

VILLAGE OF ELBURN

ORDINANCE NO. 2008-14

**AN ORDINANCE APPROVING ZONING ORDINANCE
TEXT AMENDMENT ADDRESSING (1) FINANCIAL SERVICE
ESTABLISHMENTS; (2) MAXIMUM LOT COVERAGE FOR R-1 and R-2
ZONING DISTRICTS; (3) NOTICE REQUIREMENTS FOR PUBLIC
HEARINGS; AND (4) PROHIBITING DEED RESTRICTIONS
RESTRICTING BANKS**

**ADOPTED BY
THE BOARD OF TRUSTEES
OF THE
VILLAGE OF ELBURN**

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WHEREAS, on November 26, 2007 the Village of Elburn Board of Trustees adopted Resolution 2007-09 establishing a six month moratorium on issuance of special use permits for financial institutions; and

WHEREAS, during said moratorium the Village of Elburn Board of Trustees have caused studies to be conducted regarding the Board of Trustees' concerns that banks and financial institutions were locating on prime retail sites; and

WHEREAS, said studies found that among other things:

A. The Village of Elburn's Comprehensive Plan states that a main policy of the Plan is to "provide for a well balanced tax base in a sound local economy" and "to preserve and promote a healthy central business district."

B. General provisions of the Village of Elburn's Zoning Ordinance that pertain to business districts provide that a goal thereof is "...to promote the most desirable use of land in accordance with a well considered plan so that adequate space is provided in appropriate locations for various types of business uses, thereby strengthening the economic base of the Village."

C. Changes in federal and state laws regulating financial institutions, together with changes in technology, have resulted in an unprecedented growth in the number of banks and financial institutions.

D. According to the 2006 U.S. Census Bureau data, the Village of Elburn has an average of one bank per 792 residents. In comparison, the State of Illinois has an average of one bank per 2,950 residents. The national average is one bank per 3,115 residents.

E. Banks and financial institutions taking prime locations in retail areas is harmful to the Village's tax base, and the Village's decision to restrict banks and financial institutions is not arbitrary or unreasonable.

F. There is difficulty of reuse of bank and financial institution buildings should the bank or financial institution cease operation.

WHEREAS, the President and Board of Trustees desire to incorporate in the Village of Elburn Zoning Ordinance several of the recommendations made as a result of said studies; and

WHEREAS, the President and Board of Trustees further desire to amend certain other provisions of the Village of Elburn Zoning Ordinance, including (1) maximum lot coverage for R-1 and R-2 zoning districts; (2) notice requirements for public hearings; and (3) prohibiting deed restrictions restricting banks approved pursuant to the Village's planned development procedures; and

WHEREAS, pursuant to notice, a public hearing was held before the Village of Elburn Planning Commission on August 19, 2008 following which the Planning Commission made its written findings of fact and recommendations for the Village of Elburn Board of Trustees to approve this ordinance.

THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Elburn, Kane County, Illinois, that the Village of Elburn Zoning Ordinance is hereby amended as follows:

Section One. Section 3.2 is amended for the purpose of adding the following definitions:

- | | |
|----------------------------------|--|
| Automatic Teller Machines (ATMs) | Stand-alone automated teller devices, either walk-up or drive-up, used for the automated withdrawal of cash. The definition shall not include automatic teller machines located within the interior of establishments. |
| Banks | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. |
| Check Cashing Facilities | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. |
| Credit Unions | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. |
| Currency Exchanges | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. |
| Financial Service Establishment | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. This classification includes, but is not limited to, establishments such as banks, savings and loans, mortgage lending offices, credit unions, currency exchanges, check cashing facilities, and automatic teller machines. |
| Mortgage Lending Offices | Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines. |

Savings & Loans Establishments that provide personal, commercial and retail money holding, investment and lending services, with or without automatic teller machines.

Section Two. Section 7.4 “R-1, Single Family Residential District” is amended in its entirety to hereinafter read as follows:

7.4 R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT:

A. **Purpose** – The purpose of this zone is to provide for single-family residences in areas served by public sewer and water.

