

CHAPTER 366

TOWN BOARD AND BOARD OF AUDIT

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366.01 HOW CONSTITUTED; DUTIES. The supervisors of each town shall constitute a board to be designated "The Town Board of.....," and any two shall constitute a quorum except when otherwise provided. The supervisors shall have charge of all the affairs of the town not by law committed to other officers. They shall draw orders on the treasurer for the disbursement of money to pay the town expenses, and for all money raised by the town to be disbursed for any other purpose. They may prohibit or license and regulate the keeping of billiard, pool, and pigeon-hole tables, bowling alleys, and the sale of fireworks, and may license and regulate public dancing places, fix the price and time of continuance of such license, and, when in their opinion the public interest requires it, revoke the same. They may appropriate out of the general fund of the town and draw orders on the treasurer for the disbursement of money to pay the annual dues in the national association of town officers and the actual and necessary expenses of such delegates as the town board may designate to attend meetings of such association. The aggregate amount for such purposes so expended by any such town in any one year shall not exceed the sum of \$12.00. They may select and designate a bank as the depository of town money for a time not extending beyond their official term, on the execution by such bank of a sufficient bond to the town, in double the sum deposited, to be approved by the board and filed in the office of the town clerk, and thereupon may require the treasurer to deposit all or any part of the town money in such bank. Such designation shall be in writing, and set forth all the terms and conditions upon which the deposits are made, be signed by the chairman and clerk, and filed with the clerk. The town treasurer shall not be liable for the loss of money while so deposited, and all interest thereon shall belong to the town.

[R. L. s. 651; 1919 c. 343; 1921 c. 478; 1929 c. 143; 1935 c. 120; 1939 c. 255; 1941 c. 247] (1049)

366.015 TOWN MAY VOTE ON WEED CUTTING. Subdivision 1. **Contents of ballot.** The town board at the annual town meeting may submit to a vote by ballot the following question: "Shall persons owning or occupying real estate adjoining a town road and not a part of any incorporated municipality be required to cut or remove all weeds and grass growing upon the town road adjacent to their land? Yes..... No....."

Subdivision 2. **Cost a lien on land.** If a majority of the electors voting on such question shall vote "Yes," any person owning or occupying real estate adjoining a town road and not a part of any incorporated municipality shall cut or remove all weeds or grass growing upon the town road adjacent to his land. Any person who erects or maintains a mail-box on land not owned by him shall cut or remove all weeds or grass within five feet of such mail-box. If any such person fails to comply with this provision, the town board of the town in which his real estate is located may, after ten days' notice in writing, order the local weed inspector or other person to cut or remove the weeds or grass and the expense thus incurred shall be a lien on such real estate. The town board shall certify to the county auditor an

itemized statement of the amount of the expense paid by the town and the county auditor shall enter such amount on the tax books as a tax upon the land, which shall be collected in the same manner as other real estate taxes. No expense paid by the town shall be charged against any land so certified to the county auditor where the right of way adjoining such land is not reasonably accessible to a horse-drawn or power-propelled mower.

[1941 c. 246]

366.02 POWERS AND DUTIES OF TOWN BOARD IN CERTAIN TOWNS.

This section shall apply only to those towns now or hereafter having a population, including the population of all villages within such town not separated from the town for election and assessment purposes, exceeding 2,000, and not exceeding 10,000, and an assessed valuation, exclusive of money and credits, such that a tax levy of 17 mills upon the dollar of such assessed taxable valuation would produce a total levy in excess of an average of \$1,000 per governmental section of the entire area of such town, according to the government survey thereof. If any such town within this state comes within this classification it shall not thereafter cease to be governed by the provisions of this section, notwithstanding any change in valuation or population.

In addition to all other powers and duties provided by law, the town board, in such towns herein designated, shall have the power to:

(1) Fix monthly salaries to be paid by the town to the town clerk and treasurer in lieu of the amounts otherwise provided by law to be paid by the town; provided the compensation so fixed shall not, in the case of the town clerk, exceed the sum of \$150.00 per month, and, in the case of the treasurer, shall not exceed the sum of \$75.00 per month;

(2) Employ when necessary clerical help, stenographers, or assistants to the town clerk, not to exceed \$5.00 per day;

