

## ORDINANCE NO. 102

### CONSUMERS POWER COMPANY GAS FRANCHISE ORDINANCE

AN ORDINANCE, GRANTING TO CONSUMERS POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO LAY, MAINTAIN AND OPERATE GAS MAINS, PIPES AND SERVICES ON, ALONG, ACROSS AND UNDER THE HIGHWAYS, STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC PLACES, AND TO DO A LOCAL GAS BUSINESS IN THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN, FOR A PERIOD OF THIRTY YEARS.

THE VILLAGE OF DECATUR ORDAINS:

**SECTION 1. GRANT TERM.** The Village of Decatur, Van Buren County, Michigan, hereby grants to the Consumers Power Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the Village of Decatur, Van Buren County, Michigan for a period of thirty years. (1991-2021)

**SECTION 2. CONSIDERATION.** In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

**SECTION 3. CONDITIONS.** No highway, street, alley, bridge, or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same good order and condition as when such work was commenced.

**SECTION 4. HOLD HARMLESS.** Said Grantee shall at all times keep and save the Village free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the Village on account of the permission herein given, said Grantee shall, upon notice, defend the Village and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

**SECTION 5. EXTENSIONS.** Said Grantee shall construct and extend its gas distribution system within said Village, and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

**SECTION 6. FRANCHISE NOT EXCLUSIVE.** The rights and authority herein granted are not exclusive. Either manufactured or natural gas may be furnished hereunder.

**SECTION 7. RATES.** Said Grantee shall be entitled to charge the inhabitants of said Village for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said Village, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Village, acting by its Village Council, or by said Grantee.

**SECTION 8. REVOCATION.** The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

**SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION.** Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas service in said Village.

**SECTION 10. EFFECTIVE DATE.** This ordinance shall take effect upon the day after the date of publication thereof, provided however; it shall cease and be of no effect after thirty days from its adoption, unless within said period the Grantee shall accept the same in writing filed with the said period the Grantee shall accept the same in writing filed with the Village Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Village and said Grantee.

We hereby certify that the foregoing ordinance was duly enacted by the Village council of the Village of Decatur, Van Buren County, Michigan, on the 4<sup>th</sup> day of February, 1991

ORDINANCE NO. 103

AN ORDINANCE ESTABLISHING THE AMOUNT OF COMPENSATION FOR THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN.

THE VILLAGE OF DECATUR, MICHIGAN ORDANINS:

**Section 1** - The President and Trustees of the Village Council of the Village of Decatur, Michigan shall each receive per month, as compensation for their attendance at either a regular or called special meeting of said Village Council, and for their services during their term of office, the sum of money hereinafter set forth, to wit:

PRESIDENT.....\$167.00 PER MONTH  
TRUSTEES.....\$108.50 PER MONTH

**Section 2** – Said compensation shall be paid out of the General Fund of the Village of Decatur, Michigan

**Section 3** – Ordinance #95 is hereby repealed.

**Section 4** – This Ordinance shall become effective the 1<sup>st</sup> day of April, 1991.

Adopted by the Village Council of the Village of Decatur, Michigan this 18<sup>th</sup> day of March, 1991

ORDINANCE NO. 105

AN ORDINANCE REGULATING TRUCK PARKING AND TRUCK AND BUS TRAFFIC IN THE VILLAGE OF DECATUR, MICHIGAN.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

Section 1. PARKING. It shall be unlawful for any person to park a truck or truck-trailer combination having a gross weight of ten (10) tons, or more, on any street or right of way thereof in the Village of Decatur, Michigan.

Section 2. TRAFFIC. It shall be unlawful for any person to operate any truck or truck-trailer combination having a gross weight of ten (10) tons, or more, or any bus (including a school bus) with seating capacity of sixteen (16) or more passengers (including the driver) on any street in the Village of Decatur, Michigan, except as provided in Sections 3 and 4 hereof.

Section 3. TRUCK ROUTES. The following streets or portions thereof are hereby designated as truck routes and same shall be open for operation by any truck or truck-trailer combination is not in violation of the weight limits as set forth in Public Act. No. 300 of the State of Michigan, as Amended, to –wit:

- A. Beers Street from its intersection with George Street to its intersection with Williams Street.
- B. Bronson Street from its intersection with George Street to its intersection with Williams Street.
- C. Delaware Street (Highway M-51) in its entirety.
- D. Edgar Bergen Blvd. from its intersection with Phelps Street to its intersection with School Street.
- E. George Street from the South Village of Decatur limits to its intersection with School Street.
- F. Mill Street from its intersection with Sherwood Street to its intersection with St. Mary's Street.
- G. Park Street lying North of the railroad right of way to its intersection with Sherwood Street.
- H. Park Street lying South of the railroad right of way to its intersection with Beers Street.
- I. Paw Paw Street from the East Village of Decatur limits to its intersection with George Street.
- J. Phelps Street from its intersection with Edgar Bergen Blvd. to the North Village of Decatur limits.
- K. Prairie Ronde Street from the East Village of Decatur limits to its intersection with George Street.
- L. School Street from the North village of Decatur limits to its intersection with St. Mary's Street.
- M. Seneca Street from its intersection with East Delaware Street to its intersection with E. Sherwood Street.
- N. Sherwood Street from its intersection with Paw Paw Street to its intersection with Mill Street.

- O. St. Mary's Street from its intersection with George Street to the West Village of Decatur limits.
- P. Williams Street (New Swamp Road) from the South Village of Decatur limits to its intersection with St. Mary's Street.
- Q. Any other street in the Village of Decatur, Michigan for the sole purpose of loading or unloading, except Phelps Street from its intersection with Sherwood Street to its intersection with St. Mary's Street where loading and unloading can only be done by trucks of less than ten (10) tons and /or less than thirty (30) feet in length; or participating in or detouring around parades; or detouring around fires, accidents, or road construction; or when special permission is granted from the Village Council of the Village of Decatur, Michigan.

Section 4. BUS ROUTES. The following streets or portions thereof are hereby designated as bus routes, and the same shall be open for operation by any bus (including a school bus) with seating capacity of sixteen (16) or more passengers (including the driver) to-wit:

- A. All streets or portions thereof hereinbefore set forth in Section 3. Hereof.
- B. Austin Blvd. from its intersection with Memory Lane to its intersection with Douglas Drive.
- C. Cedar Street from its intersection with Phelps Street to its intersection with Memory Lane.
- D. Dodge Street from its intersection with Paw Paw Street to its intersection with Michigan Avenue.
- E. Douglas Drive from its intersection with Austin Blvd. to its intersection with Cedar Street.
- F. Edgar Bergen Blvd. from its intersection with Phelps Street to its intersection with Delaware Street (M-51 highway).
- G. Eli Street from its intersection with George Street to its intersection with School Street.
- H. John Street from its intersection with Delaware Street to its intersection with Pine Street.
- I. John Street from its intersection with Delaware Street to its intersection with Pine Street.
- J. Memory Lane from its intersection with Cedar Street to its intersection with Austin Blvd.
- K. Phelps Street from its intersection with Edgar Bergen Blvd. to its intersection with St. Mary's Street.
- L. Pine Street from its intersection with Phelps Street to its intersection with John Street, Douglas Drive and Cedar Street.
- M. Rogers Street from its intersection with Edgar Bergen Blvd. to the North Village of Decatur limits.
- N. Williams Street from its intersection with St. Mary's Street to its intersection with Pine Street.
- O. Any other street in the Village of Decatur, Michigan when loading or unloading athletic teams for athletic contest, and when necessary to detour around fires, accidents, or road construction; or when special permission is granted by the Village Council of the Village of Decatur, Michigan.

Section 5. PENALTY. Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed guilty of a civil infraction and shall, upon conviction thereof, be subject to a fine of not

more than \$100.00, plus Court costs and costs of prosecution, or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both, at the discretion of the Court. Each day that a violation continues shall be deemed to be a separate offense.

Section 6. REPEAL. Ordinance No. 104 is hereby repealed, and nay and all other Ordinances, Resolutions, or Orders, or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, further hereby repealed.

Section 7. EFFECTIVE DATE. This Ordinance shall become effective the 26<sup>th</sup> day of October, 1992.

## **ORDINANCE NO. 107**

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 83, (WHICH ESTABLISHED A DOWNTOWN DEVELOPMENT AUTHORITY FOR THE VILLAGE OF DECATUR, MICHIGAN AND DESIGNATED THE BOUNDARIES OF THE DOWNTOWN DISTRICT), BY AMENDING THE COUNDARIES OF THE DECATUR, MICHIGAN DOWNTOWN DEVELOPMENT DISTRICT.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

**Section 1.** Section 4 of Ordinance No. 83 is hereby amended to read as follows, to-wit: the boundaries of the Downtown Development District within which the Downtown Development Authority shall exercise its powers, are as follows:

Beginning at a point on the East line of Phelps Street and the North line of Lot 3 of block "P" of the Village of Decatur, Van Buren County, Michigan, according to the 1905 Recorded Plat thereof; thence Easterly along the North line of Lot 3 a distance of 165 feet more or less to the Northeast corner of said Lot 3; thence Southerly along the Easterly lines of Lots 1, 2, and 3, said Block "P" a distance of 198 feet more or less to a point on the North line of St. Mary's Street; thence Easterly along the North line of St. Mary's Street a distance of 132 feet more or less to the extended Easterly line of Lot 15 of Block "B" of said Recorded Plat of 1905; thence Southerly along the said extended line and the said Easterly line a distance of 231 feet more or less to the Southeast corner of said Lot 15; thence Easterly along the Northerly line of Lot 7, said Block "B" a distance of 20 feet more or less to a point; thence Southerly along a line parallel to the Westerly line of said Lot 7 a distance of 165 feet more or less to the North line of Delaware Street; thence Easterly along the said North line of Delaware Street a distance of 112 feet more or less to the extended East line of Lot 17 of Block "D" of said Recorded Plat of 1905; thence Southerly along the said extended line and the East lines of Lots 17 and 6, said Black "D" a distance of 396 feet more or less to the North line of Sherwood Street; thence Easterly along the said North line of Sherwood Street a distance of 1,188 feet more or less to the East line of East Street; thence Southerly along the said East line of East Street a distance of 454.92 feet more or less to the South line of Paw Paw Street; thence Westerly along the said South line of Paw Paw Street a distance of 469.26 feet more or less to the Northeast corner of Lot 20 of Block "X" of said Recorded Plat of 1905; thence Southerly along the Easterly line of Lot 20, said Block "X" a distance of 181.5 feet to the southeast corner of said Lot 20; thence Westerly along the Southerly line of Lot 20 to the Southwest corner of Lot 20; thence Northerly along the Westerly line of said Lot 20 a distance of 60.50 feet; thence Westerly along a line parallel to Paw Paw Street a distance of 132 feet more or less to the East line of Lot 17 a distance of 60.50 feet; thence Westerly along a line parallel to Paw Street a distance of 132 feet more or less to the East line of George Street; thence Southerly along the said East line of George Street a distance of 116 feet more or less to the extended South line of Beers Street; thence Westerly along the said extended line and the south line of Beers Street a distance of 825 feet more or less to the East line of Phelps Street; thence Southerly along the said East line of Phelps Street a distance of 396 feet more or less to the South line of Bronson Street; thence Westerly along the said South line of Bronson Street a distance of 792 feet more or less to the extended West line of William Street; thence Northerly along the said extended Line and the West line of William Street a distance of 231 feet more or less to the extended North line of Lot 10 of Block "E" of said Recorded Plat of 1905; thence Easterly along the said extended line and the North lines of Lots 10, 9, 8, and 7 a distance of 330 feet more or less to the Southwest corner of Lot 15 said block "E"; thence Northerly along the West line of Lot 15 a distance of 165 feet more or less to the Northwest corner of said Lot 15; thence Westerly along the south line of Beers Street a distance of 92 feet more or less; thence Northerly along a line parallel to William Street a distance of 148.42 feet more or less to a point 90.5 feet south of the North line of Lot 5, Block "H" of said Recorded Plat of 1905; thence Westerly along a line parallel with Beers Street a distance of 238 feet more or less to the West line of William Street; thence Northerly along the west line of William Street a distance of 240.5 feet more or less to the southwest corner of Lot 4 of said block "G"; thence Northerly along the West line of Lot 4 and the said West line extended a distance of 238.92 feet more or less to the North line of Sherwood street; thence easterly along the said North line of Sherwood Street a distance of 198 feet more or less to the Southwest corner of Lot 4, Block "C" of said

Recorded Plat of 1905; thence Northerly along the said West line of Lot 4 and the West line of Lot 17 a distance of 330 feet more or less to the South line of Delaware Street; thence Westerly along the said South line a distance of 132 feet more or less to the extended West line of Lot 6, Block "A" of said Recorded Plat of 1905; thence Northerly along the said extended line and the West line of said Lot 6 a distance of 231 feet more or less to the Northwest corner of Lot 6 said Block "A"; thence Easterly along the North lines of Lots 6 and 5 a distance of 132 feet more or less to the Southwest corner of Lot 17 said Block "A"; thence Northerly along the West line of Lot 17 a distance of 58.5 feet; thence easterly along a line parallel to St. Mary's Street a distance of 159 feet more or less to a point; thence northerly along a line parallel to Phelps Street a distance of 24 feet; thence Easterly along a line parallel to St. Mary's Street a distance of 39 feet more or less to a point on the West line of Lot 20; thence Northerly along the said West line of Lot 20 a distance of 82.5 feet more or less to the south line of St. Mary's Street; thence Westerly along the said south line a distance of 165 feet more or less to the extended West line of Lot 1 of block "Q" of said Recorded Plat of 1905; thence Northerly along said extended line and the west line of Lot 1 said Block "Q" a distance of 231 feet more or less to the Northwest corner of Lot 1; thence Westerly along the North line of Lots 2 and 3 a distance of 132 feet more or less to the Northwest corner of Lot 3; thence Northerly along the extended West line of Lot 3 a distance of 81 feet more or less to a point; thence Easterly along a line parallel to St. Mary's Street a distance of 198 feet more or less to the West line of Lot 21; thence Southerly along the West lines of Lots 21, 22, 23, and 24 said Block "Q", a distance of 189 feet more or less to a point on the West line of Lot 24 which is 57 feet North of the South line of said lot; thence Easterly along a line parallel to St. Mary's Street a distance of 165 feet more or less to the West line of Phelps Street; thence Northerly along the said West line of Phelps Street a distance of 141 feet more or less to the extended North line of Lot 3 of block "P" of said Recorded Plat of 1905; thence Easterly along the said extended North line a distance of 66 feet more or less to the point of beginning.