B. **Permitted Uses:**

(1) **Residential:**

(a) Home occupations, according to Article IV Section 4.16.

(b) Single-family dwellings.

(2) **Recreational/Open Space:**

(a) Greenbelts.

(b) Public parks, forest preserves, playgrounds or playfields.

(3) **Institutional:**

(a) Elementary schools, public or private, non-boarding.

(b) Junior High schools, public or private, non-boarding.

C. **Permitted Accessory Uses:**

(1) Buildings accessory to the principal use, including private garages, provided they are located in the side or rear yard, and no closer than five (5) feet to a side or rear property line.

(2) Private greenhouse, subject to setback regulations of this District.

(3) Private swimming pools and tennis courts (unlighted), in rear yards only, and subject to the setback regulations of this District.

(4) Sheds or buildings for domestic storage, provided they are located in a rear yard only, and no closer than five (5) feet to a side or rear property line.

D. **Special Uses:**

(1) **Residential:**

(a) Congregate care facilities.

(b) Convalescent centers and nursing homes.

(c) Group homes.

(d) Model homes.

(e) Planned developments, according to Article XI.

- (f) Two-family dwellings.
- (2) **Institutional/Governmental:**
 - (a) Churches, temples or synagogues.
 - (b) Civic buildings, including governmental, police and fire.
 - (c) Community center buildings.
 - (d) Hospitals and medical clinics.
 - (e) Libraries.
 - (f) Museums and galleries.
 - (g) Public utility and service facilities, as defined in Section 7.1G, above.
 - (h) Religious retreats.
 - (i) Schools: boarding.
 - (j) Schools: high school, college, university and trade, public or private.
- (2) **Service:**
 - (a) Bed and breakfast guest houses.
 - (b) Day care centers and nursery schools, public or private.
 - (c) Inns.
- (3) **Recreation:**
 - (a) Aircraft landing fields.
 - (b) Club or lodge building.
 - (c) Golf courses.
 - (d) Swim and/or tennis clubs.

E. Lot Size Regulations:

- (1) **Residential:**
 - (a) **Minimum Lot Size** – Not less than 10,000 square feet.
 - (b) **Minimum Lot Width** – Not less than seventy five (75) feet shall be maintained at the building setback line.
 - (c) **Maximum Gross Density** – Not more than 3.5 dwelling units per acre.
- (2) **Special Uses** – Lot sizes for special uses shall be specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Article XV, **ADMINISTRATION AND ENFORCEMENT**, Section 15.3.

F. **Yard and Setback Regulations** – Every building hereafter erected or enlarged in this District shall provide and maintain the following setbacks:

- (1) **Setback from Major Highways** – See Section 7.1F, above.
- (2) **Minimum Front and Corner Yards** – Not less than thirty (30) feet from a front or corner side lot line.
- (3) **Minimum Interior Side Yards** – Not less than ten (10) feet from an interior side lot line.
- (4) **Minimum Rear Yards** – Not less than thirty (30) feet from a rear lot line.
- (5) **Maximum Lot Coverage** – Not more than one-third (33.3 percent) of a lot can be occupied with buildings, accessory structures and impervious surfaces. Up to an additional five percent (5%) of any lot can be occupied by decks, pools, brick or paver patios and brick or paver sidewalks.

G. **Bulk Regulations:**

- (1) **Structure Height:**
 - (a) **Single-Family Detached Residences** – Not more than thirty-five (35) feet.
 - (b) **Special Uses** – Maximum height limitations shall be specified with the granting of a special use permit.
- (2) **Floor Area** – Floor areas which follow are exclusive of garages, basements or porches:
 - (a) **Single Family Detached Residences:**
 - (i) One-story, single-family residence – Not less than 1,300 square feet.
 - (ii) Two-story, single-family residence – Not less than 1,650 square feet.
 - (b) **Other Uses** – No minimum floor area shall apply to other permitted and special uses within this District.

