

## **CHAPTER 16**

### **GENERAL PROVISIONS AND EXCEPTIONS**

#### **SECTION 16.01 INTENT**

All uses and structures whether permitted by right or by conditional use permit, shall be subject to the following general regulations of this Ordinance.

#### **SECTION 16.02 GENERAL EXCEPTIONS**

- A. **Essential Services.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance. The Zoning Board of Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.
- B. **Voting Place.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

#### **SECTION 16.03 EASEMENTS**

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

#### **SECTION 16.04 GRADES, ELEVATION DIFFERENTIALS, AND RETAINING WALLS**

- A. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to

structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties and the natural flow of water shall not be altered.

- B. Retaining walls in excess of four (4) feet in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

#### **SECTION 16.05 OBSTRUCTIONS TO VISION ON CORNER LOTS**

No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

#### **SECTION 16.06 FENCE, WALL AND PRIVACY SCREEN REGULATIONS**

Fences, walls and privacy screens are permitted subject to the following:

- A. The erection, construction or alteration of any fence, wall or privacy screen as defined herein, shall be constructed within all Township and County codes and shall require a zoning permit.
- B. Fences shall not be taller than four (4) foot in a required front yard nor higher than six (6) foot in a required side or rear yard for parcels located in the R-1 or R-2 or R-4 zoning districts. Fences in the R-4 District shall have a minimum of 30% open. The finished side of a two-sided fence shall face adjacent properties (posts on the interior side).
- C. A six (6) foot fence shall surround all playgrounds associated with a children's day care facility.
- D. Fences with barbed wire and/or electrical current are prohibited in the R-1, R-2 and R-4 zoning district.

- E. A four (4) foot fence shall surround all below ground swimming pools or otherwise satisfy the standards of Section 16.13.C.
- F. Parcels located in the AR Districts shall be exempt from all fence height and use restrictions except for swimming pools.

**SECTION 16.07 OFF-STREET PARKING REQUIREMENTS**

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as prescribed in Chapter 17 of this Ordinance.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

**SECTION 16.08 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED**

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.

**SECTION 16.09 SOIL EXCAVATION OR FILLING**

- A. The deposit or burying of any man made materials such as scrap iron, appliances, tires, and other “junk” as defined in this ordinance anywhere in Decatur Township which is not biodegradable is expressly prohibited. The burying of “garbage” as defined in this ordinance when deemed to be biodegradable (such as plant and animal wastes) shall be permitted when conducted in accordance with County, State, and Federal laws.
- B. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Township, and a zoning permit has been issued for said development.

**SECTION 16.10 OUTDOOR STORAGE OF RECREATION AND OTHER VEHICLES AND EQUIPMENT IN RESIDENTIAL AND AGRICULTURAL DISTRICTS**

The outdoor storage or parking of any boat, boat hoist or dock (except in the R-4 District), float, trailer, trailer coach, camping trailer, motorized home, dismantable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature (not including typical farm equipment), may be permitted in all residential and agricultural districts, when the following minimum conditions are met:

- A. All such vehicles or equipment shall be placed within a completely enclosed building. Up to three (3) such vehicles or equipment may be stored outside of an enclosed building provided it is not located in the front yard. Outside storage areas shall be completely screened from view of the nearby street and adjacent properties by fencing or landscaping.
- B. Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment is owned by the occupant. Vehicles may not be stored on vacant lots, parcels, or property.
- C. Trailer coaches, motor homes and other vehicles or equipment designed or adaptable for sleeping purposes may be utilized for up to fifteen (15) days during the course of one year for visitors. They shall otherwise remain unoccupied and shall not be connected to sanitary sewer facilities, water or gas.
- D. Such vehicles so kept or stored shall be in good repair. Open storage of partially or disassembled component parts of said uses (recreational vehicles and equipment) is prohibited. This provision shall not pertain to farm implements, machinery and equipment utilized for permitted agricultural operations.
- E. The storage of vacant mobile homes in any district shall be prohibited; with the exception of approved and permitted sales and service facilities located in a designated commercial district.
- F. No inoperable passenger vehicles may be kept on any lot or parcel in any zoning district. The vehicles shall be licensed to the owner of the property on which the vehicles are located. The vehicles must be stored in a building.

**SECTION 16.11 KEEPING OF FARM ANIMALS AND OTHER ANIMALS**

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles (except domesticated cats, dogs, canaries, parakeets, parrots,

gerbils, hamsters, guinea pigs, turtles, fish, rabbits, commonly kept for 4-H projects) outside of the AR or R-1 zoning districts shall be prohibited. Applicants for 4-H projects who wish to raise a larger animal may petition the Planning Commission for a waiver of the Conditional Use Permit requirements and request approval of the 4-H project. The Planning Commission may attach any conditions it thinks are necessary to protect adjacent properties from anticipated negative impacts.

## **SECTION 16.12      DUMPSTERS OR OUTDOOR TRASH RECEPTACLES**

Any new or altered use (except agricultural and farming operations) which requires site plan review under Chapter 18 and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
- B. A decorative masonry wall or wooden privacy fence of six (6) feet in height shall enclose three (3) sides of the storage area. Bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way. The surface under any such storage area shall be constructed of concrete.
- C. In no instance shall any such refuse be visible above the required enclosure.
- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

**SECTION 16.13 SWIMMING POOL REGULATIONS**

- A. **Permit Application.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.
- B. **Location.** Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
- C. **Fencing.** All swimming pools having a depth of 24 inches or more shall provide security fencing in accord with the requirements of the Michigan Construction Code, Chapter 41, Appendix G.

**SECTION 16.14 HOME OCCUPATIONS**

A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

- A. No more than one (1) person total (not including the members of the family residing on the premises) shall be engaged in such occupation.
- B. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than one-quarter (25%) of the floor area of the floor on which the occupation is being conducted may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.
- C. A home occupation shall be conducted completely within the dwelling unit or permitted accessory building. A home occupation conducted within an accessory building shall not occupy more than 50% of said building. Accessory buildings in excess of 1,200 square feet shall be limited to 600 square feet in which to conduct the permitted home occupation.
- D. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no

external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.

