

Act No. 17
Public Acts of 1994
Approved by the Governor
February 23, 1994
Filed with the Secretary of State
February 24, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Conroy

ENROLLED SENATE BILL No. 736

AN ACT to amend sections 41 29 and 32 of Act No 279 of the Public Acts of 1909 entitled as amended An act to provide for the incorporation of cities and for revising and amending their charters to provide for certain powers and duties to provide for the levy and collection of taxes by cities borrowing of money and issuance of bonds or other evidences of indebtedness to validate actions taken bonds issued and obligations heretofore incurred and to repeal certain acts and parts of acts on specific dates section 41 as amended by Act No 175 of the Public Acts of 1991 being sections 117 41 117 29 and 117 32 of the Michigan Compiled Laws and to add section 41

The People of the State of Michigan enact

Section 1 Sections 41 29 and 32 of Act No 279 of the Public Acts of 1909 section 41 as amended by Act No 175 of the Public Acts of 1991 being sections 117 41 117 29 and 117 32 of the Michigan Compiled Laws are amended and section 41 is added to read as follows

Sec 41 Each city may in its charter provide

- (a) For laying and collecting rents tolls and excises
- (b) For regulating and restricting the locations of oil and gasoline stations
- (c) For the establishment of districts or zones within which the use of land and structures the height area size and location of buildings the required open spaces for light and ventilation of buildings and the density of population may be regulated by ordinance The zoning ordinance provisions applicable to 1 or more districts may differ from those applicable to other districts If a city is incorporated or if territory is annexed to a city incorporated under this act the zoning ordinance provisions applicable to the territory within the newly incorporated city or the annexed territory shall remain in effect for 2 years after the incorporation or annexation unless the legislative body of the city lawfully adopts other zoning ordinance provisions
- (d) For the regulation of trades occupations and amusements within city boundaries if the regulations are not inconsistent with state or federal law and for the prohibition of trades occupations and amusements that are detrimental to the health morals or welfare of the inhabitants of that city
- (e) For the regulation or prohibition of public nudity within city boundaries As used in this subdivision public nudity means knowingly or intentionally displaying in a public place or for payment or promise of payment by any person including but not limited to payment or promise of payment of an admission fee any individual's genitals or anus with less than a fully opaque covering
- (f) For licensing regulating restricting and limiting the number and locations of billboards within the city
- (g) For the initiative and referendum on all matters within the scope of the powers of that city and for the recall of city officials

(h) For a system of civil service for city employees including employees of that city's board of health and employees of any jail operated or maintained by the city Charter provisions providing for a system of civil service for employees of a local health board are valid and effective

(i) For a system of compensation for city employees and the dependents of city employees in the case of disability injury or death of city employees

(j) For the enforcement of police sanitary and other ordinances that are not in conflict with the general laws

(k) For the punishment of persons who violate city ordinances other than ordinances described in section 4l(1) (2) or (3) However the penalty for a violation of such a city ordinance shall not exceed a fine of \$500 00 or imprisonment for 90 days or both

Sec 4l (1) Consistent with any of the following statutes and whether or not authorized by the city charter the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a civil infraction and provides a civil fine for that violation

(a) The Michigan vehicle code Act No 300 of the Public Acts of 1949 being sections 257 1 to 257 923 of the Michigan Compiled Laws

(b) Act No 235 of the Public Acts of 1969 being sections 257 941 to 257 943 of the Michigan Compiled Laws

(c) Act No 62 of the Public Acts of 1956 being sections 257 951 to 257 954 of the Michigan Compiled Laws

(2) Consistent with the marine safety act Act No 303 of the Public Acts of 1967 being sections 281 1001 to 281 1199 of the Michigan Compiled Laws and whether or not authorized by the city charter the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a marine law civil infraction and provides a civil fine for that violation This subsection does not apply unless House Bill No 4639 of the 87th Legislature is enacted into law

