

## CHAPTER 367

### TOWN OFFICERS

367.01	Delivery to successor.	367.23	Bonds, how executed.
367.02	Resignations.	367.24	Fees and duties of poundmasters.
367.03	Officers elected at annual meeting; vacancies.	367.25	Oath of office; bond; filing; penalties.
367.033	Service on school boards; incompatibility of offices.	367.30	Optional plans.
367.05	Compensation; town officers and employees.	367.31	Adoption of specific option.
367.10	Town clerk; bond; oath.	367.32	Applicable laws and ordinances; rights preserved.
367.11	Duties.	367.33	Option A; election of additional supervisors.
367.12	Deputy.	367.34	Continuance in office; elections.
367.13	Location of office.	367.35	Town administrator.
367.14	New town.	367.36	Combining the offices of clerk and treasurer.
367.15	Town treasurer; bond.	367.40	Definitions.
367.16	Duties.	367.41	Constables and peace officer licensing requirements; deputy constables, requirements.
367.17	Neglect of duty.	367.42	Duties of deputy constables.
367.18	Audited accounts; payment, form.		
367.19	Order of payment; interest.		
367.22	Law enforcement official's bond.		

#### 367.01 DELIVERY TO SUCCESSOR.

Every town officer shall, immediately after qualifying, demand of the officer's predecessor, or other person having control or possession thereof, all books, records, and other property belonging to the 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.

**History:** (1088) *RL s 681; 1986 c 444*

#### 367.02 RESIGNATIONS.

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

**History:** (1085) *RL s 678; 1984 c 562 s 29*

#### 367.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]

#### 367.03 OFFICERS ELECTED AT ANNUAL MEETING; VACANCIES.

Subdivision 1. **Officers, terms.** Except in towns operating under option A, 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. Except in towns operating under either option B or option D, or both, there shall be elected at the annual town meeting held in even-numbered years one town clerk, and at the annual town meeting held in odd-numbered years one town treasurer. The clerk and treasurer each shall serve for a term of two years and until their successors are elected and qualified.

Subd. 2. **Vacancies.** When a vacancy occurs in a town office the town board shall fill the vacancy by appointment. The person appointed shall hold office until the next annual town meeting, when a successor shall be elected to hold office for the unexpired term. 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 a successor shall be elected to hold for the unexpired term. When, because of a vacancy, more than one supervisor is to be chosen at the same election, candidates for the offices of supervisor shall file for one of the specific terms being filled. Law enforcement vacancies shall be filled by appointment by the town board.

**Subd. 3. Constables.** The town, by majority vote at its annual town meeting, may decide to authorize the town board to appoint three or less law enforcement officers. The positions may be filled by any combination of (a) peace officers, (b) constables, or (c) deputy constables. The board of supervisors shall notify the board of peace officer standards and training in writing at least 14 days before the first day of employment of a peace officer, constable or deputy constable. In the event no law enforcement official is appointed, the duties of a constable described by law may be delegated to any person so appointed by the board of supervisors setting forth such compensation as the board of supervisors shall deem reasonable.

**Subd. 4.** [Repealed, 1983 c 359 s 151]

**History:** 1959 c 675 art 6 s 28; 1961 c 195 s 1,2; 1961 c 264 s 1,2; 1963 c 799 s 3; 1975 c 274 s 9; 1976 c 41 s 1; 1978 c 681 s 1,2; 1982 c 463 s 1; 1982 c 595 s 4-6; 1984 c 386 s 1; 1985 c 169 s 11; 1986 c 444

**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 statutory city under section 368.01, or any special law.

**History:** 1971 c 420 s 1; 1973 c 123 art 5 s 7

**367.035** [Repealed, 1984 c 562 s 48]

**367.04** [Repealed, 1969 c 823 s 2]

### **367.05 COMPENSATION; TOWN OFFICERS AND EMPLOYEES.**

**Subdivision 1.** The town board shall set the compensation of supervisors, town assessors, the treasurer, clerk, deputy clerk, if one is employed, the road overseer, and other employees of the town in an amount to be determined by the town board. In addition to the compensation provided pursuant to this section, supervisors, assessors, treasurers, clerks, deputy clerks, road overseers, and other employees of the town shall be entitled to mileage for the use of the person's own automobile at a rate to be determined by the town board for each mile necessarily traveled on official town business. The town board may fix the hours of employment for town employees; and reimburse a town assessor for expenses.

