

MINNESOTA STATUTES 1953 ANNOTATIONS

367.21 TOWN OFFICERS

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The town treasurer is entitled to two percent on the proceeds of a bond issued if such proceeds are paid into the town treasury subject to the limitations contained in section 367.20. OAG March 21, 1949 (455-D).

If there is a deficiency in the amount paid to the town treasurer for his compensation, he cannot collect for more than a six years deficiency. OAG Sept. 26, 1949 (455-D).

367.21 JUSTICE'S BOND

Bonds of town justices must be approved by the town board; bonds of village and city justices must be approved by the council; all bonds of justices of the peace must be filed with the clerk of the district court; and village and city justices must file duplicates of their bonds with the secretary of state. OAG March 21, 1949 (266-A-2).

CHAPTER 368

SPECIAL PROVISIONS

368.01 CERTAIN TOWNS TO HAVE CERTAIN POWERS OF VILLAGES

HISTORY. 1907 c 193 s 1; 1907 c 397 s 1; MS 1927 s 1003, 1004; 1949 c 722 s 1; 1953 c 462 s 1.

Pursuant to section 413.14, any incorporated city of 10,000 inhabitants or less, may validly annex abutting unplatted property, even though such property lies within an unincorporated township which qualifies for the limited village powers conferred by section 368.01. State ex rel v City of Anoka, M, 61 NW(2d) 237.

While under section 368.01 certain towns are given the power and authority enumerated in certain subdivisions of section 412.19, they do not possess all of the powers enumerated in that section. The powers of the town are largely limited to matters peculiarly of local concern and the town should not adopt ordinances relating to offenses which in general are governed by the provisions of state law. OAG June 18, 1947 (43-B-1); OAG July 9, 1947 (43A-A-6).

Section 368.01 does not authorize towns to issue licenses for the sale of intoxicating liquor or nonintoxicating malt liquors. OAG July 27, 1951 (217-B-8).

Under section 368.01 a town may adopt an ordinance licensing trailer camps or bulk oil stations. OAG Aug. 26, 1947 (325-A-15).

An improvement project to be financed in part from town funds and in part from special assessments may not, under Laws 1953, Chapter 244, be carried out under a contract between the town and a county, if the amount of the project is in excess of \$2,500. The town having the power of villages, under section 368.01, as amended, which has undertaken an improvement project under the provisions of section 412.401, may proceed to complete the same notwithstanding the enactment of Laws 1953, Chapter 398. OAG June 22, 1953 (379-C-13-D).

If a town builds a storm sewer under sections 368.01 and 412.27 it can only assess cost against property fronting on a street where the sewer is laid. OAG July 23, 1947 (387-G-1).

A town may adopt an ordinance to require the removal of abandoned automobiles from town roads. OAG Dec. 18, 1952 (434-A-6).

A town may adopt a zoning ordinance if it contains a platted portion on which 1,200 or more people reside. OAG Dec. 4, 1947 (441-H).

MINNESOTA STATUTES 1953 ANNOTATIONS

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SPECIAL PROVISIONS; TOWNS 368.47

When the territory of a town is zoned under section 368.56, the town lacks authority to change or amend the zoning that has already been done, except as provided in section 368.56. If it should be determined that section 368.56 is unconstitutional, the town may proceed to adopt a zoning ordinance in accordance with section 368.01. A village has power to zone under section 412.221, subdivision 29. OAG Oct. 4, 1949 (441-H).

The powers of towns and town boards are determined by the legislature and the legislature undoubtedly has the power to declare what powers a certain class of towns may exercise. Laws 1949, Chapter 722, conferring certain powers of villages on a certain class of towns is constitutional. OAG Oct. 17, 1949 (441-H).

After the adoption of a county zoning plan in a village the town may adopt a zoning plan even though it has previously approved a county zoning plan. OAG July 10, 1950 (441-H).

A town has power to adopt or amend a zoning ordinance. The ordinance must be published in the official paper. It need not be filed with the county auditor or the secretary of state. There is no provision made for recording it. OAG July 11, 1950 (441-H).

The town of Bloomington falls within the classification fixed by section 368.01 and under its power as to fire prevention may, under the provisions of section 412.19, subdivision 9, and under its general police power conferred by section 412.19, subdivision 24, adopt a system of numbering the houses on various streets within the town. OAG Oct. 29, 1947 (396-F) (484-E-2).