**Section 2.** This Ordinance shall become effective the 6<sup>th</sup> day of July, 1993.

Adopted by the Village Council of the Village of Decatur, Michigan on this 6<sup>th</sup> day of July, 1993.



## ORINANCE NO. 109

### AN ORDINANCE TO AMEND SECTION 7 OF ORDINANCE NO. 16 OF THE VILLAGE OF DECATUR, MICHIGAN ENTITLED, "AN ORDINANCE RELATING TO SIDEWALKS AND TO PROVIDE FOR BUILDING AND REPAIRING THE SAME, AND KEEPING THEM CLEAN AND IN GOOD ORDER".

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

**SECTION 1.** That Section 7 of Ordinance No. 16 of the Village of Decatur, Van Buren County, Michigan is hereby amended to read as follows, to-wit:

#### Section 7. BUSINESS DISTRICT SIDEWALKS.

The sidewalks situated on situated on the following portions of streets within the Village of Decatur, Michigan are hereby declared and defined to be business district sidewalks, to wit:

- both sides of Phelps Street from its intersection with Sherwood Street to its intersection with St. Mary's Street
- The northerly side of Sherwood Street from its intersection with William Street to its intersection with George Street.
- Both sides of Delaware Street from its intersection with William Street to its intersection with George Street.
- The southerly side of St. Mary's Street from its intersection with William Street to its intersection with George Street.
- The northerly side of St. Mary's Street from its intersection with the Westerly line of Lot 1, Block "Q" of the Village of Decatur, Michigan, according to the 1905 recorded Plat thereof, to its intersection with School Street.
  - A. It shall be the duty of all owners, tenants and/or occupants of land abutting on any business district sidewalk to keep said sidewalk in front of or adjacent to their land, so owned or occupied, free and clean of all snow, ice, sleet, obstructions, encroachments, encumbrances, filth, and other nuisances, at all times; provided however, that merchandise for sale, or other displays of tangible personal property may be exhibited, place or displayed upon said sidewalk, provided that same is arranged and maintained in a neat and orderly manner, and does not impede the use of said sidewalk by pedestrians or handicapped individuals using a wheel chair, or other means of transportation.  
**(Section 1.B Revised to a civil infraction by Ordinance 131)**
  - B. Any person, firm or corporation who shall violate any provisions of this Section, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be subject to a fine of not more than \$100.00, plus Court costs and costs of prosecution, or by imprisonment in the County Jail for a term not exceeding ninety days (90), or both, at the discretion of the Court.

**SECTION 2. REPEAL.** Any and all other Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall become effective the 1<sup>st</sup> day of December, 1993. Adopted by the Village council of the Village of Decatur, Michigan on this 1<sup>st</sup> day of November, 1993

## **ORDINANCE NO. 110**

### **AN ORDINANCE PROHIBITING LOITERING IN PUBLIC PLACES, AND PLACES OPEN TO THE GENERAL PUBLIC IN THE VILLAGE OF DECATUR, MICHIGAN.**

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

**SECTION 1. SHORT TITLE:** This Ordinance shall be known and may be cited as the “Loitering Ordinance.”

**SECTION 2. DEFINITIONS:** For purpose of this Ordinance, certain terms or words used herein shall be defined as follows:

**Loitering:** Shall mean remaining idle in essentially one location and shall include the concept of spending time idly, loafing, or walking about aimlessly, and of standing or gathering upon any public place so as to hinder or impede, or tend to hinder or impede the passage of pedestrians or vehicular traffic.

**Public Place:** Shall mean any street, sidewalk, alley, park, public building, public parking lot, and any place of business or assembly open to, or frequented by the public, and any other place which is open to the public view or to which the public has access.

**SECTION 3.** No person shall, after being duly warned, loiter in a public place or place open to the general public in such a manner as to:

- (a) Create or cause to be created, a danger of a breach of peace;
- (b) Hinder or obstruct, or tend to hinder or obstruct, the free passage of pedestrians or vehicular traffic;
- (c) Obstruct, molest, or interfere with a person in such a manner as to cause them fear for their safety;
- (d) Disturb the comfort and repose of a person acting lawfully by such action as making unsolicited remarks of an offensive, disgusting, threatening, or insulting nature or which are calculated to annoy or disturb the person to whom made or in whose hearing they are made.

**SECTION 4.** Whenever such action or activity enumerated in Section 3 is taking place in a public place, or place open to the general public, any police officer may order the person so acting to cease and leave the premises or place.

**SECTION 5.** Any person who shall violate any provision of this Ordinance, after being duly warned, shall be responsible for a civil infraction and subject to a civil fine of not more than \$100.00, plus costs.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective the 1<sup>st</sup> day of September, 1994.

Adopted by the Village Council of the Village of Decatur, Michigan on this 1<sup>st</sup> day of August, 1994.

ORDINANCE NO. 113

AN ORDINANCE TO PROHIBIT PUBLIC NUDITY IN THE VILLAGE OF DECATUR, MICHIGAN.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

Section 1.       PURPOSE.

The purpose of this Ordinance is to protect and secure the public health, safety, morals, and general welfare of persons and property by prohibiting public nudity within the Village of Decatur, Michigan.

Section 2.       DEFINITION.

As used herein "public nudity" is hereby defined as knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person, including but not limited to payment or promise of payment of an admission fee, of any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include: a woman's breast feeding of a baby, whether or not the nipple or areola is exposed during or incidental to the feeding; material as defined in Section 2 of Act No. 343 of the Public Acts of 1984, as amended, being MSA 28.579 (362); or, sexually explicit visual material as defined in Section 3 of Act No. 33 of the Public Acts of 1978, as amended, being MSA 25.254 (3).

Section 3.       PROHIBITION OF PUBLIC NUDITY.

No person shall engage in public nudity. No business establishment, including but not limited to owners, officers, or persons in charge of, or in control of premises, shall permit persons to engage in public nudity.

Section 4.       SEVERABILITY.

Should any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

Section 5.       PENALTIES.

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine of not more than five hundred (\$500.00) dollars plus Court costs and costs of prosecution, or by imprisonment in the County jail for a term not exceeding ninety (90) days, or both, at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Village may in addition seek injunctive relief.

Section 6.       REPEAL.

Any and all other Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 7.       EFFECTIVE DATE.

This Ordinance shall become effective the 18th day of November, 1996.

Adopted by the Village Council of the Village of Decatur, Michigan on this 28th day of October, 1996.

ORDINANCE NO. 114

AN ORDINANCE SETTING FORTH PROCEDURES FOR, AND INFORMATION REQUIRED FROM, AN INDIVIDUAL OR ENTITY SEEKING APPROVAL FOR A LIQUOR LICENSE ISSUED BY THE MICHIGAN LIQUOR CONTROL COMMISSION; TO SET FORTH STANDARDS AND GUIDELINES FOR A REQUEST BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN, TO THE MICHIGAN LIQUOR CONTROL COMMISSION TO NOT RENEW A LICENSE OR TO REVOKE A LICENSE; TO SET PROCEDURES FOR HOLDING OF A HEARING FOR A LICENSEE WHEN THE VILLAGE OF DECATUR INTENDS TO REQUEST THE MICHIGAN LIQUOR CONTROL COMMISSION TO NOT RENEW A LICENSE OR TO REVOKE A LICENSE; TO REQUIRE FACTUAL FINDINGS AND DETERMINATIONS AFTER THE HOLDING OF A HEARING.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

Section 1.       SHORT TITLE.

        This Ordinance shall be known and may be cited as the "Liquor Control Ordinance".

Section 2.       APPLICATIONS; CONTENTS; FEES.

        A.     Whenever a person, partnership, corporation, association or other legal entity which is in the process of obtaining a license from the Michigan Liquor Control Commission to sell alcoholic beverages requests approval from the Village of Decatur for the issuance of the license from the Michigan Liquor Control Commission, the person, partnership, corporation, association or other legal entity shall file a formal application for approval with the Village Council for the Village of Decatur.

        B.     The application to be filed with the Village Clerk for the Village of Decatur shall contain the following information:

                1.     The name, age, and address of the applicant in the case of an individual; or, in the case of a partnership, the persons entitled to share in the profits thereof; in the case of a corporation, association, or other legal entity, the names and addresses of the officers, directors, shareholders or other principal individuals.

                2.     The address and property description of the premises or place of business which is to be operated under such license.

3. A statement whether applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.

4. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State of Michigan.

5. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any rules or regulations of the Michigan Liquor Control Commission, or any Ordinances of the Village of Decatur in the conduct of its business.

6. Any application for approval of a new license or for approval of the transfer of any currently valid or renewal license to a new location shall be accompanied by an eight and one-half (8-1/2) inch by eleven (11) inch building and grounds layout diagram showing the entire structure, premises, and grounds, and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

C. Along with the application, the applicant shall pay a processing fee which shall be established by the Village Council from time to time.

## Section 2. PUBLIC HEARING; APPROVAL.

The Village Council shall set a date for a Public Hearing at which time comments can be received from the general public in

regard to the application and at which time the applicant or its agents can be questioned by the Village Council. After passing a Resolution setting a Public Hearing, the Village Clerk shall cause notice to be published in a local newspaper in general circulation in the Village of Decatur at least five (5) business days prior to the Hearing. Approval of the application shall be by a majority of the Village Council.

Section 3. REFUSAL TO APPROVE.

If the Village Council refuses to approve the application the applicant shall be advised in writing and shall be advised as to the basis for the refusal.

Section 4. LENGTH OF APPROVAL.

Approval of the applicant as a licensee of the Michigan Liquor Control Commission shall be continuing until a transfer to a subsequent applicant or until action is taken by the Village Council as hereinafter set forth to object to the annual renewal required by the Michigan Liquor Control Commission or until a request by the Village Council to the Michigan Liquor Control Commission that the license be revoked.

Section 5. STANDARDS AND GUIDELINES FOR OBJECTION TO RENEWAL OF OR REQUEST FOR REVOCATION TO MICHIGAN LIQUOR CONTROL COMMISSION.

The Village Council may object to the annual renewal of the license by the Michigan Liquor Control Commission or may request that the license be revoked upon a determination based on a preponderance of the evidence presented at the Public Hearing described hereafter, that any of the following exist:

A. Violation of any law of the State of Michigan or United States, or any rule or regulation of the Michigan Liquor Control Commission, or a violation of any Ordinances of the Village of

Decatur.

B. Maintaining of a nuisance upon the premises, including but not limited to any of the following:

1. A pattern of patron conduct in the neighborhood of the licensed establishment which is in violation of the law and/or disturbs the peace, order, and tranquility of the neighborhood.

2. Entertainment which disturbs the peace, order, and tranquility of the neighborhood.

C. Making a false or fraudulent statement or answer in the application described in Section 2 above.

D. Non-payment of real property taxes and/or personal property taxes as same become due.  
Section 6. PUBLIC HEARING.

The Public Hearing referenced above in Section 5 shall be conducted by the Village Council as a whole at a regular or special meeting. The Village Clerk shall serve the license holder, by first class mail, mailed not less than ten (10) days prior to the Public Hearing, which notice shall contain the following information:

A. Notice of proposed action;

B. Date, time, and location of the Public Hearing;

C. A detailed statement as to the reasons for the proposed action citing specific standards and guidelines the licensee has not complied with or has otherwise violated;

D. A statement as to the Licensee's rights at the hearing, including the opportunity to defend against the allegations by confronting any adverse witnesses and by presenting witnesses, evidence, and arguments;

E. A statement that the licensee has the right to be represented by an attorney at said Public Hearing.



Section 7.        PROCEDURE AT PUBLIC HEARING; FINDINGS AND DETERMINATION; NOTIFICATION.

A.     At the Public Hearing the Village President shall act as the presiding official. The Village representative shall present witnesses and evidence in support of the proposed action; the witnesses called by or on behalf of the Village may be cross-examined by the licensee or the licensee's attorney. The licensee shall thereafter present any witnesses, evidence or argument against the proposed action; the Village representative may thereafter cross-examine the licensee's witnesses. Any individual Council member may question witnesses called by either the licensee or the Village. There shall be an opportunity for comments from the general public.

B.     Following the Public Hearing the Village Council shall make specific findings of fact and determinations in regard to the proposed action.

C.     If the Village Council passes a Resolution to request that the license not be renewed by the Michigan Liquor Control Commission or to have the license revoked, a certified copy of the Resolution and a certified copy of the separate statement of findings and determinations shall be delivered to the licensee and to the Michigan Liquor control Commission.

Section 9.        SEVERABILITY.

Should any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions of this Ordinance.

Section 10.       EFFECTIVE DATE.

This Ordinance shall become effective the 18<sup>th</sup> day of  
November, 1996.

Adopted by the Village Council of the Village of Decatur, Michigan on  
this 28<sup>th</sup> day of October, 1996.

## ORDINANCE NO. 115

### AN ORDINANCE ESTABLISHING A PARKING VIOLATION BUREAU FOR THE VILLAGE OF DECATUR, MICHIGAN AND PRESCRIBING CIVIL FINES FOR PARKING VIOLATIONS.

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

**SECTION 1:** Pursuant to Section 8395 of the Revised Judicature Act of the State of Michigan, as amended, being MSA 27A.8395, a parking violations bureau, for the purpose of accepting civil infraction admissions of parking violations within the Village of Decatur, Michigan, is hereby established. The parking violations bureau shall be under the supervision and control of the Village Chief of Police.

**SECTION 2:** The Village Chief of Police shall, subject to the approval of the Village Council, establish a convenient location for the parking violations bureau, appoint qualified village employees to administer the bureau and adopt rules and regulations for the operation thereof.

**SECTION 3:** No violation not scheduled in section 6 of this ordinance shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau and in any case the person in charge of such bureau may refuse to dispose of such violation in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

**SECTION 4:** No violation may be settled at the parking violations bureau except at the specific request of the alleged violators. No civil fine for any violation shall be accepted from any person who denies having committed the offense and in no case shall the person who is in charge of the bureau determine, or attempt to determine the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him/her or in any way diminish the rights, privileges and protection accorded to him/her by law.

**SECTION 5:** The issuance of a traffic ticket or parking violation notice by a police officer of the Village shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the civil fine scheduled for the offense for which the ticket was issued. A traffic citation shall issue to the owner of the vehicle if such a person fails to respond within the time limited.

