

Introduction

Historically, local law enforcement of traffic violations has been effectuated through ordinances which basically set out provisions of the state statute known as the Michigan Vehicle Code (MVC) or through adoption by reference of the rules and procedures promulgated by the Department of State Police known as the Uniform Traffic Code (UTC). Because the MVC is a creature of the legislature, amendments and revisions of its provisions are made through the legislative process. Revisions to the UTC by the Department of State Police may only be made, however, through the process provided by the Administrative Procedures Act of 1969. Prior to October 30, 2002, the last revision to the UTC was made in 1981.

Many municipalities wanting to enforce traffic violations as local ordinances adopted the UTC by reference and would supplement their code by adopting ordinances that were similar to provisions of the MVC. By state statute (MCL 257.951), a Michigan city, township or village is able to adopt by reference the Uniform Traffic Code (UTC). The statute itself has been amended from time to time, including the addition of subsection (6) that states that any provisions of the UTC that relate to driving while under the influence of an alcoholic beverage or driving with impaired ability shall be identical to the provisions contained in the MVC.

Until 1999, there had been no similar statute authorizing the adoption by reference of the MVC. Most notably, the provisions "borrowed" by municipalities from the MVC were the alcohol and drug-related offenses which were required to be identical to the state statutes governing those offenses. As a result, municipalities had to frequently amend their ordinances each time that a corresponding state statute had been amended by the legislature.

In 1998 and 1999, a package of bills known as the repeat offender bills required municipalities to once again amend their ordinances dealing with alcohol and drug-related driving offenses. Such legislation also amended the Home Rule City and Village Acts and General Law Village Act to specifically authorize the adoption of certain ordinances, the violation of which could result in a penalty of up to 93 days' imprisonment, e.g., domestic assault, driving under the influence of intoxicants, driving while license suspended, etc. Particular problems arose for those municipalities whose charters restricted ordinance violations to 90 days' imprisonment. In light of these problems, the Michigan Municipal League and the Michigan Association of Municipal Attorneys requested legislation specifically authorizing municipalities to enact ordinances the violation of which could result in 93 days' imprisonment for certain offenses, despite any charter language to the contrary.

Adopting the MVC by Reference

Of perhaps more far-reaching effect, a request was made that the legislation also permit municipalities to adopt the MVC by reference. The acts passed on December 29, 1999, (1999 PAs 258, 259, and 260) addressed both concerns. Villages and cities may now 1) enact ordinances which adopt the MVC by reference, and 2) 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 MVC adopted by reference for which the maximum period of imprisonment is greater than 93 days.

Amendments to the UTC

To complete the options available to municipalities, the Department of State Police, through the efforts of Sgt. Lance Cook, recently amended the UTC. The amended UTC became effective October 30, 2002. Recognizing that many municipalities have now adopted the MVC as their primary traffic code, the department has revised the UTC to avoid duplication of provisions with the MVC.

**An Ordinance to Adopt by Reference
the Uniform Traffic Code**

for

Cities, Townships, and Villages

The [City/Village/Township] ordains:

Sec. 1. Code and Amendments and Revisions adopted

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the director of the Michigan department of state police pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by reference.

Sec. 2. References in Code

**References in the Uniform Traffic Code for Cities, Townships, and Villages to a
“governmental unit” shall mean the [city/village/township] of**

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Sec. 3. Notice to be Published

The [city/village] clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Uniform Traffic Code for Cities, Townships, and Villages and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

Sec. 4 Penalties

The penalties provided by the Uniform Traffic Code for Cities, Townships, and Villages are adopted by reference.

Effective Date:

An Ordinance to Adopt by Reference the Michigan Vehicle Code

The **[City/Village]** ordains:

Sec. 1. Code and Amendment and Revisions adopted

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, and all future amendments and revisions to the Michigan Vehicle Code when they are effective in this state are incorporated and adopted by reference.

Sec. 2. References in Code

References in the Michigan Vehicle Code to “local authorities” shall mean the [city/village] of _____.

Sec. 3. Notice to be Published

The [city/village] clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

Sec. 4. Penalties

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the [city/village] may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

Effective Date: