

### CHAPTER 386

#### SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICTS

Referred to in §376.1

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#### 386.1 Definitions.

As used in this chapter, unless the context requires otherwise:

1. "Book", "list", "record", or "schedule" kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.
2. "Cost" of any improvement or self-liquidating improvement includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights-of-way, supervision, inspection, testing, publications, printing and sale of bonds, interest during construction and for not more than six months thereafter, and provisions for contingencies.
3. "District" means a self-supported municipal improvement district which may be created and the property therein taxed in accordance with this chapter.
4. "Improvement" means any of the following:
  - a. All or any part of a city enterprise as defined in section 384.24, subsection 2.
  - b. Public improvements as defined in section 384.37, subsection 19.
  - c. Those structures, properties, facilities or actions, the acquisition, construction, improvement, installation, reconstruction, enlargement, repair, equipping, purchasing, or taking of which would constitute an essential corporate purpose or general corporate purpose as defined in section 384.24, subsections 3 and 4.
5. "Property" means real property as defined in section 4.1, subsection 13, and in section 427A.1, subsection 1, paragraph "h".
6. "Property owner" or "owner" means the owner of property, as shown by the transfer books in the office of the county auditor of the county in which the property is located.
7. "Self-liquidating improvement" means any facility or property proposed to be leased in whole or in part to any person or governmental body to further the corporate purposes of the city and:
  - a. To aid in the commercial development of the district.
  - b. To further the purposes of the districts; or
  - c. Not substantially reduce the city's property tax base.
8. The use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and", unless the context clearly indicates otherwise.
9. All definitions in section 362.2 are incorporated by reference as a part of this chapter, except as provided in subsection 5.

[C77, 79, 81, §386.1]

84 Acts, ch 1179, §1; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201

#### 386.2 Authorization.

A city which proposes to create a district, to provide for its existence and operation, to provide for improvements or self-liquidating improvements for the district, to authorize and issue bonds for the purposes of the district, and to levy the taxes authorized by this chapter must do so in accordance with the provisions of this chapter.

[C77, 79, 81, §386.2]

**386.3 Establishment of district.**

1. Districts may be created by action of the council in accordance with the provisions of this chapter. A district shall:

a. Be comprised of contiguous property wholly within the boundaries of the city. A self-supported municipal improvement district shall be comprised only of property in districts which are zoned for commercial or industrial uses and properties within a duly designated historic district.

b. Be given a descriptive name containing the words “self-supported municipal improvement district”.

c. Be comprised of property related in some manner, including but not limited to present or potential use, physical location, condition, relationship to an area, or relationship to present or potential commercial or other activity in an area, so as to be benefited in any manner, including but not limited to a benefit from present or potential use or enjoyment of the property, by the condition, development or maintenance of the district or of any improvement or self-liquidating improvement of the district, or be comprised of property the owners of which have a present or potential benefit from the condition, development or maintenance of the district or of any improvement or self-liquidating improvement of the district.

2. The council shall initiate proceedings for establishing a district upon the filing with its clerk of a petition containing:

a. The signatures of at least twenty-five percent of all owners of property within the proposed district. These signatures must together represent ownership of property with an assessed value of twenty-five percent or more of the assessed value of all of the property in the proposed district.

b. A description of the boundaries of the proposed district or a consolidated description of the property within the proposed district.

c. The name of the proposed district.

d. A statement of the maximum rate of tax that may be imposed upon property within the district. The maximum rate of tax may be stated in terms of separate maximum rates for the debt service tax, the capital improvement fund tax, and the operation tax, or in terms of a maximum combined rate for all three.

e. The purpose of the establishment of the district, which may be stated generally, or in terms of the relationship of the property within the district or the interests of the owners of property within the district, or in terms of the improvements or self-liquidating improvements proposed to be developed for the purposes of the district, either specific improvements, self-liquidating improvements, or general categories of improvements, or any combination of the foregoing.

f. A statement that taxes levied for the self-supported improvement district operation fund shall be used for the purpose of paying maintenance expenses of improvements or self-liquidating improvements for a specified length of time, along with any options to renew, if the taxes are to be used for this maintenance purpose.

