

## Towns

## CHAPTER 365

## GENERAL PROVISIONS RELATING TO TOWNS

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**365.01 BOUNDARIES.** The boundaries of towns shall remain as now established until otherwise provided by the county board pursuant to law.

[R. L. s. 621] (998)

**365.02 CORPORATE POWERS.** Each town is and shall be a body corporate, and empowered:

- (1) To sue and be sued by its corporate name;
- (2) To purchase, take, and hold real and personal property for public uses, and convey and dispose of the same;
- (3) To make all contracts necessary for the exercise of its corporate powers; and
- (4) To make such orders for the disposition, regulation, and use of its corporate property as the inhabitants thereof may deem expedient.

[R. L. s. 622] (999)

**365.03 LIMITATION OF POWERS.** No towns shall possess or exercise any corporate powers except such as are expressly given by law, or are necessary to the exercise of the powers so given.

[R. L. s. 623] (1000)

**365.04 CONVEYANCES TO TOWNS.** All real and personal property conveyed to any town, or to the inhabitants thereof, or to any person for the use of the town, or its inhabitants, shall be deemed the property of such town and all such conveyances shall have the same force and effect as if made directly to the town by name.

[R. L. s. 624] (1001)

**365.05 SALE OF REALTY.** When any real estate belonging to the town is sold the conveyance thereof shall be executed by the chairman of the town board in his official capacity, and attested by the clerk; and such conveyance, duly witnessed and acknowledged, shall convey to the grantee therein named all of the right, title, and estate which the town then has in the real estate conveyed.

[R. L. s. 626] (1007)

**365.06 GUIDEPOSTS.** Every town shall erect and maintain suitable guideposts and boards at such places on the public roads therein as shall be convenient for the direction of travelers.

[*R. L. s. 684*] (1091)

**365.07 TOWN CHARGES.** The following shall be town charges:

- (1) The compensation of town officers for services rendered their towns;
- (2) Contingent expenses necessarily incurred for the use and benefit of the town;
- (3) The moneys authorized to be raised by the vote of the town meeting for general purposes; and

- (4) Every sum directed by law to be raised for any town purpose.

No tax for town purposes shall exceed the amount voted to be raised at the annual town meeting.

[*R. L. s. 686*] (1093)

**365.08 TOWN CHARGES; DAMAGES CAUSED BY WORK ON SUPPOSED HIGHWAY.** In all towns in this state where any road work has been performed, or may hereafter be performed, upon a supposed highway thereof, by order of the proper officers of such town, on the belief that the same is a lawful public highway, and where an action at law has been or may hereafter be commenced, in any court of competent jurisdiction, in which it is or may be determined that such supposed highway was not a legal highway at the time the work was performed, all necessary costs and expenses incurred by any defendant therein, and any damages that may have been allowed or shall be allowed in any such action because of such road work shall be a charge against such town in favor of the defendant and allowed and paid by such town the same as other claims. Before such costs, expenses, and damages shall be a charge, and be paid by the town, the same shall be authorized by a majority of all legal voters present and voting in favor thereof at an annual or a special meeting of such town, after due notice that the question will be submitted and voted upon at the meeting.

[1907 c. 150 s. 1] (1094)

**365.09 TOWN TAXES.** Taxes to raise money for defraying town charges shall be levied on the taxable property in the town in the manner prescribed in chapter 275.

[*R. L. s. 689*] (1097)

**365.10 POWERS OF TOWN MEETINGS.** The electors of each town have power, at their annual town meeting:

- (1) To determine the locations of pounds, and number of poundmasters, and to discontinue any such pounds;

- (2) To select such town officers as are to be chosen;

- (3) To direct the institution and defense of all actions in which the town is a party or interested; to employ necessary agents and attorneys for the prosecution or defense of the same, and to raise such sums of money for that purpose as they deem necessary;

- (4) To make such lawful orders and by-laws as they deem proper for restraining horses, cattle, sheep, swine, and other domestic animals from going at large on the highways, and provide for impounding such animals so going at large;

- (5) To fix penalties for violations of any order or by-law made by such town, except such as relate to the keeping and maintaining of fences;

