CHAPTER 17

Initiative and Referendum

**SECTION 5‑17‑10.** Electors of municipality permitted to propose ordinances.

The electors of a municipality may propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes. Any initiated ordinance may be submitted to the council by a petition signed by qualified electors of the municipality equal in number to at least fifteen percent of the registered voters at the last regular municipal election and certified by the municipal election commission as being in accordance with the provisions of this section.

HISTORY: 1962 Code Section 47‑220; 1975 (59) 692; 1978 Act No. 435, Section 4.

CROSS REFERENCES

Initiative and referendum in county, see Sections 4‑9‑1210 et seq.

LIBRARY REFERENCES

Municipal Corporations 108.3.

Westlaw Key Number Search: 268k108.3.

C.J.S. Municipal Corporations Sections 314, 319 to 324.

NOTES OF DECISIONS

In general 1

1. In general

Zoning provision could not be enacted by initiative and referendum, despite statute providing that “any ordinance” except ones explicitly prohibited could be enacted by initiative and referendum; conflict between relatively free‑ranging initiative and referendum process and more recent, elaborate, and detailed zoning procedures were incompatible and hopelessly inconsistent, and allowing zoning by initiative and referendum potentially would nullify zoning and land use rules developed after extensive debate among a variety of interested persons. I’On, L.L.C. v. Town of Mt. Pleasant (S.C. 2000) 338 S.C. 406, 526 S.E.2d 716. Zoning And Planning 1033; Zoning And Planning 1138

A municipality and various taxpayers had standing to bring a declaratory judgment action to determine the validity of an ordinance initiated by registered voters and alleged by the municipality to be facially defective; since there was a question as to whether the municipality had a mandatory obligation to submit an invalid ordinance to the electorate, the town was entitled to a declaration of its legal rights. Town of Hilton Head Island v. Coalition of Expressway Opponents (S.C. 1992) 307 S.C. 449, 415 S.E.2d 801.

A master‑in‑equity had jurisdiction to conduct a pre‑election review of an ordinance initiated by registered voters and claimed by the municipality to be facially defective, since the town which sought to determine the validity of the proposed ordinance was not seeking to enjoin the electorate from exercising its vote, but rather was attempting to prevent the expenditure of public monies on what could be a useless act. Town of Hilton Head Island v. Coalition of Expressway Opponents (S.C. 1992) 307 S.C. 449, 415 S.E.2d 801.

Rezoning referendum. A town council was required to call a referendum and abide by its results regarding an application to rezone a tract of land from a medium density residential area to a light commercial area. Burnside v. Town of Arcadia Lakes (S.C. 1978) 271 S.C. 191, 246 S.E.2d 234.

**SECTION 5‑17‑20.** Electors’ petition requesting repeal of ordinance authorizing evidences of debt requiring pledge of full faith and credit of municipality.

Within sixty days after the enactment by the council of any ordinance authorizing the issuance of bonds, notes or other evidence of debt the repayment of which requires a pledge of the full faith and credit of the municipality, a petition signed by the qualified electors of the municipality equal in number to at least fifteen percent of the registered voters at the last preceding regular municipal election may be filed with the municipal clerk requesting that any such ordinance be repealed; provided, however, that this section shall not apply to bond issues approved by referendum or to notes issued in anticipation of taxes.

HISTORY: 1962 Code Section 47‑221; 1975 (59) 692; 1977 Act No. 33, Section 2.

LIBRARY REFERENCES

Municipal Corporations 108.2.

Westlaw Key Number Search: 268k108.2.

C.J.S. Municipal Corporations Sections 316 to 318.

**SECTION 5‑17‑30.** Special election subsequent to council’s failure or refusal to act upon initiative petition in manner desired by electors.

If the council shall fail to pass an ordinance proposed by initiative petition or shall pass it in a form substantially different from that set forth in the petition therefor or if the council fail to repeal an ordinance for which a petition has been presented, the adoption or repeal of the ordinance concerned shall be submitted to the electors not less than thirty days nor more than one year from the date the council takes its final vote thereon. The council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

HISTORY: 1962 Code Section 47‑222; 1975 (59) 692.

LIBRARY REFERENCES

Municipal Corporations 108.3.

Westlaw Key Number Search: 268k108.3.

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An initiated ordinance which would set aside the structure and administration of the statewide highway scheme by limiting the power granted to the state highway authority to consider the collection of tolls as a method of financing the construction of state roads was related to the administrative act of reviewing and approving highway plans under Section 57‑5‑830 and, as an administrative measure, was not a proper subject for an initiated ordinance since only legislative questions may be referred to a vote of the people. Town of Hilton Head Island v. Coalition of Expressway Opponents (S.C. 1992) 307 S.C. 449, 415 S.E.2d 801. Turnpikes And Toll Roads 1