

REVOKING ORDINANCE 2012-070 PROVIDING A SPECIAL USE PERMIT FOR A VEHICLE SALVAGE YARD LOCATED AT 1008 OAK STREET, DEKALB, ILLINOIS (DEKALB IRON AND METAL COMPANY (DIMCO)).

WHEREAS, the City of DeKalb (the “City”) is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, DIMCO GGR, LLC (“DIMCO”) is the owner of property located at 1008 Oak Street, DeKalb, IL 60115, Parcel Identification Number of 08-23-281-011 (the “Property”); and

WHEREAS, the Property is located in the zoning district “HI” Heavy Industrial District; and

WHEREAS, Section 5.12.03 of the City’s Unified Development Ordinance (the “UDO”) provides in pertinent part that the following may be a special use in the “HI” Heavy Industrial District: “Junkyards, salvage yards, vehicle wrecking yards conducted within an enclosed building or surrounded by a solid, sight-proof fence not less than ten (10) feet in height, or the height of the materials being screened, whichever is greater, and where no materials shall be piled or stacked to a height in excess of fifteen (15) feet above the ground level.”; and

WHEREAS, on August 27, 2012, the City’s corporate authorities adopted Ordinance 2012-070 (the “Ordinance”), which approved in pertinent part: “a special use permit to store, decommission, flatten and ship used vehicles for recycling purposes on [the Property], subject to the following conditions:

1. Shall install a sight-proof fence not less than ten (10’) feet in height or the height of the materials being screened. In no instance shall the height of the screening element exceed fifteen (15’) feet above the ground level.
2. Shall adhere to the hours of operation proposed by the petitioner which will be Monday thru Friday from 7:30 a.m. – 4:00 p.m. Shall only drain, flatten and decommission vehicles during a one-hour period that occurs once per day Monday through Friday from 12:00 p.m. – 4:00 p.m.
3. Shall adhere to the hours of operation on Saturday from 8:00 AM – 11:30 AM whereby only vehicles can be accepted for processing during the following work week.
4. Shall recycle, flatten and ship no more than six (6) cars per day during normal hours of operation.
5. Proposed use of the vehicle recycling operation occurs entirely within the 130’ x 85’ area as shown in the attached drawing.”; and

WHEREAS, on April 25, 2022, the City’s Chief Building Official, pursuant to Section 16.01.01 of the UDO, notified DIMCO of a “Notice of Violations and Order to Discontinue Illegal Use of 1008 Oak St.”, a copy which is attached hereto and incorporated herein as Exhibit A (the “Notice of Violations”); and

WHEREAS, the Notice of Violations notified DIMCO of its following violations of Section 1 of the Ordinance and Section 5.12.03 of the UDO:

1. The Property is not completely surrounded by a sight-proof fence that is the height of the materials being screened in violation of the Ordinance and UDO;

2. The Property has been stored with materials that are piled or stacked to a height in excess of 15 feet above the ground level in violation of the UDO;
3. The Property has been used to store materials that are not used vehicles in violation of the Ordinance; and
4. The Property's use of the vehicle recycling operations does not occur entirely within a 130-foot by 85-foot area in violation of the Ordinance; and

WHEREAS, the Notice of Violations ordered DIMCO to correct the aforementioned violations and discontinue its illegal use of the Property immediately, and that its failure to do so may result in the revocation of its special use permit for the Property; and

WHEREAS, the Notice of Violations notified DIMCO that it may file a written notice of appeal of the Notice of Violations to the Chief Building Official within 45 days of April 25, 2022; and

WHEREAS, DIMCO failed to file a written notice of appeal of the Notice of Violations; and

WHEREAS, DIMCO failed to correct the violations and discontinue its illegal use of the Property; and

WHEREAS, Section 14.03.06(5) of the UDO provides that: "Upon a finding that an approved Special Use Permit will or has become unsuitable and/or incompatible in its location as a result of any nuisance or activity generated by the use, the Council shall have the authority to revoke the permit after affording the current property owner the right to be heard."; and

WHEREAS, on June 27, 2022, pursuant to due notice, the City's corporate authorities held a hearing to consider the revocation of the special use permit approved by the Ordinance including, but not limited to, whether the special use has become unsuitable and incompatible in its location as a result of violating the provisions of Section 1 of the Ordinance and Section 5.12.03 of the UDO; and

WHEREAS, the City's corporate authorities adopt and incorporate by reference the findings of the Notice of Violations, consider the evidence presented at the hearing, and find that the special use permit approved by the Ordinance has become unsuitable and/or incompatible at the Property as a result of any nuisance or activity generated by said use including, but not limited to, the Property's failure to comply with the conditions and requirements provided by Section 1 of the Ordinance and Section 5.12.03 of the UDO; and

WHEREAS, the City's corporate authorities find that it is in the City's best interests for the promotion of the public health, morals and welfare to repeal the Ordinance and revoke the Ordinance's approval of the special use permit for the Property; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The recitals to this Ordinance are true, accurate, material, adopted and incorporated herein by reference as Section 1 to this Ordinance.

SECTION 2: The City's corporate authorities repeal Ordinance 2012-070 in its entirety.

SECTION 3: The City's corporate authorities revoke the special use permit approved by Ordinance 2012-070 for a vehicle salvage yard (vehicle recycling operation) at 1008 Oak Street, DeKalb, Illinois 60115.

SECTION 4: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, that declaration shall not affect the validity of the other provisions, which shall be severable and remain in full force and effect.

