

CHAPTER 367

TOWN OFFICERS

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

[*RL s 681*] (1088)

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

[*RL s 678*] (1085)

367.03 MS 1957 [Repealed, 1959 c 675 art 13 s 1]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, and except as otherwise provided in this section, there shall also be elected at each annual town meeting one town clerk, one treasurer, three law enforcement officials. The positions may be filled by any combination of (a) peace officers, (b) constables, or (c) deputy constables. Each of these officers shall hold office for a term of two years and until their successors are elected and qualified.

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

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

Subd. 4. **Justices of peace.** The town, by a majority vote at its annual town meeting, may decide that one justice of the peace be elected or that no justice of the peace be elected, effective at the next succeeding town election and thereafter, except that any office so terminated may be reinstated by like procedure. In the event that no justice of the peace is elected the duties of a justice of the peace described by law relating to election procedure and juries may be delegated to any person so appointed by the board of supervisors for a period of time no greater than that to which a constable is elected and setting forth such compensation as the board shall deem reasonable. If the board of supervisors does not delegate these duties in any given year then the chairman of the board of supervisors shall succeed automatically to such duties.

[1959 c 675 art 6 s 28; 1961 c 195 s 1,2; 1961 c 264 s 1,2; 1963 c 799 s 3; 1975 c 274 s 9; 1976 c 41 s 1; 1978 c 681 s 1,2]

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.

[1971 c 420 s 1; 1973 c 123 art 5 s 7]

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

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

367.04 [Repealed, 1969 c 823 s 2]

367.05 COMPENSATION. Subdivision 1. **Assessors.** The town assessors, except in towns wherein special laws set the salary and compensation of the assessor, shall be compensated in an amount to be determined by the town board. The town board is also authorized to reimburse any town assessor for expenses and mileage.

Subd. 2. **Officers.** At the annual town meeting the electors of any town shall by majority vote establish such compensation for supervisors as the electors deem proper, any other law notwithstanding. The town board of any town shall establish compensation for the clerk as the town board deems proper, any other law notwithstanding.

In addition to such compensation as shall be provided pursuant to this subdivision, supervisors and clerks shall be entitled to mileage at a rate not to exceed 15 cents per mile for each mile necessarily traveled on official business within or without the town as established by a town meeting.

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

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

Subd. 4. [Repealed, 1974 c 143 s 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] (1089, 1089 1/2)

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 person elected or appointed to the office of town clerk, before he enters upon the duties of his office, shall give bond

to the town, with sureties approved by the town treasurer, in such penal sum as the town board directs, conditioned for the faithful discharge of his duties. The bond, with his oath of office, shall be filed with the clerk of the district court, and an action may be maintained thereon by the town or any person aggrieved.

[*RL s 658*] (1062)

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

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

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

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

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

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

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

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

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

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

[*RL s 660*] (1064)

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

[*RL s 659*] (1063)

367.13 LOCATION OF OFFICE. The clerk of any town in this state may hold his 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.

[*1905 c 98 s 1; 1973 c 123 art 5 s 7*] (1065)

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

[*RL s 661*] (1066)

367.15 TOWN TREASURER; BOND. Every town treasurer, before he enters upon the duties of his office, shall give bond to the town in an amount to be determined by the board, conditioned for the faithful discharge of his duties as such treasurer. Within six days thereafter the chairman shall file such bond, with his approval endorsed thereon, for record with the county recorder.

