

CHAPTER 368

TOWNS; SPECIAL PROVISIONS

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NOTE: For special laws relating to specific towns, see Table 1, Vol. 4.

368.01 POWERS OF CERTAIN METROPOLITAN AREA TOWNS. Subdivision 1. **Towns described.** Any town in this state having therein platted portions in which there reside 1,200 or more people or any towns having platted area within 20 miles of the city hall of a city of the first class having over 200,000 population shall have and possess the powers as are enumerated in this section. The town board thereof may adopt, amend, or repeal such ordinances, rules, and bylaws for any purposes so enumerated as it deems expedient.

Subd. 2. **Buildings.** The town board of supervisors shall have power to construct or acquire structures needed for town purposes, to control, protect, and insure the public buildings, property, and records.

Subd. 3. **Streets; sewers; sidewalks; public grounds.** The town board of supervisors shall have power to lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave, repair, control, and maintain the same; to establish and maintain drains, canals, and sewers; to alter, widen or straighten water courses; to lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks. It shall have power by ordinance to regulate the use of streets and other public grounds, to prevent encumbrances or obstructions, and to require the owners or occupants of buildings and the owners of vacant lots to remove any snow, ice, dirt, or rubbish from the sidewalks adjacent thereto and in default thereof to cause such encumbrances, obstructions, or substances to be removed and the cost to be assessed against the property as a special assessment.

Subd. 4. **Parks; trees.** The town board of supervisors shall have power to provide for, and by ordinance regulate, the setting out and protection of trees, shrubs, and flowers in the town or upon its property.

Subd. 5. **Cemeteries.** The town board of supervisors shall have power to acquire by purchase, gift, devise, condemnation or otherwise, hold and manage cemetery grounds, to enclose, lay out and ornament such grounds and sell and convey lots therein. It may by ordinance regulate cemeteries and the disposal of dead bodies.

Subd. 6. **Waterworks.** The town board of supervisors shall have power to provide and by ordinance regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply.

Subd. 7. **Tourist camps; parking facilities.** The town board of supervisors shall have power to acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 8. **Hospitals.** The town board of supervisors shall have power to provide hospitals. The town board of any town operating a municipal hospital may by ordinance establish a hospital board with such powers and duties of hospital management and operation as the town board confers upon it; and the town board may, by vote of all its members, abolish any hospital board so established. The hospital board shall consist of five members, each appointed by the town board for a term of five years. Terms of the first members shall be so arranged that the term of one member expires each year. Any vacancy shall be filled for the unexpired portion of the term in which it occurs. Any member may be removed by the town board for cause after a hearing.

Subd. 9. **Fire prevention.** The town board of supervisors shall have power to establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It shall have power to adopt such ordinances as are reasonable and expedient to prevent, control or extinguish fires.

Subd. 10. **Naming and numbering streets.** The town board of supervisors shall have power by ordinance to name or rename the streets and public places of the town and to number or renumber the lots and blocks of the town, or any part thereof. It may make and record a consolidated plat of the town.

Subd. 11. **Transient dealers.** The town board of supervisors shall have power by ordinance to restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 12. **Taxicabs; baggage wagons.** The town board of supervisors shall have power by ordinance to license and regulate baggage wagons, draymen, taxicabs, and automobile rental agencies and liveryes.

Subd. 13. **Animals.** The town board of supervisors shall have power by ordinance to regulate the keeping of animals, to restrain their running at large, to authorize their impounding and sale or summary destruction, and to establish pounds, and to license and regulate riding academies.

Subd. 14. **Health.** The town board of supervisors shall have power by ordinance to prohibit or regulate slaughterhouses; to prevent the bringing, depositing, or leaving within the town of any unwholesome substance, to require the owners or occupants of lands to remove unwholesome substances therefrom and in default thereof to provide for its removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment; to provide for or regulate the disposal of sewage, garbage, and other refuse, to provide for the cleaning of, and removal of obstructions from, any waters in the town and to prevent their obstruction or pollution. The town board may establish a board of health with all the powers of such boards under the general laws.

