

CHAPTER 366

TOWN BOARD; BOARD OF AUDIT

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BOARD OF AUDIT

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TOWN BOARD

366.01 POWERS.

Subdivision 1. The supervisors of each town shall constitute a board to be designated "The Town Board of, " and any two shall constitute a quorum except in towns operating under option A in which case any three shall constitute a quorum and except when otherwise provided. The supervisors shall have charge of all the affairs of the town not by law committed to other officers. They shall draw orders on the treasurer for the disbursement of money to pay the town expenses, and for all money raised by the town to be disbursed for any other purpose. They may pay the premium upon the bond of a town officer where the surety is a corporation authorized by law to be surety. In lieu of individual bonds, the town board may provide for blanket position bonds furnished by a surety company to cover officers required to furnish a bond if all the obligations required by law or ordinance to be assumed by the principals and the principals' sureties by an individual bond are included in the blanket position bond.

Subd. 2. They may by ordinance prohibit or license and regulate the keeping of billiard, pool, and pigeonhole tables, games of amusement, games of skill, juke boxes, roller skating rinks, bowling alleys, circuses, shows, and theatrical performances, fix the price and time of continuance of the license, and, when in their opinion the public interest requires it, revoke the license. Within any platted residential area of the town they may license and regulate the presence or keeping of dogs or domestic animal pets and may regulate or prohibit the discharge of firearms, when deemed to be in the public interest.

Subd. 3. They may appropriate out of the general fund of the town and draw orders on the treasurer for the disbursement of money to pay the annual dues in the Minnesota association of townships or a county unit that belongs to the state association and the actual and necessary expenses of township officers for meetings relating to town business including meetings of township associations.

Subd. 4. They may select and designate a bank as the depository of town money for a time not extending beyond their official term, on the execution by such bank of a sufficient bond to the town to be approved by the board and filed in the office of the town clerk, and thereupon may require the treasurer to deposit all or any part of the town money in such bank. Such designation shall be in writing, and set forth all the terms and conditions upon which the deposits are made, be signed by the chair and clerk, and filed with the clerk. The town treasurer shall not be liable for the loss of money while so deposited, and all interest thereon shall belong to the town.

Subd. 5. They may acquire by gift or purchase, in the name of the town, a tract

of land, either within or without the limits of the town for public dumping ground for the use of the inhabitants of the town but no such lands shall be acquired without the limits of the town without the approval of the governmental unit in which such lands are located. They may thereafter maintain the dumping ground and, by resolution, adopt rules and regulations for its use.

Subd. 6. They may make such agreements with other counties, towns, statutory cities, governmental subdivisions, individuals or corporations as they shall deem necessary for the location, construction or maintenance of any such dumping ground.

Subd. 7. They may provide for the prosecution or defense of actions at law or other proceedings in which the township may be interested, and they may employ counsel for the purpose. Nothing contained in this subdivision shall limit any powers conferred on town boards of supervisors by any other provision of law.

Subd. 8. They shall designate one or more places in the town as public places at which legal notices shall be posted, and provide facilities for posting notices at the places; provided, that in a town which is located within the geographical limits of a city, one or more notices may be posted in the city. The town board may waive the posted notice requirements of any law but shall then instead provide for notice to be published once each week for two successive weeks in a newspaper of general circulation in the town.

Subd. 9. They may sell and convey or lease real or personal property belonging to the town, not conveyed to and required to be held by the town for a special purpose.

Subd. 10. They may declare that a violation of an ordinance shall be a penal offense and may prescribe the penalties for violations, except as otherwise provided by law. No penalty shall exceed that which is provided by law for a misdemeanor, but the costs of prosecution may be added.

Subd. 11. **Open meeting law; exemption.** Except for the notice requirements, section 471.705 does not apply to gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity.

History: (1049) *RL s 651; 1919 c 343 s 1; 1921 c 478 s 1; 1929 c 143 s 1; 1935 c 120 s 1; 1939 c 255 s 1; 1941 c 247 s 1; 1949 c 14 s 1; 1951 c 627 s 1; 1953 c 459 s 1; 1955 c 518 s 1; 1957 c 254; 1963 c 152 s 1; 1967 c 95 s 2; 1973 c 92 s 1; 1973 c 123 art 5 s 7; 1973 c 188 s 1; 1975 c 274 s 8; 1978 c 497 s 3; 1984 c 503 s 5; 1984 c 562 s 18-24; 1986 c 327 s 2; 1986 c 444; 1987 c 90 s 5*

366.015 VOTE REQUIRED ON WEED DESTRUCTION.

Subdivision 1. **Ballot, contents.** The town board at the annual town meeting may submit to a vote by ballot the following question: "Shall persons owning or occupying real estate adjoining a town road and not a part of an incorporated municipality be required to remove rocks in excess of five inches in diameter from and to cut, destroy or remove all weeds, grass and other plants of up to three inches in diameter growing upon the town road adjacent to their land?"