**Subd. 2.** [Repealed, 1984 c 562 s 48]

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

**Subd. 4.** [Repealed, 1974 c 143 s 2]

**History:** (1089, 1089 1/2) RL 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; 1974 c 143 s 1; 1975 c 71 s 1; 1980 c 366 s 1; 1984 c 562 s 30

**367.06** [Repealed, 1974 c 143 s 2]

**367.07** [Repealed, 1974 c 143 s 2]

**367.08** [Repealed, 1974 c 143 s 2]

**367.09** [Repealed, 1949 c 697 s 2]

**367.10 TOWN CLERK; BOND; OATH.**

Every town clerk, before beginning the duties of the office, shall give bond to the town in an amount to be determined by the town board, conditioned for the faithful discharge of the duties of clerk. The bond shall be filed with the county auditor.

**History:** (1062) *RL s 658; 1982 c 507 s 1; 1984 c 562 s 31; 1985 c 169 s 12*

**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 the clerk's office a true record of all of its proceedings;

(2) unless otherwise provided by law, to have the custody of the records, books, and papers of the town, and to file and safely keep all papers required by law to be filed in the clerk's office;

(3) to record minutes of the proceedings of every town meeting in the book of town records, and to enter in them 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 of them in the book of records;

(5) to transmit to the court administrator of the district court, immediately after the election of any town constable, a written notice stating the name of the person elected; the term for which the person was elected; if elected to fill a vacancy, the name of the last incumbent of the office; and after a constable is qualified, and, upon the resignation of a constable, to immediately notify the clerk;

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

(7) to post, as required by law, fair copies of all bylaws made by the town, and make a signed entry in the town records, of the time when and the places where they were posted and keep an ordinance book in which shall be recorded in full all ordinances passed by the town board;

(8) to furnish to the annual meeting of the town board of audit every statement from the county treasurer of money paid to the town treasurer, and all other information about fiscal affairs of the town in the clerk's possession, and all accounts, claims, and demands against the town filed with the clerk; and

(9) to perform any other duties required by law.

**History:** (1064) *RL s 660; 1983 c 359 s 51; 1984 c 562 s 32; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

**367.12 DEPUTY.**

Each town clerk may appoint a deputy, for whose acts the clerk shall be responsible, and who, in case of the clerk's absence or disability, shall perform the clerk's duties.

**History:** (1063) *RL s 659; 1986 c 444*

**367.13 LOCATION OF OFFICE.**

The clerk of any town in this state may hold office in any statutory city the territory of which shall have been, prior to the incorporation thereof, a part of and included within the boundaries of the town.

**History:** (1065) *1905 c 98 s 1; 1973 c 123 art 5 s 7; 1986 c 444*

**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.

**History:** (1066) *RL s 661*

**367.15 TOWN TREASURER; BOND.**

Every town treasurer, before beginning the duties of the office, shall give bond to the town in an amount to be determined by the board, conditioned for the faithful discharge of the duties of treasurer. The bond shall be filed for record with the county auditor.

**History:** (1067) *RL s 662; 1975 c 8 s 1; 1976 c 181 s 2; 1982 c 507 s 2; 1984 c 562 s 33*

**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 the treasurer's office;

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

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

(5) To keep in a suitable book a register of all town orders presented for payment that cannot be paid 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 the town treasurer;

(6) To draw from the county treasurer, from time to time, such moneys as have been received by such treasurer for the 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 from the county treasurer and from all other sources, and all moneys paid out 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, with the amount and date of each payment, and the unexpended balance on hand; and

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

**History:** (1068) *RL s 663; 1986 c 444*

**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 office as such treasurer.

**History:** (1069) *RL s 664; 1986 c 444*

**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 chair 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 order shall be received in payment of town taxes of the town.

**History:** (1070) *RL s 665; 1953 c 319 s 3; 1986 c 444*

**367.19 ORDER OF PAYMENT; INTEREST.**

Town orders shall bear interest at the rate provided in section 475.55 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.