- (6) To vote money for the repair and construction of roads and bridges, and determine the amount thereof to be assessed as labor tax, and to vote such sums as they deem expedient for other town expenses, including the construction and maintenance of docks and breakwaters;

- (7) When they deem it for the interest of the town to direct that a specified amount of the poll and road tax be expended, under the direction of their town board, on the roads of an adjoining town;

- (8) To authorize the town board to sell and convey any real or personal property belonging to the town, not conveyed to and required to be held by the town for a special purpose;

- (9) To authorize the town board to purchase or build a town hall or other building for the use of the town, and to determine, by ballot, the amount of money to be raised for that purpose; but, if a site for a town hall is once obtained, it shall not be changed for another site, except by vote therefor designating a new site by two-thirds of the votes cast at such election of the legal voters of the town;

(10) To authorize the town board, by vote, to purchase grounds for a town cemetery, and limit the price to be paid, and to vote a tax for the payment thereof;

(11) To authorize the town, either by itself or in conjunction with one or more other towns, to purchase grounds for a public park and to limit the price to be paid therefor; to authorize the town, alone or in conjunction with such other town or towns, to care for, improve, and beautify such parks, and to determine, by ballot, the amount of money to be raised for that purpose, and to vote a tax for the payment thereof;

(12) To vote money to aid in the construction of community halls, to be erected by farm bureaus, farmers' clubs, or other like organizations.

[*R. L. s. 625; 1909 c. 350; 1913 c. 14 s. 1; 1921 c. 246; 1925 c. 158*] (1002)

**365.105 TAXES IN CERTAIN TOWNS.** At any annual town meeting, or at any special town meeting properly called for that purpose, in any town in this state now having, or which shall hereafter have, a taxable valuation of less than \$100,000, a sum may be voted as a tax for town purposes of not to exceed \$250.00, but the rate of such tax shall not exceed one-half of one per cent upon the taxable valuation in any such town.

[*1913 c. 165 s. 1*] (1006)

**365.11 BY-LAWS TO BE POSTED.** No by-law shall take effect until posted notice thereof has been given. Thereafter it shall be binding upon all the inhabitants of the town, and upon all persons coming within its limits.

[*R. L. s. 627*] (1008)

**365.12 PLACES FOR POSTING LEGAL NOTICES.** The voters at each annual town meeting shall designate three places in the town as public places at which the legal notice shall be posted, and provide facilities for posting notices at such places; provided, that in any town in which there is located within the geographical limits a city or village, one or more such notices may be posted in such city or village.

[*R. L. s. 687; 1931 c. 182*] (1095)

**365.13 POUNDS.** When the electors of any town determine at the annual town meeting to maintain one or more pounds the same shall be under the control of such poundmasters as are chosen for that purpose.

[*R. L. s. 685*] (1092)

**365.14 TOWN BUILDINGS.** When any town shall have authorized the purchase or building of a town hall or other building for its use and determined the amount of money to be raised for that purpose the town board may levy a tax for the amount so authorized and make all necessary contracts for purchasing or building the same and shall have the control and management thereof.

[*R. L. s. 628*] (1009)

**365.15 MAY PROVIDE FIRE PROTECTION AND APPARATUS.** The electors of each town shall have power at their annual town meeting to authorize the town board to provide for fire protection, or for apparatus therefor, and to determine by ballot the amount of money to be raised for either or both of such purposes.

[*1927 c. 30 s. 1*] (1027-1)

**365.16 TAX LEVY; CONTRACTS; CONTROL OF APPARATUS.** When the electors of any town shall have authorized the providing of apparatus for fire protection and determined the amount of money to be raised for that purpose the town board may levy a tax for the amount so authorized or for such lesser amount as the board may determine to be necessary and make all contracts necessary for providing the same and shall have the control and management of the apparatus so provided, subject to control and management jointly with other towns, as herein provided.

