

## IMPROVEMENT DISTRICT ACT

§11-39-101. Citation.

Section 39-101. This act may be cited as the Improvement District Act.  
Laws 1978, c. 233, § 1, emerg. eff. April 25, 1978.

§11-39-102. Definitions.

As used in the Improvement District Act, the singular includes the plural and:

1. "Acquired" means the acquisition of property or interests in property by purchase, gift, condemnation or other lawful means;
2. "City" means any city or town incorporated pursuant to the laws of Oklahoma;
3. "Engineer" means a city engineer, city official, employee or other person competent to advise and assist the governing body in planning and making an improvement;
4. "Cost" means any cost necessarily or reasonably incurred in making the improvement, including but not limited to cost of:
  - a. preparation of preliminary reports,
  - b. preparation of plans and specifications,
  - c. preparation and publication of notices of hearings, resolutions, ordinances and other proceedings,
  - d. fees and expenses for engineers, attorneys, laborers and other personal services,
  - e. rights-of-way, materials and other lawful expenses incurred in making any improvement, and
  - f. capitalized interest, funding of reserves, premiums for reserve surety bonds, and obtaining bond insurance, letters of credit or other credit enhancements or liquidity instruments;
5. "District" means an area designated by the governing body to be benefited by an improvement and subjected to payment of special assessments for all or a portion of the cost of the improvement;
6. "Governing body" means the city council, city commission or board of trustees of an incorporated city or town;
7. "Improve" means to construct, reconstruct, maintain, restore, replace, renew, repair, install, equip, extend, purchase, alter or otherwise perform any work which provides a new facility, or enhances, extends or restores the value or usefulness of an existing facility;
8. "Improvement" means any type of improvement made by authority of this Improvement District Act and includes reimprovement of any prior improvement made pursuant to any other act;
9. "Mail" means by first-class mail;
10. "Trustee" means a city acting pursuant to this act;
11. "Street" means any highway, street, alley, boulevard, avenue, right-of-way, public ground, or other public facility, or any part thereof; and
12. "Publish" or "publication" means printing in a newspaper which maintains an office in the city or town and is of general circulation within the city or town, or, if there is no

newspaper which maintains an office in the city or town, a newspaper of general circulation within the city or town and in two (2) separate issues thereof, at least seven (7) days apart. Laws 1978, c. 233, § 2, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 4, eff. Nov. 1, 2007.

§11-39-103. Creation of improvement districts - Purpose - Contents.

The governing body of any city may create one or more districts for the purpose of making or causing to be made any improvement or combination of improvements that confer special benefit upon property within the district. Such improvement or combination of improvements may include the following, without limitation because of enumeration:

1. Acquisition of property or interest in property when necessary for any of the purposes authorized by the Improvement District Act;
2. Opening, creating, widening and extending or altering of streets to improve paving, and surfacing, constructing and reconstructing gutters, curbs, sidewalks, crosswalks, driveway entrances and structures, drainage facilities, and service connections from sewers, water, gas, electricity and other utility mains, conduits or pipes;
3. Constructing or improving main and lateral storm water drains and sanitary sewer systems and facilities;
4. Installation or improvement of street lights and street lighting systems;
5. Construction or improvement of water mains and waterworks systems;
6. Improvement of parks, playgrounds and recreational facilities;
7. Improvement of any street, parking or other facility by landscaping, or planting of trees, shrubs and other plants;
8. Constructing or improving dikes, levees and other flood control works, gates, lift stations, bridges and streets appurtenant thereto;
9. Constructing or improving vehicle and pedestrian bridges, overpasses and tunnels;
10. Constructing or improving retaining walls and area walls on public ways or land abutting thereon;
11. Constructing or improving property for off-street parking facilities, including construction and equipment of buildings thereon;
12. Constructing or improving pedestrian malls; or
13. Constructing or improving offsite facilities or infrastructure serving all or a portion of land within a district; notwithstanding that, such facilities or infrastructure may also serve areas outside a district, but subject to cost apportionment requirements of subsection A of Section 39-110 of this title.

Added by Laws 1978, c. 233, § 3, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 5, eff. Nov. 1, 2007.

§11-39-103.1. Additional improvement districts - Assessments - Objections - Termination.