**History:** (1071) *RL s 666; 1943 c 254 s 1; 1967 c 761 s 2; 1984 c 562 s 34*

**367.20** [Repealed, 1969 c 788 s 2]

**367.21** [Repealed, 1983 c 359 s 151]

### **367.22 LAW ENFORCEMENT OFFICIAL'S BOND.**

Before entering upon duties, and within ten days after being notified of appointment, every law enforcement official shall give bond to the town, in a sum directed and with sureties approved by the chair of the town board, conditioned for the faithful discharge of official duties. The chair 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 law enforcement official, and any person so aggrieved may maintain an action thereon, in the person's own name, against the law enforcement official and the sureties. The town may also maintain an action.

**History:** (1083) *RL s 676; 1978 c 681 s 6; 1982 c 595 s 7; 1986 c 444*

### **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 is fixed, then in the sum of the bond of the last incumbent of the office. Every bond shall be 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 county auditor. 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.

**History:** (1084) *RL s 677; 1976 c 181 s 2; 1984 c 562 s 35; 1985 c 169 s 13*

### **367.24 FEES AND DUTIES OF POUNDMASTERS.**

Poundmasters shall be allowed fees in amounts as determined by the town board for the following:

- (1) Taking animals into the pound and discharging them;
- (2) Keeping animals in pound; and
- (3) Selling impounded animals.

The poundmaster shall have a lien on impounded animals for 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 the poundmaster shall deduct fees and charges, and pay the balance to the chair of the town board and, at the same time, deliver to the chair a correct written description of each animal sold and a statement of the amount received for the same. The poundmaster shall take duplicate receipts therefor, one of which shall be filed with the clerk. If the owner of any animal so sold appears within 30 days, the money received by the chair shall be paid to the owner. If not claimed within that time, it shall be paid into the town treasury.

**History:** (1090) *RL s 683; 1984 c 562 s 36; 1986 c 444*

### **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 election or appointment, shall take and subscribe the oath required by law. If taken before the town clerk, the oath shall be administered and certified without fee.

Subd. 2. **Bond and oath, violations.** Before entering upon duties, the person taking the oath shall file the same with the town clerk. Failure to file the 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 office before taking the oath required shall forfeit to the town the sum of \$50.

**History:** 1959 c 675 art 6 s 29; 1983 c 359 s 52; 1986 c 444

### 367.30 OPTIONAL PLANS.

Subdivision 1. **Option A; five member town board.** Any town may provide for a five member board of supervisors as hereinafter provided in sections 367.30 to 367.36. This option shall be referred to as option A.

Subd. 2. **Option B; appointment of clerk and treasurer.** Any town may provide for the appointment by the town board of its clerk or treasurer, or both, or clerk-treasurer, as hereinafter provided for in sections 367.30 to 367.36. This option shall be referred to as option B.

Subd. 3. **Option C; town administrator.** Any town may provide for the appointment of an administrator as hereinafter provided for in sections 367.30 to 367.36. This option shall be referred to as option C.

Subd. 4. **Option D; combination of the offices of clerk and treasurer.** Any town exercising the powers of a statutory city pursuant to section 368.01 or pursuant to a special law granting substantially similar powers may provide for combining the offices of clerk and treasurer. This option shall be referred to as option D.

**History:** 1975 c 274 s 1; 1983 c 216 art 1 s 86; 1984 c 562 s 37

### 367.31 ADOPTION OF SPECIFIC OPTION.

Subdivision 1. **Submission to electors.** Except as provided otherwise in subdivision 2, the town board may, and upon a petition signed by electors equal in number to at least 15 percent of the electors voting at the last previous town election shall, submit to the electors at an annual town meeting the question of adopting option A, B, C, or D.

Subd. 2. **Mandatory submission of option A in urban towns.** The town board of a town exercising the powers of a statutory city pursuant to section 368.01 or pursuant to a special law granting substantially similar powers shall submit the adoption of option A to the electors at the annual town meeting next following June 3, 1975. The town board of any town hereafter qualifying under section 368.01 or receiving substantially similar powers pursuant to a special law adopted after June 3, 1975 shall submit the adoption of option A to the electors at the annual town meeting next following the grant of powers pursuant to section 368.01 or special act.