Yes

No"

Subd. 2. **Cost, lien on land.** If a majority of the electors voting on the question vote "Yes," a person owning or occupying real estate adjoining a town road and not a part of an incorporated municipality shall cut, destroy or remove the material described on the ballot located upon the town road adjacent to the owner's land. A person who erects or maintains a mailbox on land not owned by the person shall cut, destroy or remove the material within five feet of such mailbox. If any such person fails to comply with this provision, the town board of the town in which the real estate is located may, after ten days notice in writing, order the local weed inspector or other person to cut, destroy or remove the weeds or grass and the expense thus incurred shall be a lien on such real estate. The town board shall certify to the county auditor an itemized statement of the amount of the expense paid by the town and the county

auditor shall enter such amount on the tax books as a tax upon the land, which shall be collected in the same manner as other real estate taxes.

History: 1941 c 246 s 1; 1955 c 141 s 1; 1984 c 562 s 25; 1986 c 444

366.02 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

366.021 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

366.022 [Repealed, 1959 c 686 s 14; Ex1959 c 75 s 1]

366.03 REPAIR STATUTORY CITY STREETS.

If any statutory city included in the limits of a town neglects to keep its streets in repair, the town board of such town may cause repairs and improvements to be made on any such street needed as a highway.

History: (1052) RL s 654; 1973 c 123 art 5 s 7

366.04 TRANSFER FUNDS.

The town board of any town in this state by unanimous vote thereof may transfer any surplus beyond the needs of the current year in any town fund to any other town fund to supply a deficiency therein.

History: (1053) 1913 c 13 s 1

366.05 PROSECUTE BONDS, PENALTIES, AND FORFEITURES.

The town board shall prosecute, in the name of the town and for its benefit, all actions upon bonds given to the town, or to it, or its predecessors in office for its benefit, and sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town, and in like manner prosecute for any trespass on town property. All moneys collected under this section shall be paid to the town treasurer.

History: (1051) RL s 653

366.06 [Repealed, 1984 c 562 s 48]

366.07 TREASURER MAY SELECT DEPOSITORY.

If the town board refuses or fails to act, as provided in section 366.01, subdivision 4, within 30 days after the annual town meeting, the treasurer shall select one or more depositories for the deposit and the safekeeping of town funds and deposit town funds in the name of the town, obtaining security for the funds as provided in section 366.01, subdivision 4.

History: (1049-2) 1931 c 216 s 2; 1933 c 62 s 2; 1957 c 367 s 4; 1959 c 289 s 2; 1984 c 562 s 26

366.08 TREASURER NOT LIABLE, WHEN.

The town treasurer, in the absence of negligence, shall not be liable for the loss of moneys while so deposited within the limits above specified occasioned by the closing or insolvency of a designated depository.

History: (1049-3) 1931 c 216 s 3; 1933 c 62 s 3

366.09 INTEREST ON FUNDS.

All interest received on funds deposited under the provisions of sections 366.06 to 366.09 shall be credited to the respective town funds.

History: (1049-4) 1931 c 216 s 4; 1933 c 62 s 4

366.095 AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. Certificates of indebtedness. The town board may issue certificates

of indebtedness within the existing debt limits for a town purpose otherwise authorized by law. The certificates shall be payable in not more than five years and shall be issued on the terms and in the manner as the board may determine. If the amount of the certificates to be issued exceeds one percent of the gross tax capacity of the town, excluding money and credits, they shall not be issued for at least ten days after publication in a newspaper of general circulation in the town of the board's resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, the certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on the certificates as in the case of bonds.

Subd. 2. Bonds; other obligations. Any town authorized to exercise powers under section 368.01 may issue bonds or other obligations for the acquisition or betterment of warning systems. Bonds or other obligations authorized by this subdivision must be sold, issued, and secured in the manner provided in chapter 475.

History: 1984 c 562 s 27; 1985 c 169 s 10; 1986 c 314 s 1; 1987 c 384 art 1 s 35; 1988 c 719 art 5 s 84

366.10 ZONING REGULATIONS.

The board of supervisors of any town may submit to the legal voters of the town for their approval or rejection at any annual or special town meeting, the question as to whether or not such board shall adopt building and zoning regulations and restrictions in the town. The board of supervisors in any town which has within its borders a hospital established in accordance with Laws 1955, chapter 227, may submit to the voters of the town for their approval or rejection at any annual or special town meeting, the question as to whether or not such board shall adopt building and zoning regulations and restrictions in the town regulating the type of buildings that may be built or occupations carried on within a radius of one-half mile of such hospital.

