

THE FOURTH CLASS CITY ACT (EXCERPT)
Act 215 of 1895

CHAPTER X
ENFORCEMENT OF ORDINANCES.

90.1 Violations; commencement of action; time limitation.

Sec. 1. An action for a violation of an ordinance of a city incorporated under this act shall be commenced within 2 years after the commission of the violation.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3089;—CL 1915, 3005;—CL 1929, 1929;—CL 1948, 90.1;—Am. 1994, Act 19, Eff. May 1, 1994.

90.4 Violations; commencement of action; warrant for arrest.

Sec. 4. Except in the case of a civil infraction action or an action against a corporation, an action for the violation of an ordinance of the city may be commenced by warrant for the arrest of the offender.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3092;—CL 1915, 3006;—CL 1929, 1930;—CL 1948, 90.4;—Am. 1994, Act 19, Eff. May 1, 1994.

90.5 Contents, form, and issuance of warrant; law governing proceedings.

Sec. 5. (1) A warrant shall be in the name of the people of the state of Michigan and shall set forth the substance of the offense complained of, and shall be substantially of the form and be issued upon complaint made, as provided by law in misdemeanor cases in the district court.

(2) Except as otherwise provided in this act, the proceedings relating to the arrest and custody of the accused during the pendency of the suit, the pleadings, proceedings upon the trial of the cause, in procuring the attendance and testimony of witnesses, in the rendition of judgment, and in the execution of judgment, shall be governed by, and conform as nearly as practicable to the provisions of law regulating the proceedings in misdemeanor cases in the district court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3093;—CL 1915, 3007;—CL 1929, 1931;—CL 1948, 90.5;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.6 Judgment or conviction; limitation on sanctions; costs.

Sec. 6. Upon judgment or conviction, the court shall impose a sanction not exceeding the limit prescribed in the ordinance violated, as the nature of the case may require, together with such costs of prosecution as the court shall order. In a civil infraction action, the district court may assess costs as provided in section 907 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.907 of the Michigan Compiled Laws, or section 8727 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.8727 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3094;—CL 1915, 3008;—CL 1929, 1932;—CL 1948, 90.6;—Am. 1994, Act 19, Eff. May 1, 1994.

90.7 Judgment; execution; fine and imprisonment.

Sec. 7. Every such judgment shall be executed by virtue of an execution or warrant, specifying the particulars of the judgment. If the judgment be for the payment of a fine only, with or without costs, execution of the form prescribed in section 3 of this chapter shall issue forthwith. If judgment be for both fine and imprisonment, a warrant shall issue immediately for the commitment of the defendant until the expiration of the term mentioned in the sentence, and an execution shall issue at the same time against the goods and chattels of the defendant for the collection of the fine or forfeiture imposed; but in neither case above mentioned shall the imprisonment without payment operate as a satisfaction of the fine and costs imposed. In cases where a fine and imprisonment in default of payment thereof, or where imprisonment alone is imposed, a warrant of commitment shall issue accordingly, in the former case, until the expiration of the sentence, unless the fine and costs be sooner paid, and in the latter, for the term named in the sentence.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3095;—CL 1915, 3009;—CL 1929, 1933;—CL 1948, 90.7.

90.8 Imprisonment; city use of county jail.

Sec. 8. Every city shall be allowed the use of the jail of the county in which it is located, for the confinement of all persons liable to imprisonment under the ordinances thereof, or under any of the provisions of this act; and any person so liable to imprisonment may be sentenced to, and committed to imprisonment, in such county jail or in the city prison, or other place of confinement provided by the city, or authorized by law, and the sheriff or other keeper of such jail, or other place of confinement or imprisonment, shall receive and

safely keep any person committed thereto as aforesaid, until lawfully discharged.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3096;—CL 1915, 3010;—CL 1929, 1934;—CL 1948, 90.8.

90.9 Process; direction and execution.

Sec. 9. Process issued in a prosecution or proceeding for the violation of an ordinance of the city shall be directed to the city marshal or to a constable of the city or county, and may be executed in any part of the state by these officers or another officer authorized by law to serve process issued by the district court.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3097;—CL 1915, 3011;—CL 1929, 1935;—CL 1948, 90.9;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.10 Cause of action; allegations; applicability of subsection (1); judicial notice.

Sec. 10. (1) It is not necessary in a proceeding for the violation of an ordinance of the city to state or set forth the ordinance or a provision of the ordinance in a warrant, process, or pleading. It is a sufficient statement of the cause of action in the warrant, process, or pleading to set forth substantially, and with reasonable certainty as to time and place, the act or offense complained of and to allege it to be in violation of an ordinance of the city, referring to the ordinance by its title and the date of its passage or approval. This subsection does not apply to an ordinance violation that constitutes a civil infraction.

(2) A judge or district court magistrate having authority to hear or determine a proceeding for the violation of an ordinance of the city shall take judicial notice of the enactment or adoption, existence, and provisions of the ordinances of the city and the resolutions of the council and of the authority of the city or council to enact or adopt the ordinances and resolutions.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3098;—CL 1915, 3012;—CL 1929, 1936;—CL 1948, 90.10;—Am. 1994, Act 19, Eff. May 1, 1994.