- E. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- F. Signs not customarily found in residential areas shall be prohibited, provided however that one (1) non-illuminated name plate, not more than four (4) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises in the R-1 district. Freestanding signs not in excess of six (6) square feet in area may be placed on private property in the AR district as an alternative but not in addition to a sign placed on the dwelling.
- G. The hours of operation for a permitted home occupation shall be subject to Planning Commission review and shall be set in accordance with the provisions of this Ordinance based upon the type of use proposed.
- H. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.

**SECTION 16.15 TEMPORARY AND PORTABLE BUILDINGS, USES, & STRUCTURES**

- A. Structures erected for ice fishing and hunting purposes less than 100 sq. ft. in size are expressly permitted in Decatur Township and are exempt from the provisions of this Ordinance.
- B. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least ten (10) feet from all property lines and be removed within fifteen (15) days after the certificate of occupancy has been granted for the building under construction on the property.
- C. In addition to any other provisions contained in this Ordinance concerning the location of mobile homes within this Township, mobile homes shall be permitted outside of mobile home parks in the AR, R-1 and C-1 Districts on a temporary basis as provided hereafter.

1. In the case where a residence has been damaged by fire or tornado, an application for a Conditional Use Permit can be made to the Planning Commission to use a mobile home as a temporary residence during the construction of a new dwelling house. The Conditional Use Permit procedures (Chapter 19) shall be followed. The applicant must apply for a building permit within 30 days of approval of the Conditional Use Permit and said Conditional Use Permit shall expire one year from the date of approval. Said Permit may be extended for one additional year if the Township Board is satisfied that substantial progress has been made in the erection of the new dwelling house. Said mobile home shall be removed from the premises within one month from the aforesaid expiration date. The applicant must abide by all other provisions of this Ordinance.
  
  2. A mobile home may be used as a temporary housing for an aged or handicapped parent(s), or handicapped child of the owner of the parcel on which the mobile home is located, or by a caregiver of the property owner. A temporary mobile home falling under this category shall not be limited as to the number of one-year extensions, which may be granted, and it shall be permitted in any zoning district. Said mobile home shall be removed within three months from the date it is no longer occupied by the above permitted occupant(s). The property owner shall submit an application for a Conditional Use Permit. The Conditional Use Permit procedures (Chapter 19) shall be followed. The applicant must abide by all other provisions of this Ordinance.
- D. Other provisions relating to the use of Mobile Homes as temporary residence.
1. The application shall be accompanied by a fee as set by the Township Board and shall include the following information: (a) the name and address of the legal owner of the lot, (b) a legal description of the lot, (c) a diagram showing the size of the lot, the lot lines, location of present dwelling, and the proposed location of the mobile home on the lot, and (d) an affidavit that the owner of the lot occupies and uses the lot as his/her personal residence on a year round basis, and will continue to do so while the permit is in effect, and in the event the application is made pursuant to Section C 2 above, said affidavit shall set forth the relationship of the person occupying said mobile home to the owner of the lot, with clear and convincing evidence that the physical or mental condition of the person needing this on-sight assistance is so poor that close supervision is necessary for that person's health and safety.



2. The mobile home shall meet the setback requirements of the district in which it is located.
3. No more than one (1) mobile home, to be used as a temporary residence, shall be located on said parcel, and said mobile home shall be limited to single-family occupancy.
4. The applicant for a temporary mobile home permit shall also submit an approved, signed health department permit from the Van Buren County Health Department and shall have a HUD Certification on said mobile home and comply with any related local state or federal requirements.
5. The applicant shall further sign an agreement with the Township as to the removal of the mobile home after one year or within fifteen days of receipt of certificate of occupancy and, should the applicant fail to remove said home, then the Township shall be authorized to remove it and the costs shall constitute a lien on said property. It is the burden of the applicant to demonstrate good faith in receiving the permit by informing the Township of any changes in the circumstances connected with the permit.
6. Other conditions as may be reasonably applied by the Planning Commission to appropriately assure the compliance with the provisions of this Ordinance.

**SECTION 16.16 BUILDING PERMITS ISSUED PRIOR TO EFFECTIVE DATE**

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said building permit was granted.

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

**SECTION 16.17 RESTORATION OF UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of a any building or structure declared unsafe by the Building Inspector or required compliance with his or her lawful order. Furthermore, upon the determination of the Building Inspector and official notification thereof to the property owner, the Township Board may order the demolition

and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within 60 days of the date the building was removed, the Township may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

### **SECTION 16.18 MOVING OF BUILDINGS**

Any building or structure that has been wholly or partially erected on any premises located within the Township shall not be moved to and be placed upon any other premises in the Township until a zoning permit for such removal has been secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or County, may be charge to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a zoning permit shall be issued for the moving of such a building or structure.

### **SECTION 16.19 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS**

- A. Recorded Lots.** Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Section, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.
  
- B. Lack of Public Utilities.** In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate Van Buren County Health Department requirements to insure safe water supply and/or adequate sewage disposal.

**SECTION 16.20 NUMBER OF BUILDINGS ON A LOT**

Every building hereinafter erected or structurally altered shall be located on a lot and there shall be not more than one (1) main building on one (1) lot unless otherwise allowed in this Ordinance. Exceptions to the aforementioned requirement include dwellings permitted as a result of a Planned Unit Development (PUD) or open space project and temporary structures meeting the requirements set for in this Chapter.

**SECTION 16.21 ILLEGAL DWELLINGS**

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

**SECTION 16.22 OTHER PROJECTIONS INTO YARDS**

- A. **Cornice, Sill, Chimney, or Fireplace.** A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.
- B. **Fire Escape.** A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- C. **Open Stairway, Ramp, or Balcony.** An open, unenclosed stairway, access ramp, or balcony, not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet and such balcony may extend into a required front yard not more than six (6) feet. The ramp shall be built in compliance with the requirements of the Americans with Disabilities Act.
- D. **Porch, Open.** An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

**SECTION 16.23 ACCESS THROUGH YARDS**

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

**SECTION 16.24 ACCESSORY BUILDINGS AND STRUCTURES**

Accessory buildings and structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
- B. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use except as otherwise provided for in the AR zoning district. In no case shall an accessory building be located in the required front yard.
- C. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
- D. All accessory buildings, structures and uses combined shall cover no more than fifty (50) percent of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than ten (10) feet to any adjoining lot line or twenty-five (25) feet from a street right of way.
- E. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
- F. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- G. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard

setback of the lot to its rear, such accessory building shall be set back from the streets side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.

