ORDINANCE NO. 2216

CITY OF MADISON HEIGHTS
OAKLAND COUNTY, MICHIGAN

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend Ordinance No. 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Chapter 26, Article II, Sections 26-22 through 26-32, and by adding Sections 26-33 through 26-42 to regulate the riding of E-bikes, E-motos and mopeds within the City of Madison Heights and to provide penalties and sanctions for violations thereof.

THE CITY OF MADISON HEIGHTS ORDAINS
SECTION 1. AMENDMENT.

That Chapter 26, titled "Traffic and Motor Vehicle Code," Article II, titled "Registration of Bicycles," Sections 26-22 through 26-32, titled "Reserved," of the Code of Ordinances, City of Madison Heights, Michigan, and by adding additional Sections 26-33 through 26-42, is hereby amended in its entirety, to read as follows:

Sec. 26-22. – Short Title.

This ordinance shall be known and may be cited as the "E-bike, E-moto and Moped ordinance."

Sec. 26-23. – **Findings and Purpose**.

The Madison Heights City Council takes note of the increasing number accidents caused by operators of E-bikes, E-motos and mopeds resulting in injuries and death to operators, passengers, and pedestrians. As such, the purpose of this ordinance is to protect the public health, safety and welfare of persons, within the jurisdiction of the city, by regulating the use and operation of E-bikes, E-motos, and mopeds on public streets, sidewalks, and shared-use pathways, by establishing reasonable and uniform rules governing the operation of E-bikes, E-motos and mopeds within the city while preserving the rights and privileges afforded to operators E-bikes, E-motos and mopeds under applicable state law. This ordinance shall be construed consistently with the Michigan Vehicle Code, including but not limited to MCL 254.32b, 257.1, 257.660a, 257.660c and 257.662 et seq., as amended, and the Uniform Traffic Code, including but not limited to MCL 257.951 et seq., as amended.

Sec. 26-24 – Definitions.

When used in this article, the following words and phrases shall have the meanings set forth below. The terms that are not defined herein shall have the meanings given to them by applicable provisions of the Michigan Vehicle Code and Uniform Traffic Code:

(a) *Bikeway* means a bicycle lane, bicycle path, shared-use path, or other facility designed for bicycle use.

(b) *City-owned path* means a bikeway, bicycle path, shared-use path, or other pathway owned, operated, or maintained by the City.

(c) *E-bike,* also known as an electric bicycle*,* means a bicycle equipped with fully operable pedals, a seat or saddle for the rider, and an electric motor of less than 750 watts that meets the requirements of state law. There are three classes of E-bikes:

1. *Class 1 E-bike* means an electric bicycle equipped with a motor that provides assistance only when the operator is pedaling and that ceases to provide assistance when the E-bike reaches 20 miles per hour.

2. *Class 2 E-bike* means an electric bicycle equipped with a motor that propels the electric bicycle to a speed of no more than 20 miles per hour, whether the rider is pedaling or not, and that disengages or ceases to function when the brakes are applied.

3. *Class 3 E-bike* means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches 28 miles per hour.

(d) *E-moto,* also known as an electric motorcycle, means a two or three-wheeled motor vehicle propelled primarily by an electric motor and designed or equipped for operation on public streets, highways, off-road areas, or other motor-vehicle facilities, but which does not meet the definition of an electric bicycle or moped as those terms are defined by applicable Michigan law. The term E-moto includes but is not limited to electric motorcycles and other electrically powered two or three-wheeled motor vehicles that are required under Michigan law to be operated as motorcycles or other motor vehicles. The term E-moto does not include an E-bike or moped as defined by MCL 254.32b.

(e) *Moped* means a vehicle that meets the definition of "moped" under MCL 257.32b, as amended.

(f) *Operator* means a person who is in actual physical control of an E-bike, E-moto or moped.

(g) *Shared-use path* means a path or trail intended for use by pedestrians, bicyclists, and other permitted non-motorized or low-speed users.

(h) *Sidewalk* means that portion of a street or highway intended for the use of pedestrians.

(i) *State law* means the law in the State of Michigan.

Sec. 26-25. – E-bike requirements:

All E-bikes must have a seat or saddle, fully operational pedals, and an electric motor no greater than 750 watts of power (1-horsepower). All E-bike operators shall comply with the requirements stated in the following table and all other sections of this ordinance.