Subd. 3. **Notice of question.** When the adoption of a specific option is to be voted on at the annual meeting, the town clerk shall include notice of the question in the notice of the annual meeting.

Subd. 4. **Election; form of ballot.** The proposals for adoption of the options shall be stated on the ballot substantially as follows:

"Shall option A, providing for a five member town board of supervisors, be adopted for the government of the town?"

"Shall option B, providing for the appointment of the clerk and treasurer by the town board, be adopted for the government of the town?"

"Shall option C, providing for the appointment of a town administrator by the town board, be adopted for the government of the town?"

"Shall option D, providing for the combining of the offices of clerk and treasurer, be adopted for the government of the town?"

If a proposal under option B is to appoint only the clerk or only the treasurer, the ballot question shall be varied to read appropriately. If a town has combined the offices of clerk and treasurer, the word "clerk-treasurer" shall be substituted for the words

"clerk and treasurer" in the question on the ballot on adoption of option B. In any of these cases, the question shall be followed by the words "Yes" and "No" with an appropriate square before each in which an elector may record a choice.

**Subd. 5. Adoption by affirmative vote.** If a majority of the votes cast on the question of adoption of option A, B, C, or D is in the affirmative, the option so voted upon shall be adopted in the town, and once placed in effect, shall remain in effect until abandoned by a similar majority at a subsequent annual town meeting at which the question of abandonment is submitted.

**Subd. 6. Abandonment of options; three-year limitation.** At any time more than three years after the adoption of an option, the question of abandonment of the option may be submitted to the electors, in the same manner as provided for the submission of the question of adoption, except that in the statement of the question on the ballot, the word "abandoned" shall be substituted for the word "adopted." If a majority of the votes cast on the question is in favor of abandonment, the plan shall be abandoned. Subject to the provisions for transition back to the regular form of town government, the form of town government existing prior to adoption of the abandoned option shall be resumed in the town.

**Subd. 7. Report by town clerk.** When the question of adoption or abandonment of an option is submitted, the town clerk shall promptly file with the county auditor and with the secretary of state a certificate stating the date of the election, the question submitted, and the vote on the question.

**History:** 1975 c 274 s 2; 1976 c 41 s 2; 1984 c 562 s 38; 1986 c 327 s 3; 1986 c 444

### **367.32 APPLICABLE LAWS AND ORDINANCES; RIGHTS PRESERVED.**

**Subdivision 1.** All laws of the state applicable to a town before adoption of an option and not inconsistent with the provisions relating to the option shall apply to and govern the town after adoption of an option.

**Subd. 2.** Any ordinance or resolution in effect at the time of adoption of an option shall continue in effect until amended or repealed, notwithstanding the adoption of the option.

**Subd. 3.** No valid and legally subsisting right or liability and no judicial proceeding shall be affected by a change in the form of town government unless otherwise provided.

**History:** 1975 c 274 s 3

### **367.33 OPTION A; ELECTION OF ADDITIONAL SUPERVISORS.**

**Subdivision 1. Election at annual meeting or special election.** Following the adoption of option A in a town, except a town exercising the powers of a statutory city, the town board may call a special town election to be held not less than 30 days nor more than 60 days after the annual town meeting at which the option is adopted, for the purpose of electing two additional members to the board of supervisors. In lieu of calling a special election, the town board may determine to elect the additional two members of the town board at the next annual town meeting. If the town is exercising the powers of a statutory city pursuant to section 368.01 or pursuant to a special law granting substantially similar powers, the town board shall call a special election to be held not less than 30 days nor more than 60 days after the annual meeting at which option A is adopted for the purpose of electing the two additional supervisors.

**Subd. 2. Notice of special election.** If a special election is called pursuant to subdivision 1, the clerk shall cause ten days posted notice thereof to be given, specifying the purpose for which it is to be held. If a newspaper is published in the town, the clerk shall cause one week's published notice of the election to be given.