Subd. 15. **Nuisances.** The town board of supervisors shall have power by ordinance to define nuisances and provide for their prevention or abatement.

Subd. 16. **Amusements.** The town board of supervisors shall have power by ordinance to prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys, to prohibit gambling and gambling devices, and to license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 17. **Vice.** The town board of supervisors shall have power by ordinance to restrain and punish vagrants, prostitutes, and persons guilty of lewd conduct and to punish drunkenness.

Subd. 18. **Regulation of buildings.** The town board of supervisors shall have power by ordinance to regulate the construction of buildings.

Subd. 19. **General welfare.** The town board of supervisors shall have power to provide for the government and good order of the town, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the constitution and laws of the United States or of this state as it shall deem expedient.

Subd. 20. **Departments; boards.** The town board of supervisors may create such departments and advisory boards and appoint such officers, employees, and agents for the town as may be deemed necessary for the proper management and operation of town affairs. The town board may prescribe the duties and fix the compensation of all officers, both appointive and elective, employees, and agents, when not otherwise prescribed by law. The town board may require any officer or employee to furnish a bond conditioned for the faithful exercise of his duties and the proper application of, and payment upon demand of, all moneys by him officially received. Unless otherwise prescribed by law the amount of such bonds shall be fixed by the town board. The bonds furnished by the clerk, treasurer, and justices of the peace shall be corporate surety bonds. The town board may provide for the payment from town funds of the premium on the official bond of the justices of the peace and any officer or employee of the town. The town board may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal; but this provision does not modify the laws relating to veterans preference or

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to members of a town police or fire civil service commission or public utilities commission.

Subd. 21. Enactment of ordinances. Every ordinance shall be enacted by a majority vote of all the members of the town board except where a larger number is required by law. It shall be signed by the chairman of the town board, attested by the clerk and published once in the official newspaper. Proof of the publication shall be attached to and filed with the ordinance. Every ordinance shall be recorded in the ordinance book within 20 days after its publication. All ordinances shall be suitably entitled and shall be substantially in the style: "The Town Board of Supervisors ordains:".

Subd. 22. Penalties. The town board of supervisors shall have the power to declare that the violation of any ordinance shall be a penal offense and to prescribe penalties therefor. No such penalty shall exceed a fine of \$300 or imprisonment in a statutory city or county jail for a period of 90 days, or both, but in either case the costs of prosecution may be added.

Subd. 23. Financing purchase of certain equipment. The town board of supervisors may issue certificates of indebtedness within existing debt limits for the purpose of purchasing fire or police equipment or ambulance equipment or street construction or maintenance equipment. Such certificates shall be payable in not more than five years and shall be issued on such terms and in such manner as the board may determine. If the amount of the certificates to be issued to finance any such purchase exceeds one percent of the assessed valuation of the town, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a town board 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, such 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 such certificates as in the case of bonds.

Subd. 24. Parks; parkways; recreational facilities. Any town may establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.

Subd. 25. Vacation of streets. The board of supervisors may by resolution vacate any street, alley, public grounds, public way, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the board of supervisors. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks' published and posted notice. After a resolution of vacation is adopted, the clerk shall prepare a notice of completion of the proceedings which shall contain the name of the town, an identification of the vacation, a statement of the time of completion thereof and a description of the real estate and lands affected thereby. The notice shall be presented to the county auditor who shall enter the same in his transfer records and note upon the instrument, over his official signature, the words "entered in the transfer record". The notice shall then be filed with the county recorder. Any failure to file the notice shall not invalidate any such vacation proceedings.

Subd. 26. Fines and penalties. All fines, forfeitures, and penalties recovered for the violation of any ordinance shall be paid into the town treasury. Every court or officer receiving such moneys, shall make return thereof under oath on or before the tenth day after the last day of the month during which the moneys were received and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the town clerk.

Subd. 27. Right of eminent domain. All towns possessing special powers under this section may exercise the right of eminent domain for the purpose of acquiring private property within or without the limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the right of eminent domain for the purpose of acquiring a right of way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without the limits thereof. The procedure in the event of condemnation shall be that prescribed by chapter 117.

