

CHAPTER 368

TOWNS; SPECIAL PROVISIONS

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NOTE: For special laws relating to specific towns, see Table 1, Vol. 2.

368.01 CERTAIN TOWNS TO HAVE CERTAIN POWERS OF VILLAGES:

Any town in this state having therein platted portions in which there reside 1,200 or more people or any towns having platted area within 20 miles of the city hall of a city of the first class having over 200,000 population shall have and possess the same power and the same authority now possessed by villages in this state under the laws of this state insofar as such powers are enumerated in section 412.221, subdivisions 3, 6, 8, 9, 11, 14, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 28, 29, and 32, also the powers enumerated in sections 412.111, 412.191, subdivision 4, 412.231, 412.301, 412.491, 412.851, 412.871, 465.01 and 471.62. The town board thereof may adopt, amend, or repeal such ordinances, rules, and bylaws for any purposes so enumerated as it deems expedient.

[1907 c 193 s 1; 1907 c 397 s 1; 1949 c 722 s 1; 1953 c 462 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2; 1961 c 46 s 1; 1963 c 257 s 1; 1965 c 574 s 1] (1003, 1004)

TOWNS ON A CASH BASIS

368.02 CERTAIN TOWNS NOT TO DRAW ORDERS WITHOUT FUNDS IN TREASURY. From and after January 1, 1934, no town which, in the year 1933, had a population (including the population of 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 of taxable property, 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 government section of the entire area of such town, according to the government survey thereof, shall draw any order or warrant on any fund until there is sufficient money in the fund to pay the same together with all orders previously issued against the fund.

[1933 c 293 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-4)

368.03 LAST PRECEDING CENSUS TO GOVERN. In determining the application of sections 368.02 to 368.11 to any such town, the population thereof shall be determined by the last preceding state or federal census and the valuation shall be that used as a basis for spreading the 1932 taxes of the town.

[1933 c 293 s 2; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-5)

368.04 INDEBTEDNESS IN EXCESS OF LIMIT TO BE PERSONAL CLAIM AGAINST OFFICIALS CREATING SAME. Whenever, from and after January 1, 1934, the expense and obligations incurred, chargeable to any particular fund of such town in any calendar year, are sufficient to absorb 85 percent of the entire amount of the tax levy payable in that year, including such amount as may remain in the fund from the levy of the prior year or years, no officer or board of such town shall have the power, and no power shall exist, to create any additional indebtedness (save as the remaining 15 percent of the tax levy is collected) which shall be a charge against that particular fund or shall be in any manner a valid claim against the town, but the additional indebtedness attempted to be created shall be a personal claim against the officer or members of the board voting for or attempting to create the same.

[1933 c 293 s 3; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-6)

368.05 MAY ISSUE CERTIFICATES OF INDEBTEDNESS. At any time after the annual tax levy has been certified to the county auditor, and not earlier than October tenth in any year, the governing body of such town may, for the purpose of meeting the obligations of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in the tax levy for the purpose of raising money for any such fund, but no certificate shall be issued for any of the separate funds exceeding 50 percent of the amount named in the tax levy, as spread by the county auditor, to be collected for the use and benefit of the fund, and no certificate shall be issued to become due and payable later than December thirty-first of the year succeeding the year in which the tax levy, certified to the county auditor, as aforesaid, was made. The certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six percent per annum. Each certificate shall state upon its face for which fund proceeds of the certificate shall be used, the total amount of the certificates so issued, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100 or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation. The proceeds of the tax assessed and collected, as aforesaid, on account of the fund, and the faith and credit of such town shall be irrevocably pledged for the redemption of the certificates so issued. The certificates shall be paid from the moneys derived from the levy for the year against which the certificates were issued or, if they be not sufficient for such purpose, from other funds of the town. The money derived from the sale of the certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of the levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year.

[1933 c 293 s 4; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-7)

368.06 TO BE ON CASH BASIS, COMMENCEMENT. From and after January 1, 1934, such towns shall be deemed for all purposes to be on a cash basis and shall thereafter remain on a cash basis. All taxes levied in 1933 shall be considered as the tax revenues for the year 1934, and thereafter in any such town taxes shall be levied as now provided by law, but for the succeeding year.

[1933 c 293 s 5; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-8)

368.07 BOND ISSUE TO RETIRE EXISTING INDEBTEDNESS. If any such town, prior to January 1, 1933, has incurred by proper authority a valid indebtedness, excluding bonds, in excess of its cash on hand, such town may, for the purpose only of paying and discharging such valid indebtedness (except bonds) and interest thereon, issue its bonds in the manner now provided by law, upon approval of the proposition of the issuance of the bonds by the electors of the town in the manner now provided by law; provided, that if any moneys received from taxes levied in 1932 and payable in 1933, or income from local sources received since January 1,

1933, have been used prior to April 17, 1933, for the retirement of indebtedness existing January 1, 1933, such bond issue may include the amount of such payments for the purpose of reimbursing the funds from which such moneys were so paid.