**Subd. 3. Affidavits of candidacy.** The provisions of section 205.13 shall apply to the filing of affidavits of candidacy, except that if the additional supervisors are to be elected at a special election, the affidavits shall be filed not more than three weeks nor less than ten days before the election, and notice of the first and last dates for filing

affidavits of candidacy shall be published at least two weeks before the first day for filing. Where publication schedules do not allow sufficient time to give two weeks notice, at least one weeks notice shall be given.

**Subd. 4. Terms.** If the additional supervisors are elected at a special election, they shall serve only until the next annual town meeting, at which the additional members shall stand for election, one for a term of two years and one for a term of three years. The candidate receiving the highest number of votes shall be elected for the longer term. If the additional supervisors are elected at an annual meeting, one shall serve for a term of two years and the other for a term of three years with the candidate receiving the highest number of votes being elected for the longer term.

**Subd. 5. Abandonment of option A.** In a town in which option A is abandoned, the terms of incumbent supervisors shall not be affected, but if one or more supervisors are to be elected at the annual meeting at which the option is abandoned, the election of one supervisor, or two if there be more than one elected, shall be considered null. Otherwise the offices of the two incumbent supervisors expiring at the annual meeting or meetings next following the meeting at which the option is abandoned shall not be filled. Thereafter the town board shall be composed of three supervisors unless option A is again adopted in that town.

**History:** 1975 c 274 s 4; 1980 c 509 s 145

### 367.34 CONTINUANCE IN OFFICE; ELECTIONS.

**Subdivision 1. Option B; incumbent clerk and treasurer.** If option B is adopted at the election at which the office of clerk or treasurer, or clerk-treasurer, is to be elected, the candidate elected to that office shall not assume office and that candidate's election shall be considered null. Otherwise when option B is adopted in a town, the incumbent clerk and treasurer, or clerk-treasurer, shall continue to serve until the expiration of their terms or until an earlier vacancy occurs.

**Subd. 2. Abandonment of option B.** When option B is abandoned, the offices of clerk and treasurer, or clerk-treasurer, that would be filled at that election, shall be filled conditionally at that election, and the ballot shall indicate that the successful candidate or candidates shall assume office only if the option is abandoned as a result of the election.

**History:** 1975 c 274 s 5; 1986 c 444

### 367.35 TOWN ADMINISTRATOR.

**Subdivision 1. Appointment; removal.** As soon as practicable after adoption of option C in a town, the town board shall appoint an administrator upon terms and conditions it deems advisable. The administrator shall be chosen solely on the basis of training, experience, and administrative qualifications and need not be a resident of the town. The town clerk may be designated the administrator if the clerk meets these qualifications. The administrator shall be appointed for an indefinite period and may be removed by the board at any time, but after having served as administrator for one year the administrator may demand written charges and a public hearing on the charges before the board before final removal takes effect. Pending a hearing and removal, the board may suspend the administrator from office, with or without pay. The board may appoint a qualified person to perform the duties of the administrator during the administrator's absence or disability.

**Subd. 2. Powers and duties.** The town administrator shall be the administrative head of the town and shall be responsible for the administration and supervision of the affairs of the town as assigned. The administrator shall, with the approval of the town board, coordinate the various activities of the town. The administrator shall exercise the authority and responsibilities assigned by the town board by ordinance or resolution which may include the following duties:

(a) To provide for the execution of all ordinances, resolutions, and orders of the board and all laws of the state required to be enforced through the town board, by the



administrator or by officers who are under the administrator's direction and supervision;

(b) To recommend to the town board the appointment, suspension, and removal of all town personnel whose appointment, suspension, or removal is a function of the town board by law;

(c) To provide for town purchases in accordance with statutory procedures;

(d) To prepare and submit to the town board a proposed annual budget, including detailed estimates of revenue and expenditures, and enforce the provisions of the budget as adopted by the board;

(e) To attend all meetings of the board and recommend measures for adoption as the administrator deems advisable or expedient;

(f) To advise the board as to the financial condition and needs of the town;

(g) To perform other assigned ministerial, nondiscretionary duties.

**Subd. 3. Abolishing office of administrator.** If option C is abandoned, the town board shall, as soon as practicable thereafter, abolish the office. Duties and responsibilities previously assigned to the administrator shall be assumed by the town board or by the officer having responsibility for the function prior to the appointment of the administrator.

