Council of Downers Grove that it is necessary and desirable to establish a procedure and certain criteria to enable the Council to evaluate whether an industry or business seeking the issuance of commercial or industrial revenue bonds to finance a development project is a qualified candidate for receiving such assistance from the Village,

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

Section 1. That guidelines are hereby established for the evaluation of business or industries seeking issuance, re-issuance, refinancing or collateralization of commercial or industrial revenue bonds to finance development projects, as follows: (Note the term "Industrial Revenue Bond" as used throughout this policy and in Chapter 27 of the Downers Grove Code shall mean the same as and be equivalent to the term "Industrial Development Bond" as used in the Internal Revenue Code and State law.)

A. All proposals shall be presented to the Mayor and Village Council in writing, using the format outlined in paragraph B hereof.

B. Proposals shall include, but not be limited to, the following information where applicable:

1. The Project

- a. A description of the project including whether original issuance, refinancing, recollateralization or other action sought;
- b. A statement indicating the amount of funding required for the project and a description of the purpose for which such funding will be used;
- c. A description of any proposed financing arrangement for the project (e.g., loan agreement, or Village to own the project and lease to applicant);
- d. A statement of the public purpose to be served by the issuance of commercial or industrial revenue bonds for the project;
- e. An anticipated construction schedule and schedule for completing the financing;
- f. The name and address of the proposed purchaser of the commercial or industrial revenue bonds proposed to be issued, if known;
- g. A proposed Memorandum of Agreement containing the following language:

"The owner and the Company recognize that the total volume of tax-exempt private activity bonds that may be issued by the Village under Section 103 of the Internal Revenue Code of 1954, as amended, is limited and that the Village's ability to issue such bonds for other purposes will be materially affected by the date of issuance of the Bonds. Accordingly, the Owner and the Company acknowledge and agree that if the issuance of the Bonds does not occur in the _____ calendar quarter of 20____, whether or not through any fault of the Owner or the Company, the Village shall have the right to reconsider, revoke, or amend its obligation under this Agreement if the Village Council finds, in its sole discretion, that the financing of any other project would be materially adversely affected by issuance of the Bonds at any time other than the _____ calendar quarter of 20_____."

- h. A complete description, with such supporting exhibits as may be appropriate, of the physical aspects of the project including, but not limited to, the following:
 - (1) Location of facility
 - (2) Size of facility (sq. ft.)
 - (3) Amount of land required by the facility (acres)
 - (4) Proximity of the facility's location to area zoned residential

- (5) Pollution
 - (a) Water/type of effluent
 - (b) Air/toxic substances
 - (c) Odor
 - (d) Glare
 - (e) Noise
- (6) Use of pollution control devices by the facility
- (7) Physical appearance of the facility and landscaping
- (8) Projected number of vehicles entering the facility area per day
 - (a) Cars
 - (b) Trucks
- (9) Ability of the streets to carry additional load
 - (a) Access to the facility
 - (b) Traffic safety factors
- (10) Drainage/storm sewer requirements
- (11) Utility requirements
 - (a) Gallons of water used per day
 - (b) Water and line requirements needed for fire protection
 - (c) Sewerage requirements
 - (i) Amount
 - (ii) Type/BOD level
 - (d) Projected electrical gas usage
 - (e) Need for water main and sewerage line extensions
- (12) Ability of the schools to accommodate possible enrollment increases

2. The Applicant

a. Financial Stability

- (1) Prospectus, if applicable;
- (2) Reports to Stockholders, if applicable;
- (3) Certified copies of audited financial statements of the applicant for five (5) years preceding the date of the filing of the application for commercial and industrial revenue bond financing;
- (4) The most current Securities and Exchange Commission 10-K Report of the corporation if such corporation is required to file such report by applicable law;

- (5) A list setting forth the caption, if pending, and a brief description of any and all pending or threatened litigation against the applicant which could have an impact on the existence of the applicant or its business or the financial position of the applicant;
- (6) Evidence of valid contractual arrangements with other established businesses or industries which might insure the financial success of the tenant;

