

**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.