- H. No accessory building may be closer than five (5) feet to any other accessory building.

**SECTION 16.25 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES**

**A. Authorization.**

In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the M District is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

**B. Definitions**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Adult-Only Uses or Sexually Oriented Businesses.** Any business which primarily features sexually stimulating material and/or performances, including the following.

- a. **Adult Bookstore.** An establishment having more than 20% of its stock in trade books, magazines and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, paraphernalia and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” or an establishment with a segment or section devoted to the sale or display of such material which segment or section exceeds 10% of the useable floor area of the establishment.
- b. **Adult Cabaret.** An establishment which features nude or seminude entertainers, topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, nude or semi-nude waitresses or waiters or similar entertainers or an establishment which features live entertainment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas,” for observation by patrons therein. It may or may not offer beer or liquor depending on its license from the State.
- c. **Adult Media.** Magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
- d. **Adult Model Studio.** Any place where models who display “specified anatomical areas,” (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by persons who pay some form of compensation or gratuity. This definition shall not apply to any accredited art school or similar educational institution.
- e. **Adult Motion Picture Arcade or Miniature Motion Picture Theatre.** Any place where motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at anyone time, and where the images displayed depict, describe or relate to “specified sexual activities” or “specified anatomical areas.”
- f.. **Adult Movie Theater or Adult Live Stage Performing Theatre.** An enclosed building or room used for presenting motion picture

films, video tapes, cable or satellite television or any other visual media having as a dominant theme, materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activity” or “specified anatomical areas,” for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

g. **Adult Outdoor Motion Picture theatre.** A drive-in theater where at least 20% of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

h. **Adult Personal Service Business.**

(1) A business having as its primary activity a person, while nude or while displaying “specified anatomical areas,” providing personal services for another person. Such a business includes, but is not limited to modeling studios, body painting studios, wrestling studios and conversation parlors.

(2) Any establishment, club or business by whatever name designated, which offers or advertises, or is equipped or arranged to provide as part of its services; massages, body rubs, body painting, alcohol rubs, physical stimulation, baths or other similar treatment by any person.

(3) An adult personal service establishment may include, but is not limited to establishments commonly known as massage parlors, health spas, sauna baths, Turkish bathhouses and steam baths. The following uses shall not be included within the definition of an adult personal service establishment:

i. Establishments that routinely provide such services by a licensed physician, a licensed chiropractor, a licensed physical therapist, a licensed nurse

- practitioner or any other similarly licensed or certified medical professional;
  - ii. Establishments which offer massages performed by certified massage therapists;
  - iii. Gymnasiums, fitness centers and health clubs;
  - iv. Electrolysis treatment by a licensed operator of electrolysis equipment;
  - v. Continuing instruction in martial or performing arts or in organized athletic activities;
  - vi. Hospitals, nursing homes, medical clinics or medical offices;
  - vii. Barber shops, beauty parlors, hair stylists and salons which offer massages by certified massage therapists;
  - viii. Adult photography studios whose principal business does not include the taking of photographs of “specified anatomical areas;” and
  - ix. Tattooing and/or body piercing services.
- i. **Adult Video Store.** An establishment having at least 20% of its stock in trade or at least 10% of useable floor area devoted to the distribution, display, storage or on-premises viewing of films, movies, motion pictures, video tapes, slides or other visual representations which are distinguished or characterized by their emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
- j. **Escort.** A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- k. **Escort Agency.** A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.



- l. **Mainstream Media Store.** A video store, bookstore or newsstand having less than 20% of its stock or less than 10% of useable floor area devoted to the distribution, display or storage of adult media.
  - m. **Sexual Paraphernalia Store.** An establishment having at least 20% of its stock in trade or at least 10% of useable floor area devoted to the distribution, display or storage of instruments, devices or paraphernalia designed for use related to “specified anatomical areas” or as part of, in connection with, or related to “specified sexual activities,” or an establishment with a segment or section devoted to the sale or display of such material.
2. With respect to adult regulated uses or sexually oriented businesses, the following terms and phrases shall have the following meanings:
- a. **Specified Anatomical Areas.** Portions of the human body defined as follows: less than completely and opaquely covered:
    - (1) Human genitalia and pubic region;
    - (2) Buttock and anus;
    - (3) Female breast below a point immediately above the top of the areola; or
    - (4) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.
  - b. **Specified Sexual Activities.** The explicit display of one or more of the following:
    - (1) Human genitals in a state of sexual stimulation or arousal;
    - (2) Fondling or other erotic touching of human genitalia, pubic region, buttocks, anus, or female breast;
    - (3) Human sex acts, normal or perverted, actual or simulated including, but not limited to human masturbation, oral copulation, sexual intercourse, or sodomy;
    - (4) Human excretory functions as part of, or as related to, any of the activities described above; and

- (5) Physical violence, bondage, mutilation or rape, actual or simulated, as part of or related to, any of the activities described above.
  - c. **Sexual Intercourse.** Fellatio, cunnilingus, anal intercourse or any other intrusion, however slight, of any part of a persons body, or of any object, into the genital or anal openings of another’s body.
  - d. **Sodomy.** Sexual bestiality.
  - e. **Buttock.** The anus and perineum of any person.
  - f. **Massage Parlor .** An establishment wherein private massage is practiced, used or made available as a principal use and primary service of the premises.
  - g. **Massage.** The manipulation of body muscle or tissue, by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another for a fee.
  - h. **Nude Modeling Studio.** Any building, structure, premises or a part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas for artists and photographers for a fee or other consideration.
  - i. **Massage Therapist (Certified).** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.
- C. **Uses Specified.** Uses subject to these controls as defined herein as “adult only businesses” are as follows:
- 1. Adult bookstores.
  - 2. Adult video stores.
  - 3. Adult cabarets.
  - 4. Adult motion picture arcade or miniature motion picture theater.
  - 5. Adult movie theater or adult live stage performing theater.
  - 6. Adult outdoor motion picture theater.
  - 7. Adult model studios
  - 8. Escort and escort studios

9. Sexual paraphernalia store
10. Adult personal service business.
11. Other sexually-oriented businesses, as determined by the Township Board.

