

No. 511, A.]

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CHAPTER 448

AN ACT to repeal 61.63 and 62.25 (2) (e); to amend 306.01; and to create 66.12 of the statutes, relating to actions for violation of city or village regulations.

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

SECTION 1. 61.63 of the statutes is repealed.

SECTION 2. 62.25 (2) (e) of the statutes is repealed.

SECTION 3. 66.12 of the statutes is created to read:

66.12 ACTIONS FOR VIOLATION OF CITY OR VILLAGE REGULATIONS.

(1) COLLECTION OF FORFEITURES AND PENALTIES. (a) An action for violation of a city or village ordinance, resolution or by-law is a civil proceeding. All forfeitures and penalties imposed by any ordinance, resolution or by-law of the city or village may be collected in

an action in the name of the city or village before the justice of the peace, police justice of the peace, municipal judge or a court of record, to be commenced by warrant or summons; but the marshal or constable or police officer may arrest the offender in all cases without warrant, as provided in s. 354.03. The affidavit where the action is commenced by warrant shall be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, resolution or by-law of the city or village, specifying the same by section, chapter, title or otherwise with sufficient plainness to identify the same.

(b) In case of conviction the court shall enter judgment against the defendant for the costs of prosecution, and for the penalty or forfeiture, if any, and that he be imprisoned for such time, not exceeding 90 days, unless otherwise provided by the ordinance, resolution or by-law, as the court shall deem fit unless the judgment is sooner paid. No such judgment or the imposition of any penalty or costs shall be suspended or deferred for more than 30 days without consent of the city or village which consent may be given by the city or village officer in charge of the prosecution. Prisoners confined in the county jail or in some other penal or correctional institution for violation of a city or village ordinance, resolution or by-law shall be kept at the expense of the city or village.

(2) APPEAL. Appeals in actions to recover forfeitures and penalties imposed by any ordinance, resolution or by-law of the city or village may be taken either by the defendant or by such municipality to the circuit court or court of record in the same manner as from judgments in civil actions by justices of the peace, except that such appeal shall be perfected within 5 days after judgment is entered. If the appeal is taken by the defendant he shall, as a part thereof, execute a bond to the city or village with surety, to be approved by the justice or judge, conditioned that if judgment be affirmed in whole or in part he will pay the same and all costs and damages awarded against him on such appeal. In case such judgment shall be affirmed in whole or in part execution may issue against both defendant and his surety. The appellant shall pay the fees and suit taxes prescribed in s. 306.02 (1). Upon perfection of the appeal the defendant shall be discharged from custody. In all actions brought by a city or village lying in 2 or more counties appeals may be taken to the circuit court or court of record of the county wherein the offense was tried. All commitments to county institutions shall be made to such county.

(3) FINES TO GO TO CITY OR VILLAGE TREASURY. All forfeitures and penalties recovered for the violation of any ordinance, resolution or by-law of any city or village shall be paid into the city or village treasury for the use of such city or village, except as otherwise provided in s. 62.13 (9) (a). The justice of the peace, police justice or judge shall report and pay into the treasury, quarterly, or at more frequent intervals if so required, all moneys collected by him belonging to such city or village, which report shall be certified and filed in the office of the treasurer; and he shall be entitled to duplicate receipts for such moneys, one of which he shall file with the city or village clerk.

(4) This section shall not be construed to repeal to make ineffective the provisions of any enactment applicable to a municipal court or other court created by special act of the legislature.

SECTION 4. 306.01 is amended to read:

306.01 Any party to a judgment in justice court, and, when a judgment is against a garnishee, the defendant in the original action, may appeal therefrom as provided by this chapter; *except that s. 66.12 relating to municipal regulations shall govern where inconsistent with this chapter.*

Approved July 7, 1953.