(3) Provide by resolution for the division of such town into not more than two voting districts for the purpose of electing town officers, and shall designate by resolution at each election a polling place for each voting district established, which division shall be only for the purpose of electing candidates for town office and shall not change the manner of transacting any other business at town meetings; and the notice of the annual meeting, in such case, shall describe the different voting districts and the polling places in each, and shall state that candidates for town office will be voted on only at such polling places, and that all other business of the annual meeting will be transacted at the usual place of meeting, the time and place of which shall be specified in the notice;

(4) Publish, if there be a legal newspaper within the town, the minutes and proceedings of the town board meetings and of the annual meeting and all other notices and publications which the town is required by law to publish;

(5) Repair and improve any street, sidewalk, or alley of any village included in the limits of such town, if such village neglects to keep its streets, sidewalks, and alleys in repair;

(6) Establish, maintain, and regulate the location of a public market or potato warehouse and market houses and provide for the use thereof.

[1937 c. 256 s. 1] (1049-5)

366.03 MAY REPAIR VILLAGE STREETS. If any village included in the limits of a town neglects to keep its streets in repair, the town board of such town may cause repairs and improvements to be made on any such street needed as a highway.

[R. L. s. 654] (1052)

366.04 MAY TRANSFER FUNDS. The town board of any town in this state by unanimous vote thereof may transfer any surplus beyond the needs of the current year in any town fund to any other town fund to supply a deficiency therein.

[1913 c. 13 s. 1] (1053)

366.05 TO PROSECUTE BONDS, PENALTIES, AND FORFEITURES. The town board shall prosecute, in the name of the town and for its benefit, all actions upon bonds given to the town, or to it, or its predecessors in office for its benefit, and sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town, and in like manner prosecute for any trespass on town property. All moneys collected under this section shall be paid to the town treasurer.

[R. L. s. 653] (1051)

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366.06 DEPOSITORIES OF TOWN FUNDS. When any town treasurer shall so request in writing it shall become the duty of the town board to designate one or more state or national banks or trust companies as depositories of town funds and thereafter the treasurer shall deposit all town funds therein. Such designation shall be in writing and set forth the terms and conditions upon which the deposits are made, be signed by the chairman and clerk of the town board, and filed with the clerk. Such depository or depositories, not exceeding four in number, shall be authorized to accept deposits of town funds in an amount not exceeding \$2,000 in each such depository without furnishing a bond or other security therefor.

[1931 c. 216 s. 1; 1933 c. 62 s. 1] (1049-1)

366.07 TREASURER MAY SELECT DEPOSITORY. When a town board so requested shall fail to act, as provided in section 366.06, within 30 days after request is filed with the clerk, the treasurer may select one or more depositories, not exceeding four in number, for the safe-keeping of town funds and deposit town funds therein to the extent of not more than \$2,000 in each depository so selected without requiring security therefor.

[1931 c. 216 s. 2; 1933 c. 62 s. 2] (1049-2)

366.08 TREASURER NOT LIABLE, WHEN. The town treasurer, in the absence of negligence, shall not be liable for the loss of moneys while so deposited within the limits above specified occasioned by the closing or insolvency of a designated depository.

[1931 c. 216 s. 3; 1933 c. 62 s. 3] (1049-3)

366.09 INTEREST ON FUNDS. All interest received on funds deposited under the provisions of sections 366.06 to 366.09 shall be credited to the respective town funds.

[1931 c. 216 s. 4; 1933 c. 62 s. 4] (1049-4)

366.10 CERTAIN TOWN BOARDS MAY ADOPT ZONING REGULATIONS. The board of supervisors of any town in this state located within a county having a population of more than 450,000 and an assessed valuation in 1935, exclusive of money and credits, of over \$280,000,000, and the board of supervisors in any town of this state bordering on any city of the first, second, or third class, is hereby authorized and empowered to submit to the legal voters of the town for their approval or rejection at any annual town meeting or at any special town meeting called for that purpose, the question as to whether or not such board shall adopt building and zoning regulations and restrictions in the town.

[1939 c. 187 s. 1; 1941 c. 186]

366.11 BALLOTS. There shall be printed on the ballots for the election the following:

"Shall the board of supervisors adopt building and zoning regulations and restrictions?

Yes.....
No....."

The voters shall place a cross-mark in one of the above squares to express their choice. The ballot shall be cast and counted during the same hours and in the same manner as ballots for the election of town officers of the town and, except as herein expressly provided, such meeting and election shall be subject to all the laws of this state regulating town meetings and elections of town officers in the town.