**D. Site Location Principles.**

The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed:

1. No adult only business shall be located within a one-thousand (1000) foot radius, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, of any of the following: residential zoning district; church, monastery, temple, or similar place of worship; cemetery; school; library; public park or playground; non-commercial assembly facility; public office building; licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.); arcade; or adult foster care home or senior citizen center.
2. An adult only business shall be located as a *conditional use* in the M – Manufacturing District.
3. No adult only business shall be permitted within a one-thousand (1,000) foot radius of an existing adult only business. Measurement of the one-thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

**E. Site Development Requirements.**

The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.

1. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.
2. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the

interior from any public or semi-public area as determined by the Planning Commission.

3. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.
4. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

**F. Use Regulations.**

1. No person shall reside in or permit a person to reside in the premises of an adult only business.
2. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a current zoning and building occupancy permit. Such licenses shall be issued by the Zoning Administrator, Building Inspector, or duly appointed designee following an inspection to determine compliance with the relevant ordinances of Decatur Township. Such license shall be subject to all regulations of federal, state, and local governments.
6. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use and only upon having obtained the

appropriate licenses and permits from Decatur Township, County of Van Buren, and State of Michigan.

7. To compensate for the necessary inspections and administration, the Township Board, by resolution, may establish reasonable fees that apply to this use. These may include application fees, inspection fees, and/or common fees, some of which may be determined on a per dancer basis if applicable.
8. Mainstream media outlets carrying less than 20% of adult media and/or devoting less than 10% of usable floor area to adult media are not subject to the standards for adult uses. However, the adult media shall be kept in a separate room, which shall:
  - a. not be open to any person under the age of 18
  - b. be physically and visibly separated from the rest of the store by an opaque wall
  - c. be located so that the entrance is as far as reasonably practicable for media or other inventory likely to be of particular interest to children
  - d. provide signage of the entrance stipulating that persons under 18 are not permitted inside

**G. Conditions and Limitations.**

Prior to the granting of any permit herein provided, the Planning Commission or Township Board may impose any such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license issued.

**H. Limit on Re-application.**

No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

**SECTION 16.26     AUTOMOTIVE FUELING STATIONS AND SERVICE STATIONS**

**A.     Purpose.**

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations and service stations and to regulate and control other problems incidental to these uses that they may exercise upon adjacent and surrounding areas, the following regulations and requirements shall be required in any zoning district. All automotive fueling stations and service stations erected after the effective date of this Ordinance shall comply with this section. No automotive fueling station or service station existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.

**B.     Minimum Area and Frontage.**

An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of fifteen-thousand (15,000) square feet.

**C.     Setbacks.**

An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than forty (40) feet from any side or rear lot line directly adjoining a residential zoning district.

**D.     Driveway and Curbs.**

1. All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the standards of this Ordinance, and shall not be more than thirty (30) feet wide at the property line. Not more than two (2) curb openings shall be permitted along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway. All

drive approaches shall otherwise meet Van Buren County Road Commission standards for construction, turning lanes, and placement.

2. A raised concrete curb, six (6) inches in height, shall be erected along all driveway openings to minimize erosion and to appropriately direct traffic.

**E. Paved Areas.**

All parking areas, isles, driveways and loading areas shall be hardsurfaced with concrete or a plant-mixed bituminous (asphalt) material, except undeveloped and landscaped areas.

**F. Equipment Location.**

All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right of way.

**G. Number of Pumps.**

An automotive fueling station, service station, or repair center located on a lot having an area of fifteen-thousand (15,000) square feet or less shall include not more than four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps and two (2) enclosed stalls for servicing, lubricating, greasing, and/or washing motor vehicles. An additional two (2) gasoline and fuel pumps and/or one (1) enclosed stall may be included with the provision of each additional two-thousand square feet of lot area.

**H. Walls and Screening.**

Where an automotive fueling station, service station, repair center, or public garage adjoins property located in any residential zoning district, screening shall be provided.

**I. Lighting.**

All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all requirements of this Ordinance.

**J. Outdoor Storage and Parking.**

Minor repair work (i.e. the replacement of wipers, light bulbs, batteries, etc.) taking one hour or less to complete shall be permitted. There shall be no storage of vehicle components, parts, trash, supplies, or equipment outside of a building. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day, except that equipment rental operations shall be permitted if incidental to the automotive fueling station, service station, or repair center, and if restricted to travel trailers or campers of under twenty-one (21) feet overall length, car-top carriers, and similar auto accessories. Such operations shall be within fenced enclosures observing the same setbacks required for buildings in the zoning district wherein the automotive fueling station, service station, or repair center is located.

**K. Removal of Underground Storage Tanks.**

In the event that an automotive fueling station, service station, repair center, or public garage use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises in accordance with State and Federal regulations and statute.

**SECTION 16.27 CONDOMINIUM DEVELOPMENT STANDARDS**

**A. Purpose and Scope.**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the



project's location, any land use permitted by the Decatur Township Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within Decatur Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

**B. Site Condominium Review and Approval Procedures (Step I Review).**

Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission to review the Preliminary Plan. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Township Clerk, who shall distribute it to all Planning Commission members.
  - a. A sketch of the Preliminary Development Plan drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
  - b. A statement regarding the provision of sewer service and water supply.
2. During the discussion of the Preliminary Plan, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
  - a. General requirements of this Section and other applicable provisions of this Ordinance.

- b. Planned or anticipated sites of parks and recreation areas and other public uses.
  - c. Utility system capabilities.
  - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
  - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
  - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
  4. Following review of the Preliminary Plan, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
    - a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
    - b. Van Buren County Drain Commissioner
    - c. Van Buren County Road Commission
    - d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

**C. Site Condominium Review and Approval Procedures (Step II Review).**

1. An application for final review of a site condominium subdivision project shall be made to the Township Clerk along with the appropriate fees as

required by Township Board resolution. The application shall, at a minimum, contain the following information:

- a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.
- b. The applicant's name, address, and phone number.
- c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
- d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
- e. The legal description, address and tax parcel number of the property.
- f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
- g. Gross and net size of the parcel in acres.
- h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
- i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
- j. A copy of any preliminary agreements which may be required before final plan approval is granted.
- k. A copy of the proposed master deed and by-laws of the project and the supportive information which is intended to be recorded with the County Register of Deeds as required by state law.