**SECTION 6:** Civil fines for Uniform Traffic Code Parking Violations, heretofore adopted by the Village as Ordinance No. 42, are hereby established as follows, to-wit:

<u>OFFENSE</u>	<u>UTC</u> <u>SECTIONS</u>	<u>MOTOR</u> <u>VEH CODE</u>	<u>FINE</u>
Parking to far from curb	R 28.1801	257.675(1)	\$15.00
	R 28.1802	257.675(2)	\$15.00
Angle Parking Violations	R 28.1803	257.675(3)	\$15.00
Obstructing traffic	Rescinded	257.676(b)	\$25.00
Prohibited parking	Rescinded	257.674	
(a) On sidewalk:			\$25.00
(b) In front of a public or private driveway:			\$25.00
(c) Within an intersection:			\$50.00
(d) Within 15 feet of a fire hydrant:			\$25.00
(e) On a crosswalk:			\$25.00
(f) Within 20 feet of a crosswalk, or if none, then within 15 feet of the intersection of property lines at an intersection of streets:			\$25.00
(g) Within 30 feet upon the approach to any flashing beacon, stop sign, yield right-of-way sign, or traffic-control signal located at the side of a street:			\$25.00
(h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings:			\$25.00
(i) Within 50 feet of the nearest rail of a railroad crossing			\$25.00
(j) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station, within 75 feet of said entrance when properly sign-posted:			\$50.00
(k) Along side or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic:			\$25.00
(l) On the street side of any vehicle stopped or parked at the edge or curb of a street:			\$25.00
(m) On any bridge or other elevated structure on a street or within a street tunnel:			\$25.00
(n) Within 200 feet of an accident at which police officers are in attendance:			\$50.00
(o) In front of any theater:			\$25.00
(p) In any place or in any manner so as to block immediate egress from any emergency exit or exits conspicuously marked as such on buildings;			\$50.00

<u>OFFENSE</u>	<u>UTC</u> <u>SECTIONS</u> Rescinded	<u>MOTOR</u> <u>VEH CODE</u> 257.674	<u>FINE</u>
(q) In any place or in any manner so as to block or hamper the immediate use of an immediate egress from any fire escape conspicuously marked as such providing an emergency means of egress from any building:			\$50.00
(r) At any place where official signs prohibit Stopping standing or parking:			\$25.00
(s) In a parking space designated as handicapped parking, unless the person is a handicapper or the vehicle is parked for the benefit of a handicapper:			\$50.00
Violations for parking, Stopping or standing in an alley	R 28.1813		\$25.00
Parking for prohibited purpose - A person shall not park a vehicle on any street for the principal purpose of doing any of the following:	R 28.1814		
(a) Displaying such vehicle for sale:			\$25.00
(b) Washing, polishing, greasing, or repairing such vehicle, except repairs necessitated by an emergency:			\$25.00
(c) Displaying Advertising:			\$25.00
(d) Selling merchandise from such vehicle except in a duly established market place, or when so authorized or licensed under the ordinance of this governmental unit:			\$25.00
(e) Storage for more than 48 continuous hours:			\$25.00
Loading Zone Violation	Rescinded	257.674(u)	\$25.00
Bus, parking other than at bus stop	R 28.1819		\$25.00
Taxicab, parking other than at a cab stand	R 28.1819		\$25.00
Bus, taxicab stand violations	R 28.1820	257.674(u)	\$25.00
Leaving ignition key in unattended motor vehicle	R 28.1458	257.676	\$25.00
Failure to set brakes		257.676	\$25.00
Parked on grade, wheels not turned to curb		257.676	\$25.00
Bicycle parking violations	R 28.1617		\$15.00
	R 28.1617(a)		\$15.00

**SECTION 7:** In the event that civil fines for a parking violation are not paid within 72 hours from the time violation notice is issued, a traffic citation for a civil infraction shall be issued to the owner of the vehicle.

**SECTION 8:** Ordinances #67 and #70 are hereby repealed. Any other ordinances or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby repealed.

**SECTION 9:** This ordinance shall become effective the 2<sup>nd</sup> day of January, 1997.

Adopted by the Village Council of the Village of Decatur, Michigan on this 2<sup>nd</sup>, day of December, 1996.

ORDINANCE NO. 116

(LAND DIVISION ORDINANCE)

AN ORDINANCE TO REGULATE PARTITIONING OR DIVISION OF PARCELS OR TRACTS OF LAND, ENACTED PURSUANT BUT NOT LIMITED TO MICHIGAN PUBLIC ACT 288 OF 1967, AS AMENDED BY MICHIGAN PUBLIC ACT 591 OF 1996; TO PROVIDE A PROCEDURE THEREFORE; TO REPEAL ANY ORDINANCE OR PROVISION THEREOF IN CONFLICT HERewith; AND TO PRESCRIBE PENALTIES AND ENFORCEMENT REMEDIES FOR THE VIOLATION OF THIS ORDINANCE.

THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN ORDAINS:

Section 1.        SHORT TITLE.

This Ordinance shall be known and may be cited as the "Village of Decatur Land Division Ordinance".

Section 2.        PURPOSE.

The purpose of this Ordinance is to carry out the provisions of the State Land Division Act (Michigan Public Act 288 of 1967, as amended, formerly known as the Subdivision Control Act); to prevent the creation of parcels of property which do not comply with applicable Ordinances and said Act; to minimize potential boundary disputes; to maintain orderly development of the community and otherwise to provide for the health, safety and welfare of the residents and property owners of the Village, by establishing reasonable standards for prior review and approval of land divisions within the Village of Decatur, Van Buren County, Michigan.

Section 3.        DEFINITIONS.

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

A.    "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

B.    "Divided" or "Division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, personal representatives, legal representatives, successors or assigns, for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

C.    "Exempt split" or "exempt division" - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, personal representatives, legal representatives, successors or assigns, that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads or through existing private roads or easements, or through areas owned by the owner of the parcel that can provide such access.

D. "Forty (40) acres or the equivalent" - either forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.

E. "Governing body" - the Village Council of the Village of Decatur.

#### Section 4. PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS.

Land in the Village of Decatur shall not be divided without the prior review and approval of the municipal assessor, or other official designated by the governing body, in accordance with this Ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

A. A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act and in conformity with the Zoning Ordinance of the Village of Decatur, and any other applicable Ordinances.

B. A lot in a recorded plat proposed to be divided in accordance with the Village of Decatur Subdivision Control Ordinance and the State Land Division Act.

C. An exempt split as defined in this Ordinance.

#### Section 5. APPLICATION FOR LAND DIVISION APPROVAL.

An applicant shall file all of the following with the official designated by the governing body to review and approve a proposed land division before making any non-exempted land division either by deed, land contract, lease for more than one (1) year, or for building development:

A. A completed application on such form as may be provided by the Village of Decatur.

B. Proof of fee ownership of the land proposed to be divided.

C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Michigan Public Act 132 of 1970, as amended (MCL 54.211), by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

In lieu of such survey map, at the applicant's option, the applicant may waive the thirty (30) day statutory requirement for a decision on the application until such survey map and legal description are filed with the municipality, and submit a tentative preliminary parcel map drawn to scale of 200 feet per inch, and including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads for vehicular traffic and public utilities, for preliminary review, approval, and/or denial by the locally designated official prior to a final



application under Section 5.

The governing body of the municipality, or its designated agent delegated such authority by the governing body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. However, an accurate legal description of all the proposed divisions shall at all times be required.

D. Proof that all standards of the State Land Division Act and this Ordinance have been met.

E. The history and specifications of any previous divisions of land of which the proposed division was a part of, sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.

F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

G. If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights to be transferred.

H. Unless a division creates a parcel which is acknowledged and declared to be "not buildable" under Section 8 of this Ordinance, all divisions shall result in "buildable" parcels containing sufficient "buildable" area outside of unbuildable wetlands, flood plains and other areas where building is prohibited therefrom, with sufficient area to comply with all applicable requirements of the Zoning Ordinance of the Village of Decatur, including but not limited to requirements for size of premises, minimum width at site of access to the premises, yard or setback provisions, minimum floor areas, off-street parking spaces, and accessibility; and shall further have sufficient area to comply with the Van Buren County, Michigan Health Department requirements for on-site sewage disposal and water well locations (where public water and sewer service is not available).

I. The fee as may from time to time be established by resolution of the governing body of the Village of Decatur for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

Section 6.       PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND  
DIVISION APPROVAL.

A. Upon receipt of a land division application package, the official designated by the governing body shall approve, approve with reasonable conditions to assure compliance with applicable Ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within thirty (30) days after receipt of the application package conforming to this Ordinance's requirements. Said official shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to the requirements of this

Ordinance and the State Land Division Act, said designee shall return same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.

B. Any person or entity aggrieved by the decision of the designee may, within thirty (30) days of said decision, appeal the decision to the governing board of the Village which shall consider and resolve such appeal by a majority vote of said board at its next regular meeting or session; provided that a twenty (20) day written notice to the applicant (and appellant where other than the applicant), has been given of the time and date of said meeting and appellate hearing.

C. A decision approving a land division is effective for one (1) year, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the designated official accomplishing the approved land division or transfer, or unless said time period is further extended by the Village Council of the Village of Decatur.

D. The Municipal Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

#### Section 7. STANDARDS FOR APPROVAL OF LAND DIVISIONS.

A proposed land division shall be approved if the following criteria are met:

A. All the parcels to be created by the proposed land division(s) fully comply with the applicable requirements of the Village of Decatur Zoning Ordinance, including but not limited to requirements for size of premises, minimum width at site of access to the premises, yard or setback provisions, minimum floor areas, off-street parking spaces, and accessibility.

B. The proposed land division(s) comply with all requirements of the State Land Division Act and this Ordinance.

C. Each resulting parcel that is "buildable" (development site) and not served by public water or sewer service, must have approval from the Van Buren County, Michigan Health Department for on-site water supply and on-site sewage disposal.

D. All parcels created and remaining have existing adequate accessibility or an area available therefor, to a public road and for public utilities, emergency and other vehicles, of not less than the requirements of the Zoning Ordinance of the Village of Decatur, and if same is not accessible to a Village public road as said parcel adjoins State Highway M-51, same shall have a driveway permit issued by the State Transportation Department.

E. For any parcel created of ten (10) acres or less, the depth of same shall not be more than four (4) times its width, exclusive of access roads, easements, or non-buildable parcels created under Section 8 of this Ordinance. Said ratio does not apply to parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division

shall be measured within the boundaries of each parcel from the abutting road or right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum width shall be as defined in the Zoning Ordinance of the Village of Decatur.

The Village Council may allow a greater depth to width ratio than four (4) to one (1) in the event there are exceptional topographic or physical conditions with respect to the parcel to be divided; and said division is compatible with the surrounding lands; and same would not be detrimental or injurious to the use or development of adjacent properties.

#### Section 8. ALLOWANCE FOR APPROVAL OF OTHER LAND DIVISIONS

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the Zoning Ordinance of the Village of Decatur this Ordinance may be approved in any of the following circumstances:

A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Village of Decatur Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four (4) feet in height.

B. Where, in circumstances not covered by paragraph A above, the Village of Decatur Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.

C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, the Zoning Ordinance of the Village of Decatur, or the State Land Division Act.

#### Section 9. CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENTS.

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals including Special Exception Land Use approval or site plan approval, and shall not be recognized as a separate parcel on the tax assessment roll of said Village. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section 10 of this Ordinance, and as may otherwise be provided by law.

#### Section 10. PENALTIES AND ENFORCEMENT.

Any person, firm, association, partnership, or corporation who

shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be subject to a fine of not more than \$500.00, plus Court costs and costs of prosecution, or by imprisonment in the county jail for a term not exceeding ninety (90) days, or both, at the discretion of the Court.

Any person, firm, association, partnership, or corporation who violates any of the provisions of this Ordinance shall also be subject to a civil action seeking invalidation of the land division and appropriate injunctive or other relief.

Section 11.      SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, same shall not be deemed or held to affect the validity of any other portion of this Ordinance.

Section 12.      REPEAL.

All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Village of Decatur Zoning Ordinance, the Municipality Subdivision Control Ordinance, or the Municipality Building Code.

Section 13.      EFFECTIVE DATE.

This Ordinance shall become effective the 1st day of July, 1997.

## **ORDINANCE NO. 117**

### **VILLAGE MANAGER ORDINANCE**

AN ORDINANCE ESTABLISHING THE OFFICE OF VILLAGE MANAGER; PROVIDING FOR THE APPOINTMENT, COMPENSATION AND DISCHARGE OF SUCH OFFICIAL; SPECIFYING THE BRANCHES OF THE VILLAGE GOVERNMENT AND ACTIVITIES UNDER THE MANAGEMENT AND CONTROL OF THE VILLAGE MANAGER; AND DEFINING AND LIMITING THE RIGHTS, POWERS AND LIABILITIES OF THE VILLAGE MANAGER.

THE VILLAGE OF DECATUR, MICHIGAN ORDANINS:

**SECTION 1. ESTABLISHMENT OF OFFICE.** In accordance with the authority for the appointment of such Village officers as the Council shall deem necessary for the execution of the powers granted to the Village contained in Section 2 of chapter II and section 8 of chapter V of Michigan Public Act No. 3 of 1895, as amended, being M.S.A. 5.1216 and 5.1270 (11), respectively, there is hereby established the office of Village Manager.

**SECTION 2. APPOINTMENT OF VILLAGE MANAGER.** The President shall, with the concurrence of four or more Trustees, appoint a Village Manager for an indefinite term and the Council may, by contract, enter into such other terms and conditions as the Manager and Council deem appropriate. The Manager shall serve at the will and pleasure of the Council and may be removed by the affirmative vote of four or more Trustees, but only after a hearing before the Council. The President may, for cause, suspend the Manager with full pay, until the hearing. The action of the Council in removing the Manager shall be final.

The Manger shall be selected solely on the basis of administrative and executive abilities with special reference to training and experience.

The Manager need not be a resident of the Village at the time of the appointment but shall become a resident within 180 days from the date of the appointment with extensions permitted upon approval of the Council. The Manager shall reside in the Village thereafter during the term of office.

**SECTION 3. ACTING VILLAGE MANAGER.** The President, with the concurrence of four or more Trustees, may appoint or designate an acting Manager during a vacancy in the office of Village Manager. A Village Manager, appointed in accordance with Section 2 of this ordinance, shall be deemed to be the acting Manager from the date of the appointment until the appointee becomes a resident of the Village of Decatur.