Section Three: **Section 7.5_“R-1, Double-Family Residential District”** is amended in its entirety to hereinafter read as follows:

7.5 R-2, DOUBLE-FAMILY RESIDENTIAL DISTRICT:

A. **Purpose** – The purpose of this zone is to provide for single-family residences and two family residences in areas served by public sewer and water.

B. **Permitted Uses:**

(1) **Residential:**

(a) Home occupations, according to Article IV Section 4.16.

(b) Single-family dwellings.

(c) Two-family dwellings.

(2) **Recreational/Open Space:**

(a) Greenbelts.

(b) Public parks, forest preserves, playgrounds or playfields.

(3) **Institutional:**

(a) Elementary schools, public or private, non-boarding.

(b) Junior High schools, public or private, non-boarding.

C. **Permitted Accessory Uses:**

(1) Buildings accessory to the principal use, including private garages, provided they are located in the side or rear yard, and no closer than five (5) feet to a side or rear property line.

(2) Private greenhouse, subject to setback regulations of this District.

(3) Private swimming pools and tennis courts (unlighted), in rear yards only, and subject to the setback regulations of this District.

(4) Sheds or buildings for domestic storage, provided they are located in a rear yard only, and no closer than five (5) feet to a side or rear property line.

D. **Special Uses:**

(1) **Residential:**

(a) Congregate care facilities.

(b) Convalescent centers and nursing homes.

(c) Group homes.

(d) Model homes.

(e) Planned developments, according to Article XI.

(f) Townhomes.

(g) Quadraplexes.

(2) Institutional/Governmental:

- (a) Churches, temples or synagogues.
- (b) Civic buildings, including governmental, police and fire.
- (c) Community center buildings.
- (d) Hospitals and medical clinics.
- (e) Libraries.
- (f) Museums and galleries.
- (g) Public utility and service facilities, as defined in Section 7.1G, above.
- (h) Religious retreats.
- (i) Schools: boarding.
- (j) Schools: high school, college, university and trade, public or private.

(3) Service:

- (a) Bed and breakfast guest houses.
- (b) Day care centers and nursery schools, public or private.

(4) Recreation:

- (a) Club or lodge building.
- (b) Golf courses.
- (c) Swim and/or tennis clubs.

E. Lot Size Regulations:

(1) Residential:

- (a) **Minimum Lot Size** – Not less than 10,000 square feet, or 5,000 square feet per each two-family dwelling unit.
- (b) **Minimum Lot Width** – Not less than seventy five (75) feet shall be maintained at the building setback line.
- (c) **Maximum Gross Density** – Not more than 3.5 dwelling units per acre.

(2) Special Uses – Lot sizes for special uses shall be specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Article XV, **ADMINISTRATION AND ENFORCEMENT**, Section 15.13 of this Ordinance.

F. **Yard and Setback Regulations** – Every building hereafter erected or enlarged in this District shall provide and maintain the following setbacks:

- (1) **Setback from Major Highways** – See Section 7.1F, above.
- (2) **Minimum Front and Corner Yards** – Not less than thirty (30) feet from a front or corner side lot line.
- (3) **Minimum Interior Side Yards** – Not less than ten (10) feet from an interior side lot line.
- (4) **Minimum Rear Yards** – Not less than thirty (30) feet from a rear lot line.
- (5) **Maximum Lot Coverage** – Not more than one-third (33.3 percent) of a lot can be occupied with buildings, accessory structures and impervious surfaces. Up to an additional five percent (5%) of any lot can be occupied by decks, pools, brick or paver patios and brick or paver sidewalks.

G. **Bulk Regulations:**

(1) **Structure Height:**

(a) **Single-Family Detached Residences** – Not more than thirty-five (35) feet.

(b) **Two-Family Residences** – Not more than thirty-five (35) feet.

(c) **Special Uses** – Maximum height limitations shall be specified with the granting of a special use permit.

(2) **Floor Area** – Floor areas which follow are exclusive of garages, basements or porches:

(a) **Single Family Detached Residences:**

(i) One-story – Not less than 1,300 square feet.

