

CHAPTER 366

TOWN BOARD AND BOARD OF AUDIT

366.01 HOW CONSTITUTED; DUTIES.

HISTORY. 1858 c. 75 art. 8 ss. 1, 2; P.S. 1858 c. 8 ss. 51, 52; 1860 c. 14 art. 8 ss. 1, 3; G.S. 1866 c. 10 ss. 49, 62; G.S. 1878 c. 10 ss. 53, 66; G.S. 1894 ss. 968, 981; 1895 cc. 51, 255; R.L. 1905 s. 651; G.S. 1913 s. 1142; 1919 c. 343; 1921 c. 478; G.S. 1923 s. 1049; M.S. 1927 s. 1049; 1929 c. 143; 1935 c. 120; 1939 c. 255; 1941 c. 247.

In proceedings for laying out a cartway the order establishing the cartway, after due notice and hearing, was made and signed by two of the three supervisors. The owner of the land appealed to a justice from the order of the supervisors and the jury disagreed. No further proceedings were had in the appeal. Supervisors caused a writ of certiorari to the justice to be issued from the district court. The trial court was in error in confirming the action of the supervisors. The writ of certiorari should have been quashed. *Grinager v Town of Norway*, 33 M 127, 22 NW 174.

Formal notice of a meeting of a town board is not a prerequisite when all the members of the board are present at the session and participate in the proceedings. *State Bank v Town of Goodhue*, 109 M 28, 122 NW 468.

Mandamus is proper remedy to compel the treasurer of a town to pay valid orders issued by the board of supervisors, and the validity of such orders may be determined in special proceedings. *State ex rel v Clark*, 116 M 500, 134 NW 130.

A town by-law enacted under the authority granted under this section is a valid and effective regulation regulating dance halls. *Town of Linden v Fischer*, 154 M 354, 194 NW 901; *State v Hoffman*, 159 M 401, 199 NW 175.

The statutes do not prohibit a town treasurer from performing work on township roads and receiving compensation therefor from the township. 1936 OAG 436, March 13, 1936 (707b-6).

Towns and counties are not authorized to license games of skill. 1938 OAG 188, March 3, 1937 (733j).

A town treasurer who is also cashier of depository bank designated by the board, is not personally liable for loss of the town money. OAG June 10, 1933.

The town board may pay rent, and a town keeper, in connection with a CWA town project. OAG April 19, 1934 (442a-11).

There is no statute authorizing a town to employ a milk inspector, recreational director, or purchasing agent. OAG Oct. 13, 1934 (445a-17).

A town may carry liability insurance on matters relating to its governmental functions, but not where the enterprise is in its nature proprietary. OAG Oct. 13, 1934 (447a-17).

One need not be a freeholder to be eligible for township office. OAG March 16, 1938 (434b-4).

Town may not contribute to expenses of representatives of the township before the legislature. OAG April 6, 1939 (442a-2).

Except in special instances the office of town clerk and village recorder are not incompatible. 1942 OAG 229, March 6, 1941 (358E-7).

366.015 TOWN MAY VOTE ON WEED CUTTING.

HISTORY. 1941 c. 246.

Laws 1941, Chapter 246, permitting towns to cut roadside weeds, and assess the expense against abutting owners who fail to cut in front of their places, is a valid exercise of the police power, and constitutional. 1942 OAG 146, Nov. 12, 1941 (322-G).

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366.02 POWERS AND DUTIES OF TOWN BOARD IN CERTAIN TOWNS.

HISTORY. 1937 c. 256 s. 1; M. Supp. s. 1049-5.

366.03 MAY REPAIR VILLAGE STREETS.

HISTORY. 1860 c. 14 art. 8 s. 2; G.S. 1866 c. 10 s. 50; G.S. 1878 c. 10 s. 54; G.S. 1894 s. 969; R.L. 1905 s. 654; G.S. 1913 s. 1145; G.S. 1923 s. 1052; M.S. 1927 s. 1052.

Governmental responsibility for torts. 26 MLR 494.

366.04 MAY TRANSFER FUNDS.

HISTORY. 1913 c. 13 s. 1; G.S. 1913 s. 1146; G.S. 1923 s. 1053; M.S. 1927 s. 1053.

Money may be transferred from the general or road and bridge fund of a township and used for fighting fires by unanimous vote of town board, there being a usable surplus. This is subject to the exception that money budgeted to poor relief cannot be used for any other purpose than relief. 1934 OAG 162, June 14, 1934 (476b-1).

The obligation is absolute of administering poor relief and necessity outweighs statute limitation as to expenditure of funds; and the town board may even transfer money from any funds to the poor relief fund, and if there are no funds available for transfer then if the town has made a tax levy which is in the process of collection, it may for poor relief issue warrants, in anticipation of the collection of taxes so levied. 1934 OAG 665, Aug. 7, 1934 (3390-5).

The town board cannot transfer money from the fire fund to any other fund. OAG Feb. 27, 1933.

The town may transfer temporary surplus in the fire fund to the general fund. OAG Oct. 26, 1937 (916b).

The town may transfer money from the dragging fund to the road and bridge fund. OAG April 17, 1939 (355d).

On receipt of \$1,200 from tax-forfeited land fund, a town having no debts, and no present use for the money, may by unanimous vote of the town board, transfer the money to the road and bridge fund. 1942 OAG 132, June 6, 1942 (442a-23).

366.05 TO PROSECUTE BONDS, PENALTIES, AND FORFEITURES.

HISTORY. 1858 c. 75 art. 8 s. 2; P.S. 1858 c. 8 s. 52; 1860 c. 14 art. 8 s. 3; G.S. 1866 c. 10 s. 61; G.S. 1878 c. 10 s. 65; G.S. 1894 s. 980; R.L. 1905 s. 653; G.S. 1913 s. 1143; G.S. 1923 s. 1051; M.S. 1927 s. 1051.