[1933 c 293 s 6; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-9)

368.08 TAX LEVY TO RETIRE BONDS. The town board of any such town issuing bonds pursuant to the authority of sections 368.02 to 368.11 shall, at the time of the issuance thereof, by resolution, provide for a levy for each year, until the principal and interest of the bonds are paid in full, of a direct annual tax in an amount sufficient to pay the principal and interest thereon when and as such principal and interest become due. Such tax levy shall be within the limitations provided by section 275.10, and other laws, upon the tax levies of the town, and the county auditor, at the time of spreading the annual tax levy of the town, shall reduce the same so that the total levy shall be within the limitations of such laws.

[1933 c 293 s 7; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-10)

368.09 VIOLATION A MISDEMEANOR. Any member of the town board of such town, or any other town officer or employee knowingly participating in or authorizing any violation of sections 368.02 to 368.11 shall be guilty of a misdemeanor, and, upon conviction, punished by a fine of not exceeding \$100 or by imprisonment in the county jail for not exceeding three months, for each offense; and each contract attempted to be entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of sections 368.02 to 368.11 shall be null and void in regard to any obligation thereby sought to be imposed upon the town, and no claim therefor shall be allowed by the town board of the town; nor shall the claim of the town or any other town officer or employee issue or execute, nor shall the town treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the town board and each other town officer or employee participating in or authorizing any violation of sections 368.02 to 368.11 shall be individually liable to the town or to any other person for any damages caused thereby and for the purpose of enforcing such liability, without impairing any other remedy, one-fourth of the salary of each such officer and employee shall be withheld from him and applied towards reimbursing the town or any such other person for such damages until all claims by reason thereof have been fully paid. Every member of the town board present at a meeting of the board when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same, unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

[1933 c 293 s 8; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-11)

368.10 OFFICERS TO BE SUSPENDED FROM OFFICE FOR VIOLATION. Any member of the town board knowingly participating in or authorizing the violation of sections 368.02 to 368.11 shall be liable to suspension from office. Any vacancy created thereby shall be filled according to law.

[1933 c 293 s 9; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-12)

368.11 CONTINUANCE UNDER PROVISIONS. When a town has once come under the provisions of sections 368.02 to 368.11 it shall continue under those provisions, notwithstanding any subsequent change in assessed valuation or population.

[1933 c 293 s 10; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-13)

ATTORNEYS FOR TOWNS

368.12 CERTAIN TOWNS MAY EMPLOY ATTORNEYS. The board of supervisors in any town in the state having a population of more than 3,000, exclusive of incorporated villages or cities therein, and an assessed valuation of taxable property, exclusive of money and credits, of more than \$10,000,000, shall have the power to employ an attorney or attorneys without a vote of the electors and shall have the power, without a vote of the electors, to acquire land by purchase or condemnation and build on such land garages, warehouses, offices, and other buildings for the use of such town; provided, that the total expenditure for the land and buildings during any one year shall not exceed eight percent of the total annual town levy; and provided that all expenditures shall be within the present millage tax limitation.

[1937 c 319 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-16)

368.13-368.38 [Omitted, applies to towns having not less than 1,500, and not more than 2,000 inhabitants, and having an assessed valuation of more than \$1,200,000,

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and less than \$1,750,000, and having an area of not less than 23,000, nor more than 26,000 acres.]

SPECIAL RELIEF

368.39 CERTAIN TOWNS TO RECEIVE SPECIAL RELIEF. When the value of the property within the boundaries of the corporate limits of any town in the state, which is exempt from local taxation because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax law, exceeds \$1,500,000 and is equal to or greater than the taxable value of all real and personal property, exclusive of money and credits within any such town, then such town shall be entitled to receive from the state treasury, in addition to all other taxes received thereby, such an amount as would be produced by computing a tax of one-third of the current tax rate for town purposes upon such property so exempt from local taxation, provided, that the amount which any such town shall receive shall not exceed \$1,500 in any year. Railroad valuations shall cover all railroad property located in any town except rolling stock, main tracks, and fills or bridges supporting the same.

[1939 c. 324 s. 1; 1943 c. 506 s. 1; 1945 c. 271 s. 1] (2087-5)

368.40 APPLICATION TO STATE AUDITOR. Any town desiring to take advantage of sections 368.39 to 368.42 shall apply in writing therefor to the state auditor, not later than July 1st each year, and the application shall contain the following facts:

(1) The valuation as of May 1 of the next preceding year of the property within such town, but not within the corporate limits of any city or village therein, subject to taxation under the provisions of the gross earnings tax law;

(2) The value as of May 1 of the next preceding year of all real and personal property, exclusive of money and credits, within any such town subject to local taxation;

(3) The rate of taxation, in mills, for town purposes for the current and the next preceding years;

(4) The total amount spent for all town purposes by such town for the last preceding fiscal year, and an estimate of the expenses for town purposes for the current fiscal year;

(5) The number of persons actually residing in the town, but not within the corporate limits of any city or village located therein, who are members of an immediate family in which some member thereof is employed in or on the property on which the gross earnings tax is paid.

The information called for in clause (1) shall be immediately ascertained and certified upon the request of any such town by the railroad and warehouse commission; the information called for in clauses (2) and (3) shall upon like request be immediately certified by the auditor of the county in which any such town is situated; and the information called for in clauses (4) and (5) shall be certified by the clerk of such town.