(ii) Two-story – Not less than 1,650 square feet.

(b) **Two-Family Residences:**

(i) One-story – Not less than 1,200 square feet.

(ii) Two-story – Not less than 1,600 square feet.

(c) **Other Uses** – No minimum floor area shall apply to other permitted and special uses within this District.

Section Four. Section 8.2B(2) “B-1, Central Business District” is amended by deleting as permitted uses “Banks and Financial Institutions”,

“Brokerage Houses”, and “Currency Exchanges” appearing at subparagraphs (b), (d), and (o) of Section 8.2B(2).

Section Five. Section 8.2B(2) “B-1, Central Business District” is amended by adding the following “Business Services Special Uses” to Section 8.2C(3):

(o) Financial Services Establishments

Section Six: Section 8.2B(2) “B-1, Central Business District” is amended by adding “H. Financial Services Establishments Special Criteria” to Section 8.2, to wit:

H. Financial Service Establishments Special Criteria

(1) Setback and Separation Criteria

- (a) A minimum setback of two-hundred fifty feet (250 ft.) from major thoroughfare rights-of-way including: Route 47, Route 38, Keslinger Road and Anderson Road.
- (b) A one-thousand foot (1,000 ft.) separation for financial services establishments.

(2) Architectural and Site Plan Standards

- (a) The petitioner shall be required to demonstrate to the Plan Commission and Village Board of Trustees that the building can be adapted to alternate uses in the future.
- (b) Specific criteria shall be provided to address drive-thru uses to limit ingress/egress points, ensure proper circulation and traffic flow, limit congestion on adjacent streets, limit interference with adjacent properties/ businesses, limit the number of drive-thru lanes, prevent excess noise and lighting, and provide proper landscape screening/buffering.

Section Seven. Section 8.3 “B-2, General Commercial” is amended by deleting as Special Uses, Drive-in Banks, appearing at Section 8.3C(1)(h).

Section Eight. Section 8.3 “B-2, General Commercial” is amended by adding the following General Commercial Special Use to Section 8.3C.(1):

- (s) Financial Services Establishments

Section Nine. Section 8.3 “B-2, General Commercial” is amended by adding “G. Financial Services Establishments Special Criteria” to Section 8.3, to wit:

G. Financial Services Establishments Special Criteria

(1) Setback and Separation Criteria

- (a) A minimum setback of two-hundred fifty feet (250 ft.) from major thoroughfare rights-of-way including: Route 47, Route 38, Keslinger Road and Anderson Road.
- (b) A one-thousand foot (1,000 ft.) separation for financial services establishments.

(2) Architectural and Site Plan Standards

- (a) The petitioner shall be required to demonstrate to the Plan Commission and Village Board of Trustees that the building can be adapted to alternate uses in the future.
- (b) Specific criteria shall be provided to address drive-thru uses to limit ingress/egress points, ensure proper circulation and traffic flow, limit congestion on adjacent streets, limit interference with adjacent properties/ businesses, limit the number of drive-thru lanes, prevent excess noise and lighting, and provide proper landscape screening/buffering.

Section Ten. Section 8.3 “B-3, Office/Service” heading on page VIII-10 is amended to amend and correct the section number to 8.4.

Section Eleven. Section 8.4 “B-3 Office/Service” is amended by deleting as “Permitted Uses” “Brokerage Houses” appearing at Section 8.3B.(1)(c).

Section Twelve. Section 8.4 “B-3 Office/Service” is amended by adding the following “Business Services” Special Use to Section 8.4C2, to wit:

- (p) Financial Services Establishments

Section Thirteen. Section 8.4 “B-3, Office/Service” is amended by adding “I. Financial Services Establishments Criteria”, to wit:

I. Financial Services Establishments Criteria

(1) Setback and Separation Criteria

- (a) A minimum setback of two-hundred fifty feet (250 ft.) from major thoroughfare rights-of-way including: Route 47, Route 38, Keslinger Road and Anderson Road.
- (b) A one-thousand foot (1,000 ft.) separation for financial services establishments.

