

## CHAPTER 366

## TOWN BOARD; BOARD OF AUDIT

TOWN BOARD			
366.01	Town board powers listed; formal name.	366.125	May make applicant certify that taxes are paid.
366.012	Collection of unpaid service charges.	366.13	Zoning districts.
366.015	Vote required on weed destruction.	366.14	Purpose of regulations.
366.03	Repair statutory city streets.	366.15	Districts or zones, amendment.
366.04	Transfer funds.	366.151	Certain ordinances; manufactured homes.
366.05	Prosecute bonds, penalties, and forfeitures.	366.16	Town zoning commissioner.
366.07	Treasurer may select depository.	366.17	Planning and zoning commission.
366.08	Treasurer not liable, when.	366.18	Existing buildings not changed.
366.09	Interest on funds.	366.181	Violations; penalties.
366.095	Authority to issue certificates of indebtedness.	366.19	Licenses.
			BOARD OF AUDIT
366.10	Zoning regulations.	366.20	Meetings.
366.11	Ballots.	366.21	Duties.
366.12	Regulations.	366.22	Posting and reading report; fee.
		366.27	Firefighters' relief; tax levy.

## TOWN BOARD

**366.01 TOWN BOARD POWERS LISTED; FORMAL NAME.**

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

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

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

**Subd. 4. Depository; terms; liability; interest.** They may designate a bank as the depository of town money for a time not extending beyond their official term, after the execution by the bank of a sufficient bond to the town to be approved by the board and filed in the office of the town clerk. They may then require the treasurer to deposit all or part of the town money in that bank. The designation shall be in writing, and set forth all the terms upon which the deposits are made. It shall be signed by the chair and clerk and filed with the clerk. The town treasurer shall not be liable for the loss of money while deposited in the bank. All interest on the money shall belong to the town.

**Subd. 5. Dumping ground.** They may acquire by gift or purchase, in the name of the town, a tract of land, either within or outside the town for public dumping ground for the use of the inhabitants of the town. No land for public dumping ground may be acquired outside

the town without the approval of the governmental unit where the land is located. They may maintain the dumping ground and, by resolution, adopt rules for its use.

**Subd. 6. Agreements about dumping ground.** They may make agreements with other counties, towns, statutory cities, governmental subdivisions, individuals or corporations as they deem necessary to locate, construct, or maintain the dumping ground.

**Subd. 7. Attorney.** They may employ an attorney for town business including the prosecution or defense of actions at law or other proceedings in which the town may be interested.

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

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

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

**Subd. 11. Open meeting law; exemption.** Section 471.705 does not apply to a gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity. The town board shall make good faith efforts to provide notice of the inspections to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. The notice shall be given by telephone or by any other method used to notify the members of the public body.

**Subd. 12. Imprest fund.** The town board may establish an imprest fund for the payment in cash of any proper claim against the town which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of an officer or employee shall be paid from the fund. The town board shall appoint a custodian of the fund who shall be responsible for its safekeeping and disbursement according to law. Money for the operation of the fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the town board at the next town board meeting after the disbursements have been made. The town board shall act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund; and if the town board fails to approve the claim in full for any sufficient reason, the custodian shall be personally responsible for the difference.

**History:** (1049) *RL s 651; 1919 c 343 s 1; 1921 c 478 s 1; 1929 c 143 s 1; 1935 c 120 s 1; 1939 c 255 s 1; 1941 c 247 s 1; 1949 c 14 s 1; 1951 c 627 s 1; 1953 c 459 s 1; 1955 c 518 s 1; 1957 c 254; 1963 c 152 s 1; 1967 c 95 s 2; 1973 c 92 s 1; 1973 c 123 art 5 s 7; 1973 c 188 s 1; 1975 c 274 s 8; 1978 c 497 s 3; 1984 c 503 s 5; 1984 c 562 s 18-24; 1986 c 327 s 2; 1986 c 444; 1987 c 90 s 5; 1989 c 9 s 1; 1989 c 197 art 7 s 1; 1994 c 455 s 1; 1995 c 15 s 1*

### 366.012 COLLECTION OF UNPAID SERVICE CHARGES.

If a town is authorized to impose a service charge on the owner, lessee, or occupant of property, or any of them, for a governmental service provided by the town, the town board may certify to the county auditor, on or before October 15 for each year, any unpaid service charges which shall then be collected together with property taxes levied against the property. A charge may be certified to the auditor only if, on or before September 15, the town has given written notice to the property owner of its intention to certify the charge to the auditor. The service charges shall be subject to the same penalties, interest, and other conditions pro-

vided for the collection of property taxes. This section is in addition to other law authorizing the collection of unpaid costs and service charges.