(3) Whether or not authorized by the city charter the legislative body of a city may adopt an ordinance that designates a violation of the ordinance as a municipal civil infraction and provides a civil fine for that violation An ordinance may not designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under subsection (1) or as a marine law civil infraction under subsection (2) A statute may provide that a violation of a specific type of ordinance is a municipal civil infraction whether or not the ordinance designates the violation as a municipal civil infraction

(4) An ordinance shall not make an act or omission a municipal civil infraction if that act or omission constitutes a crime under any of the following

(a) Article 7 or section 17766a of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7101 to 333 7545 and 333 17766a of the Michigan Compiled Laws

(b) The Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 1 to 750 568 of the Michigan Compiled Laws

(c) The Michigan vehicle code Act No 300 of the Public Acts of 1949 being sections 257 1 to 257 923 of the Michigan Compiled Laws

(d) The Michigan liquor control act Act No 8 of the Public Acts of the Extra Session of 1933 being sections 436 1 to 436 58 of the Michigan Compiled Laws

(e) The marine safety act Act No 303 of the Public Acts of 1967 being sections 281 1001 to 281 1199 of the Michigan Compiled Laws

(f) The aeronautics code of the state of Michigan Act No 327 of the Public Acts of 1945 being sections 259 1 to 259 208 of the Michigan Compiled Laws

(g) Act No 74 of the Public Acts of 1968 being sections 257 1501 to 257 1518 of the Michigan Compiled Laws

(h) Act No 319 of the Public Acts of 1975 being sections 257 1601 to 257 1626 of the Michigan Compiled Laws.

(i) Act No 4 of the Public Acts of 1986 being sections 470 201 to 470 210 of the Michigan Compiled Laws

(j) Any law of this state under which the act or omission is punishable by imprisonment for more than 90 days

Sec 29 The district court a municipal court or the circuit court as provided by law may hear try and determine actions and prosecutions for the recovery and enforcing of fines penalties and forfeitures imposed by the charter and ordinances of the city and sanction offenders for the violation of the charter and ordinances as is prescribed and directed in the charter or ordinances

Sec 32 (1) Except as provided in subsection (3) there may be elected or appointed in each city 1 or more constables who shall have the same powers and authorities in civil and criminal matters and in relation to the service of process civil and criminal as are conferred by law on constables in townships A city by ordinance may abolish restrict and limit the authority conferred upon a constable by law except that a city constable may be appointed by a district court as a district court officer and may perform duties permitted pursuant to chapter 83 of the revised judicature act of 1961

Act No 236 of the Public Acts of 1961 as amended being sections 600 8301 to 600 8395 of the Michigan Compiled Laws Except as otherwise provided in section 8707 of Act No 236 of the Public Acts of 1961 being section 600 8707 of the Michigan Compiled Laws and section 742 of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 742 of the Michigan Compiled Laws a constable shall serve all process issued for breaches of ordinances of the city A city may by ordinance provide for the appointment of additional constables except that the maximum number of persons who may be appointed as constables shall not exceed the number of elected constables provided for in the charter of the city on September 23 1949 An appointed or elected constable may be paid a salary in addition to fees

(2) This section does not apply to a city that has a population of 500 000 or more

(3) A constable shall serve all warrants notices and process lawfully directed to the constable by the city and shall perform other duties required of a constable by law A city by ordinance may restrict or limit the duties of a city constable prescribed by law If the city requires the constable to perform both statutory criminal and civil duties a person elected or appointed to the office of city constable shall fulfill the minimum employment standards established by the law enforcement council pursuant to section 9 of the Michigan law enforcement officers training council act of 1965 Act No 203 of the Public Acts of 1965 as amended being section 28 609 of the Michigan Compiled Laws The cost of complying with these standards shall be borne by the city

Section 2 This amendatory act shall take effect May 1 1994

Section 3 This amendatory act shall not take effect unless Senate Bill No 731 of the 87th Legislature is enacted into law

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor