

## CHAPTER 368

## TOWNS; SPECIAL PROVISIONS

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**368.01 POWERS OF CERTAIN METROPOLITAN AREA TOWNS.**

Subdivision 1. **Towns described.** A town that has platted portions where 1,200 or more people reside or a town that has a platted area within 20 miles of the city hall of a city of the first class having over 200,000 population shall have the powers enumerated in this section. Its town board may adopt, amend, or repeal ordinances and rules for the purposes enumerated.

Subd. 1a. **Certain other towns.** A town with a population of 1,000 or more that does not qualify under subdivision 1, shall have the enumerated powers upon an affirmative vote of its electors at the annual town meeting. The population must be established by the most recent federal decennial census, special census as provided in section 368.015, or population estimate by the state demographer made according to section 4A.02, whichever has the latest stated date of count or estimate.

Subd. 2. **Buildings.** The town board may construct or acquire structures needed for town purposes, and control, protect, and insure public buildings, property, and records.

Subd. 3. **Streets; sewers; sidewalks; public grounds.** The town board may:

- (1) lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and grade, pave, repair, control, and maintain them;
- (2) establish and maintain drains, canals, and sewers;
- (3) alter, widen or straighten water courses; and
- (4) lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks.

It may by ordinance regulate the use of streets and other public grounds to prevent encumbrances or obstructions, and require the owners or occupants of buildings and the owners of vacant lots to remove snow, ice, dirt, or rubbish from the adjacent sidewalks. In default of compliance it may remove the encumbrances, obstructions, or substances and assess the cost against the property as a special assessment.

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

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

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

Subd. 7. **Tourist camps; parking facilities.** The town board may acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 8. **Hospitals.** The town board may provide hospitals. The town board of a town operating a municipal hospital may by ordinance establish a hospital board with powers and duties to manage and operate the hospital that the town board confers on it. The town board may, by vote of all its members, abolish the hospital board. The hospital board shall consist of five members, each appointed by the town board for a term of five years. Terms of the first members shall be arranged so that the term of one

member expires each year. A vacancy shall be filled for the unexpired term. A member may be removed by the town board for cause after a hearing.

Subd. 9. **Fire prevention.** The town board may establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It may adopt ordinances to prevent, control or extinguish fires.

Subd. 10. **Naming and numbering streets.** The town board may by ordinance name or rename town streets and public places and number or renumber its lots and blocks, or part of them. It may make and record a consolidated plat of the town.

Subd. 11. **Transient commerce.** The town board may by ordinance restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 12. **Taxis, haulers, car renters.** The town board may by ordinance license and regulate baggage wagons, dray drivers, taxicabs, and automobile rental agencies and liverys. At a minimum, an ordinance to license or regulate taxicabs or small vehicle passenger service must provide for driver qualifications, insurance, vehicle safety, and periodic vehicle inspections.

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

Subd. 14. **Health.** (a) The town board may by ordinance:

- (1) prohibit or regulate slaughterhouses;
- (2) prevent the bringing, depositing, or leaving within the town of any unwholesome substance or deposit of solid waste within the town not otherwise authorized by law;
- (3) require the owners or occupants of lands to remove unwholesome substances or the unauthorized deposit of solid waste and, if not removed, provide for their removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment;
- (4) provide for or regulate the disposal of sewage, garbage, and other refuse; and
- (5) provide for the cleaning of, and removal of obstructions from waters in the town and prevent their obstruction or pollution.

(b) The town board may establish a board of health under section 145A.07, subdivision 2, with all the powers of a board of health under the general laws.

Subd. 15. **Nuisances.** The town board may by ordinance define nuisances and provide for their prevention or abatement.

Subd. 16. **Amusements.** The town board may by ordinance:

- (1) prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys;
- (2) prohibit gambling and gambling devices; and
- (3) license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 17. [Repealed, 1984 c 562 s 48]

Subd. 18. **Regulation of buildings.** The town board may by ordinance regulate the construction of buildings.

Subd. 19. **General welfare.** The town board may provide for the government and good order of the town, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by ordinances consistent with the constitution and laws of the United States and this state as it deems expedient.

Subd. 20. **Departments; boards.** The town board may create departments and advisory boards and appoint town officers, employees, and agents as deemed necessary for the proper management and operation of town affairs. It may prescribe the duties and compensation of all officers, appointive and elective, employees, and agents, if not

otherwise prescribed by law. It may require any officer or employee to furnish a bond conditioned for the faithful exercise of duties and the proper application of, and payment upon demand of, all money officially received by the officer or employee. Unless otherwise prescribed by law, it shall fix the amount of the bonds. The bonds furnished by the clerk and treasurer shall be corporate surety bonds. It may provide for the payment from town funds of the premium on the official bond of any town officer or employee. It may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal. This provision does not modify the laws relating to veterans preference or to members of a town police or fire civil service commission or public utilities commission.

Subd. 21. **Enactment of ordinances.** Every ordinance shall be enacted by a majority vote of all the members of the town board unless a larger number is required by law. It shall be signed by the chair of the town board, attested by the clerk and published once in a qualified newspaper having general circulation within the town. If the town board determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the town board may by a two-thirds vote of its members, or a four-fifths vote in a town having a five-member board, direct that only the title of the ordinance and a summary be published with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours of the town clerk and at any other location which the town board designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the town board designates. Before the publication of the title and summary the town board shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. Publishing the title and summary shall fulfill all legal publication requirements as completely as if the entire ordinance is published. The text of the summary shall be published in a body type no smaller than eight-point type. Proof of the publication shall be attached to and filed with the ordinance. Every ordinance shall be recorded in the ordinance book within 20 days after publication of the ordinance or its title and summary. All ordinances shall be suitably entitled and shall be substantially in the style: "The Town Board of Supervisors of ..... ordains:".

Subd. 22. **Penalties.** The town board may declare that the violation of any ordinance is a penal offense and prescribe penalties for it. No penalty shall exceed that provided by law for a misdemeanor, but the costs of prosecution may be added.

Subd. 23. **Financing purchase of certain equipment.** The town board may issue certificates of indebtedness within debt limits to purchase fire or police equipment or ambulance equipment or street construction or maintenance equipment. The certificates shall be payable in not more than five years and be issued on terms and in the manner as the board may determine. If the amount of the certificates to be issued to finance a purchase exceeds 0.24177 percent of the market value of the town, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a town board resolution determining to issue them. 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 certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on the certificates as in the case of bonds.

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

Subd. 25. **Vacation of streets.** The town board may by resolution vacate all or part of any street, alley, public grounds or public way on its own motion or on petition of a majority of the owners of land abutting the street, alley, public grounds, public way, or part to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the board of supervisors. No such vacation shall be made unless it appears in the interest of the public to do so after a

hearing preceded by two weeks' published and posted notice. The board shall cause written notice of the hearing to be mailed to each property owner affected by the proposed vacation at least ten days before the hearing. The notice must contain, at minimum, a copy of the petition or proposed resolution as well as the time, place, and date of the hearing. In addition, if the street, alley, public grounds, public way, or any part of it, terminates at or abuts upon any public water, no vacation shall be made unless written notice of the petition or proposed resolution is served by certified mail upon the commissioner of natural resources at least 30 days before the hearing on the matter. The notice to the commissioner of natural resources is for notification purposes only and does not create a right of intervention by the commissioner. After a resolution of vacation is adopted, the clerk shall prepare a notice of completion of the proceedings which shall contain the name of the town, an identification of the vacation, a statement of the time of completion thereof and a description of the real estate and lands affected. The notice shall be presented to the county auditor who shall enter it in the transfer records and note upon the instrument, over the auditor's official signature, the words "entered in the transfer record." The notice shall then be filed with the county recorder. Failure to file the notice shall not invalidate the vacation proceedings.

**Subd. 26. Fines and penalties.** All fines, forfeitures, and penalties recovered for violation of a statute or ordinance to which the town is entitled by law shall be paid into the town treasury. Every court or officer receiving money for a violation, shall return it under oath in accordance with law, and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the town clerk.

**Subd. 27. Right of eminent domain.** A town that has special powers under this section may acquire private property within or without its limits by eminent domain for any purpose for which it is authorized by law to take or hold property by purchase or gift. It may also acquire by eminent domain a right-of-way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without its limits. The procedure shall be that prescribed by chapter 117.

**Subd. 28.** [Repealed, 1984 c 562 s 48]

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

**Subd. 30. Notice to auditor, secretary of state; filing.** The town clerk of each town exercising special powers under this section shall so notify in writing the county auditor of the county in which the town is located and the secretary of state. The written notice shall be filed by the county auditor and the secretary of state as a public record.

**Subd. 31. Continuing authority to exercise powers.** If a town exercises a power under this section it may continue to exercise the power notwithstanding any later change in population.

**History:** (1003, 1004) 1907 c 193 s 1; 1907 c 397 s 1; 1949 c 722 s 1; 1953 c 462 s 1; 1959 c 686 s 14; Ex1959 c 75 s 1, 2; 1961 c 46 s 1; 1963 c 257 s 1; 1965 c 574 s 1; 1971 c 24 s 46; 1973 c 48 s 1; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1976 c 239 s 112; 1981 c 219 s 2; 1982 c 507 s 3-6; 1983 c 359 s 53; 1984 c 562 s 39-43; 1985 c 65 s 2; 1986 c 444; 1987 c 309 s 24; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 20 s 23; 1990 c 401 art 2 s 1; 1990 c 433 s 1; 1990 c 480 art 9 s 9; 1991 c 345 art 2 s 54; 1999 c 238 art 2 s 72

### 368.015 TOWNS; CENSUS.

A town board may by resolution, in any year, request the United States Bureau of the Census to take a special census of the town to qualify to exercise the powers contained in section 368.01 as provided by section 368.01, subdivision 1a. The town shall bear the cost of the census.

**History:** 1984 c 562 s 44; 1985 c 65 s 3; 1990 c 401 art 2 s 1

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

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

368.04 [Repealed, 1984 c 562 s 48].

368.05 [Repealed, 1984 c 562 s 48].

368.06 [Repealed, 1984 c 562 s 48].

368.07 [Repealed, 1984 c 562 s 48].

368.08 [Repealed, 1984 c 562 s 48].

368.09 [Repealed, 1984 c 562 s 48].

368.10 [Repealed, 1984 c 562 s 48].

368.11 [Repealed, 1984 c 562 s 48].

368.12 [Repealed, 1976 c 44 s 70].

368.121 [Repealed, 1989 c 9 s 5].

368.13-368.38 [Omitted, applies to towns having not less than 1,500, and not more than 2,000 inhabitants, and having an assessed valuation of more than \$1,200,000, and less than \$1,750,000, and having an area of not less than 23,000, nor more than 26,000 acres.]

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

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

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

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

368.43 [Repealed, 1945 c 271 s 3].

#### DISSOLUTION

368.44 [Local; temporary; Koochiching county.]

368.45 [Local; temporary; Koochiching county.]

368.46 [Local; temporary; Koochiching county.]

#### 368.47 TOWNS MAY BE DISSOLVED.

(1) When the voters residing within a town have failed to elect any town officials for more than ten years continuously;

(2) when a town has failed for a period of ten years to exercise any of the powers and functions of a town;

(3) when the market value of a town drops to less than \$165,000;

(4) when the tax delinquency of a town, exclusive of taxes that are delinquent or unpaid because they are contested in proceedings for the enforcement of taxes, amounts to 12 percent of its market value; or

(5) when the state or federal government has acquired title to 50 percent of the real estate of a town,

which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the county auditor, the county board by resolution may declare the town, naming it, dissolved and no longer entitled to exercise any of the powers or functions of a town.

In Cass, Itasca, and St. Louis counties, before the dissolution is effective the voters of the town shall express their approval or disapproval. The town clerk shall, upon a petition signed by a majority of the registered voters of the town, filed with the clerk at least 60 days before a regular or special town election, give notice at the same time and in the same manner of the election that the question of dissolution of the town will be submitted for determination at the election. At the election the question shall be voted upon by a separate ballot, the terms of which shall be either "for dissolution" or "against dissolution." The ballot shall be deposited in a separate ballot box and the result of the voting canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the votes cast at the election are for dissolution, the town shall be dissolved. If a majority of the votes cast at the election are against dissolution, the town shall not be dissolved.

When a town is dissolved under sections 368.47 to 368.49 the county shall acquire title to any telephone company or other business conducted by the town. The business shall be operated by the board of county commissioners until it can be sold. The subscribers or patrons of the business shall have the first opportunity of purchase. If the town has any outstanding indebtedness chargeable to the business, the county auditor shall levy a tax against the property situated in the dissolved town to pay the indebtedness as it becomes due.

**History:** (1002-1) 1925 c 40 s 1; 1933 c 377; 1935 c 342 s 1; 1937 c 419 s 1; 1986 c 444; 1987 c 147 s 2; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 401 art 2 s 1; 1990 c 480 art 9 s 11

#### **368.48 COPY OF RESOLUTION FOR SECRETARY OF STATE.**

A certified copy of the resolution shall forthwith, after its adoption by the county board, be forwarded by the county auditor to the secretary of state, who shall on receipt make an appropriate record of the dissolution of the town.

