

## STATE SUBDIVISIONS

## Towns

## CHAPTER 365

## GENERAL PROVISIONS

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NOTE: For special laws relating to specific towns, see Table 1, Vol. 10.

**365.01 BOUNDARIES.**

The boundaries of towns shall remain as now established until otherwise provided by the county board pursuant to law.

**History:** *RL s 621 (998)*

**365.02 CORPORATE POWERS.**

Each town is and shall be a body corporate, and empowered:

- (1) To sue and be sued by its corporate name;
- (2) To purchase, take, and hold real and personal property for public uses, and convey and dispose of the same;
- (3) To make all contracts necessary for the exercise of its corporate powers; and
- (4) To make such orders for the disposition, regulation, and use of its corporate property as the inhabitants thereof may deem expedient.

**History:** *RL s 622 (999)*

**365.025 CONTRACTS.**

Notwithstanding any law to the contrary, the town board shall have power to make such contracts as may be deemed necessary or desirable to make effective

any power possessed by the town. The town may purchase personal property through a conditional sales contract and real property through a contract for deed under which contracts the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. When the contract price of property to be purchased by contract for deed or conditional sales contract exceeds one percent of the assessed valuation of the town, the town may not enter into such a contract for at least ten days after publication in the official newspaper of a board resolution determining to purchase property by such a contract; 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 town may not enter into such a contract until the proposition has been approved by a majority of the votes cast on the question at a regular or special election.

**History:** 1969 c 648 s 1

### **365.03 LIMITATION OF POWERS.**

No towns shall possess or exercise any corporate powers except such as are expressly given by law, or are necessary to the exercise of the powers so given.

**History:** RL s 623 (1000)

### **365.04 CONVEYANCES TO TOWNS.**

All real and personal property conveyed to any town, or to the inhabitants thereof, or to any person for the use of the town, or its inhabitants, shall be deemed the property of such town and all such conveyances shall have the same force and effect as if made directly to the town by name.

**History:** RL s 624 (1001)

### **365.05 SALE OF REALTY.**

When any real estate belonging to the town is sold the conveyance thereof shall be executed by the chairman of the town board in his official capacity, and attested by the clerk; and such conveyance, duly witnessed and acknowledged, shall convey to the grantee therein named all of the right, title, and estate which the town then has in the real estate conveyed.

**History:** RL s 626 (1007)

### **365.06 GUIDEPOSTS.**

Every town shall erect and maintain suitable guideposts and boards at such places on the public roads therein as shall be convenient for the direction of travelers.

**History:** RL s 684 (1091)

### **365.07 TOWN CHARGES.**

The following shall be town charges:

- (1) The compensation of town officers for services rendered their towns;
- (2) Contingent expenses necessarily incurred for the use and benefit of the town;
- (3) The moneys authorized to be raised by the vote of the town meeting for general purposes; and
- (4) Every sum directed by law to be raised for any town purpose.

No tax for town purposes shall exceed the amount voted to be raised at the annual town meeting.

**History:** RL s 686 (1093)

**365.08 TOWN CHARGES; DAMAGES CAUSED BY WORK ON SUPPOSED HIGHWAY.**

In all towns in this state where any road work has been performed, or may hereafter be performed, upon a supposed highway thereof, by order of the proper officers of such town, on the belief that the same is a lawful public highway, and where an action at law has been or may hereafter be commenced, in any court of competent jurisdiction, in which it is or may be determined that such supposed highway was not a legal highway at the time the work was performed, all necessary costs and expenses incurred by any defendant therein, and any damages that may have been allowed or shall be allowed in any such action because of such road work shall be a charge against such town in favor of the defendant and allowed and paid by such town the same as other claims. Before such costs, expenses, and damages shall be a charge, and be paid by the town, the same shall be authorized by a majority of all legal voters present and voting in favor thereof at an annual or a special meeting of such town, after due notice that the question will be submitted and voted upon at the meeting.

**History:** 1907 c 150 s 1 (1094)

**365.09 TOWN TAXES.**

Taxes to raise money for defraying town charges shall be levied on the taxable property in the town in the manner prescribed in chapter 275.

**History:** RL s 689 (1097)

**365.10 TOWN MEETINGS, POWERS.**

The electors of each town have power, at their annual town meeting:

(1) To determine the locations of pounds, and number of poundmasters, and to discontinue any such pounds;

(2) To select such town officers as are to be chosen;

(3) To make such lawful orders and bylaws as they deem proper for restraining horses, cattle, sheep, swine, and other domestic animals from going at large on the highways, and provide for impounding such animals so going at large;

(4) To fix penalties for violations of any order or bylaw made by such town, except such as relate to the keeping and maintaining of fences;

(5) To vote money for the repair and construction of roads and bridges, and determine the amount thereof to be assessed as labor tax, and to vote such sums as they deem expedient for other town expenses, including the construction and maintenance of docks and breakwaters;

(6) When they deem it for the interest of the town to direct that a specified amount of the poll and road tax be expended, under the direction of their town board, on the roads of an adjoining town;

(7) To authorize the town board to sell and convey or lease any real or personal property belonging to the town, not conveyed to and required to be held by the town for a special purpose;

(8) To authorize the town board to purchase or build a town hall or other building for the use of the town, and to determine, by ballot, the amount of money to be raised for that purpose; but, if a site for a town hall is once obtained, it shall not be changed for another site, except by vote therefor designating a new site by two-thirds of the votes cast at such election of the legal voters of the town;

(9) To authorize the town board, by vote, to purchase grounds for a town cemetery, and limit the price to be paid, and to vote a tax for the payment thereof;

(10) To authorize the town, either by itself or in conjunction with one or more other towns, to purchase grounds for a public park and to limit the price to be

paid therefor, to authorize the town, alone or in conjunction with such other town or towns, to care for, improve, and beautify such parks, and to determine, by ballot, the amount of money to be raised for that purpose, and to vote a tax for the payment thereof;

(11) To vote money to aid in the construction of community halls, to be erected by farm bureaus, farmers clubs, or other like organizations.

(12) To vote a tax to purchase and maintain a public dumping ground.

(13) To authorize the town board, by resolution, to determine whether to open or maintain town roads upon which no maintenance or construction has been conducted for 25 years or more. For purposes of this clause the provisions of section 163.16 shall not apply to town roads described in this clause, nor shall the provisions of this clause apply to cartways.

**History:** *RL s 625; 1909 c 350 s 1; 1913 c 14 s 1; 1921 c 246 s 1; 1925 c 158 s 1; 1953 c 70 s 1; 1967 c 95 s 1; 1978 c 497 s 1; 1981 c 77 s 2 (1002)*

### **365.105 TAXES IN CERTAIN TOWNS.**

At any annual town meeting, or at any special town meeting properly called for that purpose, in any town in this state now having, or which shall hereafter have, a taxable valuation of less than \$100,000, a sum may be voted as a tax for town purposes of not to exceed \$250, but the rate of such tax shall not exceed one-half of one percent upon the taxable valuation in any such town.

**History:** *1913 c 165 s 1 (1006)*

### **365.106 COMMEMORATIVE, APPROPRIATION.**

In any town, at its annual town meeting or at any special town meeting properly called for that purpose, a sum may be voted for the purpose of ascertaining, collecting, preserving, printing, publishing, and distributing data and material pertaining to the history of the town for the purpose of commemorating the anniversary of any important and outstanding event in such history. The sum so voted shall not exceed \$250 in any one year.

**History:** *1951 c 38 s 1*

### **365.11 BYLAWS TO BE POSTED.**

No bylaw shall take effect until posted notice thereof has been given. Thereafter it shall be binding upon all the inhabitants of the town, and upon all persons coming within its limits.

**History:** *RL s 627 (1008)*

### **365.12 PLACES FOR POSTING LEGAL NOTICES.**

The voters at each annual town meeting 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 such places; provided, that in any town in which there is located within the geographical limits a city, one or more such notices may be posted in such city. The voters 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.

**History:** *RL s 687; 1931 c 182 s 1; 1973 c 123 art 5 s 7; 1981 c 5 s 1 (1095)*

### **365.13 POUNDS.**

When the electors of any town determine at the annual town meeting to maintain one or more pounds the same shall be under the control of such poundmasters as are chosen for that purpose.

**History:** *RL s 685 (1092)*

**365.14 TOWN BUILDINGS.**

When any town shall have authorized the purchase or building of a town hall or other building for its use and determined the amount of money to be raised for that purpose the town board may levy a tax for the amount so authorized and make all necessary contracts for purchasing or building the same and shall have the control and management thereof.

**History:** *RL s 628 (1009)*

**365.15 FIRE AND POLICE PROTECTION; ACQUISITION OF APPARATUS.**

The electors of each town shall have the power at any annual or special town meeting to authorize the town board to provide for fire protection or for police protection, or both, and for the purchase or acquisition of apparatus therefor, either by itself or jointly with any other town, city, or any number thereof, and for the maintenance and operation of such apparatus, and to determine by ballot the maximum amount of money to be raised in that year and each year thereafter for any or all of such purposes until changed in the same manner by the electors at a subsequent meeting.

**History:** *1927 c 30 s 1; 1953 c 57 s 1; 1955 c 107 s 1; 1961 c 674 s 1; 1973 c 123 art 5 s 7 (1027-1)*

**365.16 TAX LEVY; CONTRACTS; CONTROL OF APPARATUS.**

When the electors of any town have authorized the providing of apparatus for fire protection or for police protection, or both, or the maintenance and operation of such apparatus or both, and determined the amount of money to be raised therefor, the town board may annually levy a tax for the amount so authorized or for such lesser amount as the board may determine to be necessary and make all contracts necessary for providing the same and shall have the control and management of the apparatus so provided, subject to control and management jointly with other towns or cities as herein provided.

**History:** *1927 c 30 s 2; 1953 c 57 s 2; 1955 c 107 s 2; 1961 c 674 s 2; 1973 c 123 art 5 s 7 (1027-2)*

**365.17 ADJACENT TOWNS, JOINT APPARATUS. "**

When the electors of two or more adjacent towns have authorized the providing of apparatus for fire protection and determined the amount of money to be raised in the respective towns for that purpose the town boards of such two or more towns may arrange for pooling the amounts raised by such towns and for providing such apparatus jointly and for the maintaining of such apparatus for the use of such towns in common upon such terms and conditions and subject to such rules and regulations as may be mutually agreed upon and, in such case, the immediate control and management of the apparatus may be entrusted to a committee composed of the chairman of each of the boards. The term of any such joint agreement may be any reasonable period not exceeding ten years.

**History:** *1927 c 30 s 3; 1955 c 107 s 3 (1027-3)*

**365.18 NEARBY CITY, CONTRACTS.**

Subdivision 1. When the electors of any town have authorized the providing of fire protection or police protection, or both, or apparatus therefor, and the maintenance and operation of such apparatus, determined the amount of money to be raised therefor, the town board may annually levy a tax for the amount so authorized or for such lesser amount as the board may determine to be necessary,

and enter into a contract with the county in which the town is located or with any nearby city, or with any volunteer fire department or association not established by charter or ordinance as an official part of a city government for the furnishing of such fire protection within the limits of the town and for the care, maintenance and operation of such apparatus, on such terms and conditions as mutually may be agreed upon. The term of any such contract may be any reasonable period not exceeding ten years.

Subd. 2. In the event that no tax is levied or in the event that the proceeds of the tax levied pursuant to subdivision 1 for fire protection are insufficient to reimburse the town for the amount expended for fire protection service pursuant to a contract during any year, the town board may levy annually upon each parcel of real estate in the town which required fire services during the year an assessment for fire protection, not to exceed the actual cost of such service, but no such assessment shall be made except upon ten days mailed notice by the town board to the owners of the parcels proposed to be assessed, which notice shall indicate the time and place the town board will meet to consider the assessment. Determination of ownership shall be made on the basis of the records of the county auditor. Such assessment shall be a lien upon such parcel of real estate and shall be due and payable to the town treasurer 30 days after said levy. Any assessment which is not paid when due, shall be certified by the treasurer of the town, together with a description of the real estate affected, to the county auditor, who shall add the amount of the assessment plus a penalty of ten percent to the tax rolls of such parcel of such real estate and extend and collect such total amount of the assessment with other real estate taxes for the next subsequent year.

Subd. 3. Where a municipality has contracted with or enters into contract negotiations with a town to furnish fire services pursuant to this section, it shall provide the town with such cost data relating to fire protection as requested. A copy of each existing fire protection contract with other political subdivisions shall be provided upon request.

**History:** 1927 c 30 s 4; 1943 c 389 s 1; 1947 c 435 s 1; 1953 c 57 s 3; 1955 c 107 s 4; 1961 c 674 s 3; 1969 c 243 s 1; 1971 c 72 s 1; 1973 c 123 art 5 s 7 (1027-4)

### **365.19 TAX LEVY, LIMIT.**

Nothing in sections 365.15 to 365.18 shall be construed so as to modify, abridge, or repeal Laws 1925, Chapter 407. Any levy hereunder shall be separate and distinct from, and in addition to, the levy and the amount of tax authorized in any one year pursuant to section 88.04.

**History:** 1927 c 30 s 5; 1953 c 57 s 4; 1953 c 156 s 1; 1971 c 271 s 1; 1975 c 67 s 1 (1027-5)

### **365.20 MAY PROVIDE FIRE PROTECTION, POLICE PROTECTION, AND USE OF ROADS, STREETS, AND GROUNDS FOR WATER MAINS IN CERTAIN TOWNS.**

The electors of any town in which the assessed valuation of the platted lands thereon equals or exceeds 50 percent of the total assessed valuation of all the lands of such towns, exclusive of mineral valuations, shall have power, at a special election called for that purpose or at the regular annual meeting, to authorize the town board:

- (1) To provide for fire protection and apparatus therefor;
- (2) To provide for police protection;
- (3) To allow, permit, prohibit, and limit the use of its roads, streets, and public grounds for water mains, with all necessary pipe, hydrants, and other appliances and means; and

(4) To empower the town board to build and construct water mains, with all the necessary pipe, hydrants, and other appliances for the purpose of providing water for the inhabitants thereof, upon such terms and conditions as may be imposed by such town board, and upon the condition that the water rates charged to the inhabitants of such town and the public shall be just and reasonable and not exceeding a fair return upon the fair value of the property used for such purpose, for a period of not more than 20 years.

**History:** 1927 c 219 s 1; 1935 c 249 (1027-6)

### 365.21 SPECIAL ELECTION.

A special election of the electors of such town may be called, for the purpose of voting upon any of the propositions set forth in section 365.20, by the town board, upon its own motion, or shall be called by the town board upon a petition of 20 percent of the qualified electors of such town, based upon the number of such electors as shown by the poll list of voters at the next preceding election prior to the making of the petition. Notice of the election shall be given by posting notice thereof in three of the most public places in the town, specifying the propositions upon which the electors are to vote, as follows:

(1) Shall the town board be authorized to provide for fire protection and apparatus therefor?;

(2) Shall the town board be authorized to provide for police protection?;

(3) Shall the town board be authorized to grant a franchise for waterworks for the purpose of supplying the inhabitants of the town and the public with water?;

Or as many of such propositions as are to be voted upon at such election.

**History:** 1927 c 219 s 2 (1027-7)

### 365.22 CONDUCT OF ELECTION.

Every such election shall be conducted in the same manner as elections by ballot at the regular town election. The propositions to be voted upon shall be separately stated upon the ballots, as specified in section 365.21 and opposite each proposition shall be placed two squares, with the words "yes" and "no" set opposite each square, as follows:

"Yes ....."

No ....."

and each elector shall vote separately on each proposition by making a cross in the square indicating whether he desires to vote "yes" or "no" on the proposition.

The polls shall be open from nine a.m. to seven p.m., and in all other respects the election shall be conducted and the votes canvassed as elections by ballot, as provided in sections 205.01 to 205.17.

**History:** 1927 c 219 s 3; 1965 c 51 s 72; 1980 c 509 s 144 (1027-8)

### 365.23 POWERS TO BE EXERCISED ONLY AT TOWN MEETING.

In case any of the powers set forth in section 365.20 shall be granted to any such town board by the electors in the manner aforesaid, the town board shall not have any authority to spend money therefor or to enter into any contract or levy any tax for any such purposes unless the same be authorized at the annual town meeting, except that whenever the electors vote to authorize any town board to exercise any of such powers in any year after the annual town meeting, a special town meeting may be called upon ten days notice, and such special town meeting shall have the same authority in respect to voting for these purposes as the electors at an annual town meeting.

**History:** 1927 c 219 s 4 (1027-9)

**365.24 ELECTION TO REVOKE POWERS GRANTED.**

The electors of any such town may, by an election called and held, as hereinbefore provided, revoke any authority of such town theretofore granted by vote of such electors, as aforesaid; and, in any such case, if such election results in a revocation of any of such powers, the town board shall no longer exercise the same.

**History:** 1927 c 219 s 5 (1027-10)

**365.243 FIRE PROTECTION FOR UNORGANIZED TOWNSHIPS.**

Subdivision 1. In any county of this state containing one or more unorganized townships the county board may provide fire protection for such unorganized township or townships and may levy taxes upon the property in such unorganized township or townships for such purpose.

Subd. 2. Under sections 365.15 to 365.18, and section 365.20, a county board acts for unorganized territory within its county and no authority from the electors of such territory to the county board is required; any act of a county board in providing fire protection in and levying taxes therefor in unorganized territory is valid to the same extent as a similar act of a town board of an organized township duly authorized by the electors of the town.

**History:** 1955 c 501 s 1.2

**365.25** [Repealed, 1971 c 845 s 20]

**365.26 CEMETERIES.**

When authorized by a vote of its electors any town may acquire by purchase, gift or condemnation land or additional lands within its limits to be used as a cemetery. The town board may expend town funds for the care, maintenance and operation of its cemetery. The town board may determine those eligible for burial in the cemetery and establish other policies for the cemetery. The town board shall have control and management of every such cemetery, and may lay the same out into lots, streets, and walks, and cause plats and maps thereof to be made and filed in the office of the town clerk. If any such cemetery becomes separated from the town by being included in a statutory city thereafter organized from its territory, it may be sold and conveyed by the town board to such statutory city. When authorized by a vote of its electors at a town meeting the town may sell or lease any part of such cemetery to a charitable, religious, or cemetery corporation upon the terms and conditions expressed in such authorization, but the part so sold or leased shall continue to be used for burial purposes. Upon receipt of a resolution of the town board requesting financial aid for maintenance of a town cemetery, the statutory city council of any statutory city located within the boundaries of such town may, in its discretion, appropriate from moneys not required for other purposes and pay to the town for maintenance of such town cemetery a sum not to exceed \$500 per annum, provided that burial of the dead of the statutory city is permitted in such cemetery, and the town board is authorized to grant such permission on such terms and with such limitations as it shall from time to time prescribe.

**History:** RL s 629; 1943 c 464 s 1; 1949 c 249 s 1; 1951 c 493 s 1; 1973 c 123 art 5 s 7; 1981 c 26 s 1 (1011)

**365.27 SALE OF LOTS; PROCEEDS.**

Lots of such cemetery may be sold by the town board only for the burial of those permitted by the board and, upon sale, shall be conveyed in like manner as its other real estate. Proceeds of all sales shall be paid into the town treasury, and



shall constitute a fund to be used only in maintaining, improving, and ornamenting such cemetery.

**History:** *RL s 630; 1981 c 26 s 2 (1012)*

### **365.28 PUBLIC BURIAL GROUNDS.**

When any tract of land in a town, title to which is not vested in some cemetery association, has been used as a public burial ground for ten years the title thereto shall be deemed vested in such town and the same shall be subject to the control and management of the town board of such town in like manner as other town cemeteries.

**History:** *RL s 631 (1013)*

### **365.29 PERMANENT FUND FOR CEMETERY PURPOSES.**

The board of supervisors of any town in the state which has heretofore purchased land for, and which is now used, or may be hereafter purchased and used, as a cemetery therein, may require and provide that any part or portion of the price paid for lots therein shall constitute a permanent fund, which shall be deposited, as provided in section 365.32, and that the interest accruing thereon shall be paid annually to the directors of the cemetery to be by them expended in caring for and beautifying such lot in the proportion which the amount set aside from the lot bears to the total amount in the fund.