A. In addition to those purposes set out in Section 39-103 of this title, the governing body of any municipality having a population of more than one thousand five hundred (1,500) may create one or more districts and levy assessments for the purpose of providing or causing to be provided any maintenance, cleaning, security, shuttle service, upkeep, marketing, management or other services which confer special benefits upon property within the district by preserving,

enhancing or extending the value or usefulness of any improvement described in Section 39-103 of this title, whether or not the improvement was financed or constructed pursuant to this act and such governing body may exclude or modify such assessments according to benefits received on properties which are exempt from ad valorem taxation, except those assessments provided for by Section 39-103 of this title. Such districts may also be used to fund maintenance, management, marketing and other services being provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce. In addition, such districts may be used to fund the acquisition, construction, installation or maintenance of capital improvements with an estimated useful life of five (5) years or more, including but not limited to:

1. Parking facilities;
2. Benches, booths, kiosks and pedestrian shelters;
3. Signs;
4. Trash receptacles;
5. Public restrooms;
6. Lighting, heating and air conditioning facilities;
7. Decorations;
8. Parks, fountains and planting areas; and
9. Ramps, sidewalks and plazas;

provided the total cost of such improvement is funded in one year's assessment.

General street repair and maintenance on any street used by vehicular traffic shall not be made a part of any assessments provided for hereunder.

B. For districts created under this section, the engineer's report may be amended by resolution of the governing body to provide new or additional services or improvements upon the petition of the record owners of not less than one-half (1/2) of the area liable for assessment under the proposal. Petitions seeking to add new or additional services or improvements to an existing district shall be filed with the city clerk not less than sixty (60) days prior to the date of the public hearing on the annual assessment roll.

The petition shall set forth:

1. A general description of the new or additional services or improvements to be provided;
2. The estimated costs of the services and improvements proposed to be added;
3. The area of the district to be assessed under the proposal; and
4. The proposed method of assessment.

C. For districts created under this section, property adjacent to such district may be annexed into the district upon the petition of the record owners of more than sixty percent (60%) of the area liable to be annexed. Petitions seeking to annex additional property into an existing assessment district shall be filed with the city clerk not less than sixty (60) days prior to the hearing on the annual assessment roll.

The petition shall set forth:

1. The area to be annexed to the district;
2. The nature of the services and/or improvements to be provided to the area to be annexed;

3. The estimated costs of the services and/or improvements to be provided to the area to be annexed; and

4. The proposed method of assessment.

D. If the governing body determines that it is desirable to continue to provide or cause to be provided the improvements and services, to provide new or additional services, or improvements, or to annex additional property into an existing assessment district authorized by this section, the governing body shall annually prepare and cause to be filed in the office of the municipal clerk a resolution containing, among other things:

1. The assessment roll;

2. The new or additional services, or improvements proposed to be provided, if any;

3. A description of the area proposed to be annexed into the district, if any;

4. The name and address of the last-known owner of each tract or parcel of land to be assessed, or if the name of the owner is unknown, state "unknown". The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer;

5. A description of each tract or parcel of land to be assessed; and

6. The amount of the assessment against each tract or parcel of land.

If after filing the assessment roll, it appears that the amount of the assessment against any tract or parcel of land shall be increased, new or additional services, or improvements are to be provided or additional property is to be annexed into the district, the governing body shall by resolution set a time and place for the hearing on the resolution at which an owner may object to the amount of the assessment, the new or additional services, or improvements to be provided or the additional property to be annexed.

E. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the municipal clerk, the deputy municipal clerk or the engineer shall mail the notice of the hearing on the resolution to the owner of the tract or parcel of land on which the amount of assessment is increased, new or additional services or improvements are proposed to be added or proposed to be annexed into the district. Proof of the mailing is to be made by affidavit by the municipal clerk, the deputy municipal clerk or the engineer, which shall be filed in the office of the municipal clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the municipal clerk.

F. No district created under this section shall continue beyond the date that final payment of all principal, interest and other amounts due in connection with bonds issued by that district has been made, or if no bonds have been issued by the district, beyond the date that is thirty (30) years after the adoption of the resolution creating the district, unless re-created as provided in Section 39-101 et seq. of this title for creation of districts. Provided that, at any time after its creation, and provided further that, no bonds or other financial obligations of a district are then outstanding, the district shall cease to exist if:

1. The governing body by resolution terminates the district; or

2. The owners of a majority in area of the tracts or parcels of land within the district and a majority of the owners of record of property within the district petition in writing to terminate the district.

Such termination shall take effect at the end of the fiscal year in which the governing body adopts such resolution or determines the validity of such petition. Nothing herein shall excuse a tract or parcel of land from its liability for deferred payments or any assessment. Added by Laws 1981, c. 139, § 1, emerg. eff. May 5, 1981. Amended by Laws 1983, c. 154, § 1, emerg. eff. May 26, 1983; Laws 1988, c. 152, § 4, eff. Nov. 1, 1988; Laws 1998, c. 30, § 1, eff. Nov. 1, 1998; Laws 2007, c. 362, § 6, eff. Nov. 1, 2007; Laws 2010, c. 322, § 1, eff. Nov. 1, 2010.

§11-39-104. Number of streets or areas included - Property assessed for improvement.

Any district may include one or more streets or areas which need not be contiguous and may include two (2) or more types of improvements. Such improvements may be included in one (1) proceeding and constructed and financed as one improvement. The district shall include, for the purpose of assessment, all the property which the governing body determines is benefited by the improvement or improvements, including property utilized for public, governmental, burial, or charitable purposes, except property of any religious organization used primarily for religious purposes, or of the United States, or any agency, instrumentality or corporation thereof, in the absence of consent of Congress. The board of county commissioners, the governing body of a city, town, school district or any agency or institution of state government is authorized to pay the amount assessed against property under its ownership or control.

Added by Laws 1978, c. 233, § 4, emerg. eff. April 25, 1978. Amended by Laws 2003, c. 454, § 2, emerg. eff. June 6, 2003.

§11-39-105. Assessments against property wholly within, partly within or wholly without or partly without boundary of city levying assessment - Contracts for improvements.

Section 39-105. A. Whenever the boundary of a city is upon or along any street which at that point lies wholly within, partly within or partly without or wholly outside of its boundary, but contiguous to the boundary of the city, the governing body of such city may include the street in the district, improve that portion of such street and assess a part of the cost thereof against the abutting property lying on both sides of such street. Provided, however, if such street is wholly or partly within the boundary of another city, the governing body of such other city shall, by resolution, consent to the improvement and give its consent to assessment of the benefited property.

B. If, within thirty (30) days after the adoption of the ordinance levying the assessment by the city creating the district, the governing body of the city in which the property is situated does not, by resolution, consent or ratify the assessments, the governing body of the city creating the district may:

1. Modify the boundary of the district to exclude the property from the district;
2. Assume the cost of the improvement assessed against the property lying beyond the boundary of the city; or
3. Nullify the proceedings, including any contract, relating to the district. Any failure on the part of the governing body of the other city to ratify the assessments levied by the city creating the improvement district shall not affect the validity of the assessments which have been levied against any property lying within the limits of the city creating the improvement district.

C. The owner, or his designated agent, of any property lying outside the boundary of the city creating the district and in the district, including the county and any affected subdivision outside the city, shall have the same rights granted to owners of property lying within the boundary of the city creating the district.

D. Whenever a part of the boundary of two or more cities is upon or along any street or is along the edge of any street and the governing bodies of the cities determine the necessity for making an improvement upon any portion of the street, the governing bodies of the cities may contract, upon such terms as are to them mutually agreeable, to make the improvement. The contract shall:

1. Authorize one of the cities to create the district pursuant to the Improvement District Act; and
2. Prescribe the apportionment of the costs, if any, among the cities and the manner and payment of such cost. The payment of such costs by the cities party to the contract is lawful whether the improvement is wholly within, partly within and partly without or wholly outside its limits.

Laws 1978, c. 233, § 5, emerg. eff. April 25, 1978.

§11-39-106. Petitions - Preliminary plans and estimates of cost - Resolutions.

A. For area within the boundary of a city, a petition shall be filed with the city clerk. The petition shall state in bold, capitalized letters at the top of the page that the cost of the proposed improvements shall be assessed against the property benefited by the improvements. In addition, the petition shall be in a format which:

1. Sets forth:
  - a. the general nature of the improvements to be made,
  - b. the estimated or probable cost of the proposal,
  - c. the area of the proposed district to be assessed,
  - d. the proposed method of assessment, and
  - e. the proposed apportionment of cost, if any, between the district and the city at large; and
2. Is signed by:
  - a. a majority of the resident owners of record of property liable for assessment under the proposal, or
  - b. the resident owners of record of more than one-half (1/2) of the area liable for assessment under the proposal, or
  - c. the owners of record of more than one-half (1/2) of the area liable to be assessed under the proposal.