**SECTION 4. COMPENSATION.** The Village Manager shall receive such compensation as the Council shall determine annually by resolution of contract.

**SECTION 5. DUTIES.** The village Manager shall be the Chief Administrative officer of the Village and shall be responsibility to the Village Council for the efficient administration of all affairs of the Village and shall exercise management supervision over all Village departments and over all public property belonging to the Village.

The Manager shall have the following functions and duties:

- A. Attend all meetings of the Village Council and committees thereof, and take part therein, but without a vote;
- B. Shall be authorized to attend all meetings of Village boards and commissions, including the Village Zoning Board, with the right to take part therein, but without a vote;
- C. Supervise the preparation of an annual budget and submit it to the council for its approval and adoption, and be responsible for the administration thereof;
- D. Investigate all complaints concerning the administration of the Village and provide any pertinent information concerning said complaints to the Council, and said Manager shall have authority at all times to inspect the books, records and papers of any agent, employee or officer of the Village.
- E. Make recommendations to the Council for the adoption of such measures as may be deemed necessary or expedient for the improvement or betterment of the Village;
- F. Be responsible for keeping the Village in compliance with all State and Federal Regulations;
- G. Be responsible for personnel management and shall issue, subject to Council approval, personnel rules applicable to all Village employees. Also to prepare and maintain an administrative code defining the duties and functions of the several officers and departments of the Village, subject to council approval. In regard thereto the Manager shall have the following responsibilities:
  - 1) To appoint, suspend or remove all appointed administrative officers and department heads, subject to council approval. The Manager shall recommend to the Council the salary or wages to be paid each such official.
  - 2) To employ, suspend or discharge all other employees of the Village in cooperation with department heads. All such actions shall be based on merit and taken pursuant to personnel rules approved by the Council. The Manager shall fix the salaries or wages of all such employee, subject to Council approval.
  - 3) To negotiate collective bargaining agreements with any unions representing Village employees.
- H. Exercise supervisory control over all departments and department heads, including the Police Department, Sewer & Water Department, Street Department and Parks Department.
- I. Exercise supervisory responsibility over the accounting, budgeting, personnel, purchasing and related management functions of the village Clerk and Village Treasurer.
- J. Be the purchasing agent of the Village.
- K. Perform other duties required from time to time by the Village council

**SECTION 6.** PURCHASING RESPONSIBILITIES. The Village Manager shall act as purchasing agent for all Village offices and departments. The Manager may delegate some or all the duties as purchasing agent to another officer or employee provided that such delegation shall not relieve the Manager of the responsibility for the proper conduct of those duties.

The Village Manager shall have the authority to purchase any product or service the cost of which does not exceed \$500.00 provided that funds have been appropriated. The cost of the product or service

shall not exceed the unencumbered balance of the appropriation for the account. Except as hereinafter provided, the Village Manager shall not purchase any product or service the cost of which exceeds the above dollar amount without prior approval of the Village Council. The Village Manager may promulgate rules governing the purchase of products or services.

The village Manager shall have the authority to purchase any product or service regardless of its cost when such purchase is necessitated by an emergency condition. "Emergency condition" is defined to mean any event which presents an imminent threat to the public health or safety or any event which would result in the disruption of a Village service which is essential to the public health or safety.

**SECTION 7.** DEALING WITH EMPLOYEES. Neither the council nor the Village President shall attempt to influence the employment of any person by the Village Manager or in any way interfere in the management of departments under the jurisdiction of the Manager. Except for purpose of inquiry the President and Council and its members shall deal with departments under the jurisdiction of the Village Manager through the Manager.

**SECTION 8.** SEVERABILITY. If any portion of the ordinance or the application thereof to any person or circumstance shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications, provided that such remaining portions or applications are not terminated by said Court to be inoperable, and to this end, this ordinance is declared to be severable.

**SECTION 9.** This ordinance shall become effective 45 days after the date of adoption. If a petition, signed by not less than 10 percent of the registered electors of the Village is filed with the Village Clerk within the 45 day period, this ordinance shall not become effective until after the ordinance is approved at an election held on the question as provided by law.

**Adopted by the Village Council of the Village of Decatur, Michigan on this 6<sup>th</sup> day of October, 1997.**

**ORDINANCE NO. 122**

**AN ORDINANCE TO AMEND ORDINANCE NO. 22 OF THE VILLAGE OF DECATUR, MICHIGAN, ENTITLED “AN ORDINANCE DEFINING PUBLIC NUISANCES, PROHIBITING THEIR CREATION OR MAINTENANCE, AND PROVIDING PENALTIES THEREFORE.”**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1-**      Section 5 of Ordinance No. 22 of the Village of Decatur, Michigan is hereby repealed.

**Section 2 -**      Section 6 of Ordinance No. 22 is hereby amended to read as follows, to-wit:

Section 6-      NOTICE TO ABATE NUISANCES.

Whenever there is a violation of this Ordinance any police officer, building inspector, or other designated code enforcement official may give a written and/or verbal notice upon any person, firm or corporation violating any of the provisions of this Ordinance to cease doing or omitting to do anything declared by this Ordinance to be a nuisance, and to wholly abate same.

**Section 3 -**      Section 7 of Ordinance No. 22 is hereby amended to read as follows, to-wit:

Section 7-      ABATEMENT OF NUISANCES BY VILLAGE.

In the event that the person, firm or corporation doing or omitting to do anything herein declared to be a nuisance shall not wholly abate the same the Village of Decatur may take the necessary steps to wholly abate and remove such nuisance. All expenses incurred by the Village in abating or removing said nuisance shall be charged against the property from which the nuisance was removed and all such charges shall become a tax lien against such property.

**Section 4-**      Section 8 of Ordinance No. 22 is hereby amended to read as follows, to-wit:

Section 8-      VIOLATION.

Any violation of any provision of this Ordinance shall be a Municipal Civil Infraction. A violation includes any act which is prohibited or made or declared to be a nuisance by this Ordinance and any omission or failure to act, where the act is required by this Ordinance.

The sanction for any violation of this Ordinance shall be a civil fine not exceeding \$500.00, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of ACT No. 236 of the Michigan Public Acts of 1961 as amended, being M.S.A. 27A.8302 and 27A.8701 et seq., respectively.

**Section 5-**      This Ordinance shall become effective on the 1st day of June, 1998.

Adopted by the Village Council of the Village of Decatur, Michigan on this 4th day of May, 1998.



## **ORDINANCE NO. 125**

### **AN ORDINANCE TO REGULATE THE PLAYING OR OPERATION OF AN AMPLIFIED SOUND SYSTEM IN THE VILLAGE OF DECATUR, MICHIGAN AND TO PROVIDE FOR A CIVIL FINE FOR VIOLATION THEREOF.**

#### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1: DEFINITION OF AMPLIFIED SOUND SYSTEM.** Amplified sound system means a radio, phonograph, compact disc player, tape player, television, musical instrument, drum, sound amplifier, or similar device which produces, reproduces, or amplifies sound either electronically or mechanically.

**Section 2: UNNECESSARY NOISE DISTURBANCE PROHIBITED.** In order to protect the public health, safety and welfare of the residents of the Village of Decatur, Michigan:

A. No person shall operate, play, or permit the operation or playing of an amplified sound system which produces, reproduces or amplifies sound;

1. In such a manner as to be plainly audible across a property line.

2. In such a manner as to be plainly audible at a distance of 25 feet from an amplified sound system which is located in a Village park, or on Decatur Public School property, or any other area open to the general public, except when authorized by the Village Council of the Village of Decatur, Michigan or at a function authorized by Decatur Public Schools.

3. For the purpose of attracting attention to any performance, show, sale or display of merchandise, without the consent of the Village Council of the Village of Decatur, Michigan.

B. No person operating or in control of a parked or moving vehicle (including all motor vehicles, motorcycles, mopeds, and bicycles) shall operate, play, or permit the operation or playing of an amplified sound system which produces, reproduces, or amplifies sound in such a manner as to be plainly audible at a distance of 25 feet from such motor vehicle, motorcycle, moped, or bicycle, which is located on a public road, public right-of-way, private road, or other place open to the general public or generally accessible to motor vehicles, including an area designated for parking of motor vehicles.

**Section 3: EXCEPTION.** The provisions of this Ordinance shall not apply to any warning devices on authorized police, fire, ambulance or other emergency vehicles, or to loud speakers used by authorized police, fire, ambulance or other emergency personnel, or to horns or other warning devices of other motor vehicles, motorcycles, mopeds and bicycles when used solely for traffic safety purposes.

**Section 4: SEVERABILITY.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 5: VIOLATION AND PENALTIES.** A violation of this Ordinance is a Municipal Civil Infraction and any person, firm or corporation who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being M.S.A. 27A.8302 and 27A.8701 et seq., respectively.

**Section 6: EFFECTIVE DATE.** This Ordinance shall become effective the 22nd day of June, 1998.

Adopted by the Village Council of the Village of Decatur, Michigan on this 1st day of June, 1998.

## **ORDINANCE NO. 126**

### **AN ORDINANCE TO PROHIBIT THE BURNING OF GARBAGE AND RUBBISH IN THE VILLAGE OF DECATUR, MICHIGAN, AND TO PROVIDE FOR A CIVIL FINE FOR VIOLATION THEREOF.**

#### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1: BURNING OF GARBAGE AND RUBBISH PROHIBITED.** In order to protect the public health, safety and welfare of the residents of the Village of Decatur, Michigan, no person shall burn any garbage or rubbish within the Village of Decatur, Michigan; provided however that the normal use of fireplaces and other wood burning stoves used for heating purposes shall not be prohibited; and provided further, that condemned and/or old buildings may be burned by the Decatur/Hamilton Fire Department upon permission granted by the Village Council of Decatur, Michigan, or its agents.

**Section 2: DEFINITIONS:** Garbage and rubbish are hereby defined as follows:

A. Garbage: The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

B. Rubbish: Combustible waste materials, including but not limited to, wood, paper, cloth, plastic, leather, Styrofoam, cardboard, dead vegetation, animals and their feces, and any other combustible substance or material, except leaves.

**Section 3: SEVERABILITY.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 4: REPEAL.** All other ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 5: VIOLATION AND PENALTIES.** A violation of this Ordinance is a Municipal Civil Infraction and any person who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being M.S.A. 27A.8302 and 27A.8701 et seq., respectively.

**Section 6: EFFECTIVE DATE.** This Ordinance shall become effective the 2nd day of November, 1998.

Adopted by the Village Council of the Village of Decatur, Michigan on this 12th day of October, 1998.

**ORDINANCE NO. 129**

**AN ORDINANCE TO AUTHORIZE THE PRIVATE SALE OF CERTAIN REAL ESTATE OWNED BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1:     STATUTORY AUTHORITY FOR PRIVATE SALE.**     Pursuant to the provisions of M.S.A. 5.1288 (MCL 67.4) the Village Council of the Village of Decatur, Michigan hereby determines that it is in the best interest of the Village of Decatur, Van Buren County, Michigan to make a private sale of certain Village owned real estate, hereinafter described, to Robert W. Flory Sr. and Debora L. Haefner as Joint Tenants and Not as Tenants in Common, of 85085 Harrison Street, Decatur MI 49045, pursuant to the terms hereinafter set forth.

**Section 2:     DESCRIPTION OF REAL ESTATE.**     The real estate hereby authorized to be sold is a vacant parcel of real estate situated in the Village of Decatur, Van Buren County, Michigan, viz:

**PARCEL NO. 1:**     Part of Lots 9 and 10, Block 16, of the Village of Decatur, Van Buren County, Michigan, according to the 1905 recorded Plat thereof as recorded in Liber 2 of Plats, page 31, Van Buren County MI Register of Deed Records, being part of the Northeast Quarter of Section 20, Town 4 South, Range 14 West, and more particularly described as: Commencing at the East Quarter post of Section 20, Town 4 South, Range 14 West; thence West along the East and West Quarter line of said Section, 2006.50 feet to the West line of Harrison Street as monumented, being in the Plat of Harrison's Addition to the Village of Decatur as recorded in Liber 10 on page 238 of Van Buren County Records; thence North 00 degrees 48' 42" West, along the West line of Harrison Street as monumented, 989.32 feet to the South line of Block 16 as monumented, occupied and shown on a survey by T. A. Smith, County Surveyor dated November 24, 1944 with an addition on April 4, 1950 and with additions by W. Q. Smith County Surveyor on November 5, 1952 and September 4, 1964 and the point of beginning of the land herein described; thence North 00 degrees 48' 42" West, along the East line of the West Half of Lot 10 of said Block 16 a distance of 148.50 feet; thence North 89 degrees 59' 38" West a distance of 99.00 feet to the West line of said Lot 9; thence South 00 degrees 48' 42" East, along the West line of said Lot 9 a distance of 148.50 feet to the South line of Block 16 as monumented, occupied and shown on a survey by T. A. Smith, County Surveyor dated November 24, 1944 with an addition on April 4, 1950 and with additions by W. Q. Smith County Surveyor on November 5, 1952 and September 4, 1964; thence South 89 degrees 59' 38" East, along said South line 99.00 feet to the place of beginning, according to a Survey by Southwest Survey & Engineering Co., Inc. of Paw Paw MI, dated May 24, 1999.

**PARCEL NO. 2:**     Part of Lots 9 and 10, Block 16, of the Village of Decatur, Van Buren County Michigan, according to the 1905 recorded Plat thereof as recorded in Liber 2 of Plats, page 31, Van Buren County MI Register of Deed Records, being part of the Northeast Quarter of Section 20, Town 4 South, Range 14 West, and more particular described as: Commencing at the East Quarter post of Section 20, Town 4 South, Range 14 West; thence West along the East and West Quarter line of said Section, 2006.50 feet to the West line of Harrison Street as monumented, being in the plat of Harrison's Addition to the Village of Decatur as recorded in Liber 10 on page 238 of Van Buren County Records; thence North 00 degrees 48' 42" West, along the West line of Harrison Street as monumented, 989.32 feet to the South line of Block 16 as monumented, occupied and shown on a survey by T. A. Smith, County Surveyor dated November 24, 1944 with an addition on April 4, 1950, and with additions by W. Q. Smith County Surveyor on November 5,

1952 and September 4, 1964; thence North 00 degrees 48' 42" West, along the East line of the West Half of Lot 10 of said Block 16 a distance of 148.50 feet to the point of beginning of the land herein described; thence continuing North 00 degrees 48' 42" West, along the East line of the West Half of Lot 10 of said Block 16 a distance of 148.50 feet to the North line of said Lot 10, said North line also being the South line of Michigan Avenue; thence North 89 degrees 59' 38" West, along the North line of Lot 10 and Lot 9 of said Block 16 a distance of 99.00 feet to the Northwest corner of Lot 9 of Block 16; thence South 00 degrees 48' 42" East, along the West line of said Lot 9 a distance of 148.50 feet; thence South 89 degrees 59' 38" East 99.00 feet to the place of beginning, according to a Survey by Southwest Survey & Engineering Co., Inc. of Paw Paw MI, dated May 24, 1999.