(2) Architectural and Site Plan Standards

- (a) The petitioner shall be required to demonstrate to the Plan Commission and Village Board of Trustees that the building can be adapted to alternate uses in the future.
- (b) Specific criteria shall be provided to address drive-thru uses to limit ingress/egress points, ensure proper circulation and traffic flow, limit congestion on adjacent streets, limit interference with adjacent properties/ businesses, limit the number of drive-thru lanes, prevent excess noise and lighting, and provide proper landscape screening/buffering.

Section Fourteen. Paragraph B “Commercial Planned Developments” of Section 11.4 “Permitted Uses” of Article XI “Planned Developments” as amended by adding subparagraph (4) so that Paragraph B thereafter reads:

B. Commercial Planned Developments:

- (1) Commercial planned developments may include any of the permitted or special uses listed in Article VIII, **BUSINESS DISTRICTS**, provided it can be demonstrated that the uses proposed are compatible with one another and with adjacent land uses. Commercial developments shall be encouraged to be processed as planned development in order to
 - (a) Promote cooperative development of business centers with adequate off-street parking, controlled access to highways and other thorough-fares.
 - (b) Separate pedestrian and vehicular traffic.
 - (c) Aid in stabilizing property values.
 - (d) Develop centers of size and location compatible with the market potential.
 - (e) Buffer adjacent residential areas with landscape screening.
 - (f) Foster harmonious architecture between adjacent commercial structures, and between homes and commercial structures.
 - (g) Promote unified signage.
- (2) Commercial developments shall be processed as planned developments when any of the following apply:
 - (a) More than one building is proposed on a zoning lot.
 - (b) Uses listed as permitted or special uses in the C-M, Commercial Manufacturing District are proposed in addition to permitted and special uses listed in the B-1, B-3 and B-3 Business Districts.
 - (c) Development is three (3) or more acres in area, and includes more than one type of business use, such as retail, office and/or service uses.
 - (d) A commercial development includes residential dwelling units.
- (3) Commercial planned developments shall comply with all standards of development identified in Article XII, **SITE DEVELOPMENT REQUIREMENTS**, Section 12.3 of this Ordinance.
- (4) No deed or covenant restrictions prohibiting future financial service uses shall be permitted regarding properties approved for financial service establishment uses/buildings.

Section Fifteen. Section “8.4, Commercial Recreation” heading on page VIII-15 is amended to amend and correct the section number to “8.5”.

Section Sixteen. Section 15.9, “Notice Requirements for Appeals, Variations, Amendments and Special Use Permits” is amended in its entirety to hereinafter read as follows:

15.9 NOTICE REQUIREMENTS FOR APPEALS, VARIATIONS, AMENDMENTS AND SPECIAL USE PERMITS:

- A. Publication of Notice** - No public hearing before either the Zoning Board of Appeals or the Planning Commission on any appeal, or request or petition for variation, amendment; planned development or special use shall be held unless the notice of time and place of the hearing is to be published at least once, in one or more newspapers published in the Village, or if none, then in one or more newspapers with a general circulation within the Village.
- (1) The notice shall be prepared by the petitioner, and submitted to the Zoning Enforcement Officer not less than twenty (20) days before the scheduled hearing.
 - (2) Once received, the Zoning Enforcement Officer shall cause said notice to be published not more than thirty (30) nor less than fifteen (15) days before the hearing.
- B. Notice to Adjacent Owners:**
- (1) Each petition or application for an appeal, variation, amendment, planned development, or special use shall be prepared by the petitioner.
 - (2) Said petition or application shall include a list of owners, as disclosed by the records of the Kane County Recorder of Deeds, or as appears from the authentic tax records of Kane County, of all property within 250 feet in each direction of the parcel.
 - (3) Once received, the petitioner shall cause notice of the public hearing to be mailed to property owners at the addresses identified on the list, not less than fifteen (15), nor more than thirty (30) days before the hearing. Said notice shall include, at a minimum, information set forth in item 15.9.C, below.

