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CHAPTER 37.

 MUNICIPAL IMPROVEMENTS ACT OF 1999

**SECTION 5‑37‑10.** Short title; authority of municipalities.

This chapter may be referred to as the “Municipal Improvement Act of 1999”, and any municipal corporation of this State is hereby authorized to exercise the powers and provisions hereof.

**SECTION 5‑37‑20.** Definitions.

As used in this chapter, the following terms have the following meanings:

(1) “Assessment” means a charge against the real property of an owner within an improvement district created pursuant to this chapter which may be based on assessed value, front footage, area, per parcel basis, the value of improvements to be constructed within the district, or any combination of them, as the basis is determined by the governing body of the municipality. In the event the governing body of a municipality determines that another basis for assessment is appropriate or a more equitable allocation of costs among property owners is appropriate, it may substitute such method for any of the foregoing. An assessment imposed upon real property under this chapter remains valid and enforceable in accordance with the provisions of this chapter even if there is a later subdivision and transfer of the property or a part of it. An improvement plan may provide for a change in the basis of assessment upon the subdivision and transfer of real property or upon such other event as the governing body of a municipality considers appropriate.

(2) “Improvements” include open or covered malls, parkways, parks and playgrounds, recreation facilities, athletic facilities, pedestrian facilities, parking facilities, parking garages, and underground parking facilities, and facade redevelopment, the widening and dredging of existing channels, canals, and waterways used specifically for recreational or other purposes, the relocation, construction, widening, and paving of streets, roads, and bridges, including demolition of them, underground utilities, all activities authorized by Chapter 1 of Title 31 (State Housing Law), any building or other facilities for public use, any public works eligible for financing under the provisions of Section 6‑21‑50, services or functions which a municipality in accordance with state law may by law provide, and all things incidental to the improvements, including planning, engineering, administration, managing, promotion, marketing, and acquisition of necessary easements and land, and may include facilities for lease or use by a private person, firm, or corporation. However, improvements as defined in this chapter must comply with all applicable state and federal laws and regulations governing these activities. Any such improvements may be designated by the governing body as public works eligible for revenue bond financing pursuant to Section 6‑21‑50, and such improvements, taken in the aggregate, may be designated by the governing body as a “system” of related projects within the meaning of Section 6‑21‑40. The governing body of a municipality, after due investigation and study, may determine that improvements located outside the boundaries of an improvement district confer a benefit upon property inside an improvement district or are necessary to make improvements within the improvement district effective for the benefit of property inside the improvement district.

(3) “Improvement district” means any area within the municipality designated by the governing body pursuant to the provisions of this chapter and within which an improvement plan is to be accomplished. No special improvement district may include the grounds of the State House in the City of Columbia.

(4) “Improvement plan” means an overall plan by which the governing body proposes to effect improvements within an improvement district to preserve property values, prevent deterioration of urban areas, and preserve the tax base of the municipality, and includes an overall plan by which the governing body proposes to effect improvements within an improvement district in order to encourage and promote private or public development within the improvement district.

(5) “Governing body” means the municipal council or other governing body in which the general governing powers of the municipality are vested.

(6) “Owner” means any person twenty‑one years of age, or older, or the proper legal representative for any person younger than twenty‑one years of age, and any firm or corporation, who or which owns legal title to a present possessory interest in real estate equal to a life estate or greater (expressly excluding leaseholds, easements, equitable interests, inchoate rights, dower rights, and future interest) and who owns, at the date of the petition or written consent, at least an undivided one‑tenth interest in a single tract and whose name appears on the county tax records as an owner of real estate, and any duly organized group whose total interest is at least equal to a one‑tenth interest in a single tract.

It is provided, however, that, if any firm or person has a leasehold interest requiring it or him to pay all municipal taxes, such agreement shall not be applicable to charges of the assessment of the district as only the owner has the right to petition on the assessment charge for the improvement district.

**SECTION 5‑37‑25.** Consent required to use revenues for improvements outside municipality where improvement district is located.

A municipality must obtain the consent of the county governing body and any other municipality where the improvement is located to use revenue collected pursuant to this chapter for improvements located outside the municipal boundaries in which the improvement district is located.

