

ORDINANCE NO. 139

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

THE VILLAGE OF DECATUR, MICHIGAN ORDAINS:

Section 1: **PURPOSE**

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

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

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

Section 2: **APPLICATION REQUIREMENTS.**

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

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

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

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

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

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

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

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

7. Documents showing that necessary easements have been obtained.

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

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

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

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

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

Section 3: **CONDITIONAL USE PERMIT.**

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

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

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

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

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

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

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

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

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

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

Section 5: STANDARDS FOR ANCILLARY FACILITIES

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

Section 6: REMOVAL OF FACILITIES

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

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

Section 7: ADDITIONAL FEES AND COSTS.

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

shall be set by Village Council resolution.

Section 8: VIOLATION PENALTY.

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

Section 9: SEVERABILITY

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

Section 10: REPEAL.

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

Section 11: EFFECTIVE DATE.

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