2. The applicant shall provide at least ten (10) copies of the final site condominium project plan and additional copies if deemed necessary by the Zoning Administrator. The plans at the time of their submittal shall contain the information required for preliminary and final site condominium plan as required by this Ordinance and incorporate the comments received from review of the Preliminary Plan.
3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the final site condominium project plans, the Township Clerk shall forward one copy to each member of the Planning Commission, and the Township Engineering or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Township Clerk shall notify by mail, all the members of the Planning Commission, that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given in accordance with the requirements in Section 19.01.D. The Zoning Administrator shall also give such notice of the meeting as required by the Open Meetings Act.
6. In reviewing the final plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the master deed and by-laws in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the final plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall recommend approval. If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:
  - a. Recommend denial of the final plan, setting forth the reasons in writing, or
  - b. Recommend granting of final plan approval contingent upon completion of the revisions as noted.
  - c. Upon receiving the recommendation of the Planning Commission. The Township Board shall make the final determination whether to

approve, approve with conditions, or deny the final plan for the proposed site condominium.

- D. **General Requirements.** The following general requirements shall apply to all site condominiums and the units within them.
1. **Definitions.** The terms used in this Section are defined in the Condominium Act, P.A. 59 of 1978, as amended. The terms are used in a manner intended to make possible comparison between the provisions of this Section and Ordinance, the Condominium Act, and other applicable Township Codes and Ordinances. Specifically:
    - a. “Subdivision lot” or “lot” shall be synonymous with the term “site condominium unit.”
    - b. “Building” or “structure” shall be synonymous with the term “building envelope.”
    - c. “Preliminary plat” shall be synonymous with the term “preliminary condominium subdivision plan.”
    - d. “Final plat” shall be synonymous with the term “final condominium subdivision plan.”
    - e. “Subdivision” or “single-family residential subdivision” or “commercial subdivision” or “industrial subdivision” shall be synonymous with the term “site condominium project.”
    - f. “Proprietor” shall be synonymous with the terms “applicant” or “developer.”
  2. **Design and Layout.** Site condominium projects shall comply with the design layout and improvement standards of this Ordinance and Decatur Township as well as State law. This shall include all applicable setback, height, lot coverage, and area restrictions of the subject zoning district.
  3. **Use.** Each site condominium unit shall be located in a zoning district that permits the proposed use. If the use is a conditional use, a public hearing and approval of that conditional use will be required consistent with the requirements in Chapter 19.

4. Setbacks. Required yards shall be measured from the street right of way line or private road easement and site condominium unit boundaries to the nearest edge of the building envelope.
5. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act shall conform to all setback requirements of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the by-laws and recorded as part of the master deed.

**E. Common Elements.**

After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

**F. Encroachment.**

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

**G. Subdivision of Unit Sites.**

Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the by-laws and recorded as part of the master deed.

**H. Conformance with Subdivision Regulations.**

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance and with the Township's Code of Ordinances.

**I. Water and Waste Water.**

The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.

**J. Expansion and Conversion.**

Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

**K. Master Deed.**

The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

**L. As-Built Plans and Occupancy.**

Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.

**M. Final By-Laws, Consolidated Master Deed, and Site Plan.**

Upon approval of the development, the applicant shall furnish the Township a copy of the by-laws and consolidated master deed. The development plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.

**N. Compliance with other Statutes and Ordinances.**

All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

**SECTION 16.28 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS**

- A. **Purpose.** The purpose of this Ordinance is to regulate the placement, construction and modification of transmission towers and telecommunications facilities in the Township of Decatur, Van Buren County, Michigan, and more specifically:

1. To regulate the location of transmission towers and telecommunications facilities in the Township of Decatur, Michigan.
2. To protect residential areas and land uses from potential adverse impact of transmission towers and telecommunication facilities.
3. To minimize adverse visual impact of transmission towers and telecommunications facilities through careful design, site location, landscaping and innovative camouflaging techniques.
4. To promote and encourage shared use/collection of transmission towers and antenna support structures as the primary option rather than construction of additional single use transmission towers.
5. 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.
6. To ensure that transmission towers and telecommunications facilities are compatible with surrounding land uses.
7. Nothing in this Ordinance shall apply to amateur or non-commercial radio and television antennas.

**B. Permitted as Principal Uses.** In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval as provided in Chapter 18 Site Plan Review, and also subject to the conditions set forth in subparagraph (D) below:

1. Attached wireless communication facilities within all districts where the existing structure is not, in the discretion of the Planning Commission, proposed to be either materially altered or materially changed;
2. Collocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission;
3. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests; or



4. Wireless communication facilities with monopole support structures of no more than two-hundred (200) feet in height within the I-1 and C-1 zoning districts.

C. **Permitted as Conditional Land Uses.** Wireless communication facilities with monopole tower support of 200 ft. or less in the AR District shall be permitted as a conditional land use. Agricultural-use antennas of 200 feet or less shall also be permitted as a conditional land use in the AR district. Wireless communication facilities with monopole or lattice tower support structures with a height of greater than two-hundred (200) feet shall be permitted as conditional land uses only in the C-2, I-1 and M Zoning Districts, except that they shall not be located within five-hundred (500) feet of any R-1 or R-2 zoning district, or within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited-access highway or other major thoroughfare. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.

D. **Permitted as Conditional Land Uses in Other Districts.**

If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in paragraphs B & C above cannot reasonably meet the coverage and/or capacity needs of the applicant, and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with paragraphs B or C above, a wireless communication facility may be permitted as a conditional use or a special accessory use within all other zoning districts, subject to the standards of Chapter 19 Conditional Land Uses, and further subject to the following conditions:

1. Such wireless communication facilities shall be located on a priority basis only on the following sites: a) governmentally owned sites; b) religious or other institutional sites; c) public or private school sites; or d) public park and other large permanent open space areas when compatible.
2. Wireless communication support structures in such locations shall be of an alternative or stealth design such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods, and the general area, as approved by the Planning Commission.

**E. Application Requirements**

1. **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 Township Clerk for Site Plan review, and pay the appropriate application fee, and shall further submit the following information with said application unless waived by the Township of Decatur, Michigan.
  - a. A description of the proposed antenna's location, design and height.
  - b. 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.
  - c. Documentation from an engineer that placement of the antennas is designed to allow future collocation of additional antennas if technologically possible.
  - d. 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.
  - e. Plans showing the necessary easements or rights-of-way for connection to utilities, and for vehicle access.
  - f. Documents showing that necessary easements have been obtained.
  - g. 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.
  - h. 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.