E-bike	Class 1	Class 2	Class 3
Minimum Age to Operate	None	None	14 years of age
Operator required to wear helmet	No	No	Yes (if ages 14 to 18)
Operator must pedal for motor to engage	Yes	No	Yes
Maximum speed for motor assist	20 MPH	20 MPH	28 MPH

Sec. 26-26.-E-moto requirements:

All E-moto operators shall follow the motorcycle rules of the road as established by state law and all E-moto operators shall comply with the requirements stated in the following table and all other sections of this ordinance.

E-moto	
Minimum Age to Operate	E-motos: 16 years of age +
Operator required to wear helmet	Yes: Under the age of 21 years
Registration and insurance	Yes
Motorcycle endorsement	Yes
Allowed on sidewalks, bike paths and shared-use paths	No
Electric Motor	Yes (any size)

Sec. 26-27.-Moped requirements:

(a) All mopeds operated within the city shall comply with all applicable requirements of the Michigan Vehicle Code, including requirements concerning licensing, registration, equipment, operation, and insurance.

(b) A person shall not operate a moped upon a sidewalk within the City.

(c) A person operating a moped within the city shall possess the license or other authorization required by Michigan law. Nothing in this ordinance shall be construed to require a motorcycle endorsement for the operation of a moped when such endorsement is not required by Michigan law.

(d) A moped shall not be operated upon any City-owned bikeway or shared-use path unless expressly authorized by the city by ordinance, resolution, posted designation, or other lawful means.

(e) Mopeds shall be operated upon public streets and highways in accordance with the Michigan Vehicle Code and all applicable city traffic regulations.

(f) Nothing in this section shall be construed to change or alter the classification of any vehicle as a moped, motorcycle, motor vehicle, or other vehicle under Michigan law.

Sec. 26-28.-Applicability of state law.

Except as otherwise expressly provided by this ordinance, the operation of an E-bike, E-moto or moped within the city shall be subject to all applicable provisions of state law governing the particular vehicle at issue. The classification of a vehicle under this ordinance shall not alter or supersede its classification under Michigan law. If Michigan law establishes a different classification for a vehicle addressed by this ordinance, the Michigan classification shall control. Nothing in this ordinance shall be construed to authorize the operation of E-bikes, E-motos or mopeds in a manner prohibited by state law. When a provision of this ordinance conflicts with a mandatory provision of state law, the state law shall control to the extent of the conflict and nothing in this ordinance shall be construed to create a new classification of motor vehicle under the Michigan Vehicle Code.

Sec. 26-29. – Operation upon streets and highways.

(a) An E-bike may be operated upon any street or highway within the city where bicycles are permitted, subject to all applicable state and local traffic laws. The operator of an E-bike shall obey all traffic-control devices, signs, and signals applicable to bicycles and shall exercise due care and caution to avoid collisions with pedestrians, motor vehicles, bicycles, and other persons or property.

(b) A vehicle described as an E-moto may be operated on a public street or highway only if its actual classification, equipment, title/registration, and operator credentials permit roadway operation under Michigan law. The operator of an E-moto shall obey all traffic-control devices, signs, and signals applicable to motorcycles and shall exercise due care and caution to avoid collisions with pedestrians, motor vehicles, bicycles, and other persons or property.

(c) A moped may only be operated on streets and highways where mopeds can be operated under state law. The operator of a moped shall obey all traffic-control devices, signs, and signals applicable to mopeds and shall exercise due care and caution to avoid collisions with pedestrians, motor vehicles, bicycles, and other persons or property.

Sec. 26-30. – Operation upon sidewalks

(a) Class 1 and 2 E-bikes may be operated upon sidewalks within the city, except as otherwise provided below.

(b) Class 1 and 2 E-bikes shall not be operated upon a sidewalk within the following areas:

1. Any sidewalk adjacent to or within a city-owned municipal building or facility where the city has posted a sign prohibiting bicycle or E-bike operation;

2. Any sidewalk within a designated pedestrian plaza or other area specifically posted by the city as closed to E-bike operation; and

3. Any other sidewalk or pedestrian area specifically designated by the City Council by resolution and posted with appropriate signage.

(c) An operator of an E-bike upon a sidewalk shall:

1. Yield the right-of-way to every pedestrian;
2. Give an audible signal before overtaking and passing a pedestrian;
3. Operate at a speed that is reasonable and prudent under the circumstances;
4. Reduce speed when approaching intersections, driveways, building entrances, bus stops, pedestrian crossings, and areas of concentrated pedestrian activity; and
5. Operate in a manner that does not endanger or unreasonably interfere with pedestrians.

(d) Nothwithstanding any other provision of this ordinance, a Class 1, 2 or 3 E-bike shall not be operated upon a sidewalk, with pedestrians present, at a speed exceeding 15 miles per hour.

(e) All Class 3 E-bikes, all E-motos and all mopeds are prohibited from operating on sidewalks.

(e) The City Manager, upon recommendation of the Chief of Police or the Department head of the Department of Public Services, may recommend additional sidewalk restrictions to City Council where pedestrian volume, physical characteristics, traffic conditions, or other safety considerations warrant such restrictions.

Sec. 26-31. – Operation upon bikeways and shared-use paths.

(a) Class 1 E-bikes may be operated upon bikeways and shared-use paths within the City where bicycles are permitted.

(b) Class 2 E-bikes may be operated upon a city-owned bikeway or shared-use path unless the City has posted signage prohibiting Class 2 E-bikes therefrom.

(c) Class 3 E-bikes may not be operated upon city-owned bikeways or shared-use paths, unless such operation is expressly permitted by the city through posted signage or other lawful designation.

(d) On any shared-use path, an E-bike operator shall yield to pedestrians and shall exercise reasonable caution when passing other users.

(e) No person shall operate an E-bike on a shared-use path at a speed greater than 20 miles per hour, regardless of the maximum assisted speed of the E-bike.

(f) Where a lower speed limit is posted for a particular bikeway, shared-use path, park, or other public facility, the posted speed limit shall control.

(g). All E-motos and all mopeds are prohibited from operating upon bikeways and shared-use paths.

Sec. 26-32. - Operation in city parks.

(a) Class 1 and 2 E-bikes may be operated in city parks only upon streets, designated bicycle paths, bikeways, or shared-use paths where bicycles are otherwise permitted. Unless specifically authorized by the city, an E-bike shall not be operated upon:

1. Athletic fields;
2. Playgrounds;
3. Pedestrian-only paths;
4. Natural areas or landscaped areas;
5. Sidewalks immediately adjacent to playgrounds or other areas designated primarily for young children; or
6. Any other area posted by the city as closed to bicycles or electric bicycles.

(b) All Class 3 E-bikes, all E-motos and all mopeds are prohibited from operating in city parks, except where motorcycles may travel on public streets and highways and where motorcycles may park in accordance with state law.

(c) The Department of Parks and Recreation may recommend to the City Manager additional restrictions for a particular park, or park facilities, based upon safety, pedestrian use, environmental conditions, or other legitimate operational considerations.

Sec. 26-33.-Maximum speed.

(a) An E-bike shall not be operated upon a city sidewalk at a speed greater than 15 miles per hour or operated at a lower speed reasonably necessary for pedestrian safety.
(b) An E-bike shall not be operated upon a city-owned bikeways or shared-use paths at a speed greater than 20 miles per hour.
(c) Nothing in this section authorizes an E-bike to exceed the maximum speed at which its motor is permitted to provide assistance under Michigan law.
(d) An operator of an E-bike, E-moto or moped shall reduce speed as reasonably necessary to account for pedestrians, traffic, weather, visibility, surface conditions, congestion, and other circumstances affecting safe operation.
(e) Nothing in this section shall be construed to authorize an E-moto or moped to exceed a speed otherwise prohibited by state law.

Sec. 26-34.-Passengers.

(a) No person operating an E-bike shall carry more than one person unless the E-bike is specifically designed and equipped by the manufacturer to carry additional passengers.

(b) No person shall ride upon an E-bike in a position that interferes with the operator's ability to maintain control of the E-bike. A child passenger shall be provided with a seat, helmet, or other equipment specifically designed for the safe transportation of a child.

(c) Operators of E-motos and mopeds shall comply with all applicable state-law requirements concerning passengers, seating, footrests, helmets and other passenger safety requirements.

Sec. 26-35.-Equipment and modifications.

(a) Every E-bike operated within the city shall comply with all equipment requirements imposed by state law. No person shall modify an E-bike in a manner that:

1. Causes the E-bike to exceed the maximum speed permitted for its designated class;
2. Causes the E-bike to cease satisfying the statutory definition of an E-bike;
3. Removes or disables a required safety device; or
4. Otherwise violates applicable state or federal law.

(b) No person shall modify an E-moto or moped in a manner that causes the vehicle to be operated in violation of Michigan law.

