

**ORDINANCE NO. 2162**

**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 Article III of Chapter 27 of the Code of Ordinances, City of Madison Heights, Michigan, regulate the planting and removal of trees, shrubs and plants within the City to protect the health, safety and welfare of the public.

**THE CITY OF MADISON HEIGHTS ORDAINS**

**SECTION 1. Amendment.**

That Article III of Chapter 27 of the Code of Ordinances, City of Madison Heights, Michigan, is amended in its entirety to read as follows:

**ARTICLE III. - TREES, SHRUBS AND PLANTS**

**Sec. 27-34. - Definitions.**

The following words and phrases when used in this article shall have the meanings respectively ascribed to them:

*Growth* means any or all trees and shrubs unless the context otherwise requires.

*Public Ways* means any public property including in the right-of-way between the sidewalk and road.

*Private Tree* means any tree now existing or which may exist on private property.

*Public Tree* means any tree now existing or which may exist on any public land or within the public ways.

*Shrub* means a woody perennial plant, smaller than a tree and smaller than 15 feet in height, with several major branches arising from near the base of the main stem.

*Tree* means any woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground and shall include shrubs which grow higher than 15 feet.

First Reading – June 22, 2020

Second Reading – July 13, 2020

Effective – July 23, 2020

**Sec. 27-35. - Authority to control growth on public ways.**

The Department of Public Services (DPS) shall have complete charge and control over all trees, shrubs and plants, planted or to be planted, in the public ways of the city including the authority to plant, cut, trim and remove such trees, shrubs or plants.

**Sec. 27-36. - Permit required for planting certain trees and prohibited tree species.**

No person shall plant any poplar, box, elder, basswood, cottonwood, willow, soft maple, American maple, common catalpa, horse chestnut, or "ailanthus glandulosa" tree anywhere within the city without first procuring a permit from the department of public works. No person shall plant any prohibited or restricted species as established and published by the Michigan Natural Resources Environmental Protection Act (Part 413 of Act 451), which is regularly amended by invasive species orders. Further black locust and "ailanthus altissima" are prohibited from being planted in any location public or private in the City.

**Sec. 27-37. - Permit required for actions affecting growth on public ways.**

- (a) No person, including public utilities, except the city, shall plant, remove, cut, injure, destroy or in any way deface any tree or shrub in any public way without first procuring a permit from the Department of Public Services. Tree planting selection shall be made from an approved list of species published by the Department of Public Services.
- (b) This section shall not be construed to prohibit any person owning or occupying any lot in front of or adjacent to which there may be any tree or shrub from trimming the same.
- (c) Any person performing emergency utility work to restore services only, shall be exempt from obtaining a permit, provided that all applicable measures are taken to protect the trees or growth in the right of way and that the department of public works is notified as soon as is it practical should excavation necessitate cutting roots or removal of the tree.

**Sec. 27-38. - Application for and approval of permits.**

Application for any permit required by the provisions of this article shall be made in the form and manner prescribed by the city clerk. No permit shall be granted unless same is approved by the Director of Public Services.

**Sec. 27-39. - Attaching articles and hitching animals to trees on public ways prohibited.**

No person shall attach, tack or in any manner fasten, to any public tree any wire, rope, chain, cable, sign, card, board, poster or other article, nor hitch any animal thereto.

**Sec. 27-40. - Growth on adjacent land obstructing public way prohibited; notice to remove; removal by city; costs.**

The owner, or person in charge or control of any lot or parcel of land within the city, upon which any tree, shrub, vine, growth or plant may be standing adjacent to any public way, shall trim or cause to be trimmed, either at the property line, or to a clear height of at least eight feet above the surface of such public way, all branches thereof which overhang any portion of such public way, or which obstruct or interfere with the passage of light from any street lighting system, and shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets. The city may enter upon any such private premises to do such trimming as it determines necessary, or to remove such obstructions herein prohibited upon the failure of the owner so to do after notice in writing. The said owner shall, or the city may, remove from such tree, shrub, plant, growth or vine, all dead, decayed, unsightly, broken or dangerous limbs and branches that overhang, or are close to the public way; and when any such tree, shrub, plant or vine is dead, the owner shall remove the same, or after notice of such intention to the owner, the city may do so and charge the cost thereof to such owner.

**Sec. 27-41. - Barriers required for excavations, etc., on public ways.**

In any excavation, or the erection, alteration or repair of any building or structure, or other work, the owner thereof, or someone for him shall place or cause to be placed such barriers around all nearby trees, shrubs and plants in the public way as will effectually prevent injury to them.

**Sec. 27-42. - Obstruction of roots of growth on public ways prohibited.**

No person shall place or maintain upon the ground in any public way or place of the city, any stone, brick, sand, concrete or other material or article, which may injure or which may in any way impede the full and free passage of water, air or fertilizer to the roots of any tree, shrub, vine or plant, without leaving an open space of ground not less than four feet in diameter around the same.

**Sec. 27-43. - Destruction of diseased growth required.**

The owner or occupant of any premises on which is located any tree or other growth, if infected by disease or by injurious insects or if in a dangerous condition, shall destroy same which such destruction is necessary for the protection of other trees and growths and for the public safety, health and welfare.

**Sec. 27-44. - City authority to perform acts and assess costs; procedure.**

First Reading – June 22, 2020

Second Reading – July 13, 2020

Effective – July 23, 2020

If the owner or occupant of any premises fails to perform any duty required of him by this article, the department of public works may serve notice upon such owner and occupant directing him to cause such work to be done and upon his failure to comply with the notice, the city may enter upon the premises and perform the work required and charge the cost thereof to the owner or occupant. The notice and cost shall be served and charged.

#### **Sec. 27-45. - Tree Removal.**

No person shall remove or cut down a public tree without written authorization from the DPS or city manager. Any person who violates this subsection shall be required, in addition to any other penalties imposed by this article or any other law, to replace all public trees so removed or cut down at the violator's expense.

#### **Sec. 27-46. - Tree oversight and management department.**

- (a) There is hereby created and established a City of Madison Heights Tree Oversight and Management Department that shall consist of the DPS director and his or her designees and in collaboration with the Environmental Citizens Committee (ECC). If the ECC is dissolved or no longer holding regular meetings the DPS director and his or her designees shall comprise the Tree Oversight and Management Department in its entirety.
- (b) The tree oversight and management department shall assist the city in developing a comprehensive tree management and preservation program for the city, with public education. It shall serve as a clearing house for information on trees. The department shall present to the City Council an annual report on activities related to trees.

#### **Sec. 27-47 Site Plans.**

- (a) When the development of any property requiring site plan approval occurs, the city Community and Economic Development department shall review landscaping plans and may require trees to be planted on or near the site consistent with the elements of the adopted city master plan.
- (b) When the development of any property requires a site plan review and approval or demolition permits where trees are to be removed or installed, a tree location plan, including species of tree, must be submitted to and approved by the site plan review committee.

#### **Secs. 27-48—27-55. - Reserved.**

### **SECTION 2. Repealer.**

First Reading – June 22, 2020

Second Reading – July 13, 2020

Effective – July 23, 2020

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 as a 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.