



Legislation Text

File #: 10-1228, **Version:** 1

An Ordinance to Amend Section 10:1a of Chapter 126, Traffic (Adoption of Motor Vehicle Code and Uniform Traffic Code), of Title X of the Code of the City of Ann Arbor (Ordinance No. ORD-10-39) The City Attorney is recommending the amendment of Section 10:1a to re-adopt the Michigan Vehicle Code.

In 2005 the City Council adopted by reference the Michigan Vehicle Code (MVC), MCL 257.1 et seq. However, changes to the MVC effective in 2006 altered the way in which speed limits are set on roads under the jurisdiction of local governments. Because of difficulties in applying the speed limit-setting formula dictated by the post-2006 version of the MVC, as well as concerns that the MVC formula (known as the vehicular access point formula) would result in speed limits being dramatically increased on certain local roads with potentially dangerous results, the City Council in 2008 adopted a resolution which rescinded the adoption of the MVC sections that dealt with speed limits, specifically sections 257.627, 628, and 629. Since that time the police department has been writing speeding tickets using the provisions of the City Code that were in effect prior to the 2005 adoption of the MVC.

This approach has come under legal challenge based on the argument that the City cannot adopt only a portion of the MVC, and also that a local ordinance cannot override a state statute, meaning that the City must set the speed limits on local roads in accordance with the vehicular access point formula contained in the MVC. No court has ever ruled on this argument, but there is a possibility that a ruling adverse to the City's practice would force the City to use the access point formula, with unfavorable results. To avoid such an unfavorable ruling, it is proposed that the City Council re-adopt the entire MVC, and also adopt the Uniform Traffic Code (UTC), R 28.1001 et seq.

The UTC is an administrative traffic code promulgated by the State Police pursuant to a grant of statutory authority from the Michigan Legislature. Cities are authorized to adopt the UTC by reference, pursuant to MCL 257.951. Adoption of both the MVC and the UTC is permissible since the respective provisions are generally not in conflict, but to the extent of any conflict, the MVC controls.

The advantage of adopting the UTC in addition to the MVC is as follows: the UTC authorizes the creation of the office of traffic engineer, and further authorizes the engineer to conduct traffic engineering studies. The section of the MVC that contains the (problematic) vehicular access point formula for setting speed limits also contains a provision that recognizes the authority of a local government to conduct a "traffic and engineering study". By adopting the UTC and also re-adopting sections 627, 628, and 629 of the MVC, the City would then be in a position to conduct a traffic and engineering study and set speed limits accordingly, without being forced to use the access point formula. It is felt that this would put the City in a much more tenable position to establish, and defend against legal challenges to speed limits on local roads.

..Staff

Prepared by: Robert West, Senior Assistant City Attorney

Reviewed by: Stephen K. Postema, City Attorney

Approved by: Roger W. Fraser, City Administrator

ORDINANCE NO. ORD-10-39

First Reading : December 6, 2010
Public Hearing : December 20, 2010

Approved: January 3, 2011
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Effective: January 16, 2011

TRAFFIC
ADOPTION OF MOTOR VEHICLE CODE AND
UNIFORM TRAFFIC CODE

AN ORDINANCE TO AMEND SECTION 10:1a OF CHAPTER 126 (TRAFFIC) OF TITLE X OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 10:1a of Chapter 126 of Title X of the Code of the City of Ann Arbor be amended to read as follows:

10:1a. Adoption of Michigan Vehicle Code and Michigan Uniform Traffic Code.

(1) Effective ~~May 1, 2005~~ January 13, 2011, the City of Ann Arbor adopts by reference the Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923 and as subsequently amended, ~~except for MCL 257.627, 257.628, and 257.629.~~ A complete copy of the code is available to the public for inspection in the Office of the Ann Arbor City Clerk.

(2) Effective January 13, 2011, the City of Ann Arbor adopts by reference the Michigan Uniform Traffic Code for Cities, Townships and Villages, R 28.1001 et seq., of the Michigan Administrative Code and as subsequently amended to the extent not in conflict with existing or future ordinances and regulations of the City. A complete copy of the code is available to the public for inspection in the Office of the Ann Arbor City Clerk. The City's adoption by reference of the UTC does not simultaneously prohibit the existence, addition, and adoption of further ordinances or regulations, provided such ordinances or regulations do not conflict with State law.

~~(2)~~(3) The penalties provided by the Michigan Vehicle Code and Michigan Uniform Traffic Code for Cities, Townships and Villages are adopted by reference, provided, however, that no ordinance violation under the Michigan Vehicle Code shall be punishable by more than 93 days imprisonment.

~~(3)~~(4) The provisions of the Michigan Vehicle Code and Michigan Uniform Traffic Code for Cities, Townships and Villages adopted in this section supersede all provisions of this chapter that substantially correspond to provisions in the Michigan Vehicle Code or the Michigan Uniform Traffic Code for Cities, Townships and Villages, respectively., except for Sections 10:44, 10:45, 10:46, 10:47, and 10:48.

Section 2. That this Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the Council of the City of Ann Arbor, Michigan, adopted the foregoing ordinance at its regular session of January 3, 2011.

Date

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication in the Washtenaw County Legal News on January 6, 2011.

Jacqueline Beaudry, City Clerk