(c) The fact that a vehicle resembles an E-bike, E-moto, or moped shall not determine its legal classification. The vehicle's actual characteristics and applicable Michigan law shall control.

Sec. 26-36.-Light and visibility.

(a) An E-bike operated during hours when lighting is required by state law shall be equipped and operated in compliance with state law.

(b) An E-moto and moped shall comply with all applicable state-law lighting and visibility requirements.

(c) The city encourages, but does not require, except as otherwise provided by state law, the use of reflective clothing, reflective material, and additional lighting when operating an E-bike during periods of darkness or reduced visibility.

Sec. 26-37.-Reckless or hazardous operation.

No person shall operate an E-bike, E-moto or moped:

1. At a speed or in a manner that endangers another person;
2. In a manner that intentionally or unnecessarily causes a collision or near collision;
3. In any manner that creates an unreasonable risk to people or property;
4. While carrying an object that prevents the operator from maintaining proper control;
5. While towing another person or vehicle except by equipment specifically designed and intended for such purpose and operated in a safe manner;
6. While performing stunts, wheelies, jumps, or other maneuvers upon a public street, sidewalk, bikeway, or shared-use path; or
7. In any other manner prohibited by state law or city ordinance.

Sec. 26-38.-Parking and storage.

(a) An E-bike may be parked in any location where a bicycle may lawfully be parked; provided, however, no person or operator shall park, abandon, or leave an E-bike in a manner that:

1. Obstructs a sidewalk or accessible pedestrian route;
2. Blocks a curb ramp, driveway, fire hydrant, entrance, exit, or emergency access route;
3. Interferes with the operation of a transit stop;
4. Creates a hazard to pedestrians or other users of a public way; or
5. Violates any otherwise applicable parking restriction.

(b) Nothing in this section shall prohibit a person from securing an E-bike to a bicycle rack or other facility designated by the city for bicycle parking.

(c) E-motos and mopeds shall be parked only in locations where the particular vehicle at issue may lawfully be parked under state law and city ordinance.

Sec. 26-39.-Use of modified e-bikes or e-motos.

An E-bike that has been modified so that it no longer qualifies as an electric bicycle under the

Michigan Vehicle Code shall not be operated upon a sidewalk, bikeway, shared-use path, or other location in the city where the resulting vehicle is not legally permitted to operate. The fact that a device resembles an E-bike shall not determine its legal classification.

Sec. 26-40.-Parental responsibility.

A parent or legal guardian having custody or control of a minor shall not knowingly permit the minor to operate an E-bike, E-moto or moped in violation of this article; provided, however, nothing in this section shall be construed to impose liability upon a parent or legal guardian where such liability is prohibited by state law.

Sec. 26-41.-Signs and designations.

The City Manager, or the City Manager's designee, may install signs and pavement markings reasonably necessary to inform the public of restrictions established pursuant to this ordinance.

Sec.26-42.-Penalties

(a) A person who violates this ordinance pertaining to E-bikes shall be guilty of a civil infraction subject to a fine of $100.00 for each offense, together with such costs and assessments as may be authorized by law or imposed by the court.

(b) A person who violates this ordinance pertaining to E-motos or mopeds shall be guilty of a misdemeanor or civil infraction as described under state law and punishable by the penalties described under state law, together with such fines, costs and assessments as may be authorized by law or imposed by the court.

(c) Each separate violation of this ordinance shall constitute a separate offense.

(d) Nothing in this ordinance shall limit the authority of a police officer to enforce the Michigan Vehicle Code, the Uniform Traffic Code, or any other applicable law.

(e) Nothing in this ordinance shall serve to limit people with disabilities using motorized mobility devices to move through public spaces in accordance with the Americans with Disabilities Act, pursuant to 42 USC § 2132 and 28 CFR § 35.137 et. seq, as amended, and the Michigan Persons with Disabilities Civil Rights Act, pursuant to MCL 376.1101 et. seq, as amended.

SECTION 2. REPEALER.

All ordinances, or parts of ordinances, in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. SEVERABILITY

Should any section, subdivision, clause, or phrase of this ordinance be declared by the courts to be invalid, the validity of the ordinance, in whole or in part, shall not be affected other than the part invalidated.

SECTION 4. SAVINGS.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

SECTION 5. EFFECTIVE DATE.

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

SECTION 6. INSPECTION.

A copy of this ordinance may be inspected or purchased at the city clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 12:30 p.m. and 4:30 p.m. on regular business days.