B. For area outside the boundary of a city, a petition shall be filed with the city clerk which:

1. Sets forth:
  - a. the general nature of the improvements to be made,
  - b. the estimated or probable cost of the proposal,
  - c. the area of the proposed district to be assessed,
  - d. the proposed method of assessment,

- e. the proposed apportionment of cost, if any, between the district and the city at large; and
2. Is signed by:
    - a. a majority of the resident owners of record of property liable for assessment under the proposal, and
    - b. the owners of record of more than one-half (1/2) of the area liable for assessment under the proposal; and
  3. States the area is contiguous to, but not within, the boundary of the city.
- C. Whenever the governing body, either upon its own initiative or in response to a petition, determines that the creation of the district is necessary, it may by resolution direct the engineer to prepare preliminary plans and an estimate of cost for the proposed district. The resolution shall:
1. Describe in general terms the property to be included in the district;
  2. Require the engineer to prepare:
    - a. an assessment plat showing the area to be included in the improvement district, and
    - b. an addendum to the assessment plat showing the amount of maximum benefit estimated to be assessed against each tract or parcel in the district on a front-foot, zone, area or other equitable basis, which basis shall be set forth in the resolution; and
  3. Require the engineer to prepare preliminary plans for one or more types of improvement showing:
    - a. for each type of curb, gutter, sidewalk and street, a typical section of the contemplated improvement, the type of material to be used and the approximate thickness and width of the material,
    - b. for each type of storm sewer or drain, sanitary sewer or water line, the type of material and approximate diameter or diameters of any trunk lines, mains, laterals or house connections, or
    - c. for each other type of improvement or other major component of the foregoing types of improvements, a general description.
- D. The engineer shall include in the total cost estimate for the district all expenses including but not limited to advertising, legal, appraising, engineering and printing expenses which the engineer deems necessary to pay the complete cost of the improvement.
- E. The engineer shall submit to the city clerk the:
1. Assessment plat;
  2. Preliminary plans of the type of construction; and
  3. Estimate of costs for the improvement.
- F. After the governing body examines the assessment plat, preliminary plans and estimates of cost for the district, the governing body may adopt a resolution which:
1. Proposes that the district be created and the improvement be constructed; and
  2. Instructs the city clerk or engineer to give notice of a hearing on the proposed district.
- Added by Laws 1978, c. 233, § 6, emerg. eff. April 25, 1978. Amended by Laws 2001, c. 54, § 4, eff. Nov. 1, 2001.

§11-39-107. Notice of creation of improvement district.

Section 39-107. A. The notice as to creating an improvement district shall:

1. Contain the time and place when the governing body shall hold a hearing on the resolution to create the district;
2. Describe the improvement to be constructed and the general location thereof; and
3. State that any interested person may ascertain in the office of the municipal clerk:
  - a. a description of the property to be assessed, and
  - b. the maximum amount of benefit estimated to be conferred on each tract or parcel of land.

B. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the city clerk, his deputy or the engineer shall mail the notice of the hearing on the proposed district to the owner of the tract or parcel of land to be assessed the cost of the improvement at his last-known address. The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer. The notice shall contain a preliminary basis for estimating the assessment. Proof of the mailing is to be made by affidavit of the city clerk, his deputy, or the engineer, which shall be filed in the office of the city clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act.

C. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the city clerk.  
Laws 1978, c. 233, § 7, emerg. eff. April 25, 1978.

§11-39-108. Hearings on creation of district - Protests and objections.

A. At the hearing of the governing body on the proposed resolution creating a district, any interested person or owner of property to be assessed for the improvement may file a written protest or objection questioning the:

1. Propriety and advisability of constructing the improvement;
2. Estimated cost of the improvement;
3. Manner of paying for the improvement; and
4. Amount to be assessed against the individual tract or parcel of land.

B. The governing body may recess the hearing from time to time so that all protestants may be heard.

C. At the hearing, the governing body may:

1. Correct any mistake or irregularity in any proceeding relating to the improvement;
2. Correct an assessment made against any tract or parcel of land;
3. In case of any invalidity, reassess the cost of the improvement against an abutting tract or parcel of land;
4. Delete any tract or parcel of land, protested by the owner, from the district; and
5. Recess the hearing from time to time.

D. Within thirty (30) days after the governing body has concluded the hearing; determined the advisability of constructing the improvement and the type and character of the improvement; and created the improvement district, any person who, during the hearing, filed



a written protest with the governing body protesting the construction of the improvement may commence an action in district court to correct or set aside the determination of the governing body. After the lapse of thirty (30) days succeeding the determination of the governing body, any action attacking the validity of the proceedings and the amount of benefit to be derived from the improvement is perpetually barred. Provided, however, if the owners of fifty percent (50%) or more in area of the tracts or parcels within the district or a majority of the owners of record of property in the assessment area protest, in writing, the creation of the district, the district shall not be created.