[1939 c. 324 s. 2; 1945 c. 271 s. 2] (2087-6)

368.41 STATE AUDITOR TO DETERMINE FACTS. The state auditor shall immediately consider the matter and determine whether or not such town is entitled to aid under the provisions of sections 368.39 to 368.42; and, if he finds that such town is entitled to aid, he shall determine the amount to which it is entitled within the limitations of sections 368.39 to 368.42, and shall draw his warrant upon the state treasurer in favor of such town for the amount to which it is so entitled, and deliver the same thereto, taking proper vouchers and receipts therefor.

[1939 c. 324 s. 3] (2087-7)

368.42 PAYMENTS MADE PRO RATA. Not more than \$4,500 in the aggregate shall be disbursed in any one calendar year to all towns entitled to aid under the provisions of sections 368.39 to 368.42; and, in the event the amount of \$4,500 shall be insufficient to pay the full amount to which the town shall be entitled annually hereunder, the state auditor shall apportion the sum pro rata to each of the towns.

[1939 c. 324 s. 4] (2087-8)

368.43 [Repealed, 1945 c 271 s 3]

DISSOLUTION

368.44 DISSOLUTION OF CERTAIN TOWNS; GROUNDS. When the voters residing within a duly organized town in any county in this state having more than 85 congressional townships of land and having an assessed valuation of not less than \$5,000,000 nor more than \$12,000,000 have failed to elect any town officials for

more than three years continuously, or the town has failed and omitted to exercise any of the powers and functions of a town, as provided by law, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the auditor of the county, the county board by resolution duly adopted may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town.

[1925 c. 183 s. 1] (1002-5)

368.45 COPY OF DISSOLUTION RESOLUTION FOR SECRETARY OF STATE.

A certified copy of any such resolution shall forthwith, after the adoption of the same by the county board, be forwarded by the auditor of such county 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.

[1925 c. 183 s. 2] (1002-6)

368.46 DISTRIBUTION OF FUNDS. Any funds belonging to the town remaining in, or hereafter coming into, the treasury of the county in which such town shall be located, shall be disposed of in the following manner:

Any road or bridge funds shall be expended by the county board of any 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, and he shall pay, all outstanding warrants or judgments against the town; and, if the funds so remaining are not enough to pay such outstanding warrants or judgments, upon petition of the holders thereof, the county auditor shall spread a levy against the taxable property of the town in an amount sufficient to pay the same; any other funds of such town shall, by the county auditor, be credited to the general fund of the county.

[1925 c. 183 s. 3] (1002-7)

368.47 TOWNS MAY BE DISSOLVED. When the voters residing within a town in this state have failed to elect any town officials for more than ten years continuously immediately prior to April 24, 1937, or the town has failed and omitted for a period of ten years to exercise any of the powers and functions of a town, as provided by law, or when the assessed valuation of any town drops to less than \$40,000, or when the tax delinquency of any such town, exclusive of taxes that are delinquent or unpaid by reason of taxes being contested in proceedings for the enforcement of taxes, amounts to 50 percent of its assessed valuation, or where the state or federal government has acquired title to 50 percent of the real estate of such town, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the county auditor, the county board by resolution may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town. In counties having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000 and having not more than 77 nor less than 75 full or fractional congressional townships, and in counties having a population according to the 1930 federal census of not more than 28,000 nor less than 27,000 and having not more than 91 nor less than 90 full or fractional congressional townships, and in counties having a population according to the 1930 federal census of not more than 210,000 nor less than 200,000 and having not more than 202 nor less than 200 full or fractional congressional townships, before any such dissolution shall become effective the freeholders of the town may express their approval or disapproval of such dissolution. The clerk of the town shall, upon the petition of ten legal voters of such town, filed with him at least 15 days before any regular or special town election thereof, give notice at the same time and in the same manner of such election that the question of dissolution of such town will be submitted for determination at such election. At such election when so petitioned for the question shall be voted upon by a separate ballot, the terms of which shall be either "for dissolution" or "against dissolution," which ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the votes cast at the election shall be for dissolution, such town shall be dissolved; and, if a majority of the votes cast at the election shall be against dissolution, the town shall not be dissolved.

When a town is dissolved under the provisions of sections 368.47 to 368.49 the

county shall acquire title to any telephone company or any other business being conducted by such town and such business shall be operated by the board of county commissioners until such time as a sale thereof can be made; provided that the subscribers or patrons of such businesses shall have the first opportunity of purchase. If such dissolved town has any outstanding indebtedness chargeable to such business, the auditor of the county wherein such dissolved town is located shall levy a tax against the property situated in the dissolved town for the purpose of paying the indebtedness as it becomes due.

[1925 c. 40 s. 1; 1933 c. 377; 1935 c. 342 s. 1; 1937 c. 419 s. 1] (1002-1)

368.48 COPY OF RESOLUTION OF DISSOLUTION FOR SECRETARY OF STATE. A certified copy of any such resolution shall forthwith, after the adoption of the same by the county board, be forwarded by the auditor of the county 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.