**SECTION 5‑37‑30.** Improvements authorized; funding sources.

The governing body is authorized to acquire, own, construct, establish, install, enlarge, improve, expand, operate, maintain and repair, and sell, lease, and otherwise dispose of any improvement and to finance such acquisition, construction, establishment, installation, enlargement, improvement, expansion, operation, maintenance, and repair, in whole or in part, by the imposition of assessments in accordance with this chapter, by special district bonds, by general obligation bonds of the municipality, by revenue bonds of the municipality, or from general revenues from any source not restricted from such use by law, or by any combination of such funding sources. In addition to any other authorization provided herein or by other law, the governing body of a municipality may issue its special district bonds or revenue bonds of the municipality under such terms and conditions as the governing body may determine by ordinance subject to the following: such bonds may be sold at public or private sale for such price as is determined by the governing body; such bonds may be secured by a pledge of and be payable from the assessments authorized herein or any other source of funds not constituting a general tax as may be available and authorized by the governing body; such bonds may be issued pursuant to and secured under the terms of a trust agreement or indenture with a corporate trustee and the ordinance authorizing such bonds or trust agreement or indenture pertaining thereto may contain provisions for the establishment of a reserve fund, and such other funds or accounts as are determined by the governing body to be appropriate to be held by the governing body or the trustee. The proceeds of any bonds may be applied to the payment of the costs of any improvements, including expenses associated with the issuance and sale of the bonds and any costs for planning and designing the improvements or planning or arranging for the financing and any engineering, architectural, surveying, testing, or similar costs or expenses necessary or appropriate for the planning, designing, and construction or implementation of any plan in connection with the improvements.

**SECTION 5‑37‑35.** Assessments for fund improvements not to be imposed on property not located in improvement district.

Notwithstanding the provisions of Section 5‑37‑30, assessments, revenues, or debt service on bonds which may be used under this chapter to fund municipal improvements shall not impose or be derived from, in whole or in part, a tax or assessment on property not located in the improvement district.

The provisions of this section do not apply to projects or undertakings designated by a municipal governing body as a “system” under Section 6‑21‑40.

**SECTION 5‑37‑40.** Establishment of improvement districts; written consent of owners.

(A) If the governing body finds that:

(1) improvements would be beneficial within a designated improvement district;

(2) the improvements would preserve or increase property values within the district;

(3) in the absence of the improvements, property values within the area would be likely to depreciate, or that the proposed improvements would be likely to encourage development in the improvement district;

(4) the general welfare and tax base of the city would be maintained or likely improved by creation of an improvement district in the city; and

(5) it would be fair and equitable to finance all or part of the cost of the improvements by an assessment upon the real property within the district, the governing body may establish the area as an improvement district and implement and finance, in whole or in part, an improvement plan in the district in accordance with the provisions of this chapter. However, owner‑ occupied residential property which is taxed or will be taxed under Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district.

(B) If an improvement district is located in a redevelopment project area created under Title 31, Chapter 6, the improvement district being created under the provisions of this chapter must be considered to satisfy items (1) through (5) of subsection (A). The ordinance creating an improvement district may be adopted by a majority of council after a public hearing at which the plan is presented, including the proposed basis and amount of assessment, or upon written petition signed by a majority in number of the owners of real property within the district which is not exempt from ad valorem taxation as provided by law. However, owner‑occupied residential property which is taxed or will be taxed under Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district.

**SECTION 5‑37‑45.** Inclusion in improvement district of area in which the proposed improvements have been constructed or are under construction; exceptions.

(A)(1) The governing body may include within an improvement district an area within the municipality in which the proposed improvements have been constructed or are under construction at the time of the establishment of the improvement district.

(2) Before the commencement of the construction of these improvements, a written agreement with the owner of the area to be improved must be entered into by the municipality authorizing the construction of the improvements in anticipation of the inclusion of the area which is improved in the improvement district upon such terms and conditions as the governing body agrees, including the reimbursement, as a cost of constructing improvements under this chapter, of any monies expended for the construction before and subsequent to the establishment of the improvement district. Any agreement providing for the construction of the improvements before the establishment of the improvement district must be authorized by an ordinance of the governing body, notice of which must be given by publication in a newspaper of general circulation within the municipality, at least seven days before the final adoption of the ordinance. Any agreements entered into in accordance with the foregoing conditions before the effective date of this section are ratified and confirmed and the area improved declared eligible for inclusion in the improvement district as proposed in the agreement.