366.06 DEPOSITORIES OF TOWN FUNDS.

HISTORY. 1931 c. 216 s. 1; 1933 c. 62 s. 1; M. Supp. s. 1049-1.

The maximum amount which may be deposited without securing a bond or other security from the depository is the amount only in so far as such fund is constituted "insured deposit liability". OAG March 27, 1934 (32f-26); OAG May 31, 1935 (29a-12).

366.07 TREASURER MAY SELECT DEPOSITORY.

HISTORY. 1931 c. 216 s. 2; 1933 c. 62 s. 2; M. Supp. s. 1049-2.

366.08 TREASURER NOT LIABLE, WHEN.

HISTORY. 1931 c. 216 s. 3; 1933 c. 62 s. 3; M. Supp. s. 1049-3.

366.09 INTEREST ON FUNDS.

HISTORY. 1931 c. 216 s. 4; 1933 c. 62 s. 4; M. Supp. s. 1049-4.

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366.10 CERTAIN TOWN BOARDS MAY ADOPT ZONING REGULATIONS.

HISTORY. 1939 c. 187 s. 1; 1941 c. 186.

366.11 BALLOTS.

HISTORY. 1939 c. 187 s. 2.

366.12 REGULATIONS.

HISTORY. 1939 c. 187 s. 3; 1943 c. 494 s. 1.

366.13 MAY ESTABLISH ZONING DISTRICTS.

HISTORY. 1939 c. 187 s. 4; 1943 c. 494 s. 2.

366.14 PURPOSE OF REGULATIONS.

HISTORY. 1939 c. 187 s. 5.

366.15 MAY AMEND DISTRICTS OR ZONES.

HISTORY. 1939 c. 187 s. 6.

366.16 MAY APPOINT TOWN BUILDING COMMISSIONER.

HISTORY. 1939 c. 187 s. 7.

366.17 MAY ESTABLISH PLANNING AND ZONING COMMISSION.

HISTORY. 1939 c. 187 s. 8.

366.18 MAY NOT CHANGE EXISTING BUILDINGS.

HISTORY. 1939 c. 187 s. 9.

366.19 LICENSES.

HISTORY. 1858 c. 75 art. 8 s. 1; P.S. 1858 c. 8 s. 51; 1860 c. 14 art. 8 s. 3; G.S. 1866 c. 10 s. 49; G.S. 1878 c. 10 s. 53; 1895 c. 51; R.L. 1905 s. 652; G.S. 1913 s. 1143; 1919 c. 403; G.S. 1923 s. 1050; M.S. 1927 s. 1050.

366.20 BOARD OF AUDIT; MEETING.

HISTORY. 1858 c. 75 art. 10 ss. 1, 2; P.S. 1858 c. 8 ss. 66, 67; 1860 c. 14 art. 10 ss. 1, 2; G.S. 1866 c. 10 ss. 70, 71; G.S. 1878 c. 10 ss. 74, 75; 1891 c. 64 s. 1; G.S. 1894 ss. 989, 990; R.L. 1905 s. 655; G.S. 1913 s. 1147; G.S. 1923 s. 1055; M.S. 1927 s. 1055.

366.21 DUTIES OF BOARD OF AUDIT.

HISTORY. 1858 c. 75 art. 10 ss. 3, 4; P.S. 1858 c. 8 ss. 68, 69; 1860 c. 14 art. 10 ss. 3, 4; G.S. 1866 c. 10 ss. 72, 73; G.S. 1878 c. 10 ss. 76, 77; 1891 c. 64 s. 2; G.S. 1894 ss. 991, 992; R.L. 1905 s. 656; G.S. 1913 s. 1148; G.S. 1923 s. 1056; M.S. 1927 s. 1056.

The filing of an itemized and verified claim against the town with the auditing town board, was a condition precedent to commencing an original action thereon against such town. *Old Second National v Town of Middletown*, 67 M 1, 69 NW 471.

366.22 REPORT POSTED AND READ.

HISTORY. 1858 c. 75 art. 10 s. 5; P.S. 1858 c. 8 s. 70; 1860 c. 14 art. 10 s. 5; G.S. 1866 c. 10 s. 74; G.S. 1878 c. 10 s. 78; G.S. 1894 s. 993; 1895 c. 10; R.L. 1905 s. 657; G.S. 1913 s. 1149; G.S. 1923 s. 1057; M.S. 1927 s. 1057.

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A town may not contribute to the expenses of parties representing the interests of the town before the legislature. OAG April 6, 1939 (442a-2).

366.23 ISSUANCE OF DUPLICATE WARRANT.

HISTORY. 1915 c. 36 ss. 1, 2; G.S. 1923 ss. 1058, 1059; M.S. 1927 ss. 1058, 1059.

A new warrant may not legally issue unless an indemnity bond is posted. 1938 OAG 135, March 28, 1938 (18a).

Where a town has dissolved, and an outstanding warrant is lost it may be paid by the county upon proper affidavit and bond. OAG July 5, 1944 (442b-7).

366.24 NOT TO BE ISSUED UNTIL AFFIDAVIT FILED.

History. 1915 c. 36 s. 3; G.S. 1923 s. 1060; M.S. 1927 s. 1060.

The owner of lost county warrant must file a bond. OAG March 15, 1933.

No bond is required of a state or officer with respect to a lost warrant issued to the state. OAG March 12, 1937 (59a-49).

In case of payment of a lost or destroyed warrant, no bond is required if the check is made payable to the state. OAG June 1, 1944 (107a-8).

366.25 RECORD TO BE KEPT.

HISTORY. 1915 c. 36 s. 4; G.S. 1923 s. 1061; M.S. 1927 s. 1061.