[*1927 c. 30 s. 2*] (1027-2)

**365.17 ADJACENT TOWNS.** When the electors of two or more adjacent towns shall have authorized the providing of apparatus for fire protection and determined the amount of money to be raised in the respective towns for that purpose the town boards of such two or more towns may arrange for pooling the amounts raised by such towns and for providing such apparatus jointly and for the maintaining of such apparatus for the use of such towns in common upon such terms and conditions and subject to such rules and regulations as may be mutually

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agreed upon and, in such case, the immediate control and management of the apparatus may be entrusted to a committee composed of the chairman of each of the boards.

[1927 c. 30 s. 3] (1027-3)

**365.18 TAX LEVY; CONTRACTS WITH ADJACENT CITY OR VILLAGE.**

When the electors of any town shall have authorized the providing of fire protection, or for apparatus therefor, and determined the amount of money to be raised for that purpose the town board may levy a tax for the amount so authorized, or for such lesser amount as the board may determine to be necessary, and enter into a contract with the county in which the town is located or with any adjacent city or village, or with any volunteer fire department or association for the furnishing of such fire protection within the limits of town or for the care, maintenance and operation of such apparatus, on such terms and conditions as mutually may be agreed upon.

[1927 c. 30 s. 4; 1943 c. 389 s. 1; 1947 c. 435 s. 1] (1027-4)

**365.19 LIMIT ON TAX LEVY; EXCEPTIONS.** Nothing in sections 365.15 to 365.18 shall be construed so as to modify, abridge, or repeal Laws 1925, Chapter 407, except that the levy of any tax authorized under sections 365.15 to 365.18 shall in no event exceed the amount of tax authorized in any one year pursuant to section 88.04.

[1927 c. 30 s. 5] (1027-5)

**365.20 MAY PROVIDE FIRE PROTECTION, POLICE PROTECTION, AND USE OF ROADS, STREETS, AND GROUNDS OR WATER MAINS IN CERTAIN TOWNS.** The electors of any town in which the assessed valuation of the platted lands thereon equals or exceeds 50 per cent of the total assessed valuation of all the lands of such towns, exclusive of mineral valuations, shall have power, at a special election called for that purpose or at the regular annual meeting, to authorize the town board:

- (1) To provide for fire protection and apparatus therefor;
- (2) To provide for police protection;
- (3) To allow, permit, prohibit, and limit the use of its roads, streets, and public grounds for water mains, with all necessary pipe, hydrants, and other appliances and means; and
- (4) To empower the town board to build and construct water mains, with all the necessary pipe, hydrants, and other appliances for the purpose of providing water for the inhabitants thereof, upon such terms and conditions as may be imposed by such town board, and upon the condition that the water rates charged to the inhabitants of such town and the public shall be just and reasonable and not exceeding a fair return upon the fair value of the property used for such purpose, for a period of not more than 20 years.

[1927 c. 219 s. 1; 1935 c. 249] (1027-6)

**365.21 SPECIAL ELECTION.** A special election of the electors of such town may be called, for the purpose of voting upon any of the propositions set forth in section 365.20, by the town board, upon its own motion, or shall be called by the town board upon a petition of 20 per cent of the qualified electors of such town, based upon the number of such electors as shown by the poll list of voters at the next preceding election prior to the making of the petition. Notice of the election shall be given by posting notice thereof in three of the most public places in the town, specifying the propositions upon which the electors are to vote, as follows:

- (1) Shall the town board be authorized to provide for fire protection and apparatus therefor?;
- (2) Shall the town board be authorized to provide for police protection?;
- (3) Shall the town board be authorized to grant a franchise for water-works for the purpose of supplying the inhabitants of the town and the public with water?;

Or as many of such propositions as are to be voted upon at such election.

[1927 c. 219 s. 2] (1027-7)

**365.22 CONDUCT OF ELECTION.** Every such election shall be conducted in the same manner as elections by ballot at the regular town election. The propositions to be voted upon shall be separately stated upon the ballots, as specified in section 365.21 and opposite each proposition shall be placed two squares, with the words "yes" and "no" set opposite each square, as follows:

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

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and each elector shall vote separately on each proposition by making a cross in the square indicating whether he desires to vote "yes" or "no" on the proposition.

The polls shall be open from nine a.m. to seven p.m., and in all other respects the election shall be conducted and the votes canvassed as elections by ballot, as provided in sections 212.31 to 212.32.