(B) The provisions of item (2) of subsection (A) do not apply to any area proposed for inclusion within an improvement district which, within three years prior to the date of the adoption of the resolution required by Section 5‑37‑50, is subject to a development agreement pursuant to the South Carolina Local Government Development Agreement Act.

**SECTION 5‑37‑50.** Resolution regarding improvement plan and public hearing.

The governing body shall, by resolution duly adopted, describe the improvement district and the improvement plan to be effected therein, including any property within the improvement district to be acquired and improved, the projected time schedule for the accomplishment of the improvement plan, the estimated cost thereof and the amount of such cost to be derived from assessments, bonds, or other general funds, together with the proposed basis and rates of any assessments to be imposed within the improvement district. However, owner‑occupied residential property which is taxed or will be taxed under Section 12‑43‑220(c) must not be included within an improvement district unless the owner at the time the improvement district is created gives the governing body written permission to include the property within the improvement district. Such resolution shall also establish the time and place of a public hearing to be held within the municipality not sooner than twenty days nor more than forty days following the adoption of such resolution at which any interested person may attend and be heard either in person or by attorney on any matter in connection therewith.

**SECTION 5‑37‑60.** Publication of resolution.

A resolution providing for an improvement district, when adopted, shall be published once a week for two successive weeks in a newspaper of general circulation within the incorporated municipality and the final publication shall be at least ten days prior to the date of the scheduled public hearing. At the public hearing and at any adjournment thereof, all interested persons may be heard either in person or by attorney.

**SECTION 5‑37‑70.** Payment of costs of improvements.

The governing body may provide by the resolution for the payment of the cost of the improvements and facilities to be constructed within the improvement district by assessments on the property therein as defined in Section 5‑37‑20, or by the issuance of special district bonds, or by general obligation bonds of the municipality, or from general municipal revenues from any source not restricted from such use by law, or from any combination of such financing sources as may be provided in the improvement plan.

**SECTION 5‑37‑80.** Assessments upon property owners.

The financing of improvements by assessments, bonds, or other revenues, and the proportions thereof, shall be in the discretion of the governing body; and the rates of assessments upon property owners within the improvement district need not be uniform but may vary in proportion to improvements made immediately adjacent to or abutting upon the property of each owner therein, as well as other bases as provided in Section 5‑37‑20.

**SECTION 5‑37‑90.** Improvements as property of municipality; use of special assessments.

The improvements as defined in Section 5‑37‑20 are to be or become the property of the municipality, State, or other public entity and may at any time be removed, altered, changed, or added to, as the governing body may in its discretion determine; provided, that during the continuance or maintenance of the improvements, the special assessments on property therein may be utilized for the preservation, operation, and maintenance of the improvements and facilities provided in the improvement plan, and for the management and operation of the improvement district as provided in the improvement plan, and for payment of indebtedness incurred therefor.

**SECTION 5‑37‑100.** Ordinance creating improvement district.

Not sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5‑37‑50, the governing body may, by ordinance, provide for the creation of the improvement district as originally proposed or with such changes and modifications therein as the governing body may determine, and provide for the financing thereof by assessment, bonds, or other revenues as herein provided. However, owner‑occupied residential property which is taxed under Section 12‑43‑220(c) must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. Such ordinance shall not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. Such ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality; provided, that the place of filing and reasonable hours for inspection are made available to all interested persons.