**Section 3:     TERMS OF SALE.**   The sales price is the sum of \$5,500.00, payable in cash, upon execution of a Warranty Deed conveying title to said real estate to Robert W. Flory Sr. and Debora L. Haefner.   The Village of Decatur further agrees to pay all State and County Transfer taxes and to furnish a policy of Title Insurance showing good and marketable title in its name.

**Section 4:     AUTHORITY TO EXECUTE DOCUMENTS.**   Upon payment of the aforesaid sales price, David D. Moormann and Norma Strickler the Village President and Clerk respectively, are hereby authorized and directed to execute on behalf of the Village of Decatur, a Warranty Deed conveying said real estate to Robert W. Flory Sr. and Debora L. Haefner as Joint Tenants and Not as Tenants in Common, together with any and all other documents that may be required or necessary.

**Section 5:     EFFECTIVE DATE.**   This Ordinance shall become effective the 13th day of September, 1999.

Adopted by the Village Council of the Village of Decatur, Michigan on this 13th day of September, 1999.

**ORDINANCE NO. 130**

**AN ORDINANCE PROHIBITING THE CONSUMPTION OR POSSESSION IN AN OPEN CONTAINER OF ANY ALCOHOLIC LIQUOR IN OR UPON ANY STREET, ALLEY, PARK OR ANY OTHER PUBLIC PLACE WITHIN THE VILLAGE OF DECATUR, OR UPON LANDS OWNED BY THE VILLAGE OF DECATUR.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1:** It shall be unlawful for any person to consume or have in their possession, in an open container, any alcoholic liquor in or upon any street, alley, park or any other public place within the Village of Decatur, or upon lands owned by the Village of Decatur, including “Elmer Red Woolfe Park”, except with the express consent of the Village Council of the Village of Decatur, Michigan.

**Section 2:** Alcoholic liquor shall include any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of one percent or more of alcohol by volume.

**Section 3:** Ordinance No. 41 and No. 90 are hereby repealed. Any other Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 4:** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 5:** A violation of this Ordinance is a Municipal Civil Infraction and any person who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 and 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

**Section 6:** This Ordinance shall become effective the 1st day of October, 1999.

Adopted by the Village Council of the Village of Decatur, Michigan on this 13th day of September, 1999.

## **ORDINANCE NO. 131**

**AN ORDINANCE TO AMEND THE FOLLOWING ORDINANCES TO MAKE A VIOLATION THEREOF A MUNICIPAL CIVIL INFRACTION, TO-WIT: NO. 19 (LITTERING OF STREETS); NO. 20 (ADMINISTRATION & CONDUCT OF WATER DEPARTMENT); NO. 28 (U-TURNS PROHIBITED); NO. 91 (CONTROL AND ERADICATION OF NOXIOUS WEEDS & GRASSES); NO 97 (REGULATION OF GARAGE & OTHER CASUAL SALES); NO. 105 (REGULATING TRUCK PARKING AND TRUCK & BUS TRAFFIC); NO. 108 (REGULATING THE POSSESSION AND BEHAVIOR OF ANIMALS); NO. 16 & NO. 109 (REGULATING SIDEWALKS); AND NO. 116 (LAND DIVISION).**

### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1:** The penalty/violation provisions of **Ordinance No. 19** regulating littering of streets; **Ordinance No. 20** regulating the administration and conduct of water department; **Ordinance No. 28** prohibiting u-turns; **Ordinance No. 91** concerning the control and eradication of noxious weeds & grasses; **Ordinance No. 97** regulating garage and other casual sales; **Ordinance No. 105** regulating truck parking & truck and bus traffic; **Ordinance No. 108** regulating the possession and behavior of animals; **Ordinances No. 16 & No. 109** regulating sidewalks; and **Ordinance No. 116** regulating land division, are hereby amended to provide that a violation of said Ordinance is a Municipal Civil Infraction subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 and 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

**Section 2:** All other enforcement provisions of said Ordinances not in conflict with Section 1 of this Ordinance shall remain in full force and effect.

**Section 3:** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 4:** This Ordinance shall become effective the 1st day of October, 1999.

Adopted by the Village Council of the Village of Decatur, Michigan on this 13th day of September, 1999.

## ORDINANCE NO. 133

### **AN ORDINANCE TERMINATING THE ADMINISTRATION AND ENFORCEMENT BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN, OF MICHIGAN PUBLIC ACT 230 OF 1972, AS AMENDED, IN REGARD TO THE STATE BUILDING AND MECHANICAL CODES.**

#### **THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN ORDAINS:**

**Section 1-** TERMINATION OF ADMINISTRATION AND ENFORCEMENT. The administration and enforcement by the Village of Decatur, Van Buren County, Michigan, of Michigan Public Act 230 of 1972, as Amended, in regard to the State Building and Mechanical Codes is hereby terminated, and the administration and enforcement of said Act and Codes are hereby relinquished unto the State of Michigan.

**Section 2-** TERMINATION OF POSITION OF BUILDING AND MECHANICAL INSPECTOR. The position of building and mechanical inspector for the Village of Decatur, Van Buren County, Michigan is hereby terminated.

**Section 3-** REPEAL. That Ordinance No. 86 adopted on September 7, 1982, entitled "An Ordinance to Designate an Enforcing Agency to Discharge the Responsibilities of the Village of Decatur Under the Provisions of the State Construction Code Act (Act 230 of the Public Acts of 1972, as Amended). Re: State Building and Mechanical Codes", is hereby repealed.

**Section 4-** EFFECTIVE DATE. This Ordinance shall be effective the 4th day of October, 1999.

Adopted by the Village Council of the Village of Decatur, Van Buren County, Michigan on this 4th day of October, 1999.



## **ORDINANCE NO. 134**

### **AN ORDINANCE TO DESIGNATE AN ENFORCING AGENCY TO DISCHARGE THE RESPONSIBILITIES OF THE VILLAGE OF DECATUR, MICHIGAN UNDER THE PROVISIONS OF THE STATE CONSTRUCTION CODE ACT (ACT 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED [MSA 5.2949(1)]) - IN REGARD TO THE STATE BUILDING CODE.**

#### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1: AGENCY DESIGNATED.** Pursuant to the provisions of Section 9 of Act 230 of the Public Acts of 1972, as Amended, (State Construction Code), the Building Official of the Village of Decatur, Michigan is hereby designated as the enforcing agency to discharge the responsibilities of the Village of Decatur under Act 230 of the Michigan Public Acts of 1972, as Amended. The Village of Decatur hereby assumes responsibility for the administration and enforcement of said Act, in regard to the State Building Code, throughout its corporate limits.

**Section 2: VIOLATIONS.** Violations of said Act in regard to the State Building Code shall be a Municipal Civil Infraction, and any person, firm, association, partnership, limited liability company or corporation, including any officer, partner, member, director or employee thereof who:

- A. Knowingly violates said act or the State Building Code or a rule for the enforcement of said act or code;
- B. Knowingly constructs or builds a structure or building in violation of a condition of a building permit;
- C. Knowingly fails to comply with any order issued by an enforcing agency or a construction board of appeals;
- D. Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal to an enforcing agency or a construction board of appeals;
- E. Knowingly refuses entry or access to a building inspector lawfully authorized to inspect any premises, building, or structure pursuant to this act;
- F. Unreasonably interferes with an authorized building inspection;
- G. Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit, or license in violation of said act or a rule promulgated under said act or other applicable laws in regard to the State Building Code;
- H. Having a duty to report violations of said act or a rule promulgated under said act or other applicable laws in regard to the State Building Code knowingly conceals a violation;

shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

**Section 3: REPEAL CLAUSE.** All Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 4: SEVERABILITY.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 5:     EFFECTIVE DATE.**   This Ordinance shall become effective the 1<sup>st</sup> day of June, 2000.

Adopted by the Village Council of the Village of Decatur, Michigan on this 15<sup>th</sup> day of May, 2000.

**ORDINANCE NO. 135**

**AN ORDINANCE TO AUTHORIZE THE PRIVATE SALE OF CERTAIN REAL ESTATE OWNED BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1: STATUTORY AUTHORITY FOR PRIVATE SALE.** Pursuant to the provisions of M.S.A. 5.1288 (MCL 67.4) the Village Council of the Village of Decatur, Michigan hereby determines that it is in the best interest of the Village of Decatur, Van Buren County, Michigan to make a private sale of the Village of Decatur's one-third interest in certain real estate, to Fred C. Reeder and Donna Reeder, husband and wife, pursuant to the terms hereinafter set forth. Said real estate is presently owned by the Village of Decatur, Township of Decatur and Township of Hamilton with each municipal corporation owning a one-third interest therein as Tenants in Common.

**Section 2: DESCRIPTION OF REAL ESTATE.** The real estate hereby authorized to be sold is situated in the Village of Decatur, Van Buren County, Michigan, and more particularly described in Schedule "A" attached hereto and made a part hereof.

**Section 3: TERMS OF SALE.** The total sales price for the entire parcel is the sum of \$15,500.00, payable in cash, upon execution of a Warranty Deed conveying title to said real estate to Fred C. Reeder and Donna Reeder, his wife. Said purchasers are to pay expenses relating to a survey of said property, all State and County Transfer taxes, and the premium for a policy of Title Insurance.

**Section 4: AUTHORITY TO EXECUTE DOCUMENTS.** Upon payment of the aforesaid sales price, Carl A. Wickett and Norma Strickler the Village President and Clerk respectively, are hereby authorized and directed to execute on behalf of the Village of Decatur, a Warranty Deed conveying the Village of Decatur's one-third interest in said real estate to Fred C. Reeder and Donna Reeder as Tenants by the Entireties, together with any and all other documents that may be required or necessary.

**Section 5: EFFECTIVE DATE.** This Ordinance shall become effective the 10th day of July, 2000.

Adopted by the Village Council of the Village of Decatur, Michigan on this 10th day of July, 2000.

**ORDINANCE NO.136**  
**DANGEROUS BUILDINGS**

**AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN, BY THE REGULATION OF DANGEROUS BUILDINGS INJURIOUS TO LIFE OR HEALTH; TO PROVIDE FOR THE MEANS BY WAY OF HEARINGS FOR THE MAKING SAFE OR DEMOLITION OF SUCH DANGEROUS BUILDINGS; TO PROVIDE FOR THE APPOINTMENT OF A HEARING OFFICER; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; TO PROVIDE FOR ASSESSMENT OF THE COST OF MAKING SAFE OR DEMOLITION OF DANGEROUS BUILDINGS; AND TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

**THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN ORDAINS:**

**Section 1:     TITLE.**   This Ordinance shall be known and cited as the Village of Decatur Dangerous Buildings Ordinance.

**Section 2:     DANGEROUS BUILDING DEFINED.**   As used in this Ordinance, the term “dangerous building” means any building or structure, residential or otherwise, which has one or more of the following defects or is in one or more of the following conditions:

- a.       Whenever any door, aisle, passageway, stairway or other means of ingress or egress does not conform to the Building Code or the fire code effective within the Village of Decatur, Michigan.
- b.       Whenever a portion of any building or structure has been damaged by fire, wind, flood, or by any other cause so that the structural strength or stability of the building or structure is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the Housing Law of Michigan, MCL 125.401 et. seq., as amended (MSA 5.2771) or the minimum requirements of the Building Code enforced in the Village of Decatur, Michigan.
- c.       Whenever any part of a building or structure is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- d.       Whenever any portion of a building or structure has settled to such an extent that walls or other structural portions have materially less resistance to wind than is required in the case of new construction by the Housing Law of the State of Michigan, or the Building Code enforced in the Village of Decatur, Michigan.
- e.       Whenever the building or structure or any part thereof, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion

of the ground necessary for supporting such building or portion thereof, or for any other reason, is likely to partially or completely collapse, or if some portion of the foundation or underpinning of the building or structure is likely to fall or give way.

- f. Whenever for any reason whatsoever the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is used or is open or vacant at a door or window, leaving it exposed on the interior to the elements or accessible to entrance by trespassers.
- g. When the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play about or in such building or structure, or seek entry thereto to their danger, or when same becomes a harbor for vagrants, criminals or immoral persons, or enables persons to use it for purpose of committing a nuisance or unlawful or immoral act.
- h. Whenever a building or structure, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement or otherwise is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by a County or State Health Officer, or is likely to cause injury to the health, safety or general welfare of those living or working within.

**Section 3: PROHIBITION.** It shall be unlawful for any owner, lessee or agent thereof, to keep or maintain any building or part thereof which is a dangerous building or structure as defined in this Ordinance. The Village may seek a Judgment against all parties in interest to enforce orders made under this Ordinance or to enjoin violations of this Ordinance and to recover costs and actual reasonable attorneys fees.

**Section 4: NOTICE OF DANGEROUS BUILDING OR STRUCTURE.**

- a. When the whole or any part of any building or structure is found to be a dangerous building or structure, the Village Building Inspector shall issue a notice of such dangerous condition.
- b. Such notice shall be directed to the owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of the Village of Decatur.
- c. The notice shall specify the time and place of a hearing on whether the building or structure is a dangerous building, at which time and place the person to whom the notice is directed shall have the opportunity to show cause at such hearing why the Hearing Officer should not order the building or structure to be demolished or otherwise made safe or properly maintained.
- d. All such notices required by this Ordinance shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed

by Certified Mail, Return Receipt Requested, addressed to such owner or party in interest at the address shown on the tax records, at least ten days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure at least 10 days prior to the hearing date.