[1925 c. 40 s. 2] (1002-2)

368.49 DISTRIBUTION OF FUNDS. Subdivision 1. Any funds remaining in, or hereafter coming into, the treasury of the county in which such town shall be located, shall be disposed of in the following manner:

Any road or bridge funds shall be expended by the county board of any 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 credited to the general fund of the county.

Subd. 2. Where any such dissolved township has any unexpended money in its bond and interest funds and there are no bonds or indebtedness outstanding, any such unexpended money shall be spent for road and bridge improvements or other legal expenditures within the said township.

[1925 c 40 s 3; 1949 c 326 s 1] (1002-3)

WATERWORKS, SEWAGE DISPOSAL

368.50 WATERWORKS SYSTEM AND SEWAGE DISPOSAL PLANT. In addition to the existing powers of the town, the town board of any town having more than 3,000 inhabitants, excluding the inhabitants of incorporated villages or cities therein, and an assessed valuation of taxable property, exclusive of money and credits, of more than \$10,000,000, may erect, construct, maintain, and operate a system of waterworks and sewage disposal plant and lay and construct within the platted area thereof such sewers leading to the plant and other equipment necessary to the operation thereof as the board deems advisable. The board may enter into a contract with any city or village located in the town or adjacent thereto for the care, maintenance, and operation of the waterworks, sewage disposal plant, and sewers.

[1939 c 287 s 1; 1941 c 225 s 1; 1955 c 500 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-57)

368.51 PAYMENT OF COST, BONDS. The cost thereof may be paid from the general revenue funds. If these funds are insufficient therefor the board may issue the negotiable bonds of the town to the amount authorized by the board. The board fixes the denominations and the place and time of payment thereof, which time shall not be more than 25 years from the date thereof. The bonds mature serially and bear interest at a rate not in excess of five percent per annum payable semiannually. The bonds may not be sold for less than their par value and accrued interest thereon. Section 475.60 governs the issuance, negotiation, and sale of the bonds and the proceeds of the bonds may be used only in payment of the cost of the erection, construction, maintenance, and operation of the system of waterworks and sewage disposal plant in the event the general revenue funds are insufficient to pay that cost.

[1939 c 287 s 2; 1955 c 500 s 2; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-58)

368.52 TAX LEVY. The full faith and credit of the town is pledged for the payment of these bonds and the current interest thereon. Each year the board shall include in the tax levy an amount sufficient to pay interest on the bonds as it accrues and to accumulate a sinking fund for the redemption of the bonds at maturity. The town board may levy a tax to pay the principal and interest owing on the bonds commencing with the year 1951 and continuing until the bonds and interest are paid in full in addition to the annual tax levy now permitted by law in the town.

[1939 c 287 s 3; 1951 c 397 s 1; 1955 c 500 s 3; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-59)

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368.53 BONDS; FORM, SALE. These bonds when issued shall be sealed with the town seal and signed by the chairman of the board and the town clerk, but the signatures to any coupons attached to the bonds may be lithographed thereon. The bonds shall be sold in such proportions of the whole amount authorized as the town board determines. The total principal amount of bonds issued may not exceed \$131,000.

[1939 c 287 s 4; 1941 c 225 s 2; 1955 c 500 s 4; 1959 c 686 s 14; Ex1959 c 75 s 1, 2] (1108-60)

368.54, 368.55 [Repealed, 1955 c 500 s 5]

ZONING, CERTAIN TOWNS

368.56 ZONING REGULATIONS; TOWNS WITHIN TEN MILES OF THE BOUNDARY LINE OF ANY CITY OF THE FIRST CLASS. For the purpose of promoting health, safety, order, convenience, prosperity, and general welfare, the electors of any town in this state located within a county having a population of more than 450,000 and an assessed value exclusive of money and credits, of over \$280,000,000 and the electors of any town any portion of which is situated within ten miles of any portions of the exterior boundary lines of any city of the first class, shall have power at their annual town meeting or at any special town meeting called pursuant to the provisions of sections 212.03 and 212.04 by resolution adopted by 50 percent of those voting at the meeting to divide the town, or any prescribed and limited area within the town, into districts or zones of such number, shape, and area as they may deem best suited to carry out the purposes of sections 368.56 to 368.58; and, within such zones, to 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; to provide for the administration of such resolution by such officers of the town as they may deem advisable and in such manner as they may deem advisable, and to provide for penalties for the violation of the provisions of such resolution. 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 any one district may differ from those in other districts.

[1941 c 362 s 1; 1947 c 501 s 1; 1949 c 231 s 1]

368.57 WHEN RESOLUTION TO BE IN FORCE. The provisions of any resolution so adopted shall become operative and effective ten days after the date of such town meeting unless there shall be filed with the town clerk within this ten day period the written objections of 50 percent or more of the owners of the real property located within the district, zone, or area affected by such resolution and, in the event such objections be filed by 50 percent or more of such owners within this period, then such resolution shall be of no further force or effect.

[1941 c 362 s 2]

368.58 CHANGES AND MODIFICATIONS. No change or modification of any of the terms or provisions of any resolution so adopted shall be made in any manner unless and until two-thirds or more of the owners of real property within the district, zone, or area affected by such resolution shall consent in writing, filed with the clerk of such town, to such change or modification.