Added by Laws 1978, c. 233, § 8, emerg. eff. April 25, 1978. Amended by Laws 1985, c. 26, § 1, eff. Nov. 1, 1985; Laws 1999, c. 343, § 3, eff. Nov. 1, 1999.

§11-39-109. Award of contract - Payment of contractor.

After the governing body creates a district, the governing body may proceed, either to make the improvement by force accounting, or call for sealed bids on the proposed improvement, or where the district comprises land owned by a single party, developer, or other legal entity that has petitioned for the creation of the district, contract with that single party, developer or other legal entity to make the improvement for future dedication or other conveyance to the city; provided, however, in the case of the districts created pursuant to Section 39-103.1 of this title and except as otherwise provided in this section, the governing body may contract for said services without calling for sealed bids or force accounting. The notice shall state the manner of payment to the contractor and whether the contractor will be paid in money, in bonds or in a proportion of money and bonds for making the improvement. The governing body may to the extent that funds are available authorize payments to the contractor during the construction of the improvement provided that the payments do not exceed the amount of work completed and that ten percent (10%) of such payments shall be retained by the city pending final acceptance by the city of the improvement. The term "improvement" as used in this section and Sections 101 through 136 of Title 61 of the Oklahoma Statutes shall not include any services or maintenance authorized and provided pursuant to Section 39-103.1 of this title.

Added by Laws 1978, c. 233, § 9, emerg. eff. April 25, 1978. Amended by Amended by Laws 1983, c. 170, § 22, eff. July 1, 1983; Laws 1986, c. 284, § 15, operative July 1, 1986; Laws 2007, c. 362, § 7, eff. Nov. 1, 2007.

§11-39-110. Apportionment of cost - Funding sources - Limitation of assessment - Assessment roll - Hearings on assessments.

A. Following a hearing held pursuant to Section 39-108 of this title, the governing body shall determine the maximum portion of the total estimated cost of the improvement that shall be assessed against benefited tracts or parcels of land or, if a contract for construction or acquisition of improvements has already been awarded, the portion of the total actual cost of the improvement to be assessed against such tracts or parcels. The maximum annual assessment may include the estimated costs of the administration and collection of assessments and the administration of associated bonds or other related funds. The governing body may use funds from any source, public or private, to pay for all or a portion of the assessment or the cost of the improvement. The assessment, including the cost of the

improvement at an intersection, shall not exceed the estimated benefit to the tract or parcel of land assessed. Provided, however, the cost per front foot to be assessed against the benefiting property for paving a street, for paving alone, shall not exceed the cost per front foot assessed for paving a street that does not exceed thirty-six (36) feet in width.

B. With the assistance of the engineer, the governing body shall prepare and cause to be filed in the office of the city clerk an assessment roll containing, among other things:

1. The name and address of the last-known owner of each tract or parcel of land to be assessed, or if the name of the owner is unknown, state "unknown". The name and address of the owner of each tract of land shall be obtained from the records of the county treasurer;
2. A description of the tract or parcel of land to be assessed; and
3. The amount of the assessment against each tract or parcel of land.

C. After the filing of the assessment roll, the governing body shall, by resolution, set a time and place for the assessment hearing when an owner may object to the amount of the assessment.

D. Not more than thirty (30) days nor less than ten (10) days before the day of the hearing, the city clerk, the city clerk's deputy or the engineer shall mail the notice of the hearing on the assessment roll to the owner of the tract or parcel of land being assessed the cost of the improvement. Proof of the mailing is to be made by affidavit of the city clerk, the city clerk's deputy or the engineer, which shall be filed in the office of the city clerk. Failure of the owner to receive any notice shall not invalidate any of the proceedings authorized in the Improvement District Act. Notice of the hearing shall also be published. The last publication shall be at least seven (7) days prior to the day of the hearing. Such service by publication shall be verified by an affidavit of the publisher which is to be filed in the office of the city clerk.

E. Any property which shall be owned by the city, town or county, or any board of education or school district, shall be treated and considered the same as the property of other owners, and such city, town, county, school district or board of education within such district to be assessed may pay the total assessment against its property without interest within thirty (30) days from the date of the publication of the ordinance levying the assessment, or, in the event the same is not paid in full without interest within said thirty-day period, such city, town, county, school district or board of education shall annually provide by the levy of taxes a sufficient sum to pay the maturing installments of assessments and interest thereon. Laws 1978, c. 233, § 10, emerg. eff. April 25, 1978; Laws 2007, c. 362, § 8, eff. Nov. 1, 2007.

