Background

In 1999, the Michigan legislature enacted PAs 55-59 to allow local units of government to provide for a penalty of up to 93 days’ imprisonment, a maximum fine of $500, or both for violation of a local ordinance if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. The Acts were intended to provide prosecution by local units of government of certain misdemeanors for which the penalty had been increased in 1994 from 90 days to 93 days’ imprisonment. The enhanced penalties were adopted in order to permit statutory fingerprinting and criminal reporting requirements. 1999 PAs 55-59 amend the local government statutes permitting penalties of imprisonment for up to 93 days for those offenses.

What misdemeanors are included?

- Driving under the influence of alcohol or drugs, 1st offense. MCL 257.625(1); 257.625(8)
- Permitting a person who is under the influence of alcohol or drugs or visibly impaired to drive. MCL 257.625(2)
- Driving while impaired by alcohol or drugs. MCL 257.625(3)
- Driving with bodily alcohol content if under the age of 21, repeat offense. MCL 257.625(6)
- Driving while license suspended. MCL 257.904
- Failure to appear. MCL 257.321a
- Larceny. MCL 750.356
- Embezzlement. MCL 750.181
- Receiving and concealing stolen property worth less than $200. MCL 750.535
- Malicious destruction of property worth less than $200. MCL 750.377a
- Retail fraud, third degree. MCL 750.356d
- Intentionally aiming a firearm without malice. MCL 750.233
- Operating a vessel while under the influence of alcohol or drugs. MCL 324.80176

At the time that penalties were increased from 90 days to 93 days for the driving offenses listed above, PA 73 amended the Michigan Vehicle Code to provide:

This chapter [chapter VI, obedience to traffic laws] and chapter VIII [penalties] apply uniformly throughout this state and in all political subdivisions and municipalities in the state. A local authority shall not adopt, enact, or enforce a local law that provides lesser penalties or that is otherwise in conflict with this chapter or chapter VIII.

Adoption by reference of Michigan Vehicle Code

Significantly, with respect to the driving offenses, additional legislation was passed (1999 PAs 258, 259 and 260) that now allows municipalities to enact ordinances which adopt the Michigan Vehicle Code by reference. In addition, municipalities may enact ordinances which provide a penalty of up to 93 days’ imprisonment for certain offenses even if their charters restrict penalties to 90 days’ imprisonment. Municipalities may not enforce any provision of the Michigan Vehicle Code adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(See One-Pager Plus, Adoption by Reference of Michigan Vehicle Code and Uniform Traffic Code.)
Compliance with Crime Victim’s Rights Act

Many of the so-called 93 day misdemeanors are also subject to the Crime Victim’s Rights Act, adopted in 1985, MCL 780.751 et seq. (See Municipal Litigation Center Checklist: Compliance with Crime Victim’s Rights Act.) A municipality enforcing the provisions of an ordinance which substantially corresponds to a state statute that is specifically subject to the Crime Victim’s Rights Act must also comply with the provisions of the Act.