**Section 5: HEARING OFFICER, TESTIMONY AND DECISION.**

- a. A hearing officer with experience in housing matters or building construction, including (but not limited to) an engineer, architect, contractor or building inspector who is not an employee of the Village shall be appointed by the Village Manager to serve at the pleasure of the Village Manager to conduct said hearing.
- b. The Village building inspector shall file, in advance, with the hearing officer, a copy of the notice(s) sent under Section 4 with Proof of Mailing or other Service thereof.
- c. At any hearing held, the hearing officer shall take evidence and testimony of the building inspector, the owner of the property, and any other interested party. Upon the conclusion of taking of such testimony the hearing officer shall render his decision within five (5) days either closing the proceeding or ordering the building or structure to be demolished or otherwise made safe or properly maintained by the owners.
- d. If it is determined by the hearing officer that the building or structure has a dangerous condition and should be demolished or otherwise maintained or made safe, the hearing officer shall so order, fixing a time in the order not exceeding ninety (90) days, for the owner or party in interest to comply therewith.
- e. If the owner or party in interest fails to appear for the hearing or neglects or refuses to comply with the order, the hearing officer shall file a report of the findings and a copy of the order with the Decatur Village Council, not more than five (5) days after noncompliance by the owner, and request that the necessary action be taken to enforce the order. A copy of the findings and order of the hearing officer shall also be served on the owner or party in interest in the manner prescribed in Section 4 subparagraph d of this Ordinance.

**Section 6: HEARING BEFORE VILLAGE COUNCIL.** Upon receiving the findings and order of the hearing officer, the Decatur Village Manager or Clerk shall fix a date for hearing, not less than thirty (30) days after the prior hearing, to review the findings and order of the hearing officer and shall give notice to the owner or party in interest in the manner prescribed in Section 4 subparagraph d of this Ordinance, of the time and place of the hearing. At the hearing before the Village Council, the owner or party in interest shall be given the opportunity to show cause why the order should not be enforced. The Village Council shall either approve, disapprove or modify the order for demolition or making the building or structure safe or properly maintained. If the order is approved or modified the owner or party in interest shall comply with the order within sixty (60) days after the date of this hearing. In the case of an order of demolition if the Decatur Village Council determines that the building or structure has been substantially destroyed by fire,

wind, flood, or other natural disaster and the costs of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner or party in interest shall comply with the order of demolition within twenty-one (21) days after the date of said hearing. The aforesaid dates of compliance in this Section may be extended by the Decatur Village Council upon a showing of good cause. .

**Section 7: FAILURE OR REFUSAL TO COMPLY; LIEN AGAINST PREMISES.** In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Decatur Village Council, the Council may, in its discretion, contract for the demolition or making the building or structure safe or properly maintained. The owner or party in interest in whose name the property appears upon the last local tax assessment records of the Village of Decatur shall be liable for all costs, and shall be notified by the Decatur Village assessor of the amount of such costs by first class mail mailed to the address shown on the records. If the owner or party in interest fails to pay such costs within thirty (30) days after such mailing the Village of Decatur shall have a lien for the costs incurred by said Village to bring the property into conformance with this Ordinance. Said lien shall not take effect until the notice of the lien has been recorded with the Register of Deeds for Van Buren County, Michigan, and same will not have priority over a previously recorded bonafide Mortgage or encumbrance. The lien for such costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act (Act Number 206 of the Public Acts of 1893, being Sections 211.1 to 211.157 of the Michigan Compiled Laws), and the Decatur Village assessor shall add such lien to the next tax roll of the Village of Decatur and the same shall be collected in the same manner in all respects as provided by the law for the collection of taxes by the Village.

**Section 8: JUDICIAL REVIEW.** An owner or party in interest aggrieved by any final decision of the Decatur Village Council may appeal the decision or order to the Circuit Court for the County of Van Buren by filing a petition for an order of superintending control within twenty (20) days after the date of such decision or order.

**Section 9: ACTION AGAINST OWNER; LIEN ON PROPERTY.** In addition to other remedies under this Ordinance the Village of Decatur may bring an action against the owner of the building or structure for the full cost of the demolition, or of making the building or structure safe or properly maintained, together with costs of said action and actual reasonable attorney fees. If a Judgment is obtained the Village of Decatur shall have a lien against such property for the amount of said Judgment and against the owner's interest in all real property located in the State of Michigan that is owned in whole or in part by the owner of the building or structure against whom the Judgment is obtained. The lien provided for in this Section does not take effect until notice of the lien is filed or recorded as provided by law, and said lien does not have priority over prior recorded bonafide liens and encumbrances. Further said Judgment may be enforced against other assets of the owner.

**Section 10: NON-COMPLIANCE WITH ORDER; MISDEMEANOR.** Any person who fails or refuses to comply with an order approved or modified by the Decatur Village Council within the time prescribed in the Ordinance, or in said order, shall be guilty of a misdemeanor, punishable by imprisonment for not more than 120 days, or a fine of not more than \$1,000.00, or both in the discretion of the Court.

**Section 11: REPEAL CLAUSE.** All Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 12: SEVERABILITY.** Sections of this Ordinance shall be deemed severable and should any Section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 13: EFFECTIVE DATE.** This Ordinance shall become effective the 18<sup>th</sup> day of December, 2000.

Adopted by the Village Council of the Village of Decatur, Michigan this 6th day of November, 2000.



**ORDINANCE NO. 137**

**AN ORDINANCE TO AUTHORIZE THE PRIVATE EXCHANGE OF CERTAIN REAL ESTATE OWNED BY THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN FOR CERTAIN REAL ESTATE OWNED BY CEDRIC SPICHER AND LINDA SPICHER, HUSBAND AND WIFE.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1: STATUTORY AUTHORITY FOR EXCHANGE AT PRIVATE SALE.**

Pursuant to the provisions of M.S.A. 5.1288 (MCL 67.4) the Village Council of the Village of Decatur, Michigan hereby determines that it is in the best interest of the Village of Decatur, Van Buren County, Michigan to exchange certain real estate owned by the Village of Decatur for certain real estate owned by Cedric Spicher and Linda Spicher, husband and wife, pursuant to the terms hereinafter set forth.

**Section 2: DESCRIPTION OF REAL ESTATE.** The real estate presently owned by Cedric Spicher and Linda Spicher, husband and wife and to be conveyed to the Village of Decatur, Michigan is described in Schedule "A" attached hereto and made a part hereof; and the real estate presently owned by the Village of Decatur, Michigan and to be conveyed to Cedric Spicher and Linda Spicher, husband and wife, is described in Schedule "B" attached hereto and made a part hereof.

**Section 3: TERMS OF EXCHANGE.** Said parties shall simultaneously execute Warranty Deeds conveying their respective parcel of real estate to the opposite party, free and clear of all liens and encumbrances.

**Section 4: AUTHORITY TO EXECUTE DOCUMENTS.** Carl A. Wickett and Erik J. Wilson, the Village President and Manager respectively, are hereby authorized and directed to execute on behalf of the Village of Decatur, a Warranty Deed conveying the real estate presently owned by the Village of Decatur to Cedric Spicher and Linda Spicher, husband and wife as Tenants by the Entireties, and are further authorized to execute on behalf of the Village of Decatur, any and all other documents that may be required or necessary.

**Section 5: EFFECTIVE DATE.** This Ordinance shall become effective the 4th day of December, 2000.

Adopted by the Village Council of the Village of Decatur, Michigan on this 4th day of December, 2000.

**ORDINANCE NO. 138**  
**(FENCE ORDINANCE)**

**AN ORDINANCE TO REGULATE THE INSTALLATION AND CONSTRUCTION**  
**OF FENCES WITHIN THE VILLAGE OF DECATUR, MICHIGAN.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1:** This Ordinance shall be known and cited as the Village of Decatur Fence Ordinance.

**Section 2:** Definitions:

A. Front Yard: A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

B. Rear Yard: A yard extending the full width of the lot from the rear line of the main building to the rear lot line.

C. Side Yard: A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.

D. Corner Lot: A lot abutting two or more streets at their intersection.

**Section 3:** Fences on Non-Corner Lots:

No fence over seven (7) feet in height measured from the surface of the ground shall be erected in a rear yard area or side yard area. No fence over four (4) feet in height measured from the surface of the ground shall be erected in a front yard area and a minimum of fifty percent (50%) of the surface area of said fence shall be open to permit visibility through same; provided however, that said fence shall be set back two (2) feet from any sidewalk to permit snow removal.

**Section 4:** Fences on Corner Lots:

No fence over seven (7) feet in height measured from the surface of the ground shall be erected in a rear yard area or side yard area not adjoining a road right of way. No fence over four (4) feet in height measured from the surface of the ground shall be erected in a front yard area, or a side yard area adjoining a road right of way, and a minimum of fifty percent (50%) of the surface area of said fence shall be open to permit visibility through same, provided however, that said fence shall be set back two (2) feet from any sidewalk to permit snow removal.

**Section 5:** Fences in all districts shall be constructed in such a manner that supporting posts and framework are on the interior, or fence owner's side of the fence, unless otherwise agreed to in writing by the adjoining property owners.

**Section 6:** Fences which enclose public parks, playgrounds, or other public areas situated in the Village of Decatur, Michigan shall not exceed eight (8) feet in height measured from the surface of the ground, and shall not obstruct vision to an extent greater than fifty percent (50%) of the total surface area of said fence.

**Section 7:** No fence shall contain barbed wire, electric current, or a charge of electricity.

**Section 8:** All Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 9:** Violations:

A violation of this Ordinance is a Municipal Civil Infraction and any person who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 and 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

**Section 10:** This Ordinance shall become effective the 1st day of February, 2001.

Adopted by the Village Council of the Village of Decatur, Michigan on this 8th day of  
January, 2001.

## **ORDINANCE NO. 139**

### **AN ORDINANCE TO REGULATE THE PLACEMENT, CONSTRUCTION AND MODIFICATION OF TRANSMISSION TOWERS AND TELECOMMUNICATION FACILITIES WITHIN THE VILLAGE OF DECATUR, MICHIGAN.**

#### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

##### **Section 1:     **PURPOSE****

The purpose of this ordinance is to regulate the placement, construction and modification of transmission towers and telecommunications facilities in the Village of Decatur, Michigan, and more specifically:

- A. To regulate the location of transmission towers and telecommunications facilities in the Village of Decatur, Michigan.
- B. To protect residential areas and land uses from potential adverse impact of transmission towers and telecommunication facilities.
- C. To minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, site location, landscaping and innovative camouflaging techniques.
- D. To promote and encourage shared use/collocation of transmission towers and antenna support structures as the primary option rather than construction of additional single use transmission towers.
- E. To avoid potential damage to property caused by transmission towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound.
- F. To ensure that transmission towers and telecommunications facilities are compatible with surrounding land uses.

Nothing in this Ordinance shall apply to amateur or non-commercial radio and television antennas.

##### **Section 2:     **APPLICATION REQUIREMENTS.****

A. Collocation of Antennas. In addition to standard building permit application material, an applicant for the collocation of antennas on existing transmission towers or on existing buildings, light poles, utility poles or water towers shall file an application with the Village Clerk for a Conditional Use Permit, and pay the appropriate application fee, and shall further submit the following information with said application, unless waived by the Village of Decatur, Michigan:

1. A description of the proposed antenna's location, design and height.
2. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antennas are collocating on or in regard to structures within five hundred (500) feet thereof.
3. Documentation from an engineer that placement of the antennas is designed to allow future collocation of additional antennas if technologically possible.

4. Documentation from an engineer that the antenna and related facilities will not produce sound or designs showing how the sound is to be effectively muffled and reduced.
5. Plans showing the necessary easements or rights-of-way for connection to utilities, and for vehicle access.
6. Documents showing that necessary easements have been obtained.
7. If ancillary facilities will be located on the ground, a site plan setting forth the dimensions of the site, together with the locations of the ancillary facilities, and proposed and existing landscaping, including type, spacing, and size.
8. Documents showing that the Federal Aviation Administration (FAA) has reviewed and approved the proposal. If FAA approval requires any changes involving increased height or additional lighting other than as initially approved, then a new application will need to be submitted, reviewed and approved.
9. The names, addresses, and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one (1) mile radius of the proposed antenna location, including towers or support structures located within or outside the corporate limits of the Village of Decatur, Michigan.
10. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts to collocate the applicant's antennas on transmission towers or usable antenna support structures owned by others located within a one (1) mile radius of the proposed antenna location, regardless of whether said towers or support structures are located within or outside the corporate limits of the Village of Decatur, Michigan.
11. Written technical evidence from an engineer(s) setting forth the reasons that the proposed antenna cannot be collocated on another transmission tower or usable antenna support structure located within a one (1) mile radius of the proposed antenna location, regardless of whether said towers or support structures are located within or outside the corporate limits of the Village of Decatur, Michigan.
12. Each application to allow collocation of antennas shall include a written statement from an engineer(s) that the construction and placement and proposed use of the antennas will not interfere with public safety communications and usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and non-residential properties.

B. Installation, Construction, or Increasing the Height of Transmission Tower. In addition to standard building permit application material, an applicant seeking to construct, install or increase the height of a transmission tower shall file an application with the Village Clerk for a Conditional Use Permit, and pay the appropriate application fee, and shall further submit the following information with said application, unless waived by the Village of Decatur, Michigan:

1. A description of the proposed transmission tower location, design and height.
2. The capacity of the transmission tower in terms of the number and type of antennas it is designed to accommodate.
3. Documentation from an engineer demonstration compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
4. A signed agreement stating that the applicant will allow collocation with other users,

provided all safety, structural and technological requirements are met. This agreement shall also state any future owners or operators of the transmission tower will allow collocation on the transmission tower.

5. Documentation from an engineer that the ancillary facilities will not produce sound or setting forth designs showing how the sound is to be effectively muffled and reduced.

6. A site setting forth the dimensions of the site, together with the location of the tower, related equipment, fencing, rights of way, utility easements, and proposed and existing landscaping, including type, spacing and size.

7. Documents showing that necessary easements have been obtained.

8. Documents showing that the Federal Aviation Administration (FAA) has reviewed and approved the proposal. If FAA approval requires any changes involving increased height or additional lighting other than as initially approved, then a new application will need to be submitted, reviewed and approved.

9. The names, addresses and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one (1) mile radius of the proposed new transmission tower site, including towers or support structures located within or outside the corporate limits of the Village of Decatur, Michigan.

10. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts to install or collocate the applicant's telecommunications facilities on transmission towers or usable antenna support structures owned by other persons and located within a one (1) mile radius of the proposed transmission tower site, regardless of whether said towers or support structures are located within or outside the corporate limits of the Village of Decatur, Michigan.

11. Written, technical evidence from an engineer(s) setting forth the reasons that the proposed transmission tower or telecommunications facilities cannot be installed or collocated on another transmission tower or usable antenna support structure located within a one (1) mile radius of the proposed transmission tower site, regardless of whether said towers or support structures are located within or outside the corporate limits of the Village of Decatur, Michigan.

