

No. 82, S.]

[Published April 21, 1943.]

**CHAPTER 66.**

AN ACT to repeal 5.08 (6), 62.16 (7) (b), 66.05 (8) (d); to renumber 61.53 to be 60.225, 61.23 to be 61.23 (1), 66.16 to be 62.16 (7a), 70.05 to be 70.05 (1); to amend 27.09 (5), 61.27, 61.58 (1) and (3), 62.11 (1), 70.05 (1), 157.11 (9) (b), 280.02; to create 61.23 (2), 62.09 (5) (d), 66.11 (5), and 70.05 (2) of the statutes, relating to city and village government, so as to clarify existing statutes, eliminate inconsistencies and obsolete material, and to improve municipal administration.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 5.08 (6) of the statutes is repealed.

SECTION 2. 27.09 (5) of the statutes is amended to read:

27.09 (5) The entire or any part of the cost of protecting, trimming, spraying, planting, renewing and removal of trees and shrubs between the lot line and the curb in front of any lot or parcel of land abutting on a street, avenue or boulevard may be chargeable to and assessed upon such lot or parcels of land. *The governing body shall hold a public hearing on the proposed assessment, and shall give advance notice thereof by publication in a newspaper published in such city or village, or by posting such notice in at least 4 conspicuous places.*

SECTION 3. 61.23 of the statutes is renumbered to be 61.23 (1).

SECTION 4. 61.23 (2) of the statutes is created to read:

61.23 (2) The regular term of office of village president and trustees shall commence on the third Tuesday of April succeeding their election. The regular terms of other officers shall commence on May 1 succeeding their election unless otherwise provided by ordinance or statute.

SECTION 5. 61.27 of the statutes is amended to read:

61.27 In all villages the assessor shall take and file the official oath. He shall begin as provided by section 70.10 to make an assessment of all of the property in his village liable to taxation, in the manner prescribed by law. He shall return his assessment roll to the village clerk at the same time and in the same manner in which town assessors are required to do. His compensation shall be fixed by the village board \* \* \*

SECTION 6. 61.53 of the statutes is renumbered to be 60.225.

SECTION 7. 61.58 (1) and (3) of the statutes are amended to read:

61.58 (1) Whenever the resident population of any village shall exceed 1,000 as shown *by the last federal census or by a census as herein provided for*, such village may become a city of the fourth class, and the trustees of such village may at a regular meeting, by a two-thirds vote of the members thereof, by resolution, so determine. Such resolution shall fix the number and boundary of the wards into which such city shall be divided and fix the time for holding the first city election, which shall not be less than 20 days from the date of such resolution, and shall therein name 3 inspectors and one clerk of election for each ward.

(3) *If the last federal census figures are not used* the village trustees shall cause to be taken an accurate census of the resident population of the village on some day not more than 10 weeks previous to the time of the adoption of such resolution, exhibiting the name of every head of a family and the name of every person a resident in good faith on such day and the lot on which he resides, which shall be verified by the affidavit of the person taking the same affixed thereto. The original of such census shall be filed in the office of the village clerk and a duly verified copy filed with the clerk of the circuit court of the county wherein such village is situated.

SECTION 8. 62.09 (5) (d) of the statutes is created to read:

62.09 (5) (d) If any officer be incapacitated or absent from any cause the common council may appoint some person to discharge his duties until he returns or until such disability is removed.

SECTION 9. 62.11 (1) of the statutes is amended to read:

62.11 (1) The mayor and aldermen shall be the common council. The mayor shall not be counted in \* \* \* *determining whether a quorum \* \* \* is present at a meeting, but may vote in case of a tie. When the mayor does vote in case of a tie his vote shall be counted in determining whether a sufficient number of the council has voted favorably or unfavorably on any measure.*

SECTION 10. 62.16 (7) (b) of the statutes is repealed.

SECTION 11. 66.05 (8) (d) of the statutes is repealed.

SECTION 12. 66.11(5) of the statutes is created to read:

66.11 (5) Whenever an elective office is created in a city or village pursuant to law or ordinance, a temporary appointment may be made by the governing body pending the election of the incumbent for the first full term.

SECTION 13. 70.05 of the statutes is renumbered to be 70.05 (1) and as renumbered is amended to read:

70.05 (1) The assessment of general property for taxation in all the towns, cities and villages of this state shall be made according to the provisions of this chapter unless otherwise specifically provided. If no provisions be otherwise made therefor, there shall be elected at the annual spring election one assessor for each taxation district. \* \* \*

SECTION 14. 70.05 (2) of the statutes is created to read:

70.05 (2) The governing body of any city or village may provide for the selection of one or more assistant assessors to assist the assessor in the discharge of his duties.

SECTION 15. 157.11 (9) (b) of the statutes is amended to read:

157.11 (9) (b) Except as hereinafter provided in respect of funds for the perpetual care of public mausoleums and columbariums money received by an association for perpetual care shall be invested as provided in chapter 320, or in such other manner as may be approved by the county judge of the county or adjoining counties wherein the cemetery is located, or it may be deposited with the treasurer of the county or city in which such cemetery is located, and the governing body of such county or city may determine to accept such deposits. In the case of all deposits hitherto or hereafter deposited with a city or county, or previously deposited with a village, there shall be paid to said association annually interest on sums so deposited of not less than 3 per cent per annum. The governing body of any city or county, or any village or town in the case of previous deposits, may determine to return all or a part of any sum deposited by an association, and such association shall accept such sum within 30 days after receiving written notice of such action. If such association is dissolved or becomes inoperative such county or city shall use the interest on such fund for the care and upkeep of such cemetery. Deposit shall be made and the income paid over from time to time, not less

frequently than once each year, and receipts in triplicate shall be given, one filed with the county clerk, one with the association and one given to the person making the deposit. Deposits shall be of \$5 or multiple thereof. Records and receipts shall specify the lot for the care of which the deposit is made. Reports of money received for perpetual care shall be made annually by the trustees of such association to the county judge on July 1 of each year. All funds received by an association for perpetual care and now held by the treasurer \* \* \* or trustees of such association may be transferred to said county or city treasurer. Failure to file such report for 60 days shall subject such trustees to a forfeiture of not less than \$10 nor more than \$20, to be enforced as provided in chapter 288. Such trustees may also be cited to file such report by such judge and the expense of serving the citation shall be paid by such trustees and disobedience of such citation may be enforced as a contempt. This paragraph shall apply to all organizations that maintain cemeteries except municipalities, but shall not be effective in counties having a population of 100,000 or more, except as to cemeteries wholly within fourth class cities.

SECTION 16. 280.02 of the statutes is amended to read:

280.02 An action to enjoin a public nuisance may be commenced and prosecuted in the name of the state, either by the attorney-general upon his own information, or upon the relation of a private individual, \* \* \* having first obtained leave therefor from the court. *An action to enjoin a public nuisance may also be commenced and prosecuted by a city, village or town in its own name, and it shall not be necessary to obtain leave from the court to commence or prosecute such action.* The same rule as to liability for costs shall govern as in other actions brought by the state. No stay of any order or judgment enjoining or abating, in any action under this section, may be had unless the appeal be taken within 5 days after notice of entry of such judgment or order or service of the injunction. Upon appeal and stay, the return to the supreme court shall be made immediately.

Approved April 20, 1943.