

CHAPTER 15
INDUSTRIAL & COMMERCIAL PROJECT REVENUE BONDS

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CHAPTER 15

INDUSTRIAL AND COMMERCIAL PROJECT REVENUE BONDS

ARTICLE 1 -- GENERAL PROVISIONS

Section 15-101. PURPOSE. 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 and commercial revenue bond projects in order to relieve conditions of unemployment and to aid in the rehabilitation of returning veterans.

(B) To encourage the increase of industry within the Village and within ten (10) miles of the Village, thereby reducing the evils attendant upon unemployment.

(C) To provide for the increased welfare and prosperity of the residents of the Village.

(D) 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.

(E) To provide a financing device which will aid in financing multi-family housing developments within the Village. (Ordinance 94-96, 08.23.94)

Section 15-102. DEFINITION. The term "development project" means (a) any capital project, including one or more buildings and other structures, improvements, machinery and equipment whether or not on the same site or sites now existing or hereafter acquired, suitable for use by any manufacturing, industrial, research or commercial enterprise, including, but not limited to, use as a factory, mill, processing plant, assembly plant, packaging plant, fabricating plant, office building, industrial distribution center, warehouse, repair, overhaul or service facility, freight terminal, research facility, test facility, commercial facility, or for multi-family housing units and including also the sites thereof and other rights in land therefor whether improved or unimproved, site preparation and landscaping, and all appurtenances and facilities

incidental thereto such as utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, and other improvements necessary or convenient thereto; or (b) any land, buildings, machinery or equipment comprising an addition to, or renovation, rehabilitation or improvement, of any existing capital project. (Ordinance No. 94-96, 8.23.94)

Section 15-103. ADDITIONAL POWERS. In addition to powers which it may now have, the Village has the power under this Chapter:

(A) To construct, acquire by gift or purchase, reconstruct, improve, better or extend, or to finance the construction, acquisition, reconstruction, improvement, betterment or extension of any development project within or without the Village or partially within or partially without the Village, but in no event further than ten (10) miles from the territorial boundaries of the Village, and to acquire by gift or purchase or to finance the acquisition of lands or rights in land in connection therewith.

(B) To issue its bonds to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any development project. The Village need not acquire or hold title to such development project. In determining such cost, the Village may include all cost and estimated cost of the issuance of such bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this Chapter.

(C) To rent, lease, sell or otherwise dispose of such development project or to loan the proceeds of its bonds to industrial or commercial concerns in such manner that rents or other payments to be derived with respect to the development project shall be fixed and revised from time to time so as to produce income and revenues sufficient to provide for the prompt payment of interest upon all bonds issued under this Chapter and to create a sinking fund to pay the principal of such bonds when due, and to provide for the operation and maintenance of such development project and for an adequate depreciation account in connection therewith.

(D) To pledge to the punctual payment of bonds authorized under this Chapter and interest thereon the income and revenues to be received from such development project (including improvements, betterments or extensions thereto thereafter constructed or acquired) sufficient to pay such bonds and interest as they become due and to create and maintain reasonable reserves therefor.

(E) To mortgage or provide for the mortgaging of such development project in favor of the holder or holders of bonds issued therefor.

(F) To sell and convey such development project, including without limitation the sale and conveyance thereof subject to a mortgage as provided in this Chapter, for such price and at such time as the Board of Trustees of the Village may determine. However, no sale or conveyance of such development project shall ever be made in such manner as to impair the rights or interests of the holder or holders of any bonds issued for the construction, purchase, improvement or extension of any such development project.

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

(Section 15-103 amended in its entirety by Ordinance 83-59, 12.13.83)

ARTICLE 2 -- ADMINISTRATION

Section 15-201. EXERCISE OF POWERS.

(A) The financing of the construction, acquisition, reconstruction, improvement, betterment, or extension of any development project may be authorized under this Chapter and bonds may be authorized to be issued under this Chapter to provide funds for such purpose or purposes or for the refunding of bonds theretofore issued under this Chapter, by an ordinance passed by a vote of a majority of the Board of Trustees then holding office. (Ordinance No. 83-59, 12.13.83)

(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 (40) 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 Board of Trustees 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 Board of Trustees. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the Board of Trustees may determine, may be issued to the purchaser or purchasers of bonds sold pursuant to this chapter.

Section 15-202. COVENANTS IN BONDS.

(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 development project for which the bonds are to be issued, including the creation and maintenance of revenues;
- (2) The issuance of other or additional bonds payable from the income and revenues from such development project;
- (3) The maintenance and repair of such project;
- (4) The insurance to be carried thereon and the use and disposition of insurance money;

- (5) The appointment of any bank or trust company within or outside the State of Illinois, 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) Such additional terms as the Board of Trustees 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 deed of trust covering such development project for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage or deed of trust may contain such covenants and agreements to safeguard properly the bonds as may be provided for in the ordinance authorizing such bonds and shall be executed in such manner as may be provided for in such ordinance. The provisions of this chapter and any such ordinance or ordinances and any such mortgage or deed 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, and the Village may in any such ordinance or ordinances agree that 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 deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of any such mortgage or deed of trust or other appropriate suit, action or proceedings in any court of competent jurisdiction; provided, that the ordinance or any mortgage or deed 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.

Section 15-203. SIGNATURES OF OFFICERS ON BONDS -- VALIDITY OF BONDS. 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 development 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, and that no officer or agent of the Village shall question or contest any such recital.

Section 15-204. **LIEN BONDS.** All bonds issued under this chapter shall have a lien upon the income and revenues derived from the development project for which the bonds have been issued, and the Village Board of Trustees 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 subordinante.

Section 15-205. **LIABILITY FOR BONDS.** 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 development 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.

Section 15-206. **INVESTMENT OF FUNDS.**

(A) Funds held by the Village pursuant to this chapter may, to the extent not inconsistent with the laws of the State of Illinois, be invested in:

(1) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of or guaranteed by the United States of America;

(2) certificates of deposit or time deposits constituting direct obligations of any bank as defined by the Illinois Banking Act, as heretofore and hereafter amended, provided, however, that investments under this clause (2) may be made only in those certificates of deposit or time deposits issued by banks which are insured by the Federal Deposit Insurance Corporation, if then in existence;

(3) short term discount obligations of the Federal National Mortgage Association; and

(4) 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 (4) shall be expressly authorized by the Board of Trustees 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 Director of Finance, without further authorization, or such other person, firm or corporation as may be authorized in a lease, indenture, purchase contract or other contract authorized by the Village Board of Trustees; provided such other person, firm or corporation agrees in writing to bear the risk of any loss that may occur as a result of such investment of funds, and further provided, the Village Board of Trustees expressly finds that such authorization will not involve any undue risk or loss of funds derived from the general revenue of the Village.

Section 15-207. **REVENUES FROM DEVELOPMENT PROJECTS.** The corporate authorities of the Village issuing bonds pursuant to this Chapter shall prescribe and collect revenues with respect to a development project and shall revise such from time to time whenever necessary so that such revenues are always sufficient to pay when due all bonds and interest thereon for the payment of which such revenues are pledged, including reserves therefor, and to provide for all expenses of operation, including maintenance, and depreciation charges of such development project. (Ordinance No. 83-59, 12.13.83)

Section 15-208. EXEMPTION FROM CONSTRUCTION AND BUILDING REQUIREMENTS FOR PUBLIC BUILDINGS. The acquisition and construction of a development project shall not be subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the Illinois Revised 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.

Section 15-209. POWERS CONFERRED AS ADDITIONAL AND SUPPLEMENTAL --LIMITATIONS IMPOSED -- EFFECT. 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. Development 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.

Section 15-210. SEVERABILITY CLAUSE. 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.