- (4) Said mailing shall be by first class certified mail with a return receipt and shall be accomplished at the expense of the petitioner or applicant.
 - (5) The applicant shall furnish a copy of the notice to adjacent property owners and a written statement certifying that he or she has complied with the requirements of this section. The Planning Commission or Zoning Board of Appeals shall only hear a petition for variation, appeal, special use, or amendment if the applicant furnishes the list and certificate herein described.
- C. **Content of Notice** – The notice of public hearing shall include at least the following information:
- (1) The address and/or location of the property for which the appeal, variation, amendment, or special use is requested.
 - (2) A brief statement of the nature of the request.
 - (3) Existing zoning classification.
 - (4) Proposed zoning, if applicable.
 - (5) Requested exceptions from applicable regulations of the Zoning Ordinance, if applicable.
 - (6) The name and address of the legal and beneficial owner of the property for which the variation is requested.
 - (7) A legal description of the subject property.
 - (8) The time, date and location of the public hearing.
- D. **Posting:**
- (1) Each petitioner or applicant, other than the Village, shall post and maintain on the subject property for a period of not less than fifteen (15) days prior to the hearing, the notice which identifies the time, place and purpose of the hearing:
 - (a) The notice shall be placed on a placard, and installed not more than fifteen (15) feet from the front line, and not less than four (4) feet above, and not more than six (6) feet above the ground, and placed in such a manner as seen from the street.
 - (b) The copy “**NOTICE OF PUBLIC HEARING**” shall also be affixed to the placard, at a size that is large enough to be read from the street.
 - (2) The jurisdiction of the Zoning Board of Appeals or the Planning Commission to hold public hearings shall not be affected by the absence of a posted notice, if such absence is not the result of the applicant’s or petitioner’s act or omission.
- E. **Continuation of Public Hearings** - The Zoning Board of Appeals or the Planning Commission shall hold at least one public hearing on the proposed variation, amendment, planned development, or special use. However, public hearings may be continued by either the Zoning Board of Appeals or the Planning Commission, from

time to time, without further notices being published, subject to compliance with the Illinois Open Meeting Act.

Section Seventeen. That this Ordinance shall be in full force and effect

from and after its passage and approval.

AYES: Burgholzer, Dierschow, Grabarek, Humm, Romke, Swan

NAYES: none

ABSENT: none

PRESENTED to the Board of Trustees of the Village of Elburn, Kane County, Illinois this 25 day of August, 2008.

PASSED by the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 25 day of August, 2008.

SIGNED by the President of the Board of Trustees of the Village of Elburn, Kane County, Illinois, this 25 day of August, 2008.



(SEAL)

ATTEST:

Diane McQuilkin

Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois

James L. Willey

Dr. James L. Willey
Mayor
Village of Elburn, Kane County, Illinois

STATE OF ILLINOIS)
)SS
COUNTY OF KANE)

CLERK'S CERTIFICATE

I, Diane McQuilkin, the duly qualified and acting Village Clerk of the Village of Elburn, Kane County, Illinois, do hereby certify that attached hereto is a true and correct copy of an ordinance entitled:

**AN ORDINANCE APPROVING ZONING ORDINANCE
TEXT AMENDMENT ADDRESSING (1) FINANCIAL SERVICE
ESTABLISHMENTS; (2) MAXIMUM LOT COVERAGE FOR R-1
ZONING DISTRICTS; (3) NOTICE REQUIREMENTS FOR PUBLIC
HEARINGS; AND (4) PROHIBITING DEED RESTRICTIONS
RESTRICTING BANKS**

which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 25 day of August, 2008.

I do further certify that a quorum of said Board of Trustees was present at said meeting, and that the Board of Trustees complied with all the requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 25 day of August, 2008.

(SEAL)



Diane McQuilkin

Diane McQuilkin
Village Clerk
Village of Elburn, Kane County, Illinois