- i. 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.

2. **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 Township 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 Township of Decatur, Michigan:

- a. A description of the proposed transmission tower location, design and height.
- b. The capacity of the transmission tower in terms of the number and type of antennas it is designed to accommodate.
- c. Documentation from an engineer demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
- d. 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.
- e. Documentation from an engineer that the ancillary facilities will not produce sound, or setting forth the designs showing how the sound is to be effectively muffled and reduced.
- f. A site plan 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.
- g. Documents showing that necessary easements have been obtained.
  - h. 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.
  - i. The names, addresses and telephone numbers of all owners of other transmission towers or usable antenna support structures within a five (5) mile radius of the proposed new transmission tower site, including towers or support structures located within or outside Decatur Township.
  - j. 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 five (5) mile radius of the proposed transmission tower site, regardless of whether said towers or support structures are located within or outside Decatur Township.
  - k. Written, technical evidence from an engineer(s) setting forth the reasons that the proposed transmission tower or telecommunications facilities cannot be installed or collected on another transmission tower or usable antenna support structure located within a five (5) mile radius of the proposed transmission tower site, regardless of whether said towers or support structures are located within or outside Decatur Township.
  - l. 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.

**F. Required Standards for Wireless Communication Facilities in All Districts.**

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

1. **Separation Between Transmission Towers.** No transmission tower may be constructed within five (5) miles 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.
2. **Height:** Towers for radio, television, cellular phone and other transmitting and relay antenna towers shall be located so any setback equals the setback from any adjacent or adjoining property lines equal to or greater than the height of the tower. The maximum height shall be the minimum demonstrated to be necessary by a radio frequency engineer. However, in no case shall the height of the tower exceed 250 feet. All applications shall be accompanied by the radio frequency reception data maps showing signal strength information for the tower location.
3. **Collocation.** New transmission towers shall be designed to accommodate collocation of additional providers.
  - a. New transmission towers of a height of one hundred and fifty (150) feet 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.
  - b. 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.
4. **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 or 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).

5. **Construction:** All towers shall be self-collapsing and comply with all Michigan building code regulations. The applicant shall provide all appropriate engineering information, site plans, and drawings to the Building Official at the date of application. No building other than the associated support building, sidewalk, parking lot, or other area with anticipated pedestrian or vehicular traffic shall be permitted within the self-collapsing or “safe fall” area.
  
6. **Compatibility:** The entire facility must be aesthetically and architecturally compatible with the surrounding environment. The use of residentially compatible materials such as wood, brick, and stucco is required for associated support buildings which shall be designed to architecturally match the exterior of the residential structures within the neighborhood. The structures shall be located and constructed in compliance with the following criteria:
  - a. **Location Criteria**
    - (1) Facilities shall be sited to minimize views from residential areas or the public right-of-way.
    - (2) Concentration of support structures will be limited in all geographical areas to avoid excessive visual impacts.
  
  - b. **Development and Design Standards**
    - (1) Support structures shall be located as to be screened from view by siting them near tall buildings or placed existing tall trees.
    - (2) Whenever possible, all support shall be of a monopole design.
    - (3) Support structures shall be located a minimum of one hundred fifty (150) feet from any residential lot line.
    - (4) Support structures shall be painted in unobtrusive colors.
    - (5) Support structures shall be designed to prevent unauthorized climbing.
    - (6) When lighting is required by the FAA or other federal or state authority, it shall be the minimum required to meet

regulations and the same shall be approved by the Planning Commission. Any lighting for associated support building shall also be subject to Planning Commission approval. It shall be oriented inward so as not to project on to surrounding properties.

- (7) The Planning Commission may require anti-climbing devices and security fencing of at least six feet preventing access to the associated building, tower and/or guyed wires.
- (8) Signs and logos are prohibited on the tower.
- (9) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and structure, or between towers, shall be at least sixteen (16) feet above the ground at all points, unless buried underground.
- (10) Towers shall be located so that they do not interfere with television, radio or short wave radio reception in nearby residential areas.
- (11) Existing on site vegetation shall be preserved to the maximum extent practicable. However, the site shall be maintained in harmony with the surrounding properties. Where the property line of a site containing a wireless communication structure abuts a residentially zoned area, the operator shall provide a plant screen sufficient in density and height so to have an immediate buffering impact on adjacent property.
- (12) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- (13) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.

- (14) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
  - (15) Structures shall be subject to current State and Federal regulations concerning nonionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform or the conditional use permit will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
  - (16) All structures associated with the facility shall be located on the property owned or leased by the communications company operating the facility including all guyed wires and anchors relating thereto.
  - (17) The access road leading to the facility shall be constructed of gravel and/or aggregate sufficient to maintain adequate access to the site. A driveway permit, where necessary, will be sought and received by the applicant prior to issuance of any building permit.
  - (18) The applicant is responsible for seeking and receiving any and all permits required for the site location, including but not limited to FAA, Michigan Aeronautics Commission, Van Buren County Road Commission, etc.
- c. Safety Standards: All new wireless communication facilities shall be designed within the applicable ANSI standards.
7. **Discontinuance.** When a wireless communication structure has not been used for a period of ninety (90) consecutive days after new technology is available which permits the operation of a facility without the necessity of a wireless communication structure, all parts of the structure shall be completely removed within one hundred sixty (160) days. The removal of antennae or other equipment from the structure or the cessation of reception or transmission of radio signals shall be considered the beginning of non-use. Decatur Township may secure the removal of the structure if it is still standing thirty (30) days after the Township has sent a notice to the operator stating the need to remove the structure, the Township may charge up to 125% of the removal cost to the operator and/or the land owner.



8. To insure compliance with the criteria and discontinuance or removal of said tower, the Township shall require a bond. The surety/performance bond shall be on file with the Township before any permits are issued. Minimum bond amount is \$25,000 or 125% of construction cost.
9. All applications will follow the conditional use process and require final approval by the Township Board of Trustees.