§11-39-111. Filing of objections to assessment - Waiver of objection - Hearings - Levy of assessment - Ordinance.

Section 39-111. A. Not later than three (3) days before the date of the hearing on the assessment roll, any owner of a tract or parcel of land which is listed on the assessment roll may file his specific objections to the amount of the assessment in writing with the city clerk. Unless presented as required in this subsection, any objection is deemed waived as to the regularity, validity and correctness of:

1. The proceedings;
2. The assessment roll;
3. Each assessment contained on the assessment roll; or
4. The amount of the assessment levied against each tract or parcel of land.

B. At the hearing, the governing body shall hear all objections which have been filed as provided in this section and may recess the hearing from time to time and, by resolution, revise, correct, confirm or set aside any assessment and order another assessment be made de novo.

C. The governing body by ordinance shall by reference to such assessment roll, or assessment roll as modified, if modified, and as confirmed by resolution, levy the assessments contained in the assessment roll. The decision, resolution and ordinance of the governing body shall be:

1. A final determination of the regularity, validity and correctness of the proceedings, the assessment roll, each assessment contained on the assessment roll, the amount of the assessment levied against each tract or parcel of land; and

2. Conclusive upon the owners of the tract or parcel of land assessed.

D. Within fifteen (15) days after the publication or posting of the ordinance, any owner who has filed an objection as provided in this section may commence an action in district court to correct or set aside the determination of the governing body. After the lapse of fifteen (15) days after the publication or posting of the ordinance, all actions, which include the defense of confiscation or attack the regularity, validity and correctness of the proceedings, the assessment roll, each assessment contained on the assessment roll, and the amount of the assessment levied against each tract or parcel of land, are perpetually barred.

Laws 1978, c. 233, § 11, emerg. eff. April 25, 1978.

#### §11-39-112. Assessments - Rate - Interest - Delinquent payments - Liens.

A. The governing body may by ordinance:

1. Establish the time and terms of paying the assessment or an installment on the assessment;

2. Set a rate of interest not exceeding ten percent (10%) per annum upon deferred payments of the assessment which shall commence from the date of publication of the ordinance ratifying the assessment;

3. Set interest rates not exceeding ten percent (10%) per annum upon the outstanding principal amount of bonds issued by a district pursuant to Section 39-115 of this title; and

4. Fix penalties to be charged for delinquent payment of an installment on an assessment.

B. After the publication of the ordinance ratifying an assessment levied as provided in Section 39-111 of this title, the assessment with any interest or penalty accruing on such assessment shall constitute a lien upon the tract or parcel of land so assessed. Such lien shall be coequal with the lien for ad valorem taxes and the lien of other improvement districts, and be superior to all other liens, claims and titles. Unmatured installments are not deemed to be within the terms of any general covenant or warranty. All purchasers, mortgagees or encumbrancers of a tract or parcel of land so assessed shall acquire the tract or parcel of land subject to the lien so created.

C. Within sixty (60) days after the publication of the ordinance ratifying an assessment roll, the city clerk shall prepare, sign, attest with the municipal seal and record in the office of the county clerk a claim of lien for any unpaid amount due and assessed against a tract or parcel of land.

D. Any tract or parcel so assessed shall not be relieved from the assessment or lien by the sale of the tract or parcel of land for taxes or any other assessment, subject to the provisions of Section 39-119 of this title. The statute of limitations shall not begin to run against an assessment until after the last installment of the assessment becomes due.

E. The fact that an improvement is omitted in front of any tract or parcel of land does not invalidate a lien or assessment made against any other tract or parcel of land.

F. A delinquent installment of an assessment shall be foreclosed and the tract or parcel of land concerned be sold in the manner provided by law for foreclosure of mortgages on land. If, at the sale, there is no better bidder for the tract or parcel of land the municipality shall bid in the tract or parcel of land for the amount due on the assessment plus any interest, penalties or costs which have accrued against the assessment. Any real estate sold under any order, judgment or decree of court to satisfy the lien may be redeemed by the owner or his assignee at any time within one (1) year of the date of sale by paying to the purchaser thereof or assignee the amount paid with interest from the date of purchase at the rate of twelve percent (12%) per annum.

Added by Laws 1978, c. 233, § 12, emerg. eff. April 25, 1978. Amended by Laws 2007, c. 362, § 9, eff. Nov. 1, 2007.