**History:** 1975 c 274 s 6; 1986 c 444

### 367.36 COMBINING THE OFFICES OF CLERK AND TREASURER.

**Subdivision 1. Incumbent treasurer; annual audit.** In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer as prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined, the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor.

**Subd. 2. Abandonment.** If option D is abandoned, the office of treasurer that would be filled at that election shall be filled conditionally at that election, and the ballot shall indicate that the candidate shall assume office only if the option is abandoned as a result of the election.

**History:** 1975 c 274 s 7; 1986 c 444

### 367.40 DEFINITIONS.

**Subdivision 1.** For purposes of this chapter, the following terms shall have the meanings given them.

**Subd. 2. "Peace officer"** shall have the meaning assigned to it in section 626.84.

**Subd. 3. "Constable"** means any individual employed or appointed by a political subdivision who is charged with the prevention and detecting of crime, the enforcement of the general criminal laws of the state, and who has full powers of arrest. The term shall apply even though the individual exercises powers and duties on a part-time basis with or without receipt of compensation.

**Subd. 4. "Deputy constable"** means any individual employed or appointed by a political subdivision to fulfill law enforcement duties but who is prohibited from carrying a firearm while exercising powers and duties and who has powers of arrest no greater than those of any citizen not a peace officer or constable. The term shall also include individuals voluntarily assisting local police or sheriff departments unless they qualify as constables or peace officers.

**History:** 1978 c 681 s 3; 1982 c 595 s 8.9; 1986 c 444

**367.41 CONSTABLES AND PEACE OFFICER LICENSING REQUIREMENTS; DEPUTY CONSTABLES, REQUIREMENTS.**

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any constable employed on or after March 23, 1982, by any political subdivision of the state of Minnesota shall not be eligible for permanent appointment without being licensed by the Minnesota board of peace officer standards and training pursuant to section 626.8463, clauses (a) to (c).

Subd. 2. [Repealed, 1980 c 578 s 12]

Subd. 3. [Repealed, 1980 c 578 s 12]

Subd. 4. Any individual seeking employment as a deputy constable pursuant to section 367.03 shall provide evidence that the county sheriff has determined, after checking criminal records and histories through the Minnesota crime information system, that the individual has not been convicted of a felony within ten years.

Subd. 5. Any individual seeking employment as a peace officer pursuant to section 367.03 on or after March 23, 1982, shall not be eligible for permanent appointment without being licensed by the board pursuant to rules promulgated under section 626.843.

**History:** 1978 c 681 s 4; 1979 c 254 s 1; 1980 c 578 s 1; 1982 c 595 s 10; 1983 c 216 art 1 s 60,61; 1986 c 444

**367.42 DUTIES OF DEPUTY CONSTABLES.**

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any deputy constable employed on or after March 23, 1982, by a political subdivision of the state of Minnesota shall have the following powers and duties:

- (a) to have the powers of arrest of a private person;
- (b) to perform the duties of a constable prescribed by law relative to election procedure;
- (c) to perform the following duties at the direction of the county sheriff or constable:
  - (i) to inspect communication wire and cable or records of such wire and cable pursuant to section 325E.21;
  - (ii) to conduct hotel lien sales pursuant to section 327.06; and
  - (iii) to conduct public auction sales of unclaimed property pursuant to sections 345.04 and 345.05.
- (d) to arrest any individual who, in the deputy constable's presence, commits a violation of the Intoxicating Liquor Act, chapter 340;
- (e) to provide general administrative or clerical assistance to county sheriffs, local police departments or constables; and
- (f) to provide traffic or crowd control assistance to county sheriffs, local police departments or constables.

Subd. 2. With the consent of a constable or deputy constable, any commissioner or director of any state department or agency may enter into an agreement with the constable or deputy constable for purposes of undertaking any inspection or enforcement responsibilities assigned to the department or agency. No agreement shall be made which purports to give a deputy constable greater arrest powers than those specified in subdivision 1, clause (a). No agreement shall be made which requires or authorizes a deputy constable to carry a firearm.

**History:** 1978 c 681 s 5; 1981 c 270 s 139; 1982 c 595 s 11; 1983 c 216 art 1 s 62