**SECTION 16.29 MINING, SAND AND GRAVEL**

- A. The application for a conditional land use permit for such uses shall also contain the following:
  1. Name of owner of lands from which removal is to be made
  2. Proposed method of removal and equipment intended to be used in the removal
  3. Proposed method of restoration of area after removal of resources is completed.
  4. A map of the parcel involved showing all buildings, streets, drainage facilities and natural features within two hundred (200) feet thereof shall accompany the application.
  5. A topographic contour plan of the proposed restoration elevations shall also be presented with the application where qualities of earth are to be removed from the parcel.
  6. Certification by the Van Buren County Road Commission, Van Buren County Drain Commissioner, and the Van Buren County Soil Conservation Service that the proposed use will not severely threaten the public safety or property rights of others and that sedimentation control standards of the Soil Conservation Service will be met.
- B. The change in the natural contour of the land during mining operations and at the cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and all trespassers.
- C. No business or industrial structures or buildings of a permanent nature shall be erected without prior approval.

- D. No truck parking or truck storage shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any adjoining property.
- E. A well maintained wire or painted wooden fence shall be erected on any side adjoining a residential property.
- F. No part of the removal process shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than fifty (50) feet to any street line.
- G. The proposed restoration elevations shall be compatible with surrounding areas and adequate safeguards shall be made to insure proper drainage.
- H. The property shall be restored by the replacement of topsoil and such soil shall be stabilized by appropriate plantings.
- I. All truck traffic shall be directed away from residential streets.

**SECTION 16.30 RIPARIAN WATERFRONT LAND AND LOT USE REGULATIONS**

- A. **PURPOSE.** The following restrictions are intended to protect the quality of lakes within Decatur Township: to protect the health, safety and general welfare of riparian owners and other users of said lakes; to preserve the recreational use of said lakes while discouraging excess use thereof; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this Ordinance shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.
- B. **DEFINITIONS.** As used herein “Access Property” shall mean any waterfront parcel of land or lot adjoining or abutting a lake, or other body of water connected to a lake, which is used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from non-waterfront land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form of dedication or conveyance.
- C. **REGULATIONS.** In any zoning district where a parcel of land is adjoining or abutting a lake, or other body of water connected to a lake, whether such parcel is

held in common by a subdivision, association, or any other entity or similar agency; or held in common by virtue of the terms of a plat of record; or providing for common use under deed, easement, licensing or use covenants; or owned by one or more dwelling units located away from the waterfront, such parcel of land may be used as access property only if the following conditions are complied with.

1. Said parcel of land shall contain a minimum of fifty (50) lineal feet of water frontage and a minimum depth of one hundred (100) feet for each single family home, cottage, condominium unit, site condominium unit, apartment, or other individual dwelling unit to which access privileges are extended or dedicated. Water frontage shall be measured by a straight line which intersects each side line of said lot or parcel of land at the water's edge.
2. In no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey maps or the Michigan Department of Natural Resources MIRIS map, or have been determined to be wetland by the Michigan Department of Environmental Quality; nor shall a swamp, marsh, bog or wetland be altered by dredging or the addition of earth or fill material, or by the drainage of water for the purpose of increasing the water frontage required by these regulations.
3. In no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by these regulations.
4. Access property, as herein provided for, shall not be used as a residential lot for the purpose of constructing dwelling(s) and/or accessory structure(s) or for any commercial or business use.
5. Not more than one pier or dock may be located on such access property for each fifty (50) lineal feet of water frontage, and same shall not be located closer than twenty (20) feet from any other pier or dock.
6. Not more than four (4) watercraft may be moored or stored in any manner on land or in the water for each fifty (50) lineal feet of waterfront access property.

D. **NON-CONFORMING USES.** In any district in which access property has been established before the effective date of Ordinance No. 2 of 2000, such access

property shall retain historic uses. It is the intent of this Ordinance to permit such lawful non-conformance to continue, but not to encourage additional uses and sites or expansion of the use of existing sites.

**SECTION 16.31 ANIMAL USES**

- A. All new and expanding animal uses involving more than 50 animal unit equivalents, as defined by the Michigan Department of Agriculture (see table below) shall comply with Generally Accepted Agricultural and Management Practices (GAAMPs) for Site Selection and Odor Control for New and Expanding Livestock Production Facilities as adopted by the Michigan Department of Agriculture, including the submission of a site plan and a Manure Management Plan. All potential sites for new and expanding livestock facilities must follow the MDA site selection review and verification process and must submit a letter of conformance with the GAAMP for Site Selection and Odor Control for New and Expanding Livestock Production Facilities from MDA prior to site plan approval. The following standards shall also be satisfied:

**Animal Units**

<b>Animal Units</b>	<b>50</b>
<i>Animal Type</i>	<i>Number of Animals</i>
<b><i>Slaughter and Feeder Cattle</i></b>	<b>50</b>
<b><i>Mature Dairy Cattle</i></b>	<b>35</b>
<b><i>Swine (over 55 pounds)</i></b>	<b>125</b>
<b><i>Sheep and Lambs</i></b>	<b>500</b>
<b><i>Horses</i></b>	<b>25</b>
<b><i>Turkeys</i></b>	<b>2,750</b>
<b><i>Laying Hens or Broilers</i></b>	<b>5,000</b>

(All other animal classes or types of sizes (e.g., Nursery Pigs) not in this table are to be calculated as one thousand pounds live weight equals one animal unit.)

- 1. Manure tanks, animal confinement structures or pads, holdings areas and feeding areas (excluding grazing areas) shall have a minimum set back of

600 feet from any existing dwelling unit and 600 feet from all public streets or highways.

2. All manure applied to the land shall be either injected into the soil, or if manure is sprayed or spread upon the ground, same shall be disked into the soil within 24 hours thereafter.
3. If manure is disked into, injected into, sprayed over, or otherwise spread over the ground, a record shall be maintained of the time and location of these activities and shared with the Township at least every 6 months.
4. A copy of the Manure Management Plan for any use not approved through the Township shall be submitted to the Township to document manure management activities in the community.

B. New and expanding animal uses involving fewer than 50 animal units shall be permitted in the AR districts according to the density table provided below.