[1941 c 362 s 3]

368.59 [Inoperative]

ADDITIONAL POWERS

368.61 CERTAIN TOWNS; ADDITIONAL POWERS. The town board of any town in this state, situated within a county having a city of the first class and now or hereafter having a population in excess of 250,000, or the town board of any town bordering on any city of the second class, shall have, in addition to the powers now vested in such town board by law, the following powers:

[1945 c 555 s 1; 1957 c 522 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.62 ESTABLISH LIGHTING FACILITIES; CONTRACTS. To erect lamp posts and lamps and other lighting fixtures for lighting any portion of any public

highway or public ground within said town by gas, electricity or otherwise, and to make and enter into the necessary contracts therefor.

[1945 c 555 s 2; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.63 ACQUIRE LAND. To acquire by gift or purchase, in the name of the town, a tract of land, either within or without the limits of such town, for park and playground purposes, and thereafter to improve and maintain the same, and a tract of land for public dumping grounds for use of the inhabitants of such town, and to thereafter maintain the same as a public dumping ground and by resolution to adopt rules and regulations for using the same.

[1945 c 555 s 3; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.64 TAX LEVIES AUTHORIZED. For the purpose of providing the necessary funds for carrying out the provisions of section 368.62, the electors at the annual meeting may vote a tax not exceeding one mill; and for the purpose of carrying out the provisions of section 368.63, the electors at the annual meeting may vote a tax which will produce a sum not exceeding \$500 for the purpose of acquiring and improving lands for playgrounds and park purposes, and a tax which will produce a sum not exceeding \$500 for acquiring land for a public dumping ground and maintaining the same. The moneys so voted by the electors, as hereinbefore provided, shall be disbursed by direction of the town board.

[1945 c 555 s 4; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.65 SNOW REMOVAL. Upon a petition signed by the owners of at least two-thirds of the frontage upon any public alley within such town requesting the removal of snow therefrom, said town board is authorized to remove snow from such public alley or alleys within said town so as to keep the same in passable condition; and for that purpose the road overseer is authorized to employ, by and with the consent of the town board, such men and teams and other equipment as may be necessary for that purpose. The cost of such snow removal shall be determined by the town board by resolution to be filed with the town clerk on or before May 1 next following, and such resolution shall contain the names of the owners of the property benefited by such snow removal and the cost thereof. Upon receipt of such resolution, the town clerk shall prorate the cost thereof upon the basis of an equal sum per front foot and shall notify by mail each owner the amount thereof.

[1945 c 555 s 5; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.66 LIENS ON BENEFITED PROPERTY. From the time of the filing of said resolution with the town clerk, the amount charged against each parcel of land shall constitute a lien thereon until fully paid; and unless such amount is paid within 30 days after notice is given by the clerk, as hereinbefore provided, there shall be added interest at the rate of six percent per annum until fully paid. The amount charged against each parcel of land shall be paid to the town treasurer, who shall upon receipt of such payment, report the same to the town clerk, and the clerk shall make the necessary entry thereof upon his record.

[1945 c 555 s 6; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.67 REMOVAL OF SNOW TO CONSTITUTE NOTICE. The removal of any snow by direction of the town board pursuant to sections 368.61 to 368.84 shall constitute notice to the owners of the property benefited of their liability for the payment of the proportionate cost thereof as herein provided.

[1945 c 555 s 7; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.68 CHARGES AND CREDITS TO GENERAL REVENUE FUND. The town board is authorized to pay the cost of such snow removal out of the general fund of such town; and upon payment of the cost thereof by the owners of the property benefited, such payments shall be placed to the credit of the general fund of said town.

[1945 c 555 s 8; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.69 PUBLIC IMPROVEMENTS; REPAIRS. The town board may cause any part of any town road or alley to be paved or otherwise improved upon a petition signed by the owners of at least two-thirds of the land fronting on any town road or alley which is proposed to be paved or otherwise improved; and upon petition signed by the owners of at least two-thirds of the lands fronting on any public road or highway where it is proposed to construct, repair, or rebuild any sidewalk, curb, or gutter, such town board may cause any such sidewalk, curb, or gutter to be constructed, repaired, or rebuilt as hereinafter provided.

[1945 c 555 s 9; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

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368.70 PETITION; NOTICE; HEARING. When such petition has been presented to the town board requesting any of the improvements as provided for in section 368.69, the town board shall adopt a resolution to that effect, which resolution shall specify the town road or alley, or parts thereof, which are proposed to be paved or otherwise improved, or the place or places where such sidewalk, curb, or gutter is proposed to be constructed, repaired, or rebuilt and shall state the time and place when the town board will consider and act upon such petition; said resolution shall contain the names of the owners of all lots, parts of lots or parcels of ground fronting on the town road or alley proposed to be paved or otherwise improved, and the names of the owners of all lots or parts of lots or parcels of ground fronting on the road or highway where such sidewalk, curb, or gutter is proposed to be constructed, repaired, or rebuilt.

[1945 c 555 s 10; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.71 SERVICE OF RESOLUTION. Such resolution shall be served personally upon the persons named therein in the same manner as provided by law for service of a summons if such persons reside within such town. If any of the persons so named in said resolution are not residents of said town or cannot be found therein, then such service shall be made by posting a copy of said resolution in three public places within that town. Such personal service and posting as herein provided for shall occur at least ten days prior to the time when such town board will meet for the purpose of considering and acting thereon.