**History:** 1989 c 14 s 1

### 366.015 VOTE REQUIRED ON WEED DESTRUCTION.

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

Yes .....

No ....."

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

**History:** 1941 c 246 s 1; 1955 c 141 s 1; 1984 c 562 s 25; 1986 c 444; 1989 c 197 art 7 s 1

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

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

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

### 366.03 REPAIR STATUTORY CITY STREETS.

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

**History:** (1052) RL s 654; 1973 c 123 art 5 s 7; 1989 c 197 art 7 s 1

### 366.04 TRANSFER FUNDS.

A town board by unanimous vote may transfer a surplus beyond the needs of the current year in a town fund to any other town fund to supply a deficiency.

**History:** (1053) 1913 c 13 s 1; 1989 c 197 art 7 s 1

### 366.05 PROSECUTE BONDS, PENALTIES, AND FORFEITURES.

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

**History:** (1051) RL s 653; 1989 c 197 art 7 s 1

**366.06** [Repealed, 1984 c 562 s 48]

**366.07 TREASURER MAY SELECT DEPOSITORY.**

If the town board fails to act, as provided in section 366.01, subdivision 4, within 30 days after the annual town meeting, the treasurer shall select a depository for town funds and deposit them in the name of the town, obtaining security as provided in section 366.01, subdivision 4.

*History: (1049-2) 1931 c 216 s 2; 1933 c 62 s 2; 1957 c 367 s 4; 1959 c 289 s 2; 1984 c 562 s 26; 1989 c 197 art 7 s 1*

**366.08 TREASURER NOT LIABLE, WHEN.**

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

*History: (1049-3) 1931 c 216 s 3; 1933 c 62 s 3; 1989 c 197 art 7 s 1*

**366.09 INTEREST ON FUNDS.**

All interest on funds deposited under sections 366.01, subdivision 4, and 366.07 to 366.09 shall be credited to the respective town funds.

*History: (1049-4) 1931 c 216 s 4; 1933 c 62 s 4; 1989 c 197 art 7 s 1; 1990 c 426 art 2 s 1*

**366.095 AUTHORITY TO ISSUE CERTIFICATES OF INDEBTEDNESS.**

**Subdivision 1. Certificates of indebtedness.** The town board may issue certificates of indebtedness within the debt limits for a town purpose otherwise authorized by law. The certificates shall be payable in not more than five years and be issued on the terms and in the manner as the board may determine. If the amount of the certificates to be issued exceeds 0.25 percent of the market value of the town, they shall not be issued for at least ten days after publication in a newspaper of general circulation in the town of the board's resolution determining to issue them. If within that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, the certificates shall not be issued until 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 to pay the principal and interest on the certificates as in the case of bonds.

**Subd. 2. Bonds; other obligations.** A town authorized to exercise powers under section 368.01 may issue bonds or other obligations to acquire or better warning systems. Bonds or other obligations authorized by this subdivision must be sold, issued, and secured as provided in chapter 475.

*History: 1984 c 562 s 27; 1985 c 169 s 10; 1986 c 314 s 1; 1987 c 384 art 1 s 35; 1988 c 719 art 5 s 84; 1989 c 1 s 3; 1989 c 197 art 7 s 1*

**366.10 ZONING REGULATIONS.**

The board of supervisors may submit to the legal voters of the town at an annual or special town meeting, the question whether the board shall adopt land use and zoning regulations and restrictions in the town. The board in a town which has within its borders a hospital established in accordance with Laws 1955, chapter 227, may submit to the voters at an annual or special town meeting, the question whether the board shall adopt land use and zoning regulations and restrictions in the town regulating the type of buildings that may be built or occupations carried on within a radius of one-half mile of the hospital.

*History: 1939 c 187 s 1; 1941 c 186 s 1; 1947 c 236 s 1; 1947 c 500 s 1; 1949 c 707 s 1; 1953 c 188 s 1; 1957 c 74 s 1; 1965 c 51 s 73; 1976 c 239 s 110; 1978 c 674 s 39; 1989 c 197 art 7 s 1; 1995 c 254 art 3 s 1*

**366.11 BALLOTS.**

The following question shall be printed on the ballots for the election:

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

Yes.....