	<i>Cattle, bison, and other bovine animals</i>	<i>Swine</i>	<i>Llamas, sheep, goats, and other ruminants</i>	<i>Poultry, rabbit, water fowl</i>	<i>Other exotic flightless birds</i>
	AR	AR	AR	AR	AR
<i>Min. acreage for animals</i>	3	3	3	3	3
<i>Animals allowed on minimum</i>	3	1	3	6	5
<i>Animals allowed per additional acre</i>	1	1	1	3	1.5

\*Note: These numbers refer to actual animals, not animal units

- C. These standards shall not apply to households raising animals in the above categories (not including horses) for educational or recreational purposes. Such households shall be limited to a maximum of three (3) animals per occupant of the property and have a minimum lot size of two (2) acres in the Agriculture district.
- D. Accessory structures used to house animals shall not be located in the front yard and must be set back a minimum 50 feet from all property lines.

- E. Horses and equine fewer than 50 animal units shall be permitted in the AR district according to the following table of density and lot sizes:

	<b>Horses, Equine</b>
	<i>AR</i>
<i>Min. acreage for animals</i>	3
<i>Animals allowed on minimum</i>	1
<i>Animals allowed per additional acre</i>	1/2

- F. Disposal or slaughtering of animals for commercial purposes shall be prohibited.
- G. Manure shall be stored in a manner that minimizes odor and run-off. Consideration should be given to partial paving of confinement areas, storage ponds, and other Accepted Agricultural Practices (GAAMPs) regarding runoff control. When manure from confinement manure storage pits or holding areas is removed it shall be incorporated, knifed in, or disposed of in a reasonable manner following GAAMPs and taking into account the season of the year and wind direction. Sufficient area to permit proper incorporation or disposal of manure shall be provided. Manure shall not be applied and left on the soil surface in any area that is within 150 feet of surface water.

**SECTION 16.32 FRONT YARD SETBACK DETERMINATION**

As defined in Chapter 2, the front yard is measured from the front lot line to the building. The front yard setback is the minimum required depth of the front yard. The front lot line is defined as either the right of way line or easement boundary, or the property line separating the lot from the right of way or easement. It is from this line that the setback distance is measured.

In order to accurately determine the front setback, one must be able to accurately locate the front lot line. To do so requires a survey of the property. For most applications in Decatur Township, a survey is not required. However, as indicated, without a survey, the accuracy of determining the setback location diminishes. Other reliable sources include survey stakes, benchmarks, monuments, and similar devices that can be tied to documentation related to the property.

In the absence of any of these resources and if the applicant elects not to submit a survey, the Township will determine the setback by measuring the distance from the centerline of the road. It is assumed in these instances that the road is located in the middle of the right of way or

easement. Half of the width of the right of way or easement is added to the setback requirement and this distance is measured from the centerline to determine the setback location. The Township shall not be held responsible for development that results in nonconforming structures or for enforcing standards in excess of the required setback distances as a result of measurements from the centerline of the road due to the fact that the road may not be located in the center of the right of way or easement.

**SECTION 16.33 STATE LICENSED RESIDENTIAL USES**

- A. An adult foster care family home, family day care home, foster day care home, and foster family group home shall be considered a residential use of property and approved as such in all residential districts.
- B. A group day care home shall be granted a conditional use permit in any residential district if it satisfies all of the following conditions:
  - 1. The facility is located no closer than 1,500 feet to any of the following:
    - a. Another licensed group day care home.
    - b. Another adult foster care small group home or large group home licensed under the adult foster care licensing act.
    - c. A facility offering substance abuse treatment and rehabilitation services to seven or more people licensed under article 6 of the public health code.
    - d. A community correction center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the department of corrections.
  - 2. The facility has appropriate fencing for the safety of the group day care home as determined by Decatur Township.
  - 3. The facility maintains the property consistent with the visible characteristics of the neighborhood.
  - 4. The facility does not exceed 16 hours of operation during a 24-hour period. The Township may limit but not prohibit its operation between the hours of 10:00 p.m. and 6:00 a.m.
  - 5. The facility complies with all appropriate sign regulations.
  - 6. The facility provides adequate off-street parking for its employees.

**SECTION 16.34 OFF ROAD VEHICLE TRACKS**

**A. Purpose**

In the interest of maintaining public health, safety, repose and comfort, of the Township and its residents, the Township desires to define characteristics of off-road vehicle (ORV) tracks or parks and to regulate the operations of ORV's on tracks or parks within the Township.

**B. Definitions.**

1. Off-road vehicle (ORV) track or park: Any parcel of land where six (6) ORV's or dirt bikes, or more, are operating for entertainment or recreational purposes, or on any parcel of land where the landscape has been altered consistent with that of a ORV track or park so as to provide trails, jumps, obstacles, hills or tracks for racing or competing.
2. All-terrain vehicle (ATV): A 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, a seat designed to be straddled by the rider, and is powered by a 50 cc to 500 cc gasoline engine or an engine of comparable size using other fuels.
3. Off-road vehicle (ORV): A motor driven off-road recreational vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. An ORV includes, but is not limited to, a multi-track or multi-wheel drive vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving moving power from a source other than muscle or wind. Examples of an ORV include an all-terrain vehicle (ATV), a mini-bike, motorbike, motorcycle, dirt bike, or four-wheel drive truck.

**C. Regulations**

1. Minimum lot size. The minimum lot size for an ORV track or park is fifty (50) acres.
2. Setbacks. The outer dimensions of the ORV track or park shall be five hundred feet (500') from any residence other than that of the operator, and one hundred feet (100') from any property line or right-of-way line.



3. Maximum Number. A maximum number of twenty (20) ORV's or dirt bikes will be allowed in operation at an ORV track or park at any one time.
4. Hours of operation. ORV tracks or parks may be in operation between the hours of 12:00 p.m. (noon) and 6:00 p.m. any day of the week, and no ORV's may operate on ORV tracks or parks for more than one (1) consecutive hour. For each hour of continuous operation an hour of inoperation/rest must follow immediately thereafter. (Example: If ORV's are running from 12:00 p.m. to 1:00 p.m., ORV track or park will be shut down from 1:00 p.m. – 2:00 p.m. Riding would resume at 2:00 p.m.)
5. All provision of MCL 324.81101 et. seq. shall apply to ORV use.
6. Noise limitations. ORV tracks or parks shall be subject to Township noise ordinances and/or regulations.
7. ORV tracks or parks shall be subject to such further regulations or conditions as shall be deemed reasonable and appropriate by the Decatur Township Board to comply with the purpose as set forth in subparagraph A of this Section.