

CHAPTER 367

TOWN OFFICERS

Sec.		Sec.	
367.01	Delivery to successor	367.13	Location of office
367.02	Resignations	367.14	New town
367.03	Officers elected at annual meeting; vacancies	367.15	Town treasurer; bond
367.033	Service on school boards; incompatibility of offices	367.16	Duties
367.035	Treasurers; vacancies in certain towns	367.17	Neglect of duty
367.05	Compensation	367.18	Audited accounts; payment, form
367.06	Salaries	367.19	Order of payment; interest
367.07	Population and valuation determined	367.21	Justice's bond
367.08	Application	367.22	Constable's bond
367.10	Town clerk; bond; oath	367.23	Bonds, how executed
367.11	Duties	367.24	Fees and duties of poundmasters
367.12	Deputy	367.25	Oath of office; bond; filing; penalties

367.01 DELIVERY TO SUCCESSOR. Every town officer shall, immediately after qualifying, demand of his predecessor, or other person having control or possession thereof, all books, records, and other property belonging to his office; and every person having control or possession of any such books, records, or property shall, upon such demand, deliver the same to such officer.

[R. L. s. 681] (1088)

367.02 RESIGNATIONS. The town board, for sufficient cause shown to it, may accept the resignation of any town officer, in which case the board shall forthwith give notice thereof to the town clerk.

[R. L. s. 678] (1085)

367.03 M.S. 1957 [Repealed, 1959 c 675 art 13 s 1]

367.03 OFFICERS ELECTED AT ANNUAL MEETING; VACANCIES. Subdivision 1. **Officers, terms.** There shall be elected in each town three supervisors as provided in this section. Where a new town has been or may be organized and supervisors have been or may be elected for such town at a town meeting prior to the annual town meeting, such supervisors shall serve only until the next annual town meeting at which meeting three supervisors shall be elected, one for three years, one for two years, and one for one year, so that the term of one shall expire each year. The number of years for which each is elected shall be indicated on the ballot. At all other annual town meetings one supervisor shall be elected for three years to fill the place of the one whose term expires at that time. There shall also be elected at each annual town meeting one town clerk, one treasurer, two justices of the peace, and two constables, except as otherwise provided in this section. Each of these officers shall hold office for a term of two years and until their successors are elected and qualified.

Subd. 2. **Vacancies.** When a vacancy occurs in any town office the town board shall fill the same by appointment. The person so appointed shall hold his office until the next annual town meeting and until his successor qualifies; provided, that a vacancy in the office of supervisor shall be filled by the remaining supervisors and the town clerk until the next annual town meeting, when his successor shall be elected to hold for the unexpired term.

Subd. 3. **Constables.** The town, by majority vote at its annual town meeting, may decide that one constable be elected or that no constable be elected, effective at the next succeeding town election and thereafter, except that any office so terminated may be reinstated by like procedure. In the event no constable is elected, the duties of a constable described by law relative to election procedure may be delegated to any person so appointed by the board of supervisors for a period of time no greater than that to which a constable is elected and setting forth such compensation as the board of supervisors shall deem reasonable.

Subd. 4. **Justices of peace.** The town, by a majority vote at its annual town meeting, may decide that one justice of the peace be elected or that no justice of the peace be elected, effective at the next succeeding town election and thereafter, except that any office so terminated may be reinstated by like procedure. In the event that no justice of the peace is elected the duties of a justice of the peace described by law relating to election procedure and juries may be delegated to any

person so appointed by the board of supervisors for a period of time no greater than that to which a constable is elected and setting forth such compensation as the board shall deem reasonable. If the board of supervisors does not delegate these duties in any given year then the chairman of the board of supervisors shall succeed automatically to such duties.

[1959 c 675 art 6 s 28; 1961 c 195 s 1, 2; 1961 c 264 s 1, 2; 1963 c 799 s 3]

NOTE: See also section 365.52.

367.033 SERVICE ON SCHOOL BOARDS; INCOMPATIBILITY OF OFFICES.

Notwithstanding any statute or other law to the contrary, any person may serve on both the school board, however organized, and the town board of supervisors concurrently. This section does not apply to members of town board of any town exercising the powers of a village under section 368.01, or any special law.