[1927 c. 219 s. 3] (1027-8)

**365.23 POWERS TO BE EXERCISED ONLY AT TOWN MEETING.** In case any of the powers set forth in section 365.20 shall be granted to any such town board by the electors in the manner aforesaid, the town board shall not have any authority to spend money therefor or to enter into any contract or levy any tax for any such purposes unless the same be authorized at the annual town meeting, except that whenever the electors vote to authorize any town board to exercise any of such powers in any year after the annual town meeting, a special town meeting may be called upon ten days' notice, and such special town meeting shall have the same authority in respect to voting for these purposes as the electors at an annual town meeting.

[1927 c. 219 s. 4] (1027-9)

**365.24 ELECTION TO REVOKE POWERS GRANTED.** The electors of any such town may, by an election called and held, as hereinbefore provided, revoke any authority of such town theretofore granted by vote of such electors, as aforesaid; and, in any such case, if such election results in a revocation of any of such powers, the town board shall no longer exercise the same.

[1927 c. 219 s. 5] (1027-10)

**365.25 DYNAMITE MAY BE FURNISHED RESIDENTS.** Subdivision 1. To be used for stump blowing. Towns are hereby authorized and empowered to furnish residents actually settled upon lands within the town with dynamite for the sole purpose of its use in blowing up stumps in connection with the clearing of land owned by such applicant.

Subd. 2. **Warrants, bonds; limitation.** Towns shall have the power to buy and issue their warrants for such dynamite and also to execute their bonds for such purpose, the same as they could execute them for any purpose now specified in the statutes of this state; provided, that no town shall have authority to issue its warrants or bonds for such purpose in a total amount greater than \$5,000.

Subd. 3. **Disposal and delivery.** The town board shall have the disposition of the dynamite so bought and shall deliver the same to such actual residents and settlers only upon their application for the same showing that they are under urgent necessity for using the same for clearing of lands owned by them in fee, or under contract for the purchase by them of the full title thereto, and the application shall state that the applicant thereby recognizes and agrees to pay for and create a lien on his land for the payment of the value of such dynamite, payable in five annual payments, substantially as follows:

### APPLICATION FOR DYNAMITE

The undersigned hereby applies to the Town of.....  
..... County, Minnesota, for ..... pounds of  
dynamite, and to obtain the same represents:

(1) That he is the owner of.....;

(2) That his title thereto or interest therein is as follows:  
.....;

(3) That he will tender an abstract of title showing title in fee or a contract to purchase, in the applicant, together with a mortgage and lien contract upon his land, and give a note for the payment of the sale price of the dynamite ten days before asking for its delivery;

(4) That the mortgage shall be in the usual form except that it shall contain an agreement that such mortgage is for the payment of the purchase price of ..... pounds of dynamite from the town of .....  
..... County, Minnesota, and that the amount secured by this mortgage shall be a first lien upon the land therein described, which lien shall be in favor of the town, be further secured by levy of an assessment thereon, which assessment shall be treated as a town tax, and the tax shall be levied and collected the same as other town taxes and so treated in all respects.

The town board shall receive and endorse their approval upon the application, which application shall be in duplicate and the board shall file one copy of the application with the town clerk and the other with the county auditor, after the town board shall have endorsed thereon the value of the dynamite delivered to such person and the amount that is to be paid each year thereon as principal and interest, and when such endorsement shall have been made by the town board and shall be filed with the county auditor, he shall levy such sums as are required to pay, in five years, the value of such dynamite as shall have been so delivered to the applicant, and interest thereon, and shall levy such tax upon the land as is necessary to raise such amount as shall be necessary to pay the liens for dynamite, with interest thereon, as hereinbefore provided, and the tax shall be extended and collected as are other taxes for town expenses which are liens upon the same tract of land, and shall thereafter be treated the same as other town taxes.

Subd. 4. **Wrongful use of dynamite; penalty.** Any use of the dynamite for any other purpose than that for which it is applied for shall be a misdemeanor.