No.....”

The voters shall place a cross-mark after one of the alternatives to express their choice. The ballot shall be cast and counted during the same hours and in the same manner as ballots for the election of the town officers. Except as provided in sections 366.10 to 366.18, the meeting and election shall be subject to the laws regulating town meetings and elections of town officers.

**History:** 1939 c 187 s 2; 1980 c 416 s 2; 1989 c 197 art 7 s 1

### 366.12 REGULATIONS.

If a majority of the voters voting on the question vote “Yes,” the town board may regulate:

- (1) the location, height, bulk, number of stories, size of buildings and other structures,
- (2) the location of roads and schools,
- (3) the percentage of lot which may be occupied,
- (4) the sizes of yards and other open spaces,
- (5) the density and distribution of population,
- (6) the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and
- (7) the uses of lands for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

To carry out this section it shall issue land use or zoning permits or approvals. It shall be unlawful to erect, establish, alter, enlarge, use, occupy, or maintain a building, structure, improvement, or premises without having a land use or zoning permit or approval.

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

This section is subject to section 366.13.

**History:** 1939 c 187 s 3; 1943 c 494 s 1; 1980 c 416 s 3; 1989 c 197 art 7 s 1; 1995 c 254 art 3 s 2

### 366.125 MAY MAKE APPLICANT CERTIFY THAT TAXES ARE PAID.

The town board may require, either as part of the necessary information on an application or as a condition of a grant of approval, an applicant for an amendment, permit, or other approval required under a regulation established pursuant to sections 366.10 to 366.18 to certify that there are no delinquent property taxes, special assessments, penalties, and interest due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this section if all required payments due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.

**History:** 1996 c 282 s 1

### 366.13 ZONING DISTRICTS.

For the purposes of sections 366.10 to 366.18, if a majority of the voters voting on the question have voted “Yes” at an election under section 366.12, the town board may divide the town into districts or zones of the number, shape, and area as it deems best suited to carry out sections 366.10 to 366.18. Within the districts or zones it may regulate and restrict:

- (1) the location, height, bulk, number of stories, size of buildings and other structures,
- (2) the location of roads and schools,
- (3) the percentage of lot which may be occupied,
- (4) the sizes of yards and other open spaces,
- (5) the density and distribution of population,
- (6) the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and

(7) the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

The regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but regulations in one district may differ from those in other districts.

The board may not make a regulation prohibiting the erection, establishment, alteration, enlargement, use, occupancy, or maintenance of a landing area or airport as defined by the federal Civil Aeronautics Act of 1938, owned by a municipality, political subdivision, or public corporation created in and for any two or more municipalities, the operation and use of which has been approved by the department of transportation or by the Civil Aeronautics Board and no permit under sections 366.10 to 366.18 shall be required for its erection, establishment, alteration, enlargement, use, occupancy, or maintenance. Regulations made by a board before April 20, 1943, prohibiting such erection, establishment, alteration, enlargement, use, occupancy, or maintenance of airports are annulled.

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

**History:** 1939 c 187 s 4; 1943 c 494 s 2; 1976 c 166 s 7; 1980 c 416 s 4; 1989 c 197 art 7 s 1

#### **366.14 PURPOSE OF REGULATIONS.**

Regulations shall be made in accordance with the comprehensive plan to promote the health, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the town, including, among other things:

- (1) lessening congestion in streets or roads;
- (2) reducing the wastes of excessive amounts of roads;
- (3) securing safety from fire and other dangers;
- (4) providing adequate light and air;
- (5) preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; and
- (6) promoting a distribution of population and classification of land uses and distribution of land development and utilization that will facilitate and conserve provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supplies, and protection of urban and nonurban development.

**History:** 1939 c 187 s 5; 1989 c 197 art 7 s 1

#### **366.15 DISTRICTS OR ZONES, AMENDMENT.**

The board may amend the number, shape, boundary, or area of a district or zone, or a regulation of area within a zone, or a provision of the zoning resolution. Before finally adopting an amendment the board shall hold a public hearing on it, after giving at least ten days notice of the time and place of the hearing, by at least one publication in a newspaper of general circulation in the county where the town is located. No change may be made in the boundary line of zones or districts unless at least 50 percent of the owners of the lands proposed to be changed file a petition for the change.

**History:** 1939 c 187 s 6; 1947 c 231 s 1; 1980 c 416 s 5; 1989 c 197 art 7 s 1

#### **366.151 CERTAIN ORDINANCES; MANUFACTURED HOMES.**

A town board must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.

**History:** 1994 c 473 s 1

#### **366.16 TOWN ZONING COMMISSIONER.**

The town board may enforce the regulations by withholding land use or zoning permits or approvals, building permits issued under sections 16B.59 to 16B.75, or other permits or

approvals. For the purposes of sections 366.10 to 366.18, it may establish the position of town zoning commissioner and fix its compensation. If a building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used or any land is or is proposed to be used in violation of sections 366.10 to 366.18 or a regulation or provision enacted or adopted by the board under sections 366.10 to 366.18, the board, the attorney of the county where the town is situated, the town attorney, the town zoning commissioner, or any adjacent or neighboring property owner may institute any appropriate action to prevent, enjoin, abate, or remove the unlawful erection, construction, reconstruction, alteration, maintenance, or use.

**History:** 1939 c 187 s 7; 1989 c 197 art 7 s 1; 1995 c 254 art 3 s 3

### **366.17 PLANNING AND ZONING COMMISSION.**

To carry out sections 366.10 to 366.18, the town board may appoint a planning and zoning commission, all of whom shall be freeholders. The number of commissioners shall be determined by the board. The planning and zoning commission shall act as an adviser to the town board. The commission may be empowered to employ a civil engineer or city planner as required to establish the districts or zones of any parts of the town.

**History:** 1939 c 187 s 8; 1989 c 197 art 7 s 1

### **366.18 EXISTING BUILDINGS NOT CHANGED.**

The zoning resolution shall not prohibit the continuance of the use of a building for any trade or industry for which it was used when the resolution took effect or the alteration of or addition to an existing building or structure to carry on a prohibited trade or industry in the zone where it is located.

**History:** 1939 c 187 s 9; 1989 c 197 art 7 s 1

### **366.181 VIOLATIONS; PENALTIES.**

A person who knowingly violates a provision or rule of zoning regulations adopted by any town board pursuant to sections 366.10 to 366.18, is guilty of a misdemeanor.

**History:** 1947 c 186 s 1; 1971 c 23 s 30; 1989 c 197 art 7 s 1

### **366.182 [Repealed, 1976 c 239 s 111]**

### **366.19 LICENSES.**

A person who exhibits a circus, theatrical performance, or show of any kind, or who keeps a billiard, pool, or pigeonhole table, or a bowling alley in a town, without first obtaining a license for it, as provided in section 366.01, is guilty of a misdemeanor.

**History:** (1050) RL s 652; 1919 c 403; 1971 c 23 s 31; 1989 c 197 art 7 s 1

## **BOARD OF AUDIT**

### **366.20 MEETINGS.**

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

**History:** (1055) RL s 655; 1969 c 125 s 1; 1983 c 359 s 50; 1984 c 562 s 28; 1989 c 197 art 7 s 1

### **366.21 DUTIES.**

It shall be the duty of the board of audit:

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

(2) To examine and audit every account presented against the town, and to endorse and state on it the amount allowed and disallowed. No allowance shall be made on any account which does not specifically give each item, with its date, amount, and nature. The statement shall be verified by the claimant, the claimant's agent or attorney, and filed with the town clerk. No claim shall be considered or acted upon unless the statement is made and filed;

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

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

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

**History:** (1056) *RL s 656; 1986 c 444; 1989 c 197 art 7 s 1*

### **366.22 POSTING AND READING REPORT; FEE.**

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

**History:** (1057) *RL s 657; 1976 c 4 s 1; 1977 c 73 s 1; 1983 c 3 s 1; 1989 c 197 art 7 s 1*

**366.23** [Renumbered 471.415 subdivision 1]

**366.24** [Renumbered 471.415 subd 2]

**366.25** [Renumbered 471.415 subd 3]

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

### **366.27 FIREFIGHTERS' RELIEF; TAX LEVY.**

The town board of any town in this state having therein a platted portion on which resides 1,200 or more people, and wherein a duly incorporated firefighters' relief association is located may each year levy a tax not to exceed 0.00806 percent of taxable market value for the benefit of the relief association.

**History:** 1951 c 151 s 1; 1973 c 773 s 1; 1977 c 429 s 63; 1989 c 197 art 7 s 1; 1989 c 277 art 4 s 29