History: 1939 c 187 s 1; 1941 c 186 s 1; 1947 c 236 s 1; 1947 c 500 s 1; 1949 c 707 s 1; 1953 c 188 s 1; 1957 c 74 s 1; 1965 c 51 s 73; 1976 c 239 s 110; 1978 c 674 s 39

366.11 BALLOTS.

There shall be printed on the ballots for the election the following:

"Shall the board of supervisors adopt zoning and related regulations and restrictions?

Yes.....

No....."

The voters shall place a cross-mark in one of the above squares to express their choice. The ballot shall be cast and counted during the same hours and in the same manner as ballots for the election of town officers of the town and, except as herein expressly provided, such meeting and election shall be subject to all the laws of this state regulating town meetings and elections of town officers in the town.

History: 1939 c 187 s 2; 1980 c 416 s 2

366.12 REGULATIONS.

If a majority of the voters voting on such question vote "Yes," the town board shall be authorized and empowered to regulate 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 lands for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes, and to carry out the provisions of this grant shall issue building permits, and it shall be unlawful to erect, establish, alter, enlarge, use, occupy,

or maintain any building, structure, improvement, or premises without first having obtained such permit.

Before adopting any regulation under this section the board shall hold a public hearing on the matter with notice in the manner provided in section 366.15.

This section is subject to the provisions and limitations of section 366.13.

History: 1939 c 187 s 3; 1943 c 494 s 1; 1980 c 416 s 3

366.13 ZONING DISTRICTS.

For any or all of these purposes the board of supervisors of any such town where a majority of the legal voters voting thereon have voted "Yes" at such an election, may divide the portions of the town into districts or zones of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 366.10 to 366.18, and within such districts or zones it may 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. 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 one district may differ from those in other districts.

No such board of supervisors may make any regulation prohibiting the erection, establishment, alteration, enlargement, use, occupancy or maintenance of any landing area or airport as defined by the act of Congress known as the Civil Aeronautics Act of 1938, owned by any municipality, political subdivision, or public corporation created in and for any two or more municipalities, the operation and use of which has been approved by the department of transportation or by the Civil Aeronautics Board of the United States, nor shall any permit under the provisions of sections 366.10 to 366.18 be required for any such erection, establishment, alteration, enlargement, use, occupancy or maintenance. Any regulations heretofore made by any board of supervisors prohibiting such erection, establishment, alteration, enlargement, use, occupancy or maintenance of airports are hereby abrogated and annulled.

Before adopting any division or regulation under this section the board shall hold a public hearing on the matter with notice in the manner provided in section 366.15.

History: 1939 c 187 s 4; 1943 c 494 s 2; 1976 c 166 s 7; 1980 c 416 s 4

366.14 PURPOSE OF REGULATIONS.

These regulations shall be made in accordance with the comprehensive plan, designed and enacted for the purpose of promoting the health, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of any such town, including, among other things, lessening congestion in streets or roads or reducing the wastes of excessive amounts of roads; securing safety from fire and other dangers; providing adequate light and air; preventing, on the one hand, excessive concentration of population and, on the other hand, excessive and wasteful scattering of population or settlement; promoting such distribution of population and such classification of land uses and distribution of land development and utilization as will tend to facilitate and conserve provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supplies, and protection of both urban and nonurban development.

History: 1939 c 187 s 5

366.15 DISTRICTS OR ZONES, AMENDMENT.

The board of supervisors of any such town where a majority of the legal voters voting thereon have voted "Yes" at such election may, from time to time, amend the number, shape, boundary, or area of any district or zone, or any regulation of area

within such zone, or any provision of the zoning resolution. Before finally adopting any such amendment the board of supervisors shall hold a public hearing thereon, after giving at least ten days notice of the time and place of the hearing, which notice shall be given by at least one publication in a newspaper of general circulation in the county in which such town is located; provided, that no such change shall be made in the boundary line of zones or districts unless at least 50 percent of the owners of the lands proposed to be changed shall file a petition for such change.

History: 1939 c 187 s 6; 1947 c 231 s 1; 1980 c 416 s 5

366.16 TOWN BUILDING COMMISSIONER.

The board of supervisors of any such town where the majority of legal voters voting thereon have voted "Yes" at such an election may enforce these regulations by withholding building permits, and for such purposes may establish and fill the position of town building commissioner and fix the compensation attached to such position. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of sections 366.10 to 366.18 or of any regulation or provision enacted or adopted by the board of supervisors of any town under the authority granted by sections 366.10 to 366.18, and such election, such board, the attorney of the county wherein such town is situated, the town attorney, the town building commissioner, or any adjacent or neighboring property owner may institute an injunction, mandamus, abatement, or any appropriate action to prevent or enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use.