[1917 c. 89 ss. 1, 2, 3, 4] (1024, 1025, 1026, 1027)

**365.26 CEMETERIES.** When authorized by a vote of its electors any town may acquire by purchase or gift land within its limits to be used as a cemetery for the burial of its dead. The town board shall have control and management of every such cemetery, and may lay the same out into lots, streets, and walks, and cause plats and maps thereof to be made and filed in the office of the town clerk. If any such cemetery becomes separated from the town by being included in a village thereafter organized from its territory, it may be sold and conveyed by the town board to such village. When authorized by a vote of its electors at a town meeting the town may sell or lease any part of such cemetery to a charitable, religious, or cemetery corporation upon the terms and conditions expressed in such authorization, but the part so sold or leased shall continue to be used for the burial of the dead of the town. Upon receipt of a resolution of the town board requesting financial aid for maintenance of a town cemetery, the village council of any village located within the boundaries of such town may, in its discretion, appropriate from moneys not required for other purposes and pay to the town for maintenance of such town cemetery a sum not to exceed \$500 per annua, provided that burial of the dead of the village is permitted in such cemetery, and the town board is authorized to grant such permission on such terms and with such limitations as it shall from time to time prescribe.

[R L s 629; 1943 c 464 s 1; 1949 c 249 s 1] (1011)

**365.27 SALE OF LOTS; PROCEEDS.** Lots of such cemetery may be sold by the town board only for the burial of the dead of such town and, upon sale, shall be conveyed in like manner as its other real estate. Proceeds of all sales shall be paid into the town treasury, and shall constitute a fund to be used only in maintaining, improving, and ornamenting such cemetery.

[R. L. s. 630] (1012)

**365.28 PUBLIC BURIAL GROUNDS.** When any tract of land in a town, title to which is not vested in some cemetery association, has been used as a public burial ground for ten years the title thereto shall be deemed vested in such town and the same shall be subject to the control and management of the town board of such town in like manner as other town cemeteries.

[R. L. s. 631] (1013)

**365.29 PERMANENT FUND FOR CEMETERY PURPOSES.** The board of supervisors of any town in the state which has heretofore purchased land for, and which is now used, or may be hereafter purchased and used, as a cemetery therein, may require and provide that any part or portion of the price paid for lots therein shall constitute a permanent fund, which shall be deposited, as provided in section 365.32, and that the interest accruing thereon shall be paid annually to the directors of the cemetery to be by them expended in caring for and beautifying such lot in the proportion which the amount set aside from the lot bears to the total amount in the fund.

[1911 c. 224 s. 1; 1917 c. 161 s. 1] (1014)

**365.30 SUPERVISORS TO FIX PRICE.** The board of supervisors is hereby given power and authority to fix and determine the amount of such price of each such lot sold that shall be taken, held, and deposited, for the purpose of caring

for and beautifying the lot and cemetery and to direct and require the directors of the cemetery to expend the interest on the same as provided in sections 365.29 to 365.36.

[1911 c. 224 s. 2; 1917 c. 161 s. 2] (1015)

**365.31 GIFTS.** The town board of supervisors and the directors, and each thereof, are hereby authorized and empowered to receive, accept, and deposit, as provided in sections 365.29 to 365.36, any donation or gift of money made to such fund so created and to provide and require that the interest therefrom shall be used by the directors in the care and beautifying of such lot or lots in such cemetery, or in the care and beautifying of such cemetery, and may receive and accept gifts and donations for the care and beautifying of any particular lot or lots in such cemetery, and shall use the same and the interest thereon for the purpose specified by the donor.

[1911 c. 224 s. 3; 1917 c. 161 s. 3] (1016)

**365.32 TO DEPOSIT MONEY WITH COUNTY TREASURER.** The board of supervisors is hereby authorized and empowered to require the directors of any such cemetery to deposit all such money in the treasury of the county in which such town is located immediately after the sale and receipt by them of payment for any lot sold in such cemetery, or the receipt of any such gift or donation, and the treasurer of any such county is hereby authorized, empowered, and directed to receive the same and all such and deposit it as provided in sections 365.29 to 365.36. These funds, and all thereof, as soon as received by such county treasurer, shall be deposited in a bank designated as a depository of county funds by the county board of such county.

