

**ORDINANCE NO. 199**

**AN ORDINANCE TO REGULATE OPEN BURNING IN THE VILLAGE OF DECATUR**

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

**Section 1. Regulation of Open Burning.** In order to protect the public health, safety, and welfare of the residents of the Village of Decatur, Michigan, no person shall set a fire outside of a building in the Village of Decatur unless it complies with the provisions of this ordinance.

**Section 2. Definitions of Legal Burns.** The following types of burning shall be lawful under this ordinance:

**a.) Cooking Fires.** Cooking fires are permitted for the cooking and smoking of food provided that such fires are contained in a barbeque grill or pit, smoke house, or other enclosure, and provided further that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others living in the vicinity of such fire.

**b.) Campfires.** Campfires no larger than four feet in diameter or covering an area no larger than twelve square feet are permitted when contained within an open pit constructed in the soil, or an enclosure constructed of stone, masonry materials, steel or similar materials.

**Section 3. Other Regulations.**

**a.)** There shall be no burning on any paved or concrete portion of any public or private street, driveway or sidewalks.

**b.)** There shall be no public or private bonfires in which the combustible material would exceed five feet in diameter, or cover an area larger than ten square feet

**c.)** There shall be no burning unless it is under the supervision of an adult or person of mature years and discretion.

**d.)** There shall be no burning at any time when the wind or weather conditions may create a nuisance or danger to any property.

**e.)** No person shall use gunpowder, kerosene, gasoline, benzene, or naphtha to kindle a bonfire or put any of such substances on or into a bonfire.

**f.)** No person shall burn leaves, grass, lawn clippings or other yard wastes, rubbish, boxes, trash, furniture, papers, plastic materials, tree limbs, building materials, garbage, or refuse outside of a building at any time on any public or private property within this Village or cause or permit another to do so on any property subject to his control.

**g.)** No person shall cause any fire to be set that is in violation of any State law or other State Administrative Rule.

h.) Such other regulations may be set forth by the Decatur-Hamilton Fire Department or the Village of Decatur Police Department.

**Section 4. Civil Liability For Cost And Damage.**

a.) Any person who sets a fire which necessitates calling the Decatur-Hamilton Fire Department, or any other fire department, shall pay to the Decatur-Hamilton Fire Department all costs and charges incurred by the department.

b.) Any person who is found in violation of this ordinance shall be responsible for all expenses incurred by the Village of Decatur. This includes all attorney costs and fees associated with prosecution of the ordinance.

c.) The Decatur-Hamilton Fire Department and/or the Village of Decatur may sue in any court of competent jurisdiction for civil damages and may recover such costs and expenses incurred by it from any person who sets such a fire.

d.) Payment of the aforesaid costs and expenses to the Decatur-Hamilton Fire Department shall in no way relieve such person from liability for any damage caused by such fire and the penalties hereinafter provided.

**Section 5. Enforcement.** The Village of Decatur Police Department and/or the Decatur-Hamilton Fire Department are authorized to enforce the provisions of this Ordinance.

**Section 6. Severability.** Sections of this Ordinance, or any part thereof, 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 this Ordinance as a whole, or any part thereof other than the part so declared to be invalid.

**Section 7. Repeal.** Ordinance No.32, Ordinance No. 126, Ordinance No. 158, and Ordinance No. 168 are hereby repealed, and any and all other Ordinances or parts thereof of the Village of Decatur, Michigan in conflict with the provisions of this Ordinance are, to the extent of such conflict, also hereby repealed.

**Section 8. Violation And Penalties.** A violation of this Ordinance is a Misdemeanor and any person, firm or corporation who shall violate this Ordinance, upon conviction, shall be punished by up to 90 of imprisonment in the Van Buren County Jail and/or up to \$500 in fines as well as any costs, damages, expenses or other sanctions as authorized under Chapters 83 and 87 of Act 236 of the Michigan Public Acts of 1961 as amended, being MCL 600.8302 et seq. and MCL 600.8701 et seq, respectively. Each day that a violation continues shall be deemed a separate violation of this Ordinance.

**Section 9. Effective Date.** This Ordinance shall become effective September 1<sup>st</sup> 2015.

Adopted by the Village Council of the Village of Decatur, Michigan on this 3<sup>rd</sup> day of August 2015.