[1939 c. 187 s. 2]

366.12 REGULATIONS. If 70 per cent or more of the voters voting on such question vote "Yes," the town board shall be authorized and empowered to regulate the location, height, bulk, number of stories, size of buildings and other structures, the location of roads and schools, the percentage of lot which may be occupied, the sizes of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of lands for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes, and to carry out the provisions of this grant shall issue building permits, and it shall be unlawful to erect, establish, alter, enlarge, use, occupy, or maintain any building, structure, improvement, or premises without first having obtained such permit.

This section is subject to the provisions and limitations of section 366.13.

[1939 c. 187 s. 3; 1943 c. 494 s. 1]

366.13 MAY ESTABLISH ZONING DISTRICTS. For any or all of these purposes the board of supervisors of any such town where a majority of the legal voters voting thereon have voted "Yes" at such an election, may divide the portions of the town into districts or zones of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 366.10 to 366.18, and within such districts or zones it may regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, the location of roads and schools, the percentage of lot which may be occupied, the sizes of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. All such regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but the regulations in one district may differ from those in other districts.

No such board of supervisors may make any regulation prohibiting the erection, establishment, alteration, enlargement, use, occupancy or maintenance of any landing area or airport as defined by the act of Congress known as the Civil Aeronautics Act of 1938, owned by any municipality, political subdivision, or public corporation created in and for any two or more municipalities, the operation and use of which has been approved by the Minnesota Aeronautics Commission or by the Civil Aeronautics Authority of the United States, nor shall any permit under the provisions of sections 366.10 to 366.18 be required for any such erection, establishment, alteration, enlargement, use, occupancy or maintenance. Any regulations heretofore made by any board of supervisors prohibiting such erection, establishment, alteration, enlargement, use, occupancy or maintenance of airports are hereby abrogated and annulled.

[1939 c. 187 s. 4; 1943 c. 494 s. 2]

366.14 PURPOSE OF REGULATIONS. These regulations shall be made in accordance with the comprehensive plan; designed and enacted for the purpose of promoting the health, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of any such town, including, among other things, lessening congestion in streets or roads or reducing the wastes of excessive amounts of roads; securing safety from fire and other dangers; providing adequate light and air; preventing, on the one hand, excessive concentration of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supplies, and protection of both urban and non-urban development.

[1939 c. 187 s. 5]

366.15 MAY AMEND DISTRICTS OR ZONES. The board of supervisors of any such town where 70 per cent or more of the legal voters voting thereon have voted "Yes" at such election may, from time to time, amend the number, shape, boundary, or area of any district or zone, or any regulation of area within such zone, or any provision of the zoning resolution. Before finally adopting any such amendment the board of supervisors shall hold a public hearing thereon, after giving at least 30 days' notice of the time and place of the hearing, which notice shall be given by at least one publication in a newspaper of general circulation in the county in which such town is located; provided, that no such change shall be made in the boundary line of zones or districts unless at least 50 per cent of the owners of the lands proposed to be changed shall file a petition for such change.

[1939 c. 187 s. 6]

366.16 MAY APPOINT TOWN BUILDING COMMISSIONER. The board of supervisors of any such town where the majority of legal voters voting thereon have voted "Yes" at such an election may enforce these regulations by withholding building permits, and for such purposes may establish and fill the position of town building commissioner and fix the compensation attached to such position. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of sections 366.10 to 366.18 or of any regulation or provision enacted or adopted by the board

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of supervisors of any town under the authority granted by sections 366.10 to 366.18, and such election, such board, the attorney of the county wherein such town is situated, the town attorney, the town building commissioner, or any adjacent or neighboring property owner may institute an injunction, mandamus, abatement, or any appropriate action to prevent or enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

[1939 c. 187 s. 7]

366.17 MAY ESTABLISH PLANNING AND ZONING COMMISSION. For the purpose of carrying out the provisions of sections 366.10 to 366.18, the board of supervisors of any such town where the majority of legal voters voting thereon have voted "Yes" at such election may appoint a planning and zoning commission, all of whom shall be freeholders; the number of such commissioners to be determined by the board. The planning and zoning commission shall act as an adviser to such town board, and the commission may be empowered to employ a civil engineer or city planner as may be required for establishing the districts or zones of any parts of such towns.