[1911 c. 224 ss. 4, 5; 1917 c. 161 ss. 4, 5] (1017, 1018)

**365.33 INTEREST; USE.** For the purpose of such deposit, the fund so created shall be treated as other funds in the county treasury, except as herein otherwise provided, and draw no less rate of interest than is paid on the funds of the county deposited in the depository; provided that the board of directors of the cemetery association may require all or part of the funds to be deposited on time certificates in the depository in the name of the county treasurer, payable to him or his successors in office, and the county treasurer shall secure on such time deposit the highest rate of interest which the depository will pay thereon and not less than the current rate paid on time certificates by such depository; and for such principal and interest so deposited on time certificates, the treasurer shall be liable in the same way and manner and to the same extent that he is liable upon his bond for moneys deposited on behalf of the county.

The fund shall be deposited in such depository in the name of such county and the bond or security given to the county by such depository shall be taken and held to be as security for such fund, but the treasurer of such county shall keep an accurate and separate account thereof and draw from such depository annually the interest accruing on such fund and pay the same to the board of directors of the cemetery and the board of directors shall use the interest for the purposes of sections 365.29 to 365.36 and none other.

[1911 c. 224 ss. 6, 7; 1917 c. 161 ss. 6, 7] (1019, 1020)

**365.34 TRANSFER OF FUND.** It is hereby made the duty of the treasurer of any such county, when any change is made in the depository of the funds of any such county, to change and transfer to such new depository the fund provided for in sections 365.29 to 365.36 and deposit such fund in such new depository.

[1911 c. 224 s. 8] (1021)

**365.35 DISPOSAL OF EXCESS.** Any excess of interest over the sum necessary for the care and beautifying of the lots or cemetery in any one year shall be by the directors deposited in such treasury to be added to and become a part of the principal sum and no part of the principal sum shall ever be used.

[1911 c. 224 s. 9; 1917 c. 161 s. 8] (1022)

**365.36 INVESTMENT OF FUND.** The board of supervisors, by and through the board of directors of the cemetery association, if there shall be a board of directors thereof, and if there shall not be a board of directors thereof, then acting as a board of supervisors, shall invest the fund so created in the same kind of bonds and securities as the permanent school fund of the state may be invested in and for such purpose and none other. This law, as it shall exist at the time any money

is received into this fund, shall control the investment thereof and such fund shall be invested only as the law provides at the time of the receipt of the money into the fund, and no subsequent amendment or change in this law shall authorize the investment of any fund differently or in any other class of securities save as provided in this law when the money is received into the fund. The board of supervisors and the cemetery directors may require the treasurer of any such county to withdraw all or any part of such fund from such depository for investment, as hereinbefore provided, and if the fund, or any part thereof, be so invested, the bonds or other securities shall be and remain with the county treasurer and the bond of the county treasurer shall at all times be security for the proper care thereof and the payment of interest received by him thereon to the directors of the cemetery, and upon payment of any such bonds or other securities the treasurer of such county, upon such payment, shall deposit the same in the depository in which county funds are deposited, shall collect the interest upon the funds so loaned and pay the same to the directors of the cemetery whenever requested so to do and annually pay over to the directors of the cemetery all interest on money collected or received by him on funds so deposited or invested as provided in sections 365.29 to 365.36.

On or before the first day of March each year, the county treasurer shall make a report to the board of supervisors of the town in which he shall set forth a statement of all moneys received by him under the terms of sections 365.29 to 365.36 during the preceding calendar year and set forth in detail a statement of the amount of money in the permanent fund on the first day of the calendar year and the amount of securities in the fund on the first day of the calendar year, the amount of money paid into the fund during the year, the amount of money invested in securities in the year, a statement of the securities held in the fund at the end of the calendar year and the amount of money in the fund at the end of the calendar year, a statement of the amount of interest collected on the fund and turned over to the directors, and a statement of the excess, if any, of the interest over the sum necessary for the care and beautifying of the lots which the directors shall have deposited in the treasury to be added to and made a part of the permanent fund.