- b. Description of principal business of applicant
- c. Number of employees anticipated at the new facility
 - (1) Full-time
 - (2) Part-time
 - (3) Seasonal
- d. Number of employees expected to reside in Downers Grove
- e. Number of new jobs to be created
- f. Number of management level employees
- g. Types of skills required by the facility's employees
- h. Yearly payroll/average employee salary
- i. Projected appraised/assessed value of the facility's real and personal property in Downers Grove
- j. Number of years the prospective tenant has been in business
- k. Number of plant relocations since 1960, if applicable
- l. Civic Awareness
 - (1) Evidence of the applicant's past civic activity
 - (2) Responsiveness of the applicant to community requests

C. The Village Council shall consider each written proposal and shall take one of the following actions:

- 1. Inform the applicant in writing that the Village will not consider issuance or re-issuance of revenue bonds for financial its commercial or industrial project as proposed or the re-issuance or recollateralization of previously issued bonds; provided that in so informing such applicant the Village Council may suggest modifications to such proposal which might be acceptable to the Village.
- 2. Inform the applicant in writing of the interest of the Village in considering issuance or re-issuance of revenue bonds for financing its commercial or industrial project as proposed or the re-issuance or recollateralization of previously issued bonds; provided, that in so informing such applicant, the Council may request additional information as they may deem necessary.

D. In making its determination under paragraph C hereof, the Village Council may consider such factors as it may deem appropriate. Such factors may include, but shall not be limited to, the following:

1. The extent to which the project will contribute to the strength and diversity of the Village's economic base.
2. Whether or not the project will enable the Village to retain or expand an existing business.
3. The reasonable expectations of continued operations of the project by the applicant during the term of the financing.
4. The availability of bonding authority for the project.
5. The amount of bonding authority remaining available to the Village, should the project be pursued and a Memorandum of Agreement be executed, for other potential projects in the subject calendar year.

The Village Council reserves the right to determine, in its sole discretion, the merits of each written proposal considered.

E. If the Village Council determines, on the basis of the information provided pursuant to paragraph B hereof, and such other information as may be presented to the Council, that the Village is interested in considering issuance of revenue bonds for financing the project as proposed, the Council may require that a study of the economic viability of the project be completed by the financial adviser for the Village. In addition, the Village may retain the services of qualified legal counsel to act as special counsel. The applicant shall be responsible for all fees of the financial and legal advisors and shall deposit with the Village a sum sufficient to cover such costs and fees as determined from time to time by the Village Manager.

F. The information submitted by the applicant shall be reviewed by the Village and its financial and legal advisers and a summary of such information, together with an evaluation thereof and the recommendation of the staff shall be presented to the Village Council as promptly as practicable thereafter.

G. The Village Council shall review the report presented to them by the Village staff as promptly as practicable after receipt thereof and shall take one of the following actions:

- (1) Notify the applicant in writing that its proposal has been rejected and refund to the applicant any uncommitted balance of the deposit, if any.
- (2) Adopt a resolution of intent to proceed with the project and refund to the applicant any uncommitted balance of the deposit, if any.

H. If a resolution of intent is adopted by the Village Council, the financing, refinancing, or recollateralization may proceed pursuant to the provisions of the Downers Grove Revenue Bond Ordinance passed and approved as Ordinance No. 1805 on August 10, 1974, as heretofore amended. All costs of issuance associated with such financing, including any expenses attributable to the Village, shall be borne by the applicant.

I. If the Village does not receive any requests for use of its volume cap, the Village Council may allocate the cap in a manner which is in the best interest of the Village.

Section 2. That the Village Council may utilize the guidelines established by this ordinance, or may choose, in its discretion, to consider other relevant factors in evaluation of businesses and industries seeking issuance, re-issuance, or recollateralization of said revenue bonds to finance development projects.

Section 3. That Resolutions No. 81-26, 85-10 and 91-14 and all other resolutions or parts of resolutions or ordinances in conflict with the provisions of this ordinance are hereby repealed.

Brian J. Krajewski, Mayor

Passed:

Attest:

Village Clerk

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