3. a. The council shall notify the city planning commission upon the receipt of a petition. It shall be the duty of the city planning commission to make recommendations to the council in regard to the proposed district. The city planning commission shall, with due diligence, prepare an evaluative report for the council on the merit and feasibility of the project. The council shall not hold its public hearings or take further action on the establishment of the district until it has received the report of the city planning commission. In addition to its report, the commission may, from time to time, recommend to the council amendments and changes relating to the project.

b. If no city planning commission exists, the council shall notify the metropolitan or regional planning commission upon receipt of a petition, and such commission shall have the same duties as the city planning commission set forth in this subsection. If no planning commission exists, the council shall notify the zoning commission upon receipt of a petition, and such commission shall have the same duties as the city planning commission set forth in this subsection. If no planning or zoning commission exists, the council shall call a hearing on the establishment of a district upon receipt of a petition.

4. Upon the receipt of the commission's final report the council shall set a time and place for a meeting at which the council proposes to take action for the establishment of the district, and shall publish notice of the meeting as provided in section 362.3, and the clerk shall send a copy of the notice by certified mail not less than fifteen days before the meeting to each owner of property within the proposed district at the owner's address as shown by the records of the county auditor. If a property is shown to be in the name of more than one owner at the same mailing address, a single notice may be mailed addressed to all owners at that address. Failure to receive a mailed notice is not grounds for objection to the council's taking any action authorized in this chapter.

5. In addition to the time and place of the meeting for hearing on the petition, the notice must state:

- a. That a petition has been filed with the council asking that a district be established.
- b. The name of the district.
- c. The purpose of the district.
- d. The property proposed to be included in the district.
- e. The maximum rate of tax which may be imposed upon the property in the district.

6. At the time and place set in the notice the council shall hear all owners of property in the proposed district or residents of the city desiring to express their views. The council must wait at least thirty days after the public hearing has been held before it may adopt an ordinance establishing a district which must be comprised of all the property which the council finds has the relationship or whose owners have the interest described in subsection 1, paragraph "c". Property included in the proposed district need not be included in the established district. However, no property may be included in the district that was not included in the proposed district until the council has held another hearing after it has published and mailed the same notice as required in subsections 4 and 5 of this section on the original petition to the owners of the additional property, or has caused a notice of the inclusion of the property to be personally served upon each owner of the additional property, or has received a written waiver of notice from each owner of the additional property.

7. Adoption of the ordinance establishing a district requires the affirmative vote of three-fourths of all of the members of the council, or in cities having but three members of the council, the affirmative vote of two members. However if a remonstrance has been filed with the clerk signed by at least twenty-five percent of all owners of property within the proposed district representing ownership of property with an assessed value of twenty-five percent or more of the assessed value of all of the property in the proposed district, the adoption of the ordinance requires a unanimous vote of the council.

8. The clerk shall cause a copy of the ordinance to be filed in the office of the county recorder of each county in which any property within the district is located.

9. At any time prior to adoption of an ordinance establishing a district, the entire matter of establishing such district shall be withdrawn from council consideration if a petition objecting to establishing such district is filed with its clerk containing the signatures of at least forty percent of all owners of property within the proposed district or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the proposed district.

10. The adoption of an ordinance establishing a district is a legislative determination that the property within the district has the relationship or its owners have the interest required under subsection 1, paragraph "c" and includes all of the property within the area which has that relationship or the owners of which have that interest in the district.

11. Any resident or property owner of the city may appeal the action and the decisions of the council, including the creation of the district and the levying of the proposed taxes for the district, to the district court of the county in which any part of the district is located, within thirty days after the date upon which the ordinance creating the district becomes effective, but the action and decision of the council are final and conclusive unless the court finds that the council exceeded its authority. No action may be brought questioning the regularity of the proceedings pertaining to the establishment of a district or the validity of the district, or the propriety of the inclusion or exclusion of any property within or from the district, or the

ability of the city to levy taxes in accordance with the ordinance establishing the district, after thirty days from the date on which the ordinance creating the district becomes effective.

12. The procedural steps for the petitioning and creation of the district may be combined with the procedural steps for the authorization of any improvement or self-liquidating improvement, or the procedural steps for the authorization of any tax, or any combination thereof.