[1939 c. 187 s. 8]

366.18 MAY NOT CHANGE EXISTING BUILDINGS. The zoning resolution, as adopted by the board of supervisors of any such town or as subsequently amended, shall not prohibit the continuance of the use of a building for any trade or industry for which such building was used at the time the resolution took effect or the alteration of or addition to any existing building or structure for the purpose of carrying on any prohibited trade or industry within the zone where such structures are located.

[1939 c. 187 s. 9]

366.19 LICENSES. Any person who shall exhibit any circus, theatrical performance, or show of any kind, or who shall keep a billiard, pool, or pigeonhole table, or a bowling alley in any town, without first obtaining a license therefor, as provided in section 366.01, shall be guilty of a misdemeanor; and, upon conviction, shall be punished by a fine of not more than \$250.00 or by imprisonment in the county jail for not more than 90 days.

[R. L. s. 652; 1919 c. 403] (1050)

366.20 BOARD OF AUDIT; MEETING. The town board shall constitute a board of audit, and shall meet each year, on the Tuesday next preceding the annual town meeting, for the purpose of auditing and settling all charges against the town, and all unpaid accounts of town officers for services rendered since the last annual meeting of the board shall be presented at such meeting. It may also meet at such other times as it deems necessary for the purpose of auditing and settling charges against the town; but no allowance of any account shall be made which does not specifically state each item of the same. If any supervisor fails to attend, a justice of the peace shall be called in to fill the vacancy.

[R. L. s. 655] (1055)

366.21 DUTIES OF BOARD OF AUDIT. It shall be the duty of the board of audit:

(1) To examine and audit the accounts separately of each town officer authorized by law to receive or disburse money;

(2) To examine and audit every account presented against the town, and to endorse thereon the amount allowed and disallowed, stating the items; and no allowance shall be made on any account which does not specifically give each item, with the date, amount, and nature thereof, separately. (Such statement shall be verified by the claimant, his agent or attorney, and filed with the town clerk, and no such claim against any town shall be considered or acted upon unless such statement shall be made and filed);

(3) To examine into the character and circumstances of every other demand presented against the town which it is not authorized to audit, and in its report to give a summary thereof, with its recommendations in regard thereto;

(4) To report in detail the items of accounts audited and allowed, the nature of each, and the person to whom allowed, and the same in respect to accounts disallowed.

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Such report shall also contain a statement of the fiscal affairs of the town, with an estimate of the sum necessary to be raised for the current expenses or other authorized purpose for the ensuing year, and such recommendations as it may deem advisable.

[R. L. s. 656] (1056)

366.22 REPORT POSTED AND READ. The clerk shall post a copy of the report at the place of holding the town meeting at least half an hour before the time for opening the polls. The report shall also be publicly read by the clerk to the meeting, and the whole or any portion thereof may be referred by the meeting to a committee, which shall examine the same and report to the meeting thereon. For making the report the clerk shall receive one-half of the fees allowed by law for making the original report.

[R. L. s. 657] (1057)

366.23 ISSUANCE OF DUPLICATE WARRANT. When any order or warrant of any county, city, town, village, or school district in the state shall become lost or destroyed, a duplicate thereof may be issued by the officers authorized by law to issue such orders or warrants under the regulations and restrictions hereinafter prescribed. Such duplicate shall correspond in number, date, and amount with the original order or warrant and shall have endorsed on its face by the officers issuing the same the word "duplicate," together with the date of its issuance.

[1915 c. 36 ss. 1, 2] (1058, 1059)

366.24 NOT TO BE ISSUED UNTIL AFFIDAVIT FILED. A duplicate for a lost or destroyed order or warrant shall not issue until there shall have been filed with the proper officer an affidavit of the owner thereof setting forth the ownership of the order or warrant, the description thereof, and the manner of its loss or destruction, and until there shall have been executed and filed with the same officer an indemnifying bond, with sureties to be approved by such officer, in a sum equal to double the amount of such order or warrant, conditioned that the parties thereto shall pay all damages which the county, city, town, village, or school district may sustain if compelled to pay such lost or destroyed order or warrant.

[1915 c. 36 s. 3] (1060)

366.25 RECORD TO BE KEPT. Any officer issuing duplicates under sections 366.23 to 366.25 shall keep a record showing the number, dates, and amounts of such mutilated, lost, or destroyed orders or warrants, together with the date of issuance of the duplicates therefor, and the names of the persons to whom issued.

[1915 c. 36 s. 4] (1061)