**History:** *1911 c 224 s 1; 1917 c 161 s 1 (1014)*

### **365.30 SUPERVISORS TO FIX PRICE.**

The board of supervisors is hereby given power and authority to fix and determine the amount of such price of each such lot sold that shall be taken, held, and deposited, for the purpose of caring for and beautifying the lot and cemetery and to direct and require the directors of the cemetery to expend the interest on the same as provided in sections 365.29 to 365.36.

**History:** *1911 c 224 s 2; 1917 c 161 s 2 (1015)*

### **365.31 GIFTS.**

The town board of supervisors and the directors, and each thereof, are hereby authorized and empowered to receive, accept, and deposit, as provided in sections 365.29 to 365.36, any donation or gift of money made to such fund so created and to provide and require that the interest therefrom shall be used by the directors in the care and beautifying of such lot or lots in such cemetery, or in the care and beautifying of such cemetery, and may receive and accept gifts and donations for the care and beautifying of any particular lot or lots in such cemetery, and shall use the same and the interest thereon for the purpose specified by the donor.

**History:** *1911 c 224 s 3; 1917 c 161 s 3 (1016)*

### **365.32 TO DEPOSIT MONEY WITH COUNTY TREASURER.**

The board of supervisors is hereby authorized and empowered to require the directors of any such cemetery to deposit all such money in the treasury of the county in which such town is located immediately after the sale and receipt by them of payment for any lot sold in such cemetery, or the receipt of any such gift or donation, and the treasurer of any such county is hereby authorized, empowered, and directed to receive the same and all such and deposit it as provided in sections 365.29 to 365.36. These funds, and all thereof, as soon as received by such county treasurer, shall be deposited in a bank designated as a depository of county funds by the county board of such county.

**History:** *1911 c 224 s 4,5; 1917 c 161 s 4,5 (1017, 1018)*

**365.33 INTEREST; USE.**

For the purpose of such deposit, the fund so created shall be treated as other funds in the county treasury, except as herein otherwise provided, and draw no less rate of interest than is paid on the funds of the county deposited in the depository; provided that the board of directors of the cemetery association may require all or part of the funds to be deposited on time certificates in the depository in the name of the county treasurer, payable to him or his successors in office, and the county treasurer shall secure on such time deposit the highest rate of interest which the depository will pay thereon and not less than the current rate paid on time certificates by such depository; and for such principal and interest so deposited on time certificates, the treasurer shall be liable in the same way and manner and to the same extent that he is liable upon his bond for moneys deposited on behalf of the county.

The fund shall be deposited in such depository in the name of such county and the bond or security given to the county by such depository shall be taken and held to be as security for such fund, but the treasurer of such county shall keep an accurate and separate account thereof and draw from such depository annually the interest accruing on such fund and pay the same to the board of directors of the cemetery and the board of directors shall use the interest for the purposes of sections 365.29 to 365.36 and none other.

**History:** 1911 c 224 s 6,7; 1917 c 161 s 6,7 (1019, 1020)

**365.34 TRANSFER OF FUND.**

It is hereby made the duty of the treasurer of any such county, when any change is made in the depository of the funds of any such county, to change and transfer to such new depository the fund provided for in sections 365.29 to 365.36 and deposit such fund in such new depository.

**History:** 1911 c 224 s 8 (1021)

**365.35 DISPOSAL OF EXCESS.**

Any excess of interest over the sum necessary for the care and beautifying of the lots or cemetery in any one year shall be by the directors deposited in such treasury to be added to and become a part of the principal sum and no part of the principal sum shall ever be used.

**History:** 1911 c 224 s 9; 1917 c 161 s 8 (1022)

**365.36 INVESTMENT OF FUND.**

The board of supervisors, by and through the board of directors of the cemetery association, if there shall be a board of directors thereof, and if there shall not be a board of directors thereof, then acting as a board of supervisors, shall invest the fund so created in the same kind of bonds and securities as the permanent school fund of the state may be invested in and for such purpose and none other. This law, as it shall exist at the time any money is received into this fund, shall control the investment thereof and such fund shall be invested only as the law provides at the time of the receipt of the money into the fund, and no subsequent amendment or change in this law shall authorize the investment of any fund differently or in any other class of securities save as provided in this law when the money is received into the fund. The board of supervisors and the cemetery directors may require the treasurer of any such county to withdraw all or any part of such fund from such depository for investment, as hereinbefore provided, and if the fund, or any part thereof, be so invested, the bonds or other securities shall be and remain with the county treasurer and the bond of the county treasurer shall at all times be security for the proper care thereof and the

payment of interest received by him thereon to the directors of the cemetery, and upon payment of any such bonds or other securities the treasurer of such county, upon such payment, shall deposit the same in the depository in which county funds are deposited, shall collect the interest upon the funds so loaned and pay the same to the directors of the cemetery whenever requested so to do and annually pay over to the directors of the cemetery all interest on money collected or received by him on funds so deposited or invested as provided in sections 365.29 to 365.36.