[1971 c 420 s 1]

367.035 TREASURERS; VACANCIES IN CERTAIN TOWNS. In any town, the governing body may fill by appointment any vacancy which may occur in the office of town treasurer. The governing body may provide such compensation for any town treasurer as such governing body may deem proper, any other law notwithstanding.

[1959 c 389 s 1; 1963 c 799 s 4; 1969 c 788 s 1]

367.04 [Repealed, 1969 c 823 s 2]

367.05 COMPENSATION. Subdivision 1. **Assessors.** The town assessors, except in towns wherein special laws set the salary and compensation of the assessor shall be compensated in an amount to be determined by the town board but not more than at the rate of \$15 per day for each day's service necessarily rendered for the first two years and may be compensated at the rate of not more than \$20 per day in each year of service thereafter; but at the annual town meeting the electors may increase the salary of the assessor in any amount that they shall determine, and mileage at the rate of seven and one-half cents per mile for each mile necessarily traveled in going to and returning from the county seat of the county to attend any meeting of the assessors of the county which may be legally called by the county auditor, and also for each mile necessarily traveled in making his return of assessment to the proper county officer. The town board is also authorized to reimburse any town assessor for expenses, and mileage at the rate of seven and one-half cents per mile in attending other meetings and instructional courses. At the annual town meeting, after reading and disposing of the annual report, the electors may fix the compensation of the assessor on an annual basis, but such compensation in any town having an assessed valuation of more than \$200,000 and less than \$1,000,000 when so fixed shall not exceed \$1,500 and shall not be less than \$100 in any one year. In any town having an assessed valuation, including money and credits, of less than \$200,000 the maximum compensation for assessor in any year shall not exceed \$1,000 and shall not be less than \$75. In any town having an assessed valuation of \$1,000,000 or more, the compensation shall not be less than \$300. In addition to the per diem or compensation fixed on an annual basis the electors, at the annual town meeting, may allow the assessor mileage at the rate of seven and one-half cents for each mile necessarily traveled in his assessment work. This subdivision does not apply to any county having not less than 450,000 inhabitants and an assessed valuation, including money and credits, of more than \$450,000,000.

Subd. 2. **Officers.** The following town officers shall be entitled to compensation for each days service necessarily rendered:

Supervisors and clerks not more than \$16 per day, as established at a town meeting when the service is rendered within or without the town; and mileage at a rate not to exceed ten cents per mile for each mile necessarily traveled on official business within or without the town as established by a town meeting, but not exceeding \$120 for such mileage for any one town officer in any year; but no supervisor shall receive more than \$1,000 as compensation in any one year; provided, that in any town containing over 50, but not more than 55, sections the salary of the supervisors, in addition to mileage herein allowed, shall be not more than \$16, per day, as established at a town meeting when the service is rendered within or without the town but no supervisor in any such town shall receive more than \$1,000 as compensation in any one year; provided further, that in any town in this state situated in any county having a population of 550,000 or more, except as otherwise provided by law embraced within the provisions and having the powers and authority pursuant to section 368.01, upon the approval of the annual

town meeting, the compensation and salary, in addition to mileage herein allowed may be not more than \$16 per day, as established at a town meeting, for services rendered within or without the town, but no supervisor in any such town shall receive more than \$1,000 as compensation in any one year, exclusive of mileage compensation;

For the following services the clerk shall receive fees, and not a per diem:

- (1) Certifying each notice of election 25 cents;
- (2) Posting notices, each 25 cents and ten cents for each mile necessarily traveled;
- (3) Filing each paper, ten cents;
- (4) Recording orders and other instruments, ten cents per folio;
- (5) Copying and certifying any record or instrument recorded or filed in his office, ten cents per folio, to be paid by the person applying therefor.

The voters at any town meeting, after reading and disposing of the annual report, may, by resolution fix the scale of wages and hours of employment of the road overseer and of any other person employed by any town on any town road.

Nothing herein contained shall be construed to repeal any law wherein any towns are classified for the purpose of fixing the salaries, or maximum salaries, of any of their officers.

This subdivision shall not apply to any county containing a city of the first class.