[*RL s 662; 1975 c 8 s 1; 1976 c 181 s 2*] (1067)

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

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

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

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

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

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

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

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

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

[*RL s 663*] (1068)

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

[*RL s 664*] (1069)

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

[*RL s 665; 1953 c 319 s 3*] (1070)

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

[*RL s 666; 1943 c 254 s 1; 1967 c 761 s 2*] (1071)

367.20 [Repealed, 1969 c 788 s 2]

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

[*RL s 675*] (1082)

367.22 LAW ENFORCEMENT OFFICIAL'S BOND. Before entering upon his duties, and within ten days after he is notified of his election or appointment, every

law enforcement official shall give bond to the town, in a sum directed and with sureties approved by the chairman of the town board, conditioned for the faithful discharge of his official duties. The chairman shall endorse such approval on the bond, and cause it to be filed with the town clerk, for the benefit of any person aggrieved by the acts or omissions of the law enforcement official, and any person so aggrieved, or the town, may maintain an action thereon, in his own name, against the law enforcement official and the sureties.

[*RL s 676; 1978 c 681 s 6*] (1083)

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

[*RL s 677; 1976 c 181 s 2*] (1084)

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

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

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

[*RL s 683*] (1090)

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

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

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

[*1959 c 675 art 6 s 29*]

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 Laws 1975, Chapter 274. 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 and treasurer, or clerk-treasurer, as hereinafter provided for in Laws 1975, Chapter 274. 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 Laws 1975, Chapter 274. 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.

[1975 c 274 s 1]

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 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 his 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. Option A shall not be abandoned in any town exercising the powers of a statutory city pursuant to section 368.01 or pursuant to a special law granting substantially similar powers.

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.

[1975 c 274 s 2; 1976 c 41 s 2]

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.

[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 205.05 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 week's 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.

[1975 c 274 s 4]

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 his office and his 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.

[1975 c 274 s 5]

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. He shall be chosen solely on the basis of his training, experience, and administrative qualifications and need not be a resident of the town. The town clerk may be designated the administrator if he meets these qualifications. The administrator shall be appointed for an indefinite period and he may be removed by the board at any time, but after he has served as administrator for one year he may demand written charges and a public hearing on the charges before the board before his final removal takes effect. Pending a hearing and removal, the board may suspend him from office, with or without pay. The board may appoint a qualified person to perform the duties of the administrator during his 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 placed in his charge. He shall, with the approval of the town board, coordinate the various activities of the town. He shall exercise the authority and responsibilities assigned to him 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 him or by officers who are under his 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 he deems advisable or expedient;

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

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

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.

[1975 c 274 s 6]

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 his 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.

[1975 c 274 s 7]

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, appointed or elected 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 his powers and duties on a part-time basis with or without receipt of compensation.

Subd. 4. "Deputy constable" means any individual employed, appointed or elected by a political subdivision to fulfill law enforcement duties but who is prohibited from carrying a firearm while exercising his 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.

[1978 c 681 s 3]

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 or elected on or after July 1, 1979, 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 rules promulgated under section 626.843.

Subd. 2. A constable employed or elected by any political subdivision prior to July 1, 1979 shall be licensed by the board with respect to his term of office as if he had met the licensing requirements of the Minnesota board of peace officer standards and training.

Subd. 3. Any individual seeking election or employment on or after July 1, 1979 as a peace officer or constable pursuant to section 367.03 shall, at the time of application for the office, provide evidence of satisfaction of the selection standards adopted by rule by the Minnesota board of peace officer standards and training and administered by the county sheriff.

Subd. 4. Any individual seeking employment or election 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 he has not been convicted of a felony within ten years.

Subd. 5. Any individual seeking election or employment as a peace officer pursuant to section 367.03 on or after July 1, 1979 shall not be eligible for permanent appointment without being licensed by the board pursuant to rules promulgated under section 626.843.

[1978 c 681 s 4]

367.42 DUTIES OF DEPUTY CONSTABLES. Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any deputy constable employed or elected on or after July 1, 1979 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 conduct foreclosure sales on corporation shares pursuant to section 301.17;
 - (ii) To inspect communication wire and cable or records of such wire and cable pursuant to section 325.85;
 - (iii) To conduct hotel lien sales pursuant to section 327.06; and
 - (iv) To conduct public auction sales of unclaimed property pursuant to sections 345.04 and 345.05.

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(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.

[1978 c 681 s 5]