[1945 c 555 s 11; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.72 PROOF OF SERVICE. Affidavits shall be made by the person serving or posting said resolution setting forth the manner, time, and place of serving or posting the same, and said affidavit shall be attached to the resolution, and with it, filed with the town clerk. Any and all of such services when made in accordance with the provisions of sections 368.61 to 368.84 shall for the purposes hereof be deemed personal service of such resolution upon the persons named therein.

[1945 c 555 s 12; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.73 HEARING; MOTION GRANTED; PUBLICATION; CONTRACTS. At the time and place stated in such resolution the town board shall meet and shall hear persons interested therein and affected thereby, and such hearing may be adjourned from day to day, not exceeding three days. If the town board shall determine to grant such petition, it shall do so by motion. Upon granting such petition the town board shall cause proposals for bids for such improvements to be advertised in any newspaper published in the county wherein such town is located. The publication shall occur once a week for at least two weeks. The advertisement shall state the improvement generally to be done and that payment will be made by the town upon completion of the work, and shall state the time and place when such bids will be opened for consideration by the town board. No bid shall be considered unless accompanied by a cash deposit or a certified check payable to the order of the town treasurer for at least ten percent of the amount of such bid, directed to the clerk of the town, securely sealed and containing a brief statement on the outside as to the improvements for which the bid is submitted. In letting contracts for any improvements it shall be the duty of the board to require the execution of a written contract and a bond in such sum as the town board may require for the faithful performance of the contract and for saving the town harmless from all liability in the prosecution and completion of the improvement; provided, however that when the entire cost of any improvement will be less than \$500, the town board may award a contract therefor to any responsible person without advertising for bids therefor. Every contract awarded under the provisions thereof shall be excluded by the chairman and clerk in the name of the town, as one party, and by the successful bidder, as the other party, and shall reserve to the town the right to have the work supervised by an engineer or other person in behalf of the town. Such contract shall also contain a provision fixing the time in which such contract shall be performed and providing for liquidated damages in the event of failure to perform such contract within the time specified. For the purpose of establishing grades and preparing specifications for any improvements which may be granted by such town board, and to supervise the making of such improvements, the town board may employ an engineer to perform such services as the town board may deem necessary, and to pay the person so employed, and the amount so paid shall be included as a part of the cost of the improvement.

[1945 c 555 s 13; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.74 DETERMINATION OF BENEFITS; CERTIFICATION TO AUDITOR.

At any time within 30 days after the improvement has been completed, the town board shall adopt a resolution fixing a time and place when and where they will hear all persons interested or affected so as to ascertain the amount of benefits to the property fronting upon the improvements so completed, and such resolution shall be served on the persons named in the resolution adopted under section 368.70 and in the manner provided in sections 368.71 and 368.72.

At the time and place named in said resolution, said board shall hear all persons interested or affected by the making of such improvement. Thereupon, by resolution, the town board shall determine the benefits caused by such improvement to each lot, part of lot or parcel of ground fronting upon the improvement so made, and shall further determine the time for payment thereof and may authorize annual payments not exceeding a period of ten years. A full and complete record thereof shall be made and kept by the town clerk in a separate book kept for that purpose, which record shall contain a description of the property benefited and charged with the making of such improvement, the amount of benefits determined in each case as aforesaid and the amount of each annual instalment. Before transmitting the same to the county auditor, the clerk shall endorse thereon the amounts which have been paid and when such payments were made. On October 10 next following, if any of the assessments have not been paid in full to the town treasurer, the town clerk shall certify the same to the county auditor, who shall assess all such unpaid amounts against the lands, and the same shall thereafter be enforced and collected and paid over to the town treasurer as in the case of town taxes. Whenever any assessments may be paid in annual instalments, there shall be added to the principal interest at six percent per annum from the date when such assessment was made and determined by the town board.

[1945 c 555 s 14; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.75 ASSESSMENT AGAINST BENEFITED PROPERTY. The entire costs of making any of the improvements provided for in section 368.69 together with all expenses incurred in connection therewith shall be assessed against all of the land benefited according to the benefit of each lot, piece or parcel of land without regard to cash valuation as herein provided.

[1945 c 555 s 15; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.76 PROJECT FUND; PAYMENT OF PROJECT ORDERS. All moneys collected on any special assessment for improvements upon a petition therefor, as hereinbefore provided, shall constitute a fund for the payment of the costs of such improvement for which assessment was made, and the same shall be credited to the proper project fund under designation, "Project Fund No....." In anticipation of the collection of such special assessments, the town board may issue orders on such funds to be known as "Project Orders No....." payable at such times and in such amounts as in the judgment of the town board the collections of such special assessments will provide for, which orders shall bear interest at a rate not to exceed five percent per annum payable annually and may have coupons attached representing each year's interest. Each order shall state upon its face the purpose for which it is issued, shall specify the particular project fund against which it is drawn, shall be signed by the chairman of the town board and counter-signed by the town clerk, and shall be in denominations of not less than \$50 nor more than \$500. The town board of any such town may, by resolution adopted prior to issuance of any project order, pledge the full faith and credit of the town for the payment of principal and interest of such project order out of funds in the treasury in the town when the money on hand in the appropriate project fund is insufficient to meet the payment of such principal and interest as the same mature. As to any such project orders for the payment of which the full faith and credit of the town is not pledged, these orders shall be paid solely out of the proper project fund. It shall be the duty of the town treasurer, on presentation, to pay such orders and interest coupons as they mature out of any funds on hand in the proper project fund or out of the general fund of the town if directed by the town board. Such project orders may be used in making payments on any contract for improvements or may be sold by the town for not less than par and the proceeds thereof used in paying for such improvements; provided, that no indebtedness created under sections 368.61 to 368.76, shall exceed one percent of the assessable valuation of the town.