12. Each application to allow construction of a transmission tower shall include a written statement from an engineer(s) that the construction and placement of the transmission tower will not interfere with the public safety communications and the usual customary transmission or reception of radio, television, or other communications service enjoyed by adjacent residential and non-residential properties.

### **Section 3:     **CONDITIONAL USE PERMIT.****

No placement, construction, or modification of transmission towers and telecommunication facilities shall occur until a Conditional Use Permit as provided in the Village of Decatur, Michigan's Zoning Ordinance has been granted by the Village of Decatur, Michigan.

### **Section 4:     **STANDARDS FOR TRANSMISSION TOWERS AND ANTENNAS****

Installation, construction or modification of all transmission towers and antennas shall comply with the following standards, unless waived by the Village of Decatur, Michigan, as set forth in its Conditional Use Permit.

A. Separation Between Transmission Towers. No transmission tower may be

constructed within one (1) mile of any existing transmission tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed transmission tower which is closest to the base of any pre-existing transmission tower.

B. Location of Transmission Towers. Transmission towers and related telecommunication facilities may only be located on Village owned property located within the corporate limits of the Village of Decatur, Michigan or upon property which is zoned as an Industrial District in the Village of Decatur's Zoning Ordinance.

C. Collocation. New transmission towers shall be designed to accommodate collocation of additional providers.

1. New transmission towers of a height of one hundred and fifty feet (150) or more shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification to the transmission tower.

2. New transmission towers of a height of at least sixty (60) feet and no more than one hundred (100) feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification to the transmission tower.

D. Display. No signs, striping, graphics or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signs with a surface area of no more than three (3) square feet. Such signs shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).

## **Section 5:     STANDARDS FOR ANCILLARY FACILITIES**

All ancillary facilities must be located underground to the maximum extent technology allows, unless a waiver is obtained.

## **Section 6:     REMOVAL OF FACILITIES**

A. All transmission towers, antennas, transmission tower substructures and ancillary facilities shall be removed within six (6) months of the time that the facilities have ceased being used to transmit, receive or relay voice and data signals to or from wireless communication devices, or from the time that same have been determined by an engineer to be structurally unsound. The responsibility to remove shall be born by the owner and operator of the tower, antenna, substructure or facility and by the real property owner upon which the tower, antenna, substructure or facility is located. The site must be restored to the extent possible with appropriate landscaping to its pre-transmission tower appearance. The Village of Decatur, Michigan may grant one (1), six (6) month extension where a written request has been filed, within the initial six (6) month period, to reuse the transmission tower or antennas, or to restore same to a structurally sound condition.

B. The Village of Decatur may require satisfactory performance guarantees or the posting of a bond before a building permit is issued to ensure removal of the transmission tower, substructure or antennas after the facility is no longer being used.

## **Section 7:     ADDITIONAL FEES AND COSTS.**

The Village of Decatur may require an additional fee sufficient to recover all of the Village's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunications expertise. This amount

shall be set by Village Council resolution.

**Section 8: VIOLATION PENALTY.**

A violation of this Ordinance is a Municipal Civil Infraction and any person, firm or corporation who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961, as amended, being M.S.A. 27A.8302 and 27A.8701 et seq., respectively. Each day that a violation occurs shall be considered a separate offense. The Village of Decatur, Michigan may in addition seek injunctive relief.

**Section 9: SEVERABILITY**

Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 10: REPEAL.**

All other Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 11: EFFECTIVE DATE.**

This Ordinance shall become effective the 1st day of March, 2001. Adopted by the Village Council of the Village of Decatur, Michigan on this 5th day of February, 2001.



**ORDINANCE NO. 140**  
**DRUG PARAPHERNALIA ORDINANCE**

**AN ORDINANCE TO PROHIBIT THE USE, POSSESSION, DELIVERY, SALE, OR ADVERTISEMENT OF DRUG PARAPHERNALIA.**

**THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN ORDAINS:**

**Section 1: DEFINITIONS.**

A. The term “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as defined in Section 7104 of the Michigan Public Health Code (Act No. 368 of the MI Public Acts of 1978, as Amended), in violation of the laws of the State of Michigan. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
6. Diluents and adulterants, such as quinine, hydrochloride, mannitol, manite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;
9. Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
10. Containers or other objects used, intended for use or designed for use in storing or concealing controlled substances;
11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
12. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls.
  - b. Water pipes.
  - c. Carburetion tubes and devices.
  - d. Smoking and carburetion masks.

- e. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette, that have become too small or too short to be held in the hand.
- f. Miniature cocaine spoons and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- I. Electric pipes.
- j. Air-driven pipes.
- k. Chillums.
- l. Bongs.
- m. Ice pipes or chillers.

B. In determining whether an object is “drug paraphernalia,” a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;
3. The proximity of the object, in time and space, to a direct violation of state law;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of state law or this Ordinance; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state law shall not prevent a finding that the object is intended for use or designed for use drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community, and;
14. Expert testimony concerning its use.

**Section 2: POSSESSION OF DRUG PARAPHERNALIA.**

It is unlawful for any person, firm, or corporation to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the laws of the State of Michigan.

**Section 3: MANUFACTURE, DELIVERY OR SALE OF DRUG PARAPHERNALIA.**

It is unlawful for any person, firm, or corporation to deliver, sell, possess with intent to deliver or sell or manufacture with intent to deliver or sell drug paraphernalia, knowing that it will be used to plant, convert, product, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the laws of the State of Michigan.

**Section 4: ADVERTISEMENT OF DRUG PARAPHERNALIA.**

It is unlawful for any person, firm, or corporation to advertise, in any newspaper, magazine, handbill or other publication, or by sign, poster, or any other means of advertisement, for the purpose of promoting the sale of objects designed or intended for use as drug paraphernalia.

**Section 5: CIVIL FORFEITURE.**

Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this Ordinance shall be seized and forfeited to the Village of Decatur, Michigan.

**Section 6: SEVERABILITY.**

Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 7: PENALTY.**

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars, plus Court costs and costs of prosecution, or by imprisonment in the County jail for a term not exceeding ninety (90) days, or both, at the discretion of the Court. Each day that a violation occurs shall be considered a separate offense. The Village may in addition seek injunctive relief.

**Section 8: EFFECTIVE DATE.**

This Ordinance shall become effective the 26th day of March, 2001.

Adopted by the Village Council of the Village of Decatur, Van Buren County, Michigan on this 5th day of March, 2001.

**ORDINANCE NO. 141**  
**(Tree Ordinance)**

AN ORDINANCE TO REGULATE THE PLANTING AND MAINTENANCE OF TREES. THE VILLAGE OF DECATUR, VAN BUREN COUNTY, MICHIGAN ORDAINS:

**Section 1: Definitions:**

1. "Trees" are herein defined as shrubs, bushes and any woody vegetation.
2. "Street trees" are herein defined as trees on land lying between private property lines and all streets, avenues, or rights-of-ways within the Village.
3. "Park trees" are herein defined as trees in public parks and all areas owned by the Village, or to which the public has free access as a park.
4. "Topping" is herein defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

**Section 2: Public Tree Care:**

The Village shall have the right to plant, prune, maintain and remove street trees and park trees as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such trees. The Village forester may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insects, or other pests. This section does not prohibit the planting of street trees by adjacent property owners provided that the selection and location of such trees is in accordance with this Ordinance.

**Section 3: Appointment of Village Forester:**

The Superintendent of Public Works of the Village of Decatur, Michigan, shall serve as the Village Forester.

**Section 4: Permit Required to Plant, Trim, or Destroy Trees and Shrubs:**

No street tree or park tree shall be planted until the Village forester shall have first approved in writing, by the issuance of a permit therefore, the kind, type, variety, species, size and location thereof. No person shall remove, trim, cut, break, deface, injure or destroy, or in any manner interfere with any street tree or park tree without obtaining a permit. Application for a permit shall be in writing specifically describing the work to be performed, and shall be filed with the Village Clerk of the Village of Decatur, Michigan. The permit shall be in writing and shall be signed by the Village forester. No charge shall be made for the application or issuance of the permit. The permit shall expire at the end of sixty (60) days from the date of issue, or upon written revocation thereof by the Village forester for cause. Such cause being a violation of the terms and intent of the permit by the applicant, or by his/her agents or employees, and service of the written revocation upon the applicant shall be by certified mail return receipt requested, mailed to the applicant's last known address, or by personal service upon said applicant.

**Section 5: Trees Overhanging Street or sidewalk:**

Every owner of any tree overhanging any street or right-of-way within the village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of then (10) feet above the surface of the sidewalk and fourteen (14) feet above the surface of the street. The owner shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to remove or prune any tree or shrub on private property when it interferes with the proper spread of light, electrical utility facilities, or interferes with visibility of any traffic control device or sign.

**Section 6: Exception for Sidewalk, Sewer or Public Improvement:**

Nothing contained in this Ordinance shall be construed to apply to the removal of any street tree, park tree or parts thereof, under the direction of the Village Manager, when such removal shall be necessary or advisable in the discretion of the Village Manager for the construction or maintenance of any sidewalk sewer, public utility, electric utility or public improvement.

**Section 7: Protection of Trees During Construction:**

Prior to the commencement of any construction, removal, alteration or repair of any building or structure, the owner or owners thereof, shall place or cause to be placed adequate guards and protection around all nearby street trees or park trees as will effectually prevent injury thereto.

**Section 8: Duties of Village Forester: Advice to Private Owners:**

It shall be the duty of the Village forester or employees or persons working under his/her direction or control, to supervise, regulate, promote and encourage the preservation, maintenance, culture, planting, treatment and care of street trees or park trees; to direct the method and manner of trimming and caring for same; to designate the times for trimming and for treating same, to advise private property owners, without charge, in regard to the kind of street trees and the location and planting thereof, their care, maintenance, preservation and treatment, together with all other matters pertaining thereto; and to take such measures as he/she may deem necessary or advisable for the control and extermination of insects, pests and diseases which may harmfully affect such street trees or park trees.

**Section 9: Salary of Village Forester:**

The Superintendent of Public Works of the Village of Decatur, Michigan shall serve as Village forester without additional compensation.

**Section 10: Interference with the village Forester or Employees Prohibited:**

No persons shall willfully interfere with, hinder, or prevent the village forester, or employees or persons working under his/her direction or control, from exercising the rights, duties, powers and work herein provided.

**Section 11: Street Trees Species to be Planted:**

**Small Trees**

Service berry  
Am. Hornbeam  
Hawthorn  
Golden Rain Tree  
Crabapple  
Fruitless Cherry  
Whitebeam

**Medium Trees**

Hedge Maple  
Crimson King  
Green Ash  
Amur Cork Tree  
Ornamental Pear  
Pagoda Tree

**Large Trees**

Norway Maple  
Red Maple  
Ginkgo  
London Plane  
White Oak  
Pin Oak

**Section 12: Spacing:**

The spacing of street trees will be in accordance with the three species size classes listed in Section 11, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special planting designed by a landscape architect and approved by the Village forester.

**Section 13: Distance From Curb and Sidewalk:**

The distance trees may be planted from curbs, or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in Section 11, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two (2) feet; medium trees, three (3) feet; and large trees, four (4) feet.

**Section 14: Distance from Street Corners and Fire Hydrant:**

No street tree shall be planted closer than thirty-five (35) feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet to any hydrant.

**Section 15: Utilities:**

No street trees other than those species listed as small trees in Section 11 of this Ordinance may be planted under or within 10 lateral feet of any underground water line, sewer line, electrical facilities or other utility.

**Section 16: Tree Topping:**

It shall be unlawful for any person, firm, organization, or Village department to engage in the topping of any street or park tree without first consulting with the Village forester. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this provision, at the determination of the Village forester.

**Section 17: Tree Removal on Private Property:**

The Village of Decatur, Michigan shall have the right to cause the removal of any dead or diseased trees on private property within the Village corporate limits when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to trees within the village. The Village forester shall notify the owners of such trees in writing requesting the removal thereof and the reasons therefore. Such notice shall be mailed by certified mail return receipt requested, to the last known address of said owner, or by personal service. Removal of such trees shall be done by the owners at their own expense within sixty (60) days after the date of service of said notice. In the event the owners fail to comply with provisions of said notice, the Village shall have the authority to remove the trees. Thereafter the owner or party in interest in whose name the property appears on the last local tax assessment records of the Village of Decatur, Michigan, shall be notified by the Village Clerk by first class mail of the cost of such removal. In the event said owner fails to pay such costs within thirty (30) days after said mailing, in addition to other remedies provided in this Ordinance, the Village may commence an action against said owners for the costs of such removal, together with the costs of such action and actual reasonable attorney fees. If a Judgment is obtained the Village of Decatur shall have a lien for such costs which shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act of the State of Michigan, and the Decatur Village Assessor shall add such lien to the next tax roll of the Village of Decatur, and same shall be collected in the manner provided by law for the collection of taxes by the Village of Decatur.

**Section 18: Removal of Stumps:**

All stumps of street trees and park trees shall be removed below the surface of the ground.

**Section 19: Violation Penalty:**

A violation of this Ordinance is a Municipal Civil Infraction and any person, firm or corporation who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding five Hundred and 00/100 (\$500.00) dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961, as amended, being M.S.A. 27A.8302 and 27A.8701 et seq., respectively. Each day that a violation occurs shall be considered a separate offense. The Village of Decatur, Michigan may in addition seek injunctive relief.

**Section 20. Effective Date:**

This Ordinance shall become effective the 28<sup>th</sup> day of May 2001.

Adopted by the Village council of the Village of Decatur, Van Buren County, Michigan on this 7<sup>th</sup> day of May, 2001.

## **ORDINANCE NO. 143**

### **AN ORDINANCE TO AMEND SECTION 1 OF ARTICLE VI (B-1 CENTRAL BUSINESS DISTRICT REGULATIONS) AND ARTICLE XII (CONDITIONAL USE REGULATIONS) OF ORDINANCE NO. 96 (ZONING ORDINANCE) OF THE VILLAGE OF DECATUR, MICHIGAN.**

#### **THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1:** Section 1 subparagraph A of Article VI (B-1 Central Business District Regulations) of Ordinance No. 96 (Zoning Ordinance) of the Village of Decatur, Michigan is hereby amended to provide that single family dwellings and two family dwellings are also a permitted use.