On or before the first day of March each year, the county treasurer shall make a report to the board of supervisors of the town in which he shall set forth a statement of all moneys received by him under the terms of sections 365.29 to 365.36 during the preceding calendar year and set forth in detail a statement of the amount of money in the permanent fund on the first day of the calendar year and the amount of securities in the fund on the first day of the calendar year, the amount of money paid into the fund during the year, the amount of money invested in securities in the year, a statement of the securities held in the fund at the end of the calendar year and the amount of money in the fund at the end of the calendar year, a statement of the amount of interest collected on the fund and turned over to the directors, and a statement of the excess, if any, of the interest over the sum necessary for the care and beautifying of the lots which the directors shall have deposited in the treasury to be added to and made a part of the permanent fund.

**History:** 1911 c 224 s 10; 1917 c 161 s 9 (1023)

### **365.37 CONTRACTS; LET ON BIDS, OFFICERS NOT TO BE INTERESTED.**

Except as provided in Laws 1951, Chapter 379, no supervisors, town clerk, or town board shall become a party to, or be directly or indirectly interested in, any contract made or payment voted by the town board and all contracts involving an expenditure of \$1000 or more shall be let to the lowest responsible bidder after ten days public notice, posted in the three most public places in the town or published for two weeks in a newspaper generally circulated in the town, of the time and place of receiving bids. In cases of special emergency, amounts in excess of \$1000 may be expended without such notice being given. In towns having less than 25 legal voters, the officers may be employed upon road work by the day at such price as may have been fixed for such work by the town at its annual meeting. Every contract made and payment voted or made contrary to the provisions of this section shall be void and any such officer violating the provisions of this section shall be guilty of a misdemeanor and, in addition to the provisions prescribed by law, removed from office.

**History:** RL s 688; 1913 c 164 s 1; 1951 c 74 s 1; 1951 c 379 s 4; 1957 c 76 s 1 (1096)

**NOTE:** See sections 160.17, 471.345, and 471.87 to 471.89.

### **365.38 FILING CLAIMS; DEMAND.**

No action upon any claim or cause of action for which a money judgment only is demandable, except upon town orders, bonds, coupons, or written promises to pay money, shall be maintained against any town unless a statement of such claim shall have been filed with the town clerk. No action shall be brought upon any town order until the expiration of 30 days after payment thereof has been demanded.

**History:** RL s 695 (1106)

**365.39 ACTIONS.**

Actions and proceedings between towns, or between a town and an individual or a corporation, shall be begun, tried, and conducted in the same manner, and a judgment therein shall have a like effect, as in similar actions and proceedings between individuals.

**History:** *RL s 693 (1104)*

**365.40 ACTIONS, IN WHAT NAME.**

In all actions or proceedings the town shall sue and be sued in its name, except where town officers are authorized to sue in their official names for its benefit. In every action against a town, process and papers shall be served on the chairman of the town board or on the town clerk; and such chairman shall attend to the defense of the action, and lay before the board of supervisors at the first meeting a full statement of the facts relating thereto for its direction in defending the action or proceeding.

**History:** *RL s 694; 1974 c 394 s 4; 1978 c 497 s 2 (1105)*

**365.41 JUDGMENTS AGAINST TOWNS.**

When a judgment is recovered against a town, or against any town officer in an action against him in his official name, no execution shall be issued thereon; but, unless reversed or stayed, it shall be paid by the town treasurer upon demand and the delivery to him of a certified copy of the docket thereof, if he has in his hands sufficient town money not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within 30 days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to the town levied for the purpose of paying such judgment, execution may issue, but only town property shall be liable thereon.

**History:** *RL s 696 (1107)*

**365.42 TAX TO PAY JUDGMENT.**

If a judgment for the recovery of money is rendered against a town, and is not satisfied or proceedings thereon stayed before the next annual town meeting, upon presentation of a certified copy of the docket of such judgment to such town meeting the town board shall add to the tax levy for that year the amount of such judgment.

**History:** *RL s 697 (1108)*

**365.43 YEARLY ASSESSED TAXES TO LIMIT DEBTS AND EXPENDITURES; EXCEPTION.**

No town shall contract debts or make expenditures for any one year exceeding in amount the taxes assessed for such year, unless such debt or expenditure is authorized by the vote of a majority of the electors of such town, and no taxes in excess of the amounts authorized by law shall be levied by any town in any one year.

**History:** *RL s 690 (1098)*

**365.44 SEPARATION FROM A STATUTORY CITY.**

Upon filing with the clerk of any town, except in any town having an area of more than two congressional townships and an assessed valuation of more than \$1,500,000 or having a population of more than 1,000 including the population of any statutory city located within the town, of a notice, signed by not less than 50

voters thereof residing either within or without the statutory city to be separated stating that the question of the separation of such town for all purposes from any statutory city located therein will be voted upon at the next annual town meeting, the clerk shall insert such statement in the notice of such meeting, and the question shall be voted upon by a ballot. If a majority of the votes cast upon such proposition be in favor of the separation, such town shall thereafter be separated from such statutory city for all purposes. Only voters residing without the statutory city shall be entitled to vote upon such question at said town meeting.