[1945 c 555 s 16; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

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368.77 LIMITATION ON CONVEYANCE. No conveyance of any land which any such assessment, or portion thereof, is due and unpaid shall be recorded until the delinquent assessment, or portion thereof, shall have been paid.

[1945 c 555 s 17; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.78 STORM AND OTHER SEWERS. Such town board is authorized to construct and maintain storm sewers and other sewers as the town board may deem necessary to provide adequate drainage for any public highways or public grounds within such town, and for such purposes may make such contracts as may be necessary with any other political subdivision of the state. For the purpose of providing a reservoir for use in connection therewith, the town board may purchase or acquire by gift in the name of the town such tract or tracts of land, either within or without such town, as in the judgment of the town board may be necessary for such purpose.

The costs and expenses incurred by the town board in carrying out the provisions of this section shall be paid out of the general fund.

[1945 c 555 s 18; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.79 REMOVAL OF GARBAGE. Such town board is authorized to enter into a contract for the removal of garbage for any premise within such town. The term "garbage" shall be construed to mean kitchen offal and all other refuse matter composed of either animal or vegetable substance upon such terms and conditions as such board may determine. Before any such contract, which shall be in writing, shall be entered into by the town, the town board shall require the person contracting to perform such service to execute and file a surety bond with the town clerk in such amount as the board may determine, conditioned for the faithful performance of such contract and to hold the town harmless from all claims or liability which might arise out of the performance of such contract. Any occupant of any premise within such town desiring to make available to the premises occupied by him of the services herein provided for may make application to the town clerk requesting such service and shall deposit \$10 with the town treasurer as security for the payment of charges thereafter made for services, consenting to the provisions hereof and agreeing to pay to the town treasurer upon billing by the town clerk the proportionate cost thereof as may be determined by resolution of the town board. The amount paid by the town board for such garbage removal service shall be prorated amongst the premises served, and thereupon the town clerk shall mail a statement of the amount charged to each occupant of the premises served. The amount of the charges as billed by the clerk shall be paid by the person charged therewith within ten days thereafter to the town treasurer, and upon failure to make such payment, there shall be added an additional charge of \$1 for each 30-day period of the delinquency which may be collected in a civil action brought by the town in the justice court.

The town board shall pay for the cost of such garbage removal out of the general fund, and payments made by occupants for such garbage removal service when paid shall be credited to the general fund.

The town board may by resolution make such rules and regulations for the purpose of carrying out the provisions of this section, not inconsistent therewith, as it may deem necessary.

[1945 c 555 s 19; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.80 TOWN OFFICERS; COMPENSATION. The electors at the annual meeting shall have the power to fix the compensation of the town supervisors in an amount not more than \$400 per annum, and for the chairman of the town board in an amount of not more than \$500 per annum; and the town board shall have the power to fix the compensation of the town clerk in an amount of not more than \$600 per annum, and the compensation of the town treasurer in an amount of not more than \$500 per annum, all such compensation to be in lieu of the amounts now provided by law, such compensation to be paid monthly or quarterly as the town board may by resolution determine.

[1945 c 555 s 20; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.81 BOND PREMIUMS. The premiums on all official bonds of any supervisor, chairman, town clerk, town treasurer, justice of the peace, or any other town official of any town to which sections 368.61 to 368.84 are applicable shall be paid by the town.

[1945 c 555 s 21; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

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368.82 EMPLOYMENT OF ATTORNEY; CLERICAL ASSISTANCE. Such town board is authorized to employ an attorney to advise the board upon legal matters, and clerical assistance for the town clerk and to fix compensation for such services.

[1945 c 555 s 22; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.83 ADOPTION BY ELECTORS. Sections 368.61 to 368.84 shall not be in effect in any township until the electors, at an annual meeting, or at a special meeting called for that purpose, decide by a majority vote to adopt it, and not more than one special election thereon shall be held during any calendar year. At such election, the question of adopting the provisions of these sections shall be voted on by separate ballot, to be provided by the town clerk, which shall have printed thereon

“For adopting Laws 1945, Chapter 555.....’

‘Against adopting Laws 1945, Chapter 555.....’ and each qualified elector voting upon such question shall place a cross mark (X) in the place opposite the words ‘For adopting Laws 1945, Chapter 555’ or in the place opposite ‘Against adopting Laws 1945, Chapter 555,’ which ballot shall be deposited in a separate ballot box, and such votes shall be counted for or against said question in accordance with the expressed will of the elector as provided by the election laws of this state. Whenever the proper board of any town shall determine that a majority of the electors voting upon such question have voted in favor of the adoption thereof, then this act shall thereafter apply and become effective as to such town.”