90.11 Trial by jury.

Sec. 11. In prosecutions for violations of the ordinances of the city, either party may require a trial by jury. The jury, except when other provision is made, shall consist of 6 persons. In suits commenced by warrant, the jury shall be selected and summoned as in misdemeanor cases in the district court. In civil actions to recover penalties for the city ordinance violation, the jury shall be selected and summoned as in other civil actions in the district court. An inhabitant of the city shall not be incompetent to serve as a juror in any cause in which the city is a party or is interested due solely to the interest in the outcome of the action which the person may have in common with the other inhabitants of the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3099;—CL 1915, 3013;—CL 1929, 1937;—CL 1948, 90.11;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.12 Appeal; judicial notice of ordinances and resolutions.

Sec. 12. (1) In an action commenced by warrant as provided in this act, a party convicted of a violation of an ordinance of the city may appeal the judgment to the circuit court in the county in which the city is located, in the same manner as in misdemeanor cases appealed from the district court.

(2) In a suit to which the city is a party, brought to recover a penalty or forfeiture for violation of an ordinance, either party may appeal from the judgment to the circuit court in the county in which the city is located, in the same manner as in civil actions appealed from the district court, except that the city shall not be required to give a bond or security.

(3) The circuit court to which the cause is appealed shall take judicial notice of the ordinances of the city and the resolutions of the council.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3100;—CL 1915, 3014;—CL 1929, 1938;—CL 1948, 90.12;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

90.13 Fines imposed for violations; payment.

Sec. 13. Except in cases in which a fine is paid to a parking violations bureau or a municipal ordinance violations bureau pursuant to section 8395 or 8396 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8395 and 600.8396 of the Michigan Compiled Laws, a fine imposed for a violation of an ordinance of the city shall be received by the clerk for the court in which judgment or conviction was had. If the fine is collected upon execution, the person receiving the fine shall immediately pay the money collected to that clerk. If the defendant is committed, the fine and costs imposed shall be paid to the sheriff or other keeper of the jail or prison, who shall, within 30 days after receiving payment, pay the money to that clerk for distribution pursuant to section 8379 of Act No. 236 of the Public Acts of 1961, being section 600.8379 of the Michigan Compiled Laws.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3101;—CL 1915, 3015;—CL 1929, 1939;—CL 1948, 90.13;—Am. 1994, Act 539, Imd. Eff. Dec. 22, 1978.

Act 19, Eff. May 1, 1994.

90.14 Fines imposed for violations; neglect of receiver, penalty.

Sec. 14. If any person who shall have received any such fine or any part thereof shall neglect to pay over the same pursuant to the foregoing provision, it shall be the duty of the council to cause suit to be commenced immediately therefor, in the name of the city, and to prosecute the same to effect. Any person receiving any such fine who shall wilfully neglect or refuse to pay over the same as required by the foregoing provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3102;—CL 1915, 3016;—CL 1929, 1940;—CL 1948, 90.14.

90.15 Fines imposed for violations; disposition.

Sec. 15. Fines paid into the city treasury for violations of ordinances of the city shall be disposed of as the council may direct. The expense of apprehending and sanctioning a person who violates an ordinance of the city, except the part of the expense paid by costs collected, shall be defrayed by the city.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3103;—CL 1915, 3017;—CL 1929, 1941;—CL 1948, 90.15;—Am. 1994, Act 19, Eff. May 1, 1994.

90.16 District court; jurisdiction; proceedings; applicable laws.

Sec. 16. The district court in the judicial district in which a city incorporated under this act is located has jurisdiction to hear, try, and determine a case for a violation of an ordinance of the city. Unless the case is a civil infraction action, proceedings in the district court shall be the same as in a prosecution to recover a penalty or forfeiture or to punish a violation of a criminal law of this state. The laws of this state regulating prosecutions in misdemeanor cases and the recovery of penalties apply.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3104;—CL 1915, 3018;—CL 1929, 1942;—CL 1948, 90.16;—Am. 1978, Act 539, Imd. Eff. Dec. 22, 1978;—Am. 1994, Act 19, Eff. May 1, 1994.

90.17 Repealed. 1978, Act 539, Imd. Eff. Dec. 22, 1978.

Compiler's note: The repealed section pertained to jurisdiction of justice of the peace.

90.18 Prosecutions by person other than officer; security filed for payment of costs.

Sec. 18. In all prosecutions for violations of the ordinances of the city, commenced by any person other than an officer of the city, the court may require the prosecutor to file security for the payment of the costs of the proceedings, in case the defendant is acquitted. But he shall not be liable for the payment of the costs if the magistrate before whom the complaint is made, or trial is had, shall certify in his minutes that there was probable cause for the making of such complaint.

History: 1895, Act 215, Eff. Aug. 30, 1895;—CL 1897, 3106;—CL 1915, 3020;—CL 1929, 1944;—CL 1948, 90.18.