

ORDINANCE NO. 141
(Tree Ordinance)

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

Section 1: Definitions:

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

Section 2: Public Tree Care:

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

Section 3: Appointment of Village Forester:

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

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

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

Section 5: Trees Overhanging Street or sidewalk:

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

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

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

Section 7: Protection of Trees During Construction:

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

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

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

Section 9: Salary of Village Forester:

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

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

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

Section 11: Street Trees Species to be Planted:

Small Trees

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

Medium Trees

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

Large Trees

Norway Maple
Red Maple
Ginkgo
London Plane
White Oak
Pin Oak

Section 12: Spacing:

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

Section 13: Distance From Curb and Sidewalk:

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

Section 14: Distance from Street Corners and Fire Hydrant:

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

Section 15: Utilities:

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

Section 16: Tree Topping:

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

Section 17: Tree Removal on Private Property:

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

Section 18: Removal of Stumps:

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

Section 19: Violation Penalty:

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

Section 20. Effective Date:

This Ordinance shall become effective the 28th day of May 2001.

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