Subd. 28. **Additional powers.** All towns possessing special powers under this section shall have the same power and authority as now possessed by cities as enumerated in section 471.62.

Subd. 29. **Savings clause.** This section shall not be construed to repeal or rescind the powers of any town provided for by other law.

Subd. 30. **Notice to county auditor.** The town clerk of each town exercising special powers pursuant to this section shall so notify in writing the county auditor of the county wherein such town is located. The written notice shall be filed by the county auditor as a public record.

[1907 c 193 s 1; 1907 c 397 s 1; 1949 c 722 s 1; 1953 c 462 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1,2; 1961 c 46 s 1; 1963 c 257 s 1; 1965 c 574 s 1; 1971 c 24 s 46; 1973 c 48 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1976 c 239 s 112] (1003, 1004)

TOWNS ON A CASH BASIS

368.02 CERTAIN TOWNS NOT TO DRAW ORDERS WITHOUT FUNDS IN TREASURY. From and after January 1, 1934, no town which, in the year 1933, had a population (including the population of villages within such town not separated from the town for election and assessment purposes) exceeding 2,000 and not exceeding 10,000 and an assessed valuation of taxable property, exclusive of money and credits, such that a tax levy of five and two-thirds mills upon the dollar of such assessed taxable valuation would produce a total levy in excess of an average of \$1,000 per government section of the entire area of such town, according to the government survey thereof, shall draw any order or warrant on any fund until there is sufficient money in the fund to pay the same together with all orders previously issued against the fund.

[1933 c 293 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1,2; 1973 c 773 s 1] (1108-4)

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

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

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

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

368.05 MAY ISSUE CERTIFICATES OF INDEBTEDNESS. At any time after the annual tax levy has been certified to the county auditor, and not earlier than October tenth in any year, the governing body of such town may, for the purpose of meeting the obligations of the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for any fund named in the tax levy for the purpose of raising money for any such fund, but no certificate shall be issued for any of the separate funds exceeding 50 percent of the amount named in the tax levy, as spread by the county auditor, to be collected for the use and benefit of the fund, and no certificate shall be issued to become due and payable later than December thirty-first of the year succeeding the year in which the tax levy, certified to the county auditor, as aforesaid, was made. The certificates shall not be sold for less than par and accrued interest and shall not bear a greater rate of interest than six percent per annum. Each certificate shall state upon its face for which fund proceeds of the certificate shall be used, the total amount of the certificates so issued, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in the denominations of \$100 or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms and be made payable at such place as will best aid in

their negotiation. The proceeds of the tax assessed and collected, as aforesaid, on account of the fund, and the faith and credit of such town shall be irrevocably pledged for the redemption of the certificates so issued. The certificates shall be paid from the moneys derived from the levy for the year against which the certificates were issued or, if they be not sufficient for such purpose, from other funds of the town. The money derived from the sale of the certificates shall be credited to such fund or funds for the calendar year immediately succeeding the making of the levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended; provided, that money derived from the sale of the certificates for any one year may, if necessary, be used to redeem unpaid certificates issued in a prior year.

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

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

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

368.07 MS 1967 [Obsolete]

368.08 MS 1967 [Obsolete]

368.09 VIOLATION A MISDEMEANOR. Any member of the town board of such town, or any other town officer or employee knowingly participating in or authorizing any violation of sections 368.02 to 368.11 shall be guilty of a misdemeanor; and each contract attempted to be entered into or indebtedness or pecuniary liability attempted to be incurred in violation of the provisions of sections 368.02 to 368.11 shall be null and void in regard to any obligation thereby sought to be imposed upon the town, and no claim therefor shall be allowed by the town board of the town; nor shall the claim of the town or any other town officer or employee issue or execute, nor shall the town treasurer pay, any warrant or certificate of indebtedness issued on account thereof. Each member of the town board and each other town officer or employee participating in or authorizing any violation of sections 368.02 to 368.11 shall be individually liable to the town or to any other person for any damages caused thereby and for the purpose of enforcing such liability, without impairing any other remedy, one-fourth of the salary of each such officer and employee shall be withheld from him and applied towards reimbursing the town or any such other person for such damages until all claims by reason thereof have been fully paid. Every member of the town board present at a meeting of the board when any action is taken with reference to paying money or incurring indebtedness or entering into any contract shall be deemed to have participated in and authorized the same, unless he shall have caused his dissent therefrom to be entered upon the minutes of the meeting.