SECTION 5: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows: First reading passed at a Regular meeting held on the 27th day of June 2022 and approved by me as Mayor on the same day by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None. Second reading passed at a Regular meeting held on the 24th day of October 2022 and approved by me as Mayor on the same day by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None.




COHEN BARNES, Mayor

ATTEST:



Ruth A. Scott, Executive Assistant

**EXHIBIT A
(NOTICE OF VIOLATIONS)**



164 East Lincoln Highway
DeKalb, Illinois 60115
815.748.2000 • cityofdekalb.com

April 25, 2022

By Certified Mail, Return Receipt Requested

DIMCO GGR, LLC
900 Oak St.
DeKalb, IL 60115

DIMCO GGR, LLC
600 N. Broadway St.
Aurora, IL 60505

Chris J. Simadis
15770 S. Bell Rd.
Homer Glen, IL 60491

Re: Notice of Violations and Order to Discontinue Illegal Use of 1008 Oak St.

To Dimco GGR, LLC:

Pursuant to section 16.01.01 of the City of DeKalb (the "City") Unified Development Ordinance (the "UDO"), this letter serves as the City's Chief Building Official written notice of violation of your illegal use of 1008 Oak St. (the "Property") and order to immediately discontinue your illegal use of the Property.

The Property's zoning district is "HI" Heavy Industrial. On August 27, 2012, the City Council adopted Ordinance 12-70 (the "Ordinance"), which approved a special use for the Property to store, decommission, flatten and ship used vehicles for recycling purposes, subject to conditions provided in the Ordinance.

The Property is in violation of the following provisions of the UDO and the Ordinance:

- The Property is not surrounded by a solid sight-proof fence not less than ten (10) feet in height, or the height of the materials being screened, and not in excess of fifteen (15) feet above the ground level, in violation of section 5.12.03 of the UDO and section 1(1) of the Ordinance;
- The Property has materials piled or stacked to a height in excess of fifteen (15) feet above the ground level in violation of section 5.12.03 of the UDO;
- The Property has been used to store materials that are not used vehicles in violation of section 1 of the Ordinance; and

- The Property's use as a vehicle recycling operating does not occur entirely within the 130' x 85' area that is depicted in the Ordinance in violation of section 1(5) of the Ordinance.

Enclosed in this letter are photographs from April 20, 2022 that depict the violations.

You are hereby ordered to correct the violations and discontinue your illegal use of the Property immediately. Your failure to do so may result in the revocation of your special use for the Property.

Should you wish to appeal this order, you must file a written notice of appeal to the Chief Building Official within 45 days of the date of this letter specifying the grounds of your appeal and pay the \$100 fee for the appeal. The appeal will be heard by the City's Planning and Zoning Commission at one of its regularly scheduled meetings pursuant to the procedures set forth in section 18.02 of the UDO.

Thank you for your prompt attention to this matter. Please contact City Attorney Matthew Rose (phone: 312-541-1078; email: mrose@drlawpc.com) with any questions.

Sincerely,

Dawn Harper, Chief Building Official

cc by email: City Manager; City Attorney; Gregory Jordan; Danny Meyers

ORDINANCE 12-70

Passed: August 27, 2012

**APPROVING A SPECIAL USE PERMIT FOR A
VEHICLE SALVAGE YARD (VEHICLE
RECYCLING OPERATION) AT 1008 OAK
STREET, DEKALB ILLINOIS.**

WHEREAS, DeKalb Iron and Metal Company (DIMCO) has filed a petition with the City Clerk of the City of DeKalb, Illinois, for a special use permit to store, decommission, flatten and ship used vehicles for recycling purposes on a vacant piece of property zoned Heavy Industrial "HI" and located at 1008 Oak Street, DeKalb; and,

WHEREAS, the DeKalb Plan Commission held a public hearing and reviewed the request on July 11, 2012 and recommended approval of the special use permit by a vote of 3-0 subject to conditions; now,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:

Section 1. That a special use permit to store, decommission, flatten and ship used vehicles for recycling purposes on a vacant piece of property zoned Heavy Industrial "HI" and located at 1008 Oak Street, DeKalb, subject to the following conditions:

1. Shall install a sight-proof fence not less than ten (10') feet in height or the height of the materials being screened. In no instance shall the height of the screening element exceed fifteen (15') feet above the ground level.
2. Shall adhere to the hours of operation proposed by the petitioner which will be Monday thru Friday from 7:30AM – 4PM. Shall only drain, flatten and decommission vehicles during a one-hour period that occurs once per day Monday through Friday from 12:00 PM – 4:00 PM.
3. Shall adhere to the hours of operation on Saturday from 8:00 AM – 11:30 AM whereby only vehicles can be accepted for processing during the following work week.
4. Shall recycle, flatten and ship no more than six (6) cars per day during normal hours of operation.
5. Proposed use of the vehicle recycling operation occurs entirely within the 130' x 85' area as shown in the attached drawing.

Section 2. That all provisions of the Unified Development Ordinance shall remain in full force and effect, and this Ordinance shall take effect upon its passage and approval according to law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a regular meeting, held on the 27th day of August, 2012 and approved by me as Mayor on the same day. Approved by roll call vote 6-2. Aye: Jacobson, Teresinski, Gallagher, Naylor, Baker, Povlsen. Nay: Lash, O'Leary.

ATTEST:


DIANE K. WRIGHT, City Clerk


KRIS POVLSSEN, Mayor