[1945 c 555 s 23; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

368.84 EFFECTIVE UPON CONDITION. Sections 368.61 to 368.84 shall not take effect in any such town until approval thereof by resolution adopted by a majority of the electors voting by ballot at any annual town meeting or special town meeting called for such purpose. Such resolution when so adopted, shall be duly certified by the clerk of such town and shall be filed in the office of the auditor of the county in which such town is situated.

[1945 c 555 s 25; 1959 c 686 s 14; Ex1959 c 75 s 1, 2]

FIRE PROTECTION

368.85 FIRE PROTECTION. Subdivision 1. **Special fire protection district established.** Any organized town may, by resolution adopted by the town board and approved by a majority of the electors residing within the territory affected, in the manner hereinafter provided, establish a special fire protection district within such town in the following manner: The town board shall adopt a resolution particularly describing the territory, district or area within such town which shall constitute a special fire protection district and which shall be entitled to receive fire protection to be paid for from the taxation of the property within such special fire protection district. Each special fire protection district shall consist of contiguous and compact territory and shall be so constituted that at least 25 percent of the total assessed value of taxable real property therein consists of property classified as homestead property and buildings or other structures.

Subd. 2. **Submission at annual meeting; notice.** Such resolution shall provide for the submission of the question whether such special fire protection district shall be established to the voters residing within the limits of the special fire protection district so proposed to be established at the next ensuing annual town meeting or at any special town meeting which the town board is hereby authorized to call for that purpose. The notice of such annual meeting or of such special town meeting shall contain a notice that such question will be submitted to the electors residing in such proposed special fire protection district at such meeting and a statement that all cost of fire protection for the special district will be borne by a tax on the property therein. Such meeting shall be held at the usual place of holding town meetings within the town.

Subd. 3. **Manner of voting.** For such election the town board shall provide a separate ballot box where the electors residing within such proposed special fire protection district shall deposit their ballots. Only electors residing within the proposed special fire protection district will be entitled to vote at such meeting upon such question.

Subd. 4. **Ballot.** The town board shall provide ballots to be used at such town meeting, which ballots shall bear the words “Shall the territory described in the resolution adopted by the town board on the day of, 19.....,

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constitute a special fire protection district?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "no" and a square after it. The voters shall indicate their choice by placing a cross mark in one of said squares, and a direction to so indicate their choice shall be printed on the ballot.

Subd. 5. Counting and canvassing of votes. The votes cast at such special election in said special ballot box shall be counted and canvassed by the town board or by the judges presiding at such election; and, if such proposition shall receive a majority of the votes cast by the electors residing within such proposed special fire protection district, that result will be recorded in the minutes of such town meeting, and the territory described in said town board's resolution shall thereafter constitute and be a special fire protection district in said town.

Subd. 6. Tax levy. It shall thereafter be the duty of the town board annually to levy a tax in such an amount as may be necessary but not exceeding five mills on the dollar of the assessed valuation of all property located within such special fire protection district to be used for the purpose of providing fire protection for such special fire protection district. Such tax, with a certified copy of the resolution establishing the district, shall be certified by the town board to the county auditor who shall thereupon spread the authorized tax against the property located within such special fire protection district, and the same shall be collected as other taxes.

Subd. 7. Disbursement of funds. When such taxes are collected, the same shall be paid to the town and disbursed upon the order of the town board for the purpose of providing fire protection in such special fire protection district. The town board may order such moneys, or any part thereof, to be paid to any municipality or volunteer fire department which has its fire department headquarters so located as to be able to conveniently furnish and which shall agree to furnish fire protection to the property within such district.

Subd. 8. Plural districts. More than one special fire protection district may be established in any town. Such special fire protection district shall be designated by consecutive numbers in the order of their establishment.

Subd. 9. Dissolution. A special fire protection district may be dissolved in the manner following: The town board may submit the question of dissolution of any such special district at any annual town meeting and it shall submit that question at the next annual town meeting on the signed petition of electors residing in such district equal in number to at least one-half of the number of freeholders in such district according to the tax record in the county auditor's office filed with the town clerk not less than 45 days before such annual meeting. Notice that the question will be submitted shall be posted by the town clerk in three public places within the special district not less than two weeks before the annual meeting at which it will be submitted. Only voters residing in the special district shall vote on the question of dissolution and a separate ballot box shall be provided for votes on the question. The town board shall provide ballots for the question of dissolution which shall be in the same form as provided in subdivision 2 except that the question therein stated shall be "Shall Special Fire Protection District No. be dissolved?", and if a majority vote of those voting on the question vote in the affirmative, the district shall be dissolved, in which event the results of the election shall be certified by the chairman of the town board to the county auditor, and thereafter there shall be no further special levy for fire protection in such district, but such dissolution shall not relieve the property in such special district so dissolved from any taxes theretofore levied for special fire protection under the provisions of this section.

[1949 c 204 s 1-9; 1965 c 18 s 1]