[1933 c 293 s 8; 1959 c 686 s 14; Ex1959 c 75 s 1,2; 1971 c 23 s 32] (1108-11)

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

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

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

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

ATTORNEYS FOR TOWNS

368.12 [Repealed, 1976 c 44 s 70]

368.121 EMPLOYMENT OF ATTORNEY; FEES. The board of supervisors in any town may employ an attorney and pay up to \$1,000 in attorney's fees annually without an affirmative vote of or approval by the electors of such town.

[1971 c 751 s 1; 1973 c 49 s 1]

368.13-368.38 [Omitted, applies to towns having not less than 1,500, and not

more than 2,000 inhabitants, and having an assessed valuation of more than \$1,200,000, and less than \$1,750,000, and having an area of not less than 23,000, nor more than 26,000 acres.]

368.39 [Repealed, 1973 c 650 art 27 s 1]

368.40 [Repealed, 1973 c 650 art 27 s 1]

368.41 [Repealed, 1973 c 650 art 27 s 1]

368.42 [Repealed, 1973 c 650 art 27 s 1]

368.43 [Repealed, 1945 c 271 s 3]

DISSOLUTION

368.44 DISSOLUTION OF CERTAIN TOWNS; GROUNDS. When the voters residing within a duly organized town in any county in this state having more than 85 congressional townships of land and having an assessed valuation of not less than \$5,000,000 nor more than \$12,000,000 have failed to elect any town officials for more than three years continuously, or the town has failed and omitted to exercise any of the powers and functions of a town, as provided by law, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the auditor of the county, the county board by resolution duly adopted may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town.

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

368.45 COPY OF DISSOLUTION RESOLUTION FOR SECRETARY OF STATE.

A certified copy of any such resolution shall forthwith, after the adoption of the same by the county board, be forwarded by the auditor of such county to the secretary of state, who shall, on receipt thereof, make appropriate entry in the records of his office of the dissolution of such town.

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

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

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

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

368.47 TOWNS MAY BE DISSOLVED. When the voters residing within a town in this state have failed to elect any town officials for more than ten years continuously immediately prior to April 24, 1937, or the town has failed and omitted for a period of ten years to exercise any of the powers and functions of a town, as provided by law, or when the assessed valuation of any town drops to less than \$40,000, or when the tax delinquency of any such town, exclusive of taxes that are delinquent or unpaid by reason of taxes being contested in proceedings for the enforcement of taxes, amounts to 50 percent of its assessed valuation, or where the state or federal government has acquired title to 50 percent of the real estate of such town, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the county auditor, the county board by resolution may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town. In counties having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000 and having not more than 77 nor less than 75 full or fractional congressional townships, and in counties having a population according to the 1930 federal census of not more than 28,000 nor less than 27,000 and having not more than 91 nor less than 90 full or fractional congressional

townships, and in counties having a population according to the 1930 federal census of not more than 210,000 nor less than 200,000 and having not more than 202 nor less than 200 full or fractional congressional townships, before any such dissolution shall become effective the freeholders of the town may express their approval or disapproval of such dissolution. The clerk of the town shall, upon the petition of ten legal voters of such town, filed with him at least 15 days before any regular or special town election thereof, give notice at the same time and in the same manner of such election that the question of dissolution of such town will be submitted for determination at such election. At such election when so petitioned for the question shall be voted upon by a separate ballot, the terms of which shall be either "for dissolution" or "against dissolution," which ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the votes cast at the election shall be for dissolution, such town shall be dissolved; and, if a majority of the votes cast at the election shall be against dissolution, the town shall not be dissolved.