13. The rate of debt service tax referred to in the petition and the ordinance creating the district shall only restrict the amount of bonds which may be issued, and shall not limit the ability of the city to levy as necessary in subsequent years to pay interest and amortize the principal of that amount of bonds.

14. The ordinance creating the district may provide for the division of all of the property within the district into two or more zones based upon a reasonable difference in the relationship of the property or the interest of its owners, whether the difference is qualitative or quantitative. The ordinance creating the district and establishing the different zones may establish a different maximum rate of tax for each zone, or may provide that the rate of tax for a zone shall be a certain set percentage of the tax levied in the zone which is subject to the highest rate of tax.

[C77, 79, 81, §386.3]

85 Acts, ch 113, §1; 88 Acts, ch 1246, §7; 2010 Acts, ch 1061, §180

Referred to in §386.4, 386.6

#### **386.4 Amendments to district.**

1. The ordinance creating the district may be amended and property may be added to the district and the maximum rate of taxes referred to in the ordinance may be increased at any time in the same manner and by the same procedure as for the establishment of a district. All property added to a district shall be subject to all taxes currently and thereafter levied including debt service levies for bonds previously or thereafter issued.

2. Action by the council amending the ordinance creating the district, including adding any eligible property or deleting any property within the district or changing any maximum rate of taxes, shall be by ordinance adopted by an affirmative vote of three-fourths of all of the members of the council, or in cities having but three members of the council, the affirmative vote of two members. However, if a remonstrance has been filed with the clerk signed by at least twenty-five percent of all owners of property within the district and all property proposed to be included representing ownership of property with an assessed value of twenty-five percent or more of the assessed value of all the property in the district and all property proposed to be included, the amending ordinance must be adopted by unanimous vote of the council.

3. The clerk shall cause a copy of the amending ordinance to be filed in the office of the county recorder of each county in which any property within the district as amended is located.

4. At any time prior to council amendment of the ordinance creating the district, the entire matter of amending such ordinance shall be withdrawn from council consideration if a petition objecting to amending such ordinance is filed with its clerk containing either the signatures of at least forty percent of all owners of property within the district and all property proposed to be included or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the district and all property proposed to be included.

5. Any resident or property owner of the city may appeal the action or decisions of the council amending the ordinance creating the district, to the district court of the county in which any part of the district, as amended, is located, within fifteen days after the date upon which the ordinance amending the ordinance creating the district becomes effective, but the action and decision of the council are final and conclusive unless the court finds that the council exceeded its authority. No action may be brought questioning the regularity of the proceedings pertaining to the amended ordinance or the validity of the district as amended, or the propriety of the inclusion or exclusion of any property within or from the amended district, or the ability of the city to levy taxes in accordance with the ordinance establishing

the district, as amended, after thirty days from the date upon which the amending ordinance becomes effective.

6. All other provisions in section 386.3 shall apply to an amended district and to the ordinance amending the ordinance creating the district with the same effect as they apply to the original district and the ordinance creating the original district.

[C77, 79, 81, §386.4]

### **386.5 Dissolution.**

A district may be dissolved and terminated by action of the council rescinding the ordinance creating the district, and any subsequent ordinances amending the district, by an affirmative vote of three-fourths of all members of the council, or in cities having but three members of the council, the affirmative vote of two members. However, if a remonstrance has been filed with the clerk signed by at least twenty-five percent of all owners of property within the district representing ownership of property with an assessed value of twenty-five percent or more of the assessed value of all the property in the district, the rescission of the ordinance creating the district, and any subsequent ordinances amending the district, requires a unanimous vote of the council.

At any time prior to action of the council rescinding the ordinance creating the district, and any subsequent ordinances amending the district, the entire matter of dissolving a district shall be withdrawn from council consideration if a petition is filed with its clerk containing the signatures of at least forty percent of all owners of property within the district or signatures which together represent ownership of property with an assessed value of forty percent or more of the assessed value of all property within the district.