Subd. 3. [Repealed, 1949 c 119 s 110]

Subd. 4. Town clerk. Notwithstanding the provisions of subdivision 2, the electors in any town having over 7,000 inhabitants, excluding the population of any cities or villages therein, at the annual town meeting may fix the compensation of the town clerk at an amount not more than \$250 per month. The amount so fixed shall remain in effect until changed by the electors in a like manner. Any fees received by any such town clerk shall be paid over to the town treasurer and be placed by him in the general revenue fund of the town.

[*R L s 682; 1907 c 402; 1911 c 37; 1913 c 558; 1919 c 384; 1923 c 219; 1927 c 403 s 1, 2; 1933 c 411; 1935 c 151; 1935 c 375; 1937 c 158 s 1; 1937 c 249 s 1; Ex1937 c 16; 1945 c 481 s 2; 1947 c 420 s 1; 1949 c 651 s 1; 1949 c 697 s 1; 1951 c 77 s 1; 1951 c 345 s 1; 1951 c 688 s 1; 1955 c 359 s 1; 1959 c 334 s 1; 1965 c 186 s 1; 1969 c 179 s 1; 1971 c 817 s 1*] (1089, 1089½)

367.06 SALARIES. In any town within the following classifications, valuations being exclusive of money and credits, the electors, by a majority vote at any annual town meeting, after notice specifying that the matter is to come before the meeting, may fix the salaries of the chairmen and supervisors of the town board in amounts not less than as provided in section 367.05, nor more than the amounts authorized in this section. The amounts so fixed shall remain in effect until changed by like action of the electors. The classifications are:

(1) In all towns having a population of 7,000 or more excluding the population of any cities or villages therein the salary of the supervisors may be \$100 each per month and the salary of the chairman may be \$150 per month;

(2) In all towns having a population of more than 2,000 including the population of any village therein and an assessed valuation of more than \$10,000,000, and an area of 108 sections of land the salary of the supervisors may be \$250 per month and the salary of the chairman may be \$275 per month;

(3) In all towns not included within the foregoing classifications, having a population of more than 2,000 and an assessed valuation of more than \$1,750,000, the salary of each supervisor may be \$35 per month and the salary of the chairman may be \$50 per month;

(4) In all towns not included within any of the foregoing classifications having a population of more than 500 and an assessed valuation of more than \$1,000,000, the salary of each supervisor may be \$50 per month and the salary of the chairman may be \$65 per month.

[*1927 c 344 s 1; 1951 c 148 s 1; 1953 c 396 s 1; 1955 c 313 s 1; 1957 c 103*] (1089-1)

367.07 POPULATION AND VALUATION DETERMINED. The population referred to in section 367.06 shall be that latest taken by the federal or the state census, and the valuation shall be that fixed by the previous year's assessment; and, in fixing the population for any such town, the population of any village

within such town shall be included for the purpose of computation if the voters of the village vote for the officers of the town.

[1927 c. 344 s. 2] (1089-2)

367.08 APPLICATION. Sections 367.06 and 367.07 shall not apply to towns governed by the provisions of Laws 1919, Chapter 191.

[1927 c. 344 s. 3] (1089-3)

367.09 [Repealed, 1949 c 697 s 2]

367.10 TOWN CLERK; BOND; OATH. Every person elected or appointed to the office of town clerk, before he enters upon the duties of his office, shall give bond to the town, with sureties approved by the town treasurer, in such penal sum as the town board directs, conditioned for the faithful discharge of his duties. The bond, with his oath of office, shall be filed with the clerk of the district court, and an action may be maintained thereon by the town or any person aggrieved.