#### §11-39-113. Use of revenues.

A. All money received by the city from any special assessment or assessment within a district shall be held in a special fund and used to:

1. Pay the cost of the improvement for which the assessment was made;
2. Reimburse the city for any work performed or cost incurred by the city in constructing the improvement; or
3. Pay the interest and principal due on any outstanding negotiable bonds, including replenishment of debt service reserves, reimbursements to bond insurers or other providers of credit enhancement, and other payments required in connection with bonds issued to pay for improvements.

B. Any person who uses money in a district fund other than as provided in this section is guilty of a felony and shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment, in the discretion of the court.

Added by Laws 1978, c. 233, § 13, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 23, eff. July 1, 1983; Laws 1997, c. 133, § 129, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 58, eff. July 1, 1999; Laws 2007, c. 362, § 10, eff. Nov. 1, 2007.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 129 from July 1, 1998, to July 1, 1999.

#### §11-39-114. Transfer of revenues to general fund.

Section 39-114. The governing body may transfer to the general fund of the city any money obtained from the levy of an assessment for a district if:

1. Bonds were issued to finance the improvement; and
2. The funds obtained by the bonds were spent for the improvement; and

3. The assessments were levied and collected for the payment of the bonds; and
  4. Either the bondholders are barred by the statute of limitations or a court judgment or decree from collecting the indebtedness; or
  5. The bonded indebtedness has been paid.
- Laws 1978, c. 233, § 14, emerg. eff. April 25, 1978.

§11-39-115. Bonds.

A. To pay all or any part of the cost of the improvement, the governing body may issue, in the name of the city or a public trust entity acting on behalf of the city, bonds in one or more series and in amounts not exceeding the total cost of the improvement financed by each series, including costs of issuance, capitalized interest, funding of reserves, premiums for reserve surety bonds, and obtaining bond insurance, letters of credit or other credit enhancement or liquidity instruments in connection with each series. If the bonds recite that:

1. The proceedings relating to making the improvement and levying the assessments to pay for the improvement have been done in compliance with law; and
  2. All prerequisites to the fixing of the assessment lien against the tract or parcel of land benefited by the improvement have been performed;
- such recital shall be conclusive evidence of the facts recited.

B. The bonds shall:

1. Recite the terms and conditions for their issuance;
2. Be payable from the money collected from the assessment authorized in Section 39-111 of this title;
3. Bear a rate of interest not less than two percent (2%) of the rate of interest on the deferred installments of the assessment; and
4. Mature not later than thirty (30) years after the date of issuance of the bonds of a particular series.

C. Payment of the bonds issued for a storm sewer, lighting, street, alley, curb, gutter or sidewalk improvement may be supplemented from gasoline tax money remitted by the State of Oklahoma on or before a date not more than twelve (12) months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed. Payment of the bonds issued for a water, sewer, gas, electric or other improvement may be supplemented from the funds received by the water, sewer, gas, electric or other facility on or before a date not more than twelve (12) months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed.

D. The bonds may be issued to the contractor in payment for the construction of the improvement or may be issued and sold:

1. In payment of the city's proportion of the cost of the improvement;
2. In payment of the proportionate cost if the improvement is done in cooperation with another governmental agency;
3. In payment of the construction of the improvement done under contract; or
4. In reimbursement to the city if the city constructed the improvement with city owned or leased equipment and city employees.

E. Any city may contract for the issuance and sale of bonds or assignable certificates.

F. Bonds or assignable certificates may be sold at a public or private sale at a discount.

G. After the passage of thirty (30) days from the publication of the ordinance or resolution authorizing the issuance of district bonds, any action attacking the validity of any proceedings had or taken by the governing body of the city preliminary to and in the authorization and issuance of the bonds described in the notice is perpetually barred. Added by Laws 1978, c. 233, § 15, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 24, eff. July 1, 1983; Laws 2007, c. 362, § 11, eff. Nov. 1, 2007.

§11-39-116. Duty of city relative to assessments and bonds - Personal liability.

A. Whenever a district has been created and bonds have been issued to finance the improvement, a city shall either itself, or acting through a third party administrator:

1. Collect the assessments annually or semiannually;
2. Act as trustee for the benefit of the holders of the bonds; provided that, the city may contract with a bank with trust powers to act as trustees;
3. Annually prepare a statement which shall:
  - a. be available for inspection in the office of the city treasurer,
  - b. reflect the financial condition of the district,
  - c. list all the delinquencies existing at that time, and
  - d. institute proceedings to foreclose the assessment lien against any tract or parcel of land which is delinquent in the payment of the assessment or installment of an assessment for a period of more than one (1) year. In lieu of the foreclosure of a lien against any tract or parcel of land which is delinquent in the payment of an assessment or installment of an assessment for a period of more than one (1) year, a city may accept a deed to the property subject to the lien if the owner of the property tenders the deed to the municipality.