[C77, 79, 81, §386.5]

### **386.6 Improvements.**

When a city proposes to construct an improvement the cost of which is to be paid or financed under the provisions of this chapter, it must do so in accordance with the provisions of this section, as follows:

1. The council shall initiate proceedings for a proposed improvement upon receipt of a petition signed by at least twenty-five percent of all owners of property within the district representing ownership of property with an assessed value of twenty-five percent or more of the assessed value of all the property in the district.

2. Upon the receipt of such a petition the council shall notify the city planning commission, if one exists, the metropolitan or regional planning commission, if one exists, or the zoning commission, if one exists, in the order set forth in section 386.3, subsection 3. Upon notification by the council, the commission shall prepare an evaluative report for the council on the merit and feasibility of the improvement and carry out all other duties as set forth in section 386.3, subsection 3. If no planning or zoning commission exists, the council shall call a hearing on a proposed improvement upon receipt of a petition.

3. Upon the receipt of the commission's report the council shall set a time and place of meeting at which the council proposes to take action on the proposed improvement and shall publish and mail notice as provided in section 386.3, subsections 4 and 5.

4. The notice must include a statement that an improvement has been proposed, the nature of the improvement, the source of payment of the cost of the improvement, and the time and place of hearing.

5. At the time and place set in the notice the council shall hear all owners of property in the district or residents of the city desiring to express their views. The council must wait at least thirty days after the public hearing has been held before it may take action to order construction of the improvement. The provisions of section 386.3, subsections 7 and 9, relating to the adoption of the ordinance establishing a district, the requisite vote therefor, the remonstrance thereto and the withdrawal of the entire matter from council consideration apply to the adoption of the resolution ordering the construction of the improvement.

6. If the council orders the construction of the improvement, it shall proceed to let contracts therefor in accordance with chapter 26.

7. The adoption of a resolution ordering the construction of an improvement is a

legislative determination that the proposed improvement is in furtherance of the purposes of the district and that all property in the district will be affected by the construction of the improvement, or that all owners of property in the district have an interest in the construction of the improvement.

8. Any resident or property owner of the city may appeal the action or decisions of the council ordering the construction of the improvement to the district court of the county in which any part of the district is located within thirty days after the adoption of the resolution ordering construction of the improvement, but the action and decisions of the council are final and conclusive unless the court finds that the council exceeded its authority. No action may be brought questioning the regularity of the proceedings pertaining to the ordering of the construction of an improvement, or the right of the city to apply moneys in the capital improvement fund referred to in this chapter to the payment of the costs of the improvement, or the right of the city to issue bonds referred to in this chapter for the payment of the costs of the improvement, or the right of the city to levy taxes which with any other taxes authorized by this chapter do not exceed the maximum rate of tax that may be imposed upon property within the district for the payment of principal of and interest on bonds issued to pay the costs of the improvement, after thirty days from the date of adoption of the resolution ordering construction of the improvement.

9. The procedural steps contained in this section may be combined with the procedural steps for the petitioning and creation of the district or the procedural steps for the authorization of any tax or any combination thereof.

[C77, 79, 81, §386.6]

2007 Acts, ch 144, §19

Referred to in §386.7, 386.13

### **386.7 Self-liquidating improvements.**

When a city proposes to construct a self-liquidating improvement, the cost of which is to be paid or financed under the provisions of this chapter, it must do so in accordance with the provisions of this section as follows:

1. Section 386.6, subsections 1 to 5 are applicable to a self-liquidating improvement to the same extent as they are applicable to an improvement and the proceedings initiating a self-liquidating improvement shall be governed thereby.

2. Before the council may order the construction of a self-liquidating improvement, and after hearing thereon, it must find that the self-liquidating improvement and the leasing of a part or the whole of it to any person or governmental body will further the corporate purposes of the city and will:

- a. Aid in the commercial development of the district.
- b. Further the interests of the district; or
- c. Not substantially reduce the city's property tax base.

3. If the council orders the construction of the self-liquidating improvement, contracts for it shall be let in accordance with chapter 26.

4. The adoption of a resolution ordering the construction of a self-liquidating improvement is a legislative determination that the proposed self-liquidating improvement and the leasing of a part or the whole of it to any person or governmental body will further the corporate purposes of the city and will:

- a. Aid in the commercial development of the district.
- b. Further the interests of the district; or
- c. Not substantially reduce the city's property tax base.