[R. L. s. 658] (1062)

367.11 DUTIES. It shall be the duty of the town clerk:

(1) To act as clerk of the town board, and to keep in his office a true record of all of its proceedings;

(2) To have the custody of the records, books, and papers of the town, when no other provision is made by law, and to file and safely keep all papers required by law to be filed in his office;

(3) To record in the book of town records minutes of the proceedings of every town meeting, and to enter therein at length every order or direction and all rules and regulations made by the town meeting;

(4) To file and preserve all accounts audited by the town board or allowed at a town meeting, and to enter a statement thereof in the book of records;

(5) To transmit to the clerk of the district court, immediately after the election of any justice of the peace of his town, a written notice stating therein the name of the person elected, and the term for which he was elected and, if elected to fill a vacancy, the name of the last incumbent of the office, and the name of every constable, after he shall have qualified, and, upon the resignation of a justice or constable, to immediately transmit to such clerk notice thereof;

(6) To record every request for any special vote or special town meeting, and properly post the requisite notices thereof;

(7) To post, as required by law, fair copies of all bylaws made by the town, and enter, over his signature, in the town records, in connection with such bylaws, the time when and the places where the same were posted;

(8) To furnish to the town board of audit, at its annual meeting, every statement from the county treasurer of money paid to the town treasurer, and all other information respecting fiscal affairs of the town in his possession, and all accounts, claims, and demands against the town filed with him; and

(9) To perform such other duties as are required of him by law.

[R. L. s. 660] (1064)

367.12 DEPUTY. Each town clerk may appoint a deputy, for whose acts he shall be responsible, and who, in case of his absence or disability, shall perform his duties.

[R. L. s. 659] (1063)

367.13 LOCATION OF OFFICE. The clerk of any town in this state may hold his office in any village the territory of which shall have been, prior to the incorporation thereof, a part of and included within the boundaries of the town.

[1905 c. 98 s. 1] (1065)

367.14 NEW TOWN. When a new town is organized, embracing any part of an existing town, the clerk of the existing town shall deliver to the clerk of the new town all papers and files removable, and certified copies of all records, papers, and files not removable, pertaining to such new town; and the same, being deposited in the office of the clerk of the new town, shall have the same effect as if originals and originally filed therein.

[R. L. s. 661] (1066)

367.15 TOWN TREASURER; BOND. Every person elected to the office of town treasurer, before he enters upon the duties of his office, shall give bond to the town in double the probable amount of money to be received by him, to be determined by the board, conditioned for the faithful discharge of his duties as such

treasurer. Within six days thereafter the chairman shall file such bond, with his approval endorsed thereon, for record with the register of deeds.

[R. L. s. 662] (1067)

367.16 DUTIES. It shall be the duty of the town treasurer:

(1) To receive and take charge of all the moneys belonging to the town, or which are required to be paid into its treasury, and to pay out the same only upon the order of such town or its officers, made pursuant to law;

(2) To preserve all books, papers, and property pertaining to or filed in his office;

(3) To keep a true account of all moneys by him received by virtue of his office, and the manner in which they are disbursed, in a book provided for that purpose, and exhibit such account, together with his vouchers, to the town board of audit, at its annual meeting, for adjustment;

(4) To deliver, on demand, all books and property belonging to his office, and all moneys in his hands as such treasurer, to his successor in office, when qualified;

(5) To keep in a suitable book a register of all town orders presented for payment that he cannot pay for want of funds, with the date when so presented, and to endorse upon the back of all such orders the words "not paid for want of funds," with the date of the endorsement, signed by him as town treasurer;

(6) To draw from the county treasurer, from time to time, such moneys as have been received by such treasurer for his town, and receipt therefor;

(7) To make and file with the town clerk, within five days preceding the annual town meeting, a statement, in writing, of the moneys received by him from the county treasurer and from all other sources, and all moneys paid out by him as such treasurer, setting forth the items thereof, from whom and on what account received, and the date of receiving the same; also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment, and the unexpended balance in his hands; and

(8) To perform such other duties as are required of him by law.

[R. L. s. 663] (1068)

367.17 NEGLECT OF DUTY. Every town treasurer who refuses or neglects to comply with the provisions of section 367.16 shall be guilty of a gross misdemeanor and, in addition to the punishment prescribed therefor, forfeit his office as such treasurer.

[R. L. s. 664] (1069)

367.18 AUDITED ACCOUNTS; PAYMENT, FORM. Accounts audited and allowed, and the amount of any account voted to be allowed, at any town meeting, shall be paid by the town treasurer, on the order of the town board, signed by the chairman and countersigned by the clerk. Each order shall be so drawn that when signed by the treasurer in an appropriate place, it becomes a check on the town depository. The orders shall be received in payment of town taxes of the town.