[1911 c. 224 s. 10; 1917 c. 161 s. 9] (1023)

**365.37 OFFICERS; CONTRACTS.** No supervisors, town clerk, or town board shall become a party to, or be directly or indirectly interested in, any contract made or payment voted by the town board and all contracts involving an expenditure of \$100 or more, if not to be paid from road or poll tax, shall be let to the lowest responsible bidder after ten days' public notice, posted in the three most public places in the town or published for two weeks in a newspaper generally circulated in the town, of the time and place of receiving bids. In cases of special emergency, amounts in excess of \$100 may be expended without such notice being given. In towns having less than 25 legal voters, the officers may be employed upon road work by the day at such price as may have been fixed for such work by the town at its annual meeting. Every contract made and payment voted or made contrary to the provisions of this section shall be void and any such officer violating the provisions of this section shall be guilty of a misdemeanor and, in addition to the provisions prescribed by law, removed from office.

[R. L. s. 688; 1913 c. 164 s. 1] (1096)

**365.38 FILING CLAIMS; DEMAND.** No action upon any claim or cause of action for which a money judgment only is demandable, except upon town orders, bonds, coupons, or written promises to pay money, shall be maintained against any town unless a statement of such claim shall have been filed with the town clerk. No action shall be brought upon any town order until the expiration of 30 days after payment thereof has been demanded.

[R. L. s. 695] (1106)

**365.39. ACTIONS.** Actions and proceedings between towns, or between a town and an individual or a corporation, shall be begun, tried, and conducted in the same manner, and a judgment therein shall have a like effect, as in similar actions and proceedings between individuals.

[R. L. s. 693] (1104)



**365.40 ACTIONS, IN WHAT NAME.** In all actions or proceedings the town shall sue and be sued in its name, except where town officers are authorized to sue in their official names for its benefit. In every action against a town, process and papers shall be served on the chairman of the town board or, in his absence, on the town clerk; and such chairman shall attend to the defense of the action, and lay before the voters at the first town meeting a full statement of the facts relating thereto for their direction in defending the same.

[R. L. s. 694] (1105)

**365.41 JUDGMENTS AGAINST TOWNS.** When a judgment is recovered against a town, or against any town officer in an action against him in his official name, no execution shall be issued thereon; but, unless reversed or stayed, it shall be paid by the town treasurer upon demand and the delivery to him of a certified copy of the docket thereof, if he has in his hands sufficient town money not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within 30 days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to the town levied for the purpose of paying such judgment, execution may issue, but only town property shall be liable thereon.

[R. L. s. 696] (1107)

**365.42 TAX TO PAY JUDGMENT.** If a judgment for the recovery of money is rendered against a town, and is not satisfied or proceedings thereon stayed before the next annual town meeting, upon presentation of a certified copy of the docket of such judgment to such town meeting the town board shall add to the tax levy for that year the amount of such judgment.

[R. L. s. 697] (1108)

**365.43 YEARLY ASSESSED TAXES TO LIMIT DEBTS AND EXPENDITURES; EXCEPTION.** No town shall contract debts or make expenditures for any one year exceeding in amount the taxes assessed for such year, unless such debt or expenditure is authorized by the vote of a majority of the electors of such town, and no taxes in excess of the amounts authorized by law shall be levied by any town in any one year.

[R. L. s. 690] (1098)

**365.44 SEPARATION FROM VILLAGE.** Upon filing with the clerk of any town, except in any town having an area of more than two congressional townships and an assessed valuation of more than \$1,500,000 or having a population of more than 1,000 including the population of any village located within the town, of a notice, signed by not less than 50 voters thereof residing either within or without the village to be separated stating that the question of the separation of such town for all purposes from any village located therein will be voted upon at the next annual town meeting, the clerk shall insert such statement in the notice of such meeting, and the question shall be voted upon by a ballot. If a majority of the votes cast upon such proposition be in favor of the separation, such town shall thereafter be separated from such village for all purposes. Only voters residing without the village shall be entitled to vote upon such question at said town meeting.