5. A city may lease any or all of a self-liquidating improvement to any person or governmental body.

6. A city may issue revenue bonds payable from the income and receipts derived from the self-liquidated improvement. Chapter 384, division V applies to revenue bonds for self-liquidating improvements and the term "city enterprise" as used in that division shall be deemed to include self-liquidating improvements authorized by this chapter.

7. Any resident or property owner of the city may appeal a decision of the council to order the construction of a self-liquidating improvement or to lease any or all of a

self-liquidating improvement to the district court of the county in which any part of the district is located, within thirty days after the adoption of the resolution ordering the self-liquidating improvement, but the action of the council is final and conclusive unless the court finds that the council exceeded its authority.

8. No action may be brought questioning the regularity of the proceedings pertaining to the ordering of the construction of a self-liquidating improvement after thirty days from the date of adoption of the resolution ordering construction of the self-liquidating improvement. No action may be brought questioning the regularity of the proceedings pertaining to the leasing of any or all of a self-liquidating improvement after thirty days from the date of the adoption of a resolution approving the proposed lease. In addition to the limitation contained in section 384.92, no action may be brought which questions the legality of revenue bonds or the power of the city to issue revenue bonds or the effectiveness of any proceedings relating to the authorization and issuance of revenue bonds relating to a self-liquidating improvement after thirty days from the time the bonds are ordered issued by the city.

9. The procedural steps contained in this section may be combined with the procedural steps for the petitioning and creation of the district.

[C77, 79, 81, §386.7]

89 Acts, ch 83, §50; 2007 Acts, ch 144, §20

### **386.8 Operation tax.**

A city may establish a self-supported improvement district operation fund, and may certify taxes not to exceed the rate limitation as established in the ordinance creating the district, or any amendment thereto, each year to be levied for the fund against all of the property in the district, for the purpose of paying the administrative expenses of the district, which may include but are not limited to administrative personnel salaries, a separate administrative office, planning costs including consultation fees, engineering fees, architectural fees, and legal fees and all other expenses reasonably associated with the administration of the district and the fulfilling of the purposes of the district. The taxes levied for this fund may also be used for the purpose of paying maintenance expenses of improvements or self-liquidating improvements for a specified length of time with one or more options to renew if such is clearly stated in the petition which requests the council to authorize construction of the improvement or self-liquidating improvement, whether or not such petition is combined with the petition requesting creation of a district. Parcels of property which are assessed as residential property for property tax purposes are exempt from the tax levied under this section except residential properties within a duly designated historic district. A tax levied under this section is not subject to the levy limitation in section 384.1.

[C77, 79, 81, §386.8]

85 Acts, ch 113, §2

### **386.9 Capital improvement tax.**

A city may establish a capital improvement fund for a district and may certify taxes, not to exceed the rate established by the ordinance creating the district, or any subsequent amendment thereto, each year to be levied for the fund against all of the property in the district, for the purpose of accumulating moneys for the financing or payment of a part or all of the costs of any improvement or self-liquidating improvement. However, parcels of property which are assessed as residential property for property tax purposes are exempt from the tax levied under this section except residential properties within a duly designated historic district. A tax levied under this section is not subject to the levy limitations in section 384.1 or 384.7.

[C77, 79, 81, §386.9]

85 Acts, ch 113, §3

Referred to in §386.12

### **386.10 Debt service tax.**

A city shall establish a self-supported municipal improvement district debt service fund whenever any self-supported municipal improvement district bonds are issued and

outstanding, other than revenue bonds, and shall certify taxes to be levied against all of the property in the district for the debt service fund in the amount necessary to pay interest as it becomes due and the amount necessary to pay, or to create a sinking fund to pay, the principal at maturity of all self-supported municipal improvement district bonds as authorized in section 386.11, issued by the city. However, parcels of property which are assessed as residential property for property tax purposes at the time of the issuance of the bonds are exempt from the tax levied under this section until the parcels are no longer assessed as residential property or until the residential properties are designated as a part of an historic district.