**History:** (1002-2) 1925 c 40 s 2; 1986 c 444; 1990 c 401 art 2 s 1

#### **368.49 TOWN FUNDS WITH COUNTY GO TO TOWN ROAD AND BRIDGE EXPENSE.**

Subdivision 1. **Otherwise to general fund.** Any town funds in, or coming into, the treasury of the county, shall be disposed of as follows:

Road or bridge funds shall be expended by the county for road and bridge improvements wholly within the limits of the town and any other funds shall be credited to the county general fund.

Subd. 2. **Unencumbered debt retirement.** If a dissolved town has unexpended money in its bond and interest funds and there are no bonds or indebtedness outstanding, the money shall be spent for road and bridge improvements or other legal expenditures within the town.

**History:** (1002-3) 1925 c 40 s 3; 1949 c 326 s 1; 1990 c 401 art 2 s 1

**368.50** [Repealed, 1976 c 44 s 70]

**368.51** [Repealed, 1976 c 44 s 70]

**368.52** [Repealed, 1976 c 44 s 70]

**368.53** [Repealed, 1976 c 44 s 70]

**368.54** [Repealed, 1955 c 500 s 5]

**368.55** [Repealed, 1955 c 500 s 5]

**368.56** [Repealed, 1976 c 44 s 70]

**368.57** [Repealed, 1976 c 44 s 70]

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

#### FIRE PROTECTION

##### 368.85 FIRE PROTECTION.

Subdivision 1. **Special fire protection district.** A town may, by resolution adopted by the town board and approved by a majority of the electors residing within the territory affected, establish a special fire protection district within the town in the following manner. The town board shall adopt a resolution particularly describing the territory, district or area which shall constitute a special fire protection district and be entitled to receive fire protection to be paid for from the taxation of the property within the district. Each district shall consist of contiguous and compact territory and be constituted so that at least 25 percent of the total net tax capacity of taxable real

property in it consists of property classified as homestead property and buildings or other structures.

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

**Subd. 3. Manner of voting.** For the election the town board shall provide a separate ballot box where the electors residing within the proposed district shall deposit their ballots. Only electors residing in the proposed district may vote on the question.

**Subd. 4. Ballot.** The town board shall provide ballots which shall read "Shall the territory described in the resolution adopted by the town board on the ..... day of ....., ....., constitute a special fire protection district?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of the squares, and a direction to so indicate their choice shall be printed on the ballot.

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

**Subd. 6. Tax levy.** The town board shall annually levy a tax in an amount necessary on the net tax capacity of all property located within the district to provide fire protection for it. The tax, with a certified copy of the resolution establishing the district, shall be certified by the town board to the county auditor who shall spread the tax against the property located within the district. The tax shall be collected as other taxes.

**Subd. 7. Disbursement of funds.** When the tax is collected, it shall be paid to the town and disbursed upon the order of the town board to provide fire protection in the district. The town board may order the money, or part of it, to be paid to a municipality or volunteer fire department which agrees to furnish and has its fire department headquarters located so as to be able to conveniently furnish fire protection to the property within the district.

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

**Subd. 9. Dissolution.** A special fire protection district may be dissolved in the following manner. The town board may submit the question of dissolution of a district at any annual town meeting. It must submit that question at the next annual town meeting on the signed petition of electors residing in the district equal in number to at least one-half of the number of freeholders in the district according to the tax record in the county auditor's office filed with the town clerk not less than 45 days before the annual meeting. Notice that the question will be submitted shall be posted by the town clerk in three public places within the special district not less than two weeks before the annual meeting at which it will be submitted. Only voters residing in the district shall vote on the question of dissolution. A separate ballot box shall be provided for votes on the question. The town board shall provide ballots for the question of dissolution which shall be in the same form as provided in subdivision 4 except that the question shall be "Shall Special Fire Protection District No. .... be dissolved?". If a majority vote of those voting on the question vote in the affirmative, the district shall be dissolved. In that event the results of the election shall be certified by the chair of the town board to



the county auditor. There shall be no further special levy for fire protection in the district, but dissolution shall not relieve the property in the special district from any taxes levied under this section before dissolution.

**History:** 1949 c 204 s 1-9; 1965 c 18 s 1; 1971 c 271 s 2; 1973 c 773 s 1; 1985 c 301 s 2; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 401 art 2 s 1

**368.86** [Repealed, 1984 c 562 s 48; 1984 c 593 s 46]