**History:** *RL s 691; 1949 c 95 s 1; 1973 c 123 art 5 s 7 (1099)*

### **365.45 DISSOLUTION OF TOWNS.**

When the electors of any town, at the annual meeting, or at a special meeting called for that purpose, shall have voted, by ballot, to dissolve the town organization hereunder, the town board thereof shall adopt a resolution setting forth such facts and asking for the dissolution of the town; and a copy of the resolution, duly certified by the town clerk, shall be presented to the board of county commissioners of the county in which such town is located, such board of county commissioners may, or whenever the tax delinquency in any town exceeds 70 percent in any one year, the board of county commissioners of the county wherein such town is situated, on its own initiative, may, by resolution, dissolve such town and attach the territory formerly embraced therein to an adjoining town or towns, or provide for the government of such territory as unorganized territory of the county. If such dissolved territory is added to an adjoining town the proposal therefor shall first have the approval of a five-eighths majority of the voting electors of such town to which the dissolved territory is added. Upon the adoption of the resolution by the county board such town shall be dissolved and no longer entitled to exercise any of the powers or functions of an organized town. The county auditor shall give ten days notice, by one publication in the paper in which the proceedings of the county board are published, of the meeting of the county board at which such petition will be considered.

**History:** *1931 c 96 s 1; 1933 c 235 (1002-9)*

### **365.46 COPY OF RESOLUTION FILED WITH SECRETARY OF STATE.**

A certified copy of the resolution of the county board declaring such town to be dissolved shall forthwith be forwarded by the county auditor 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.

**History:** *1931 c 96 s 2 (1002-10)*

### **365.47 DISPOSAL OF FUNDS.**

Any funds belonging to the town remaining in or thereafter coming into the treasury of the county in which such town was located shall be disposed of in the following manner:

Any road or bridge fund shall be expended by the county board of 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 all outstanding bonds, warrants, or judgments against the town. If the funds so remaining are not sufficient to pay such outstanding bonds, warrants, or judgments, then, upon petition of the holders thereof, the county auditor shall spread a tax levy against the taxable property of the town in an amount sufficient to pay the same, which levy shall not exceed the maximum amount which the town would have been authorized to levy for the purpose of paying such indebtedness if it had not been dissolved. If the levy shall not be sufficient to pay off such bonds,

warrants, or judgments, the county auditor shall spread successive annual levies in the maximum amount which the town would have been able to levy for such purpose if it had not been dissolved until such warrants, bonds, or judgments are paid in full, unless bonds are issued therefor as provided in section 365.48.

*History: 1931 c 96 s 3 (1002-11)*

#### **365.48 PAYMENT OF INDEBTEDNESS.**

In the event the outstanding bonds, warrants, and judgments shall exceed the maximum amount which may be raised by one year's levy, as provided for in sections 365.45 to 365.49, the county board may issue funding or refunding bonds, in the manner provided by law for the issuance of county funding or refunding bonds, to take up such warrants, judgments, or bonds without first submitting the question of such issue to the electors residing in the territory or in the county. Any bonds so issued shall not be an obligation of the county but shall be an obligation of the territory formerly included in such town and shall be payable out of levies made against the property in such territory, as provided in section 365.47, and such restriction shall be printed upon the face of the bonds. Except as provided in sections 365.45 to 365.49, such bonds shall be issued pursuant to the provisions of sections 475.51, 475.53, 475.54, 475.58, 475.62, 475.63, 475.66, 475.72, and the tax levy required by section 475.61 shall be made against the property of the territory formerly included in such town at the time of the issuance of such bonds.

*History: 1931 c 96 s 4; 1935 c 189 (1002-12)*

#### **365.49 PROPERTY TO REVERT TO COUNTY.**

Any property, real or personal, of such town which is needed for county purposes shall become the property of the county but the reasonable value thereof, as determined by the county board, shall be credited to such town and used for the purpose of paying off outstanding bonds, warrants, or judgments. Any other property of such town shall become the property of the county without any allowance being made therefor. Any surplus funds of the town, after all obligations have been paid, shall be credited to the general fund of the county.

*History: 1931 c 96 s 5 (1002-13)*

#### **365.50 FIRST TOWN MEETING.**

The first town meeting in each new town shall be held within 20 days after it is organized, at a time and place to be designated by the county board, and the county auditor shall cause ten days' posted notice thereof to be given in each such town. The voters present at such meeting, between 9:00 A.M. and 10:00 A.M. or such other time as shall be set by the town board, shall choose one of their number as moderator, two others as judges of election, and one as clerk who shall severally take and subscribe the oath required of judges of a general election, which may be administered to the judges by the moderator, and to the moderator by one of the judges. They shall thereupon conduct the proceedings of such meeting, and the voters shall possess the same powers as at other town meetings.