When a town is dissolved under the provisions of sections 368.47 to 368.49 the county shall acquire title to any telephone company or any other business being conducted by such town and such business shall be operated by the board of county commissioners until such time as a sale thereof can be made; provided that the subscribers or patrons of such businesses shall have the first opportunity of purchase. If such dissolved town has any outstanding indebtedness chargeable to such business, the auditor of the county wherein such dissolved town is located shall levy a tax against the property situated in the dissolved town for the purpose of paying the indebtedness as it becomes due.

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

368.48 COPY OF RESOLUTION OF DISSOLUTION FOR SECRETARY OF STATE. A certified copy of any such resolution shall forthwith, after the adoption of the same by the county board, be forwarded by the auditor of the county to the secretary of state, who shall on receipt thereof make appropriate entry in the records of his office of the dissolution of such town.

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

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

Any road or bridge funds shall be expended by the county board of any such county for road and bridge improvements wholly within the limits of such town; any other funds of such town shall, by the auditor of such county, be credited to the general fund of the county.

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

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

368.50 [Repealed, 1976 c 44 s 70]

368.51 [Repealed, 1976 c 44 s 70]

368.52 [Repealed, 1976 c 44 s 70]

368.53 [Repealed, 1976 c 44 s 70]

368.54 [Repealed, 1955 c 500 s 5]

368.55 [Repealed, 1955 c 500 s 5]

368.56 [Repealed, 1976 c 44 s 70]

368.57 [Repealed, 1976 c 44 s 70]

368.58 [Repealed, 1976 c 44 s 70]

368.59 [Inoperative]

368.61 [Repealed, 1976 c 44 s 70]

- 368.62 [Repealed, 1976 c 44 s 70]
- 368.63 [Repealed, 1976 c 44 s 70]
- 368.64 [Repealed, 1976 c 44 s 70]
- 368.65 [Repealed, 1976 c 44 s 70]
- 368.66 [Repealed, 1976 c 44 s 70]
- 368.67 [Repealed, 1976 c 44 s 70]
- 368.68 [Repealed, 1976 c 44 s 70]
- 368.69 [Repealed, 1976 c 44 s 70]
- 368.70 [Repealed, 1976 c 44 s 70]
- 368.71 [Repealed, 1976 c 44 s 70]
- 368.72 [Repealed, 1976 c 44 s 70]
- 368.73 [Repealed, 1976 c 44 s 70]
- 368.74 [Repealed, 1976 c 44 s 70]
- 368.75 [Repealed, 1976 c 44 s 70]
- 368.76 [Repealed, 1976 c 44 s 70]
- 368.77 [Repealed, 1976 c 44 s 70]
- 368.78 [Repealed, 1976 c 44 s 70]
- 368.79 [Repealed, 1976 c 44 s 70]
- 368.80 [Repealed, 1976 c 44 s 70]
- 368.81 [Repealed, 1976 c 44 s 70]
- 368.82 [Repealed, 1976 c 44 s 70]
- 368.83 [Repealed, 1976 c 44 s 70]
- 368.84 [Repealed, 1976 c 44 s 70]

FIRE PROTECTION

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

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

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

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

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

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

Subd. 6. Tax levy. It shall thereafter be the duty of the town board annually to levy a tax in such an amount as may be necessary but not exceeding one and two-thirds mills on the dollar of the assessed valuation of all property located within such special fire protection district to be used for the purpose of providing fire protection for such special fire protection district, but this limit shall not apply to a special fire protection district abutting a city of the first or second class, or for the payment of a deficit from a prior fire contract. Such tax, with a certified copy of the resolution establishing the district, shall be certified by the town board to the county auditor who shall thereupon spread the authorized tax against the property located within such special fire protection district, and the same shall be collected as other taxes.

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

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

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

[1949 c 204 s 1-9; 1965 c 18 s 1; 1971 c 271 s 2; 1973 c 773 s 1]

368.86 TAX LEVY; EFFECT OF LIMITING STATUTES. A levy of a tax by a township for fire protection purposes under sections 365.19, 368.85, or any other law shall not be limited in amount by the provisions of section 275.09, subdivision 3, or 275.10.

[1971 c 271 s 3]