History: 1939 c 187 s 7

366.17 PLANNING AND ZONING COMMISSION.

For the purpose of carrying out the provisions of sections 366.10 to 366.18, the board of supervisors of any such town where the majority of legal voters voting thereon have voted "Yes" at such election may appoint a planning and zoning commission, all of whom shall be freeholders; the number of such commissioners to be determined by the board. The planning and zoning commission shall act as an adviser to such town board, and the commission may be empowered to employ a civil engineer or city planner as may be required for establishing the districts or zones of any parts of such towns.

History: 1939 c 187 s 8

366.18 EXISTING BUILDINGS NOT CHANGED.

The zoning resolution, as adopted by the board of supervisors of any such town or as subsequently amended, shall not prohibit the continuance of the use of a building for any trade or industry for which such building was used at the time the resolution took effect or the alteration of or addition to any existing building or structure for the purpose of carrying on any prohibited trade or industry within the zone where such structures are located.

History: 1939 c 187 s 9

366.181 VIOLATIONS; PENALTIES.

Any person who shall knowingly violate, infract, or disobey any of the provisions or the rules of zoning regulations adopted by any town board pursuant to Minnesota Statutes 1945, sections 366.10 to 366.18, shall be guilty of a misdemeanor.

History: 1947 c 186 s 1; 1971 c 23 s 30

366.182 [Repealed, 1976 c 239 s 111]

366.19 LICENSES.

Any person who shall exhibit any circus, theatrical performance, or show of any

kind, or who shall keep a billiard, pool, or pigeonhole table, or a bowling alley in any town, without first obtaining a license therefor, as provided in section 366.01, shall be guilty of a misdemeanor.

History: (1050) RL s 652; 1919 c 403; 1971 c 23 s 31

BOARD OF AUDIT

366.20 MEETINGS.

The town board shall constitute a board of audit and shall meet each year, on a date fixed by the town board, for the purpose of auditing and settling all charges against the town. All unpaid accounts of town officers for services rendered since the last annual meeting of the board shall be presented at the meeting. It may also meet at any other times for the purpose of auditing and settling charges against the town. No allowance of any account shall be made which does not specifically itemize the account. A quorum for transacting business by the board of audit shall be the same as for the board of supervisors.

History: (1055) RL s 655; 1969 c 125 s 1; 1983 c 359 s 50; 1984 c 562 s 28

366.21 DUTIES.

It shall be the duty of the board of audit:

(1) To examine and audit the accounts separately of each town officer authorized by law to receive or disburse money;

(2) To examine and audit every account presented against the town, and to endorse thereon the amount allowed and disallowed, stating the items; and no allowance shall be made on any account which does not specifically give each item, with the date, amount, and nature thereof, separately. (Such statement shall be verified by the claimant, the claimant's agent or attorney, and filed with the town clerk, and no such claim against any town shall be considered or acted upon unless such statement shall be made and filed);

(3) To examine into the character and circumstances of every other demand presented against the town which it is not authorized to audit, and in its report to give a summary thereof, with its recommendations in regard thereto;

(4) To report in detail the items of accounts audited and allowed, the nature of each, and the person to whom allowed, and the same in respect to accounts disallowed.

Such report shall also contain a statement of the fiscal affairs of the town, with an estimate of the sum necessary to be raised for the current expenses or other authorized purpose for the ensuing year, and such recommendations as it may deem advisable.

History: (1056) RL s 656; 1986 c 444

366.22 POSTING AND READING REPORT; FEE.

The clerk shall post a copy of the report at the place of holding the annual meeting at least half an hour before the time for the annual meeting to convene. The report shall also be publicly read by the clerk to the meeting, and the whole or any portion thereof may be referred by the meeting to a committee, which shall examine the same and report to the meeting thereon. For making the report the clerk shall receive one-half of the fees allowed by law for making the original report.

History: (1057) RL s 657; 1976 c 4 s 1; 1977 c 73 s 1; 1983 c 3 s 1

366.23 [Renumbered 471.415, subdivision 1]

366.24 [Renumbered 471.415, subd 2]

366.25 [Renumbered 471.415, subd 3]

366.26 [Repealed, 1959 c 500 art 6 s 13]

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TOWN BOARD; BOARD OF AUDIT 366.27

366.27 FIREFIGHTERS' RELIEF; TAX LEVY.

The town board of any town in this state having therein a platted portion on which there reside 1,200 or more people, and wherein a duly incorporated firefighters' relief association is located may each year at the time the tax levies for the support of the town are made and in addition thereto levy a tax not to exceed one-third of one mill on all taxable property within the town for the benefit of such relief association.

History: 1951 c 151 s 1; 1973 c 773 s 1; 1977 c 429 s 63