*History: 1959 c 675 art 6 s 18*

#### **365.51 ANNUAL TOWN MEETING; PRECINCTS; POLLING PLACES.**

There shall be an annual town meeting held in each town on the second Tuesday of March at the place designated by the annual town meeting, and if no designation is so made then at the place designated by the town board. In the event of inclement weather the meeting shall be held on another March day

designated by the board. The clerk shall give ten days' published notice specifying time and place in a qualified newspaper having general circulation within the town, or by posted notice, as the town board shall direct unless the voters at the annual town meeting direct otherwise. All town officers required by law to be elected shall be chosen thereat, and other business done as is by law required or permitted. The town board may, with respect to an election by ballot at the annual town meeting for the purpose of selecting town officers or of determining any matter of town business, provide for the casting of ballots in precincts and at polling places. Precincts and polling places shall be designated by the town board in the manner prescribed by sections 204B.14 and 204B.16.

**History:** 1959 c 675 art 6 s 19; 1967 c 31 s 1; 1969 c 793 s 1; 1973 c 123 art 5 s 7; 1975 c 5 s 131; 1980 c 359 s 1; 1981 c 29 art 7 s 32

### 365.52 SPECIAL TOWN MEETINGS; PRECINCT; POLLING PLACES.

A special town meeting may be held for the purpose of election to fill a vacancy when the town board has failed to fill the vacancy by appointment, or for transacting any other lawful business whenever the supervisors, town clerk, and justices of the peace, or any two of them, together with at least 12 other freeholders of the town, file in the office of the town clerk a written statement setting forth the reasons and necessity for such meeting and the particular business to be transacted thereat and that the interests of the town require that such meeting be held. A town meeting may also be called upon a petition of 20 percent of the eligible voters of the town, based upon the number of voters at the last general election. The town board may, with respect to an election by ballot at a special town meeting for the purpose of selecting town officers or of determining any matter of town business, provide for the casting of ballots in precincts and at polling places. The precincts and polling places shall be designated by the town board in the manner prescribed by sections 204B.14 and 204B.16.

**History:** 1959 c 675 art 6 s 20; 1967 c 31 s 2; 1971 c 843 s 1; 1975 c 5 s 132; 1981 c 29 art 7 s 33

**NOTE:** See also section 367.03, subdivision 2.

### 365.53 NOTICES; PUBLICATION.

When such statement is so filed, the clerk shall record the same, and cause ten days' posted notice thereof to be given, specifying the purpose for which it is to be held, and if a newspaper is published in the town cause one week's published notice of such meeting to be given. If a vacancy in an office is to be filled, the notice shall specify in what office it exists, how it occurred, who was the last incumbent, and when the legal term of such office expires.

**History:** 1959 c 675 art 6 s 21

### 365.54 ORGANIZATION OF MEETING; MODERATOR.

The annual meeting shall convene at 9:00 A.M. provided that the electors at the annual meeting may set a later time for convening the next subsequent annual meeting. The voters present between 9:00 A.M. and 10:00 A.M. or such other time as may be set by the town board on the day of the annual or any special town meeting, or by the electors at the previous annual meeting, shall be called to order by the town clerk, if present; if not, the voters present may elect a chairman by acclamation. They shall then in the same manner choose a moderator of such town meeting. The moderator may be paid \$2.50 for such work, or such amount as may be allowed by the town board.

**History:** 1959 c 675 art 6 s 22; 1975 c 20 s 1

**365.55 CLERK OF MEETING.**

The town clerk shall be clerk of the town meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction and all rules and regulations made by the meeting. If the town clerk is absent, the voters present shall elect a clerk of the meeting. The minutes of such meeting shall be subscribed by the clerk of the meeting and judges, and filed in the office of the town clerk within two days after the meeting.

**History:** 1959 c 675 art 6 s 23

**365.56 ORDER OF BUSINESS.**

At the opening of every town meeting the moderator shall state the business to be transacted, which in case of a special meeting shall be limited to the business specified in the notice of such meeting, and the order in which it will be entertained, and no proposition to vote a tax shall be acted on out of the order of business stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting unless made within one-half hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the election register at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result on each such question.

**History:** 1959 c 675 art 6 s 24

**365.57 WHO MAY VOTE.**

Every person qualified to vote at a general election may vote at any town meeting in the town where he resides. If a voter is challenged, the judges shall proceed thereupon as in the case of challenges at a general election, adopting the oath to the circumstances of the case.

**History:** 1959 c 675 art 6 s 25

**365.58 MEETINGS MAY BE ADJOURNED.**

Any town meeting may be adjourned to any other day, and from time to time, for the purpose of transacting any business of the town except the election of officers.

**History:** 1959 c 675 art 6 s 26

**365.59 FAILURE TO ELECT OFFICERS.**

When any town fails to organize or to elect town officers at the time fixed by law, 12 freeholders thereof may call a town meeting for such purpose by giving ten days' posted notice thereof, setting forth its time, place and object. If no such notice is given in such case within 30 days after the time for holding annual town meetings, the county board, on the affidavit of any freeholder of such town, filed with the county auditor, setting forth the facts, shall appoint officers for such town, who shall have all the powers of officers duly elected, and shall hold their offices until their successors qualify.

**History:** 1959 c 675 art 6 s 27

**365.60** [Repealed, 1978 c 572 s 8]

**365.61** [Repealed, 1980 c 487 s 23]