[R. L. s. 665; 1953 c 319 s 3] (1070)

367.19 ORDER OF PAYMENT; INTEREST. Town orders shall bear interest at the rate of not to exceed six percent from the date when presented to the treasurer for payment, and shall be paid in the order in which they are registered, out of the first money that comes into the treasurer's hands for that purpose.

[R. L. s. 666; 1943 c 254 s 1; 1967 c 761 s 2] (1071)

367.20 [Repealed, 1969 c 788 s 2]

1d

367.21 JUSTICE'S BOND. Before entering upon his duties, and within ten days after he is notified of his election or appointment, every person chosen to the office of justice of the peace shall give bond to the town in a sum of not less than \$500 nor more than \$1,000 with sureties approved by the chairman of the town board, conditioned for the faithful discharge of his official duties. The approval of the chairman shall be endorsed on the bond, which, together with his oath of office, such justice shall forthwith file with the clerk of the district court for the benefit of any person aggrieved by his acts, and any person so aggrieved may maintain an action on such bond, in his own name, against the justice and the sureties.

[R. L. s. 675] (1082)

367.22 CONSTABLE'S BOND. Before entering upon his duties, and within ten days after he is notified of his election or appointment, every person chosen to the office of constable shall give bond to the town, in a sum directed and with sureties approved by the chairman of the town board, conditioned for the faithful discharge

of his official duties. The chairman shall endorse such approval on the bond, and cause it to be filed with the town clerk, for the benefit of any person aggrieved by the acts or omissions of the constable, and any person so aggrieved, or the town, may maintain an action thereon, in his own name, against the constable and the sureties.

[R. L. s. 676] (1083)

367.23 BONDS, HOW EXECUTED. Every bond required of a town officer shall be executed to the town by its name and, when no other provision is made, shall be in a sum fixed by the town board; and, if none be fixed, then in the sum of the bond of the last incumbent of the office. Every bond shall be approved by the chairman, in writing thereon, and filed with the town clerk within the time prescribed for filing the oath of office, except the bonds of the clerk and the treasurer, which shall be filed with the clerk of the district court and the register of deeds, respectively. Whenever the town board deems any bond insufficient, it may require an additional bond to be made and filed, in a sum, and within a time not less than ten days, to be fixed by it.

[R. L. s. 677] (1084)

367.24 FEES AND DUTIES OF POUNDMASTERS. Poundmasters shall be allowed fees as follows:

- (1) For taking animals into the pound and discharging the same:
 - (a) Sheep, three cents each,
 - (b) Hogs, five cents each,
 - (c) All other animals, ten cents each;
- (2) Keeping animals in pound, 20 cents for each 24 hours;
- (3) For selling impounded animals, two per cent of the amount of sale.

The poundmaster shall have a lien on impounded animals for his fees, which shall be paid before such animals are discharged. If not discharged within four days, they shall be advertised by the poundmaster for sale at public auction to the highest bidder, at the place where impounded, upon 15 days' posted notice. At the time and place fixed by the notice the poundmaster shall sell the same pursuant thereto. Out of the moneys received from such sale he shall deduct his fees and charges, and pay the balance to the chairman of the town board and, at the same time, deliver to the chairman a correct written description of each animal sold and a statement of the amount received for the same. He shall take duplicate receipts therefor, one of which shall be filed with the clerk. If the owner of any animal so sold appears within six months, the money received by the chairman shall be paid to him. If not claimed within that time, it shall be paid into the town treasury.

[R. L. s. 683] (1090)

367.25 OATH OF OFFICE; BOND; FILING; PENALTIES. Subdivision 1. **Requirement, fee.** Every person elected or appointed to a town office, within ten days after receiving a certificate or notice of his election or appointment, shall take and subscribe the oath required by law. If taken before the town clerk or a justice of the peace, such oath shall be administered and certified without fee.

Subd. 2. **Bond and oath, violations.** Before entering upon his duties, the person taking the oath shall file the same with the town clerk. Failure to file his oath and bond within the time required shall be deemed a refusal to serve.

Subd. 3. **Oath, violations.** Any town officer who enters upon the duties of his office before taking the oath required shall forfeit to the town the sum of \$50.

[1959 c 675 art 6 s 29]