**SECTION 5‑37‑110.** Assessment roll; preparation and distribution; publication of notice; hearing of objections.

In the event all or any part of improvements and facilities within the district are to be financed by assessments on property therein, the governing body shall prepare an assessment roll in which there shall be entered the names of the persons whose properties are to be assessed and the amount assessed against their respective properties with a brief description of the lots or parcels of land assessed. Immediately after such assessment roll has been completed the governing body shall cause one copy thereof to be deposited in the offices of the municipality for inspection by interested parties, and shall cause to be published at least once in a newspaper of general circulation within the municipality a notice of completion of the assessment roll setting forth a description in general terms of the improvements and providing at least ten days’ notice of the time fixed for hearing of objections in respect to such assessments. The time for hearing such objections shall be at least thirty days, and hearings may be conducted by one or more members of the governing body of the municipality, but the final decision on each such objection shall be made by vote of the whole governing body at a public session thereof.

**SECTION 5‑37‑120.** Notice of assessment to owners; filing of objections.

As soon as practicable after the completion of the assessment roll and prior to the publication of the notice provided in Section 5‑37‑110, the governing body shall mail by registered or certified mail, return receipt requested, to the owner or owners of each lot or parcel of land against which an assessment is to be levied, at the address appearing on the records of the city or county treasurer, a notice stating the nature of the improvement, the total proposed cost thereof, the amount to be assessed against the particular property and the basis upon which the assessment is made, together with the terms and conditions upon which the assessment may be paid. The notice shall contain a brief description of the particular property involved, together with a statement that the amount assessed shall constitute a lien against the property superior to all other liens except property taxes. The notice shall also state the time and place fixed for the hearing of objections in respect to the assessment. Any property owner who fails to file with the municipal council a written objection to the assessment against his property within the time provided for hearing such objections shall be deemed to have consented to such assessment, and the published and written notices prescribed in this chapter shall so state. If all of the owners of property upon which an assessment is to be levied consent in writing to the imposition of such assessment, the provisions of this section shall be deemed satisfied.

**SECTION 5‑37‑130.** Conduct of hearings; filed assessment constitutes superior lien.

The governing body shall hear the objections as provided herein of all persons who have filed written notice of objection within the time prescribed and who may appear and make proof in relation thereto either in person or by their attorney. The governing body, at the sessions held to make final decisions on objections, may thereupon make such corrections in the assessment roll as it may deem proper and confirm the same or set it aside and provide for a new assessment. Whenever the governing body shall confirm an assessment, either as originally prepared or as thereafter corrected, a copy thereof certified by the clerk of the municipality shall be filed in the office of the clerk of court of the county in which the municipality is situate, and from the time of such filing the assessment impressed in the assessment roll shall constitute and be a lien on the real property against which it is assessed superior to all other liens and encumbrances, except the lien for property taxes, and shall be annually assessed and collected with the property taxes thereon.

**SECTION 5‑37‑140.** Appeals from decisions of governing body.

Upon the confirmation of an assessment, if any, the governing body shall mail a written notice to all persons who have filed written objections as hereinabove provided of the amount of the assessment finally confirmed. Such property owner may appeal such assessment only if he shall, within twenty days after the mailing of the notice to him confirming the assessment, give written notice to the governing body of his intent to appeal his assessment to the court of common pleas of the county in which the property is situate; but no such appeal shall delay or stay the construction of improvements or affect the validity of the assessments confirmed and not appealed. Appeals shall be heard and determined on the record in the manner of appeals from administrative bodies in this State.

**SECTION 5‑37‑150.** Powers are cumulative.

Nothing contained herein shall be construed to limit or restrict the powers of any incorporated municipality, but the authorizations herein contained shall be in addition to any such powers.

**SECTION 5‑37‑160.** Effectiveness of petition or consent and of acts taken under other laws.

Any written petition or consent signed by a property owner prior to July 18, 1974, requesting or consenting to an assessment in an improvement district shall be effective and binding upon said property and property owner and all acts of any municipality taken under any other law shall be effective and binding upon all property owners in an improvement district.

**SECTION 5‑37‑170.** Approval required for inclusion of streets in State highway system in mall developments.

No street in the state highway system shall be included in a mall development without prior written approval of the Department of Transportation.

**SECTION 5‑37‑180.** Mall developments; streets near courthouses.

No street which is located in front of the county courthouse and adjacent thereto shall be included in the mall development without prior written approval of the governing body having jurisdiction over such public property. Likewise, no street which shall in effect block the entrance to the courthouse square shall be included in the mall complex without prior written approval of same governing body.