Towns having the powers of villages may license outdoor theaters under section 368.01. County boards may authorize outdoor theaters under section 375.40 OAG Aug. 17, 1949 (850-E); OAG June 12, 1952 (850-E).

The town of Bloomington may regulate the burial of the dead by requiring a license for any public cemetery association. OAG May 11, 1949 (870-I).

The right of a town to adopt a traffic ordinance relating to speed limits on non-trunk highways is limited by the requirement that such an ordinance must be approved by the commissioner of highways. OAG Aug. 9, 1951 (989-A-19).

Except as limited by section 169.04 and the state speed regulations, towns affected by section 368.01 may adopt traffic regulations. Fines collected for violations of these regulations go into the town treasury unless the arrest was made by state traffic patrolman. OAG July 7, 1950 (989-B-4).

A town board has no power to appropriate public funds for hospital purposes. Under section 368.01 certain towns possess powers of villages which include the power to provide hospitals. OAG Nov. 9, 1948 (1001-I).

368.09 VIOLATION A MISDEMEANOR

Where an alley is obstructed by articles placed in it by individuals it may be cleared by appropriate legal action. A municipality need not open a dedicated street until the public convenience requires it. Whether or not an alley should be improved rests in the discretion of the council. OAG Aug. 22, 1949 (396-C-1).

368.43 Repealed, 1945 c 271 s 3.

368.47 TOWNS MAY BE DISSOLVED

Statute authorizing board of county commissioners by resolution to dissolve any town when assessed valuation thereof drops to less than \$40,000 is not invalid either as being in excess of legislative power or as violative of due process. Municipal corporations have no right, privilege, or immunities within the protection of the usual constitutional guaranties against legislative interference or control. They are merely governmental agencies, and legislation regulating or affecting them does not amount to a contract, the obligation of which may not be impaired by legislative action. *Town of Bridge v County of Koochiching*, 227 M 320, 35 NW(2d) 537.

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368.49 SPECIAL PROVISIONS; TOWNS

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The county board is without authority to spend moneys for the acquisition or maintenance of a private telephone system existing for the benefit of certain settlers. OAG Jan. 26, 1949 (125-A-55).

Where the county board has adopted a resolution dissolving the town government of a town, the town is thereby dissolved. It does not exist. The county board cannot create a new town where one does not now exist by amendment of a resolution adopted at a former meeting. If a town government is desired proceedings must be taken in accordance with the statutes for the organization of the town government. OAG Dec. 23, 1947 (441-B).

Where a town was dissolved under the provisions of section 368.47, a petition may be made under the authority of section 379.01 asking for organization of the area as a town. Section 379.01 is a statute granting a right. A specified number of legal voters in a specified area have a right to petition the county board to be organized as a town. The county board is required to act thereon but under the provisions of section 368.47 it is optional with the board to dissolve a town that fails to meet the requirements contained therein. OAG April 1, 1949 (441-B).

The county board may by resolution dissolve a town but, under Laws 1937, Chapter 419, the dissolution becomes effective upon the approval of the freeholders of the town. A town may be dissolved under the provisions of section 365.45 where the electors of the town may themselves dissolve the town, probably by placing the question on the ballot under the provisions of section 212.03. OAG April 27, 1949 (441-B).

368.49 DISTRIBUTION OF FUNDS

HISTORY. 1925 c 40 s 3; MS 1927 s 1002-3; 1949 c 326 s 1.

368.52 TAX LEVY TO RETIRE BONDS

HISTORY. 1939 c 287 s 3; 1951 c 397 s 1.

368.56-368.58 Local, Hennepin County.

368.59 Obsolete.

368.79 REMOVAL OF GARBAGE

No charge can be made to householders using their own garbage disposal unit, nor may a charge be made for the period when householders are absent from the city and not using the municipal garbage disposal service. OAG Aug. 22, 1952 (59-B-4).

A town has the right to provide a public dumping ground, purchase land therefor, and employ an overseer or watcher thereof. OAG Aug. 16, 1949 (434-A-6).

368.85 FIRE PROTECTION

HISTORY. 1949 c 204 c 1-9.

COUNTIES; COUNTY OFFICERS

CHAPTER 370

NEW COUNTIES, CHANGE OF BOUNDARIES

NOTE: The county as a unit of government, is older in point of time than either the state or the town.