**Section 2:** The beginning paragraph of Article XII (Conditional Use Regulations) of Ordinance No. 96 (Zoning Ordinance) of the Village of Decatur, Michigan is hereby amended to read as follows:

The Village Council, after Public Hearing, may by Resolution grant a Conditional Use Permit for the following uses in any district, except as hereinafter modified, and may impose appropriate conditions and safeguards including a specified period of time for said Permit. In considering the granting of a Conditional Use Permit the Village Council shall consider the following standards: 1- That the Village Council is satisfied under the conditions, limitations and safeguards imposed, that the proposed use would be compatible with the other uses expressly permitted within said district, and the capacities of public services and facilities affected by the land use; 2- That same would not be detrimental or injurious to the use or development of adjacent properties, or to the occupants thereof or the general neighborhood; 3- That same would promote the public health, safety and general welfare of the community; 4- That said use would encourage the use of lands in accordance with their character and adaptability; and 5- That the Village Council is satisfied that the conditions, limitations and safeguards required can and will, in its judgment be met at all times by the applicant. Application procedures, processing of applications, and approval or rejection shall be in accordance with MCL 125.584 (a).

**Section 3:** Article XII (Conditional Use Regulations) of Ordinance No. 96 (Zoning Ordinance) of the Village of Decatur, Van Buren County, Michigan, is further amended by adding thereto the following Conditional Use.

L. In B-1 (Central Business District) or B-2 (General Business District) commercial and service establishments of an “adult” nature as listed and defined herein and subject to the conditions hereinafter set forth:

1) Adult book store - hereby defined as an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified anatomical areas”, as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material;

2) Adult motion picture theater - hereby defined as a building or structure with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined, for observation by patrons therein;

3) Adult mini motion picture theater - hereby defined as a building or structure with a capacity of fifty (50) or less persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as



hereinafter defined, for observation by patrons therein;

4) Adult sexual paraphernalia store - hereby defined as an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

5) Establishments featuring partially nude dancing or other partially nude persons;

6) Any combination of the foregoing;

7) Specified sexual activities - are hereby defined as follows:

- a) acts of human masturbation, sexual intercourse or sodomy;
- b) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
- c) human genitals in state of sexual stimulation or arousal.

8) Specified anatomical areas - are hereby defined as follows:

a) less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;

b) human male genitals in a discernible turgid state, even if completely and opaquely covered.

9) In order to prevent undesirable concentration of the foregoing commercial and service establishments of an "adult" nature, same shall not be located within one thousand (1,000) feet of any other commercial and service establishment of an "adult" nature or within one thousand (1,000) feet of any residential dwelling unit. Said distances shall be measured along a line forming the shortest distance between any portions of the respective properties.

**Section 4: VIOLATION - SANCTION.** A violation of this Ordinance is a Municipal Civil Infraction and any person who shall violate this Ordinance shall be responsible for a civil infraction and subject to a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961, as amended, being MCL 600.8302 and MCL 600.8701 et seq. respectively. Each day that a violation occurs shall be considered a separate offense. In addition the Village of Decatur may seek injunctive relief.

**Section 5: SEVERABILITY.** Sections of this Ordinance shall be deemed severable and should any section, clause or provision of this Ordinance be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 6: REPEAL.** All other Ordinances or parts thereof of the Village of Decatur, MI in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 7: EFFECTIVE DATE.** This Ordinance shall become effective the 5th day of November, 2001.

**Section 8: INSPECTION OF ZONING ORDINANCE.** A copy of the Zoning Ordinance of the Village of Decatur, Michigan and the Amendments thereto may be purchased or inspected at Grosvenor Law Office, 134 S. Phelps Street, Decatur, Michigan between the hours of 9:00 a.m. and 5:00 p.m. weekdays, and at the office of the Village Clerk, Norma Strickler, during business hours.

Adopted by the Village Council of the Village of Decatur, Michigan on this 15th day of October, 2001.

## **ORDINANCE NO. 146**

**AN ORDINANCE ESTABLISHING THE MINIMUM REGULATIONS GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARDS FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH STRUCTURES; KNOWN AS THE PROPERTY MAINTENANCE CODE.**

**THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:**

**Section 1-** That a certain document, three (3) copies of which are on file in the office of the Clerk of the Village of Decatur, Van Buren County, Michigan and available for public use and inspection, being marked and designated as the *International Property Maintenance Code* as published by the International Code Council, Inc., be and is hereby adopted as the *Property Maintenance Code* of the Village of Decatur, Van Buren County, Michigan; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said *Property Maintenance Code* are hereby referred to, adopted, and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section 2 of this Ordinance.

**Section 2-** That the *International Property Maintenance Code* is hereby amended and revised as follows:

A. Section 101.1 (page 1) is hereby amended to read as follows:

Title. These regulations shall be known as the *Property Maintenance Code* of the Village of Decatur, Van Buren County, Michigan, hereinafter referred to as “this code.”

B. Section 103.6 (page 2) is hereby amended to read as follows:

Fees. The fees for activities and services performed by the Code Enforcement Officials in carrying out their responsibilities under this code shall be determined by a Resolution of the Village Council of the Village of Decatur, Michigan. Such fees may be altered by a subsequent Resolution of the Village Council in its discretion.

C. Section 106.3 (page 3) is hereby amended to read as follows:

Prosecution of violation. Any person, firm or corporation failing to comply with a notice of violation or order served in accordance with Section 107 shall be responsible for a Municipal Civil Infraction and subject to a civil fine and other sanctions as set forth in Section 106.4. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

D. Section 106.4 (page 3) is hereby amended to read as follows:

Violation penalties. Any violation of any provision of this Ordinance or any lawful order of the Building Inspector, or other Code Enforcement Official, or the Code Appeals Board, issued in pursuance of this Ordinance shall be a Municipal Civil Infraction. A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Ordinance, and any omission or failure to act where the act is required by this Ordinance.

The sanction for any violation of this Ordinance which is a Municipal Civil Infraction shall be a civil fine not exceeding Five Hundred and 00/100 (\$500.00) Dollars, plus any costs, damages, expenses and other sanctions as authorized under Chapters 83 & 87 of Act No. 236 of the Michigan Public Acts of 1961 as amended, being MSA 27A.8302 and 27A.8701 et seq., respectively.

The Building Inspector or designated Code Enforcement Official, together with police officers of the Village are the Village officials authorized to issue Municipal Civil

Infraction citations for violations of this Ordinance.

E. Section 111.1 (page 5) is hereby amended to read as follows:

Application for appeal: Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed with the Village Clerk of the Village of Decatur, Michigan, within ten (10) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means, or that the strict application of any requirement of this Code would cause an undue hardship.

F. Section 111.2 (page 5) is hereby amended to read as follows:

Membership of the Board: The Village Council of the Village of Decatur, Van Buren County, Michigan shall constitute the membership of the Board of Appeals. The chairman of said Board of Appeals shall be the President of the Village Council, who shall be the presiding officer of said Board, and the Clerk of the Village of Decatur, or other designated person, shall be the secretary for same.

G. Sections 111.2.1 (page 5), 111.2.2 (page 5), 111.2.3 (page 5), 111.2.4 (page 5), 111.2.5 (page 5), are hereby deleted.

H. Section 303.14 (page 10) is hereby amended by inserting “March 1st to November 1st as the dates in said Section.

I. Section 602.3 (page 17) is hereby amended to read as follows:

Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, shall be required to furnish heat to the occupants thereof to maintain a temperature of not less than 65 degrees F (18 degrees C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature of the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

J. Section 602.4 (page 17) is hereby amended to read as follows:

Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65 degrees F (18 degrees C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

**Section 3 -** That Ordinance No. 142 of the Village of Decatur, Van Buren County, Michigan, which adopted the “BOCA National Property Maintenance Code/1996, Fifth Edition”, is hereby repealed.

**Section 4-** That nothing in this Ordinance or in the *Property Maintenance Code* hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed as cited in Section 3 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 5 -** That the Village Clerk of the Village of Decatur, Michigan shall certify to the adoption of this Ordinance, and cause the same to be published as required by law.

**Section 6-** This Ordinance shall become effective on the 24th day of June, 2002.

Adopted by the Village Council of the Village of Decatur, Michigan on this 3rd day of June, 2002.

**PLANNING COMMISSION**  
**Ord. No. 147**

An Ordinance to establish a Planning commission pursuant to Act 285 of the Public acts of 1931, as amended, and to set forth its powers and duties with regard to land use planning for the village of Decatur, Michigan.

**THE VILLAGE OF DECATUR ORDAINS:**

**Establishment of Planning commission.**

1. There is hereby created the Planning commission as provided in Act 285 of the Public acts of 1931, as amended (MCL 125.31 et.seq.). the Planning Commission shall be a public body and shall exercise its statutory powers and duties together with such other responsibilities as may be delegated to it by ordinance or by resolution of the Village Council.

**Members and appointment.**

2. The Planning Commission shall consist of five members who reside in the Village of Decatur and who shall represent insofar as possible different professions, occupations, geographical areas, and constituencies, and who shall be appointed by the Village President, subject to the approval by majority vote of the village council. The Village Manager or his/her designee will be a permanent voting member as one of the five members of the commission. One member of the Planning commission shall be a member of the Village Council. The term of each member with the exception of the Village Manager shall be for three years, except that the respective terms of the members first appointed shall be; one for one year, two for two years, and legislative member for term of office. Terms of office will begin at 12:00 am on June 3 of each year and end at 11:59 pm of June 2. Members may, after a public hearing be removed by the Village President for inefficiency, neglect of duty, or malfeasance of office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by appointment by the Village President and approval by the Village council. Members of the Planning Commission shall receive no compensation for their service.

**Organization and meetings.**

3. The Planning commission shall, from its appointed members, elect a chairman and vice chairman for one year terms at the first meeting held in June each year. There is no limit on the number of successive terms for which a chairman or vice chairman may serve. The chairman shall designate a secretary, who need not be a voting member of the Planning commission, to keep a record of all proceedings. Three members shall constitute a quorum for the transaction of business and the affirmative vote of three members shall be required to validate any action by the Planning Commission. The Planning Commission shall:
  - A. Adopt rules for the transaction of its business and establish a schedule for the holding of regular public meetings.
  - B. Provide for the calling of special meetings and the provision of notice to the public of such meetings.

- C. Keep a complete record of its resolutions, transactions, findings, and determinations, which shall be available to the village Council and to the public upon request.
- D. Assure compliance with the Open Meetings Act with regard to the conduct of its business.

**Professional assistance.**

- 4. The Planning Commission may submit requests for professional services by consultants to the village President and Village Council, but it may not expend funds or contract for services except as approved and authorized by the Village council.

**Adoption of a master plan.**

- 5. The Planning commission shall make and adopt a master plan for the physical development of the village, including any areas outside of its boundaries which, in the commission's judgment, relate to the planning of the Village. The master plan, with accompanying maps, plats, charts, and descriptive matter shall show the Planning Commission's recommendations for the development of the Village, including streets, waterways, flood plains, water fronts, recreation areas, open spaces, public buildings, public property, and public utilities, as well as a zoning plan for the control of height, area, bulk, location, and use of buildings and property, and other features of a master plan as described in Act No. 285 of the Public acts of 1931, as amended. The Planning Commission from time to time may amend, extend, or add to the master plan.

**Standards and purposes of a master plan.**

- 6. In the preparation of the master plan, the Planning Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Village and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Village and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provision for the traffic, the promotion of safety from fire and convenient distribution of population, the promotion of good civic design, and arrangement, wise and efficient expenditure of public funds, the adequate provision of public utilities, the preservation of the water quality of the wells and aquifers, the preservation of natural resources, and other public requirements and benefits.

**Adoption Procedure**

- 7. The Planning Commission may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, with parts corresponding with major geographical areas or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before adoption of the plan the Planning Commission shall be given, not less than 15 days prior to such hearing, by one publication in a newspaper of general circulation in the municipality

and in the official gazette, if any, of the Village, and by registered mail to each public utility of the plan or any part thereof shall be by resolution of the Planning Commission carried by the affirmative votes of not less than three members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman or secretary of the Planning Commission. An attested copy of the plan or part thereof shall be certified to the Village Council.

**Other statutory functions.**

8. The Planning Commission shall exercise all statutory authority and carry out all statutory duties set forth in Act 285 of the Public Acts of 1931, as amended, including the review and approval of proposed plats.

**Other delegated functions.**

9. The Planning Commission shall serve in an advisory capacity to the Village Council and shall review applications and proposals and provide recommendations to the Village Council and the Zoning Board of Appeals and the Building Official in regard to all matters of land use, including but not limited to the following:
  - A. Requests for changes in the zoning map.
  - B. Requests for amendments to the zoning ordinance.
  - C. Requests for zoning variances.
  - D. Requests for site plan approval.
  - E. Requests for special land use permits.
  - F. Requests for split approval.
  - G. Requests for building permits which involve matters of significance to development of the Village.
  - H. Other land use matters on which the Planning Commission wishes to submit a recommendation to the Village Council.

This Ordinance shall become effective immediately upon its adoption. Adopted by the Village of Decatur, Michigan on this 3<sup>rd</sup> day of June 3, 2002.

## **ORDINANCE NO. 148**

### **NONPARTISAN ELECTIONS**

An ordinance to establish nonpartisan elections for the election of village officials in the Village of Decatur pursuant to section 3 (1) and (2), chapter III of 1895 PA 3, as amended. (MCL63.3 and MSA 5.1232)

#### **THE VILLAGE OF DECATUR ORDAINS:**

##### **Section 1. Nonpartisan elections.**

As authorized by section 3 (1) and (2) chapter III of 1895 PA 3, as amended, (MCL63.3 and MSA5.1232) village elections in the Village of Decatur shall hereafter be nonpartisan.

##### **Section 2. Commencement.**

This ordinance shall apply beginning with the first village election for which the nomination deadline is not less than 30 days after the effective date of this ordinance.

##### **Section 3. Effective Date.**

This ordinance shall take effect forty-five (45) days after the date of its adoption, unless a petition signed by not less than ten percent of the registered electors of the village is filed with the village clerk or village office within such 45 days.

If a petition is filed within such period of time, this ordinance shall then take effect only upon its approval at the next general village election or special village election held on the question of whether the ordinance shall be approved. Notice of the delayed effect of the same time and in the same manner as the ordinance or a notice of the ordinance is published in a local newspaper of general circulation.

##### **Section 4. Adoption.**

This ordinance shall be adopted by an affirmative vote of a least two-thirds of the members of the village council.

##### **Section 5. Publication.**

The village clerk shall certify to the adoption of this ordinance and cause the same to be published as required by law.

Adopted: July 1, 2002