[R. L. s. 691; 1949 c 95 s 1] (1099)

**365.45 DISSOLUTION OF TOWNS.** When the electors of any town, at the annual meeting, or at a special meeting called for that purpose, shall have voted, by ballot, to dissolve the town organization hereunder, the town board thereof shall adopt a resolution setting forth such facts and asking for the dissolution of the town; and a copy of the resolution, duly certified by the town clerk, shall be presented to the board of county commissioners of the county in which such town is located, such board of county commissioners may, or whenever the tax delinquency in any town exceeds 70 per cent in any one year, the board of county commissioners of the county wherein such town is situated, on its own initiative, may, by resolution, dissolve such town and attach the territory formerly embraced therein to an adjoining town or towns, or provide for the government of such territory as unorganized territory of the county. If such dissolved territory is added to an adjoining town the proposal therefor shall first have the approval of a five-eighths majority of the voting electors of such town to which the dissolved territory is added. Upon the adoption of the resolution by the county board such town shall be dissolved and no longer entitled to exercise any of the powers or functions

of an organized town. The county auditor shall give ten days' notice, by one publication in the paper in which the proceedings of the county board are published, of the meeting of the county board at which such petition will be considered.

[1931 c. 96 s. 1; 1933 c. 235] (1002-9)

**365.46 COPY OF RESOLUTION FILED WITH SECRETARY OF STATE.** A certified copy of the resolution of the county board declaring such town to be dissolved shall forthwith be forwarded by the county auditor to the secretary of state, who shall, on receipt thereof, make appropriate entry in the records of his office of the dissolution of such town.

[1931 c. 96 s. 2] (1002-10)

**365.47 DISPOSAL OF FUNDS.** Any funds belonging to the town remaining in or thereafter coming into the treasury of the county in which such town was located shall be disposed of in the following manner:

Any road or bridge fund shall be expended by the county board of such county for road and bridge improvements wholly within the limits of such town; any other funds of such town shall, by the auditor of such county, be used to pay all outstanding bonds, warrants, or judgments against the town. If the funds so remaining are not sufficient to pay such outstanding bonds, warrants, or judgments, then, upon petition of the holders thereof, the county auditor shall spread a tax levy against the taxable property of the town in an amount sufficient to pay the same, which levy shall not exceed the maximum amount which the town would have been authorized to levy for the purpose of paying such indebtedness if it had not been dissolved. If the levy shall not be sufficient to pay off such bonds, warrants, or judgments, the county auditor shall spread successive annual levies in the maximum amount which the town would have been able to levy for such purpose if it had not been dissolved until such warrants, bonds, or judgments are paid in full, unless bonds are issued therefor as provided in section 365.48.

[1931 c. 96 s. 3] (1002-11)

**365.48 PAYMENT OF INDEBTEDNESS.** In the event the outstanding bonds, warrants, and judgments shall exceed the maximum amount which may be raised by one year's levy, as provided for in sections 365.45 to 365.49, the county board may issue funding or refunding bonds, in the manner provided by law for the issuance of county funding or refunding bonds, to take up such warrants, judgments, or bonds without first submitting the question of such issue to the electors residing in the territory or in the county. Any bonds so issued shall not be an obligation of the county but shall be an obligation of the territory formerly included in such town and shall be payable out of levies made against the property in such territory, as provided in section 365.47, and such restriction shall be printed upon the face of the bonds. Except as provided in sections 365.45 to 365.49, such bonds shall be issued pursuant to the provisions of sections 475.03, 475.04, and 475.23 to 475.32, and the tax levy required by section 475.26 shall be made against the property of the territory formerly included in such town at the time of the issuance of such bonds.

[1931 c. 96 s. 4; 1935 c. 189] (1002-12)

**365.49 PROPERTY TO REVERT TO COUNTY.** Any property, real or personal, of such town which is needed for county purposes shall become the property of the county but the reasonable value thereof, as determined by the county board, shall be credited to such town and used for the purpose of paying off outstanding bonds, warrants, or judgments. Any other property of such town shall become the property of the county without any allowance being made therefor. Any surplus funds of the town, after all obligations have been paid, shall be credited to the general fund of the county.

[1931 c. 96 s. 5] (1002-13)