[C77, 79, 81, §386.10]

85 Acts, ch 113, §4

Referred to in §386.11

### **386.11 Self-supported municipal improvement district bonds.**

1. A city may issue and sell self-supported municipal improvement district bonds at public or private sale payable from taxes which must be levied in accordance with chapter 76. The bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the district through the district debt service fund authorized by section 386.10. When self-supported municipal improvement district bonds are issued and taxes are levied in accordance with chapter 76, the taxes shall continue to be levied, until the bonds and interest thereon are paid in full, against all of the taxable property that was included in the district at the time of the issuance of the bonds, regardless of any subsequent removal of any property from the district or the dissolution of the district.

2. The proceeds of the sale of the bonds may be used to pay any or all of the costs of any improvement, or be used to pay any legal indebtedness incurred for the cost of any improvement including bonds or warrants previously issued to pay the costs of an improvement, or bonds may be exchanged for the evidences of such legal indebtedness.

3. Before the council may institute proceedings for the issuance of bonds, it shall proceed in the same manner as is required for the institution of proceedings for the issuance of bonds for an essential corporate purpose as provided in section 384.25, subsection 2 and all of the provisions of that subsection apply to bonds issued pursuant to this section.

4. A city may issue bonds authorized by this section pursuant to a resolution adopted at a regular or special meeting by an affirmative vote of a majority of the total members to which the council is entitled. The proceeds of a single bond issue may be used for various improvements.

5. The provisions of sections 384.29, 384.30, and 384.31 apply to bonds issued pursuant to this section, except that the bonds shall be designated "municipal improvement district bonds".

6. No action may be brought which questions the legality of bonds issued pursuant to this section or the power of a city to issue the bonds or the effectiveness of any proceedings relating to the authorization and issuance of the bonds after thirty days from the time the bonds are ordered issued by the city.

[C77, 79, 81, §386.11]

Referred to in §386.10, 386.12

### **386.12 Payment for improvements.**

The costs of improvements may be paid from any of the following sources or a combination thereof:

1. The capital improvement fund referred to in section 386.9.
2. The proceeds of bonds referred to in section 386.11.

3. Any other funds of the city which are legally available to pay all or a portion of the cost of an improvement. The fact that an improvement is initiated under the provisions of this chapter, or any of the costs of an improvement or any part of an improvement are being paid under the provisions of this chapter, shall not preclude the city from paying any costs of an improvement from any fund from which it might otherwise have been able to pay such costs. In addition, and not in limitation of the foregoing, any improvement which constitutes



an essential corporate purpose or a general corporate purpose as defined in section 384.24, subsections 3 and 4, may be financed in whole or in part with the proceeds of the issuance of general obligation bonds of the city pursuant to the provisions of chapter 384, division III.

4. Payment for the costs of an improvement may also be made in warrants drawn on any fund from which payment for the improvement may be made. If such funds are depleted, anticipatory warrants may be issued bearing a rate of interest not exceeding that permitted by chapter 74A, which do not constitute a violation of section 384.10, even if the collection of taxes or income from the sale of bonds applicable to the improvement is after the end of the fiscal year in which the warrants are issued. If the city arranges for the private sale of anticipatory warrants, they may be sold and the proceeds used to pay the costs of the improvement. Such warrants may be used to pay other persons furnishing services constituting a part of the cost of the improvement.

[C77, 79, 81, §386.12]

#### **386.13 Parking fee abatements.**

A city may apply moneys in the operation fund of the district to prepay parking fees at any city parking facility located in or used in conjunction with the district but only after notice and hearing as required by section 386.6. The authority to prepay such fees shall exist only for the period of time set out in the notice to owners and in the resolution of the council authorizing the application of funds for that purpose. Upon the application of sufficient amounts of prepaid fees, the city need not charge individual users of the parking facility. Before adopting a resolution authorizing the application of funds for such purpose, the council must find that the application will further the purposes of the district, including but not limited to increasing the commercial activity in the district.

[C77, 79, 81, §386.13]

#### **386.14 Independent provisions.**

The provisions of this chapter with respect to notice, hearing and appeal for the construction of improvements and self-liquidating improvements and the issuance and sale of bonds are in lieu of the provisions contained in chapters 73A and 75, or any other law, unless specifically referred to and made applicable by this chapter.

[C77, 79, 81, §386.14]