B. If more than one district is created, the money from assessments in each district shall be kept in a separate fund and used for the payment of principal and interest of the bonds outstanding against that district. Nothing herein shall prevent the appointment and compensation by the district of a registrar, transfer, authenticating, paying or other agents to effect the transfer of ownership, change of payee of any bond issued by the district and to maintain books and records relating thereto.

C. Neither any member of the governing body of a city creating a district nor any person acting on behalf of the city or district, while acting within the scope of his or her authority, shall be subject to any personal liability for any action taken or omitted within that scope of authority.

Added by Laws 1978, c. 233, § 16, emerg. eff. April 25, 1978. Amended by Laws 1983, c. 170, § 25, eff. July 1, 1983; Laws 2007, c. 362, § 12, eff. Nov. 1, 2007.

§11-39-117. Delinquent assessment or installment - Rights and remedies for collection of assessment.

A. If the governing body fails or refuses to foreclose and sell a tract or parcel of land for the delinquent assessment or installment of the assessment as required in Section 39-116 of this title, any holder of a bond secured by the assessment may foreclose the assessment lien on

such delinquent property in the manner provided by law for the foreclosure of mortgages on real estate.

B. Whenever a governing body, board of county commissioners or local board of education is delinquent in the payment of an assessment, the holder of any bonds issued against the tract or parcel of land of the city, county or school district has the rights and remedies for the collection of the assessment as are given by law for the collection of judgments against cities, counties and school districts.

Amended by Laws 1983, c. 170, § 26, eff. July 1, 1983.

§11-39-118. Duties of trustees in foreclosure actions.

In any action seeking the foreclosure of a lien against any tract or parcel of land assessed by a city for the construction of any improvement after bonds have been issued, the trustee of the fund from which the bonds are to be paid may:

1. Purchase the tract or parcel of land sold at the foreclosure sale; or
2. Bid, in lieu of cash, the full amount of the assessment and interest found by the court to be due and payable under the ordinance creating the lien and any cost taxed by the court in the foreclosure proceedings against the property ordered sold.

Amended by Laws 1983, c. 170, § 27, eff. July 1, 1983.

§11-39-119. Title to property in trustee.

Upon the acceptance or purchase of the tract or parcel of land as provided in Sections 39-116 and 39-118 of this title, title to the tract or parcel of land, subject to the right of redemption as provided by law, shall vest in the trustee of the fund from which the bonds are payable.

Amended by Laws 1983, c. 170, § 28, eff. July 1, 1983.

§11-39-120. Sale of property by trustee.

A. After expiration of the period of redemption of the tract or parcel of land foreclosed, the trustee may apply to the district court which ordered the property sold for an order authorizing the trustee to sell the property at private sale.

B. After the filing of the application of the trustee, the district court shall appoint three (3) disinterested persons to appraise the property sought to be sold and return the appraisement to the court. After the appraisement is filed in the district court, the district court shall, if it deems the appraisement to be fair, enter an order authorizing and directing the trustee to sell and convey to the purchaser the tract or parcel of land being sold. The tract or parcel of land shall not be sold at private sale except for cash and for no less than the value determined by the appraisers.

C. If the trustee is unable to sell the tract or parcel of land at its appraised value, the trustee may apply to the district court which ordered the property sold for an order authorizing the trustee to sell for cash the tract or parcel of land foreclosed to the highest and best bidder subject to the approval of the district court. If the court determines that the property cannot be sold at its appraised value, the court may enter an order directing the public sale of the property.

D. After the sale of the foreclosed tract or parcel of land at either a private sale or a public sale, approved by the court, the trustee shall:

1. Deduct the costs of the sale and costs taxed against the tract or parcel of land in the sale proceedings; and

2. Pay the remainder of the proceeds into the proper district fund for payment of the interest and the bonds. In case of the sale of any tract or parcel of land subject to more than one delinquent assessment, such remaining proceeds shall be distributed into the proper district funds for such payment pro rata based upon the total unpaid amount due each such district.

Amended by Laws 1983, c. 170, § 29, eff. July 1, 1983.

§11-39-121. Purpose of act.

Section 121. The Improvement District Act is intended to afford another and additional method of making improvements and is not to be construed as repealing or qualifying any other charter or statutory authorization granting a city authority to make improvements.

Laws 1978, c. 233, § 21, emerg. eff. April 25, 1978.