

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 4. DEVELOPMENT AND IMPROVEMENT

SUBTITLE C. DEVELOPMENT, IMPROVEMENT, AND MANAGEMENT

CHAPTER 3972. CITY OF EL PASO MUNICIPAL MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3972.0101. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "City" means the City of El Paso.
- (3) "Director" means a board member.
- (4) "District" means the City of El Paso Municipal Management District No. 1.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0102. CREATION AND NATURE OF DISTRICT. The City of El Paso Municipal Management District No. 1 is a special district created under Section 59, Article XVI, Texas Constitution.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0103. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(c) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(d) The district is created to supplement and not to

supplant city services provided in the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0104. FINDINGS OF BENEFIT AND PUBLIC USE.

(a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(b) The district is created to serve a public use and benefit.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment;

(3) developing or expanding transportation and commerce; and

(4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public. Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0105. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) All or any part of the area of the district is eligible to be included in:

- (1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
- (2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;
- (3) an enterprise zone created under Chapter 2303, Government Code; or
- (4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district

for:

(1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and

(2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006, Tax Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0108. ENFORCEABILITY OF MUNICIPAL CONSENT AGREEMENT. (a) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(b) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0109. CONSENT OF MUNICIPALITY AND ENTITLEMENT AGREEMENT REQUIRED. The board may not impose an assessment, issue bonds, or hold an election to authorize the issuance of bonds until:

(1) the governing body of the city by ordinance or resolution consents to the creation of the district and to the inclusion of land in the district; and

(2) the city and the owner or owners of a majority of the assessed value of real property in the district negotiate and

execute a mutually approved and accepted entitlement agreement regarding the development of land in the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0110. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3972.0201. GOVERNING BODY; TERMS. The district is governed by a board of five directors who serve staggered terms of four years with two or three directors' terms expiring June 1 of each even-numbered year.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0202. QUALIFICATIONS OF DIRECTORS. (a) To be qualified to serve as a director, a person must be:

(1) a resident of the city who is also a registered voter of the city;

(2) an owner of property in the district;

(3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;

(4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district; or

(5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1,

eff. January 1, 2020.

Sec. 3972.0203. APPOINTMENT OF DIRECTORS. The governing body of the city shall appoint directors from persons recommended by the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0204. VACANCY. (a) If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

(b) A director may resign from the board at any time.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0205. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0206. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting. The total amount of compensation for each director in one year may not exceed \$7,200.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0207. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

(1) actions taken by the director in the director's

capacity as a member of the board;

(2) actions and activities taken by the district; or

(3) the actions of others acting on behalf of the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0208. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0209. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

For expiration of this section, see Subsection (f).

Sec. 3972.0210. INITIAL DIRECTORS. (a) On or after January 1, 2020, the owner or owners of a majority of the assessed value of real property in the district may submit a petition to the governing body of the city requesting that the governing body appoint five persons as initial directors from a list of persons agreed on by the governing body of the city and the owner or owners of a majority of the assessed value of real property in the district.

(b) A petition must name more than five qualified persons.

(c) The governing body shall appoint as initial directors five persons listed in the petition who are qualified to serve as directors.

(d) The initial directors shall determine by lot which three positions expire June 1, 2022, and which two positions expire June 1, 2024.

(e) An initial director is not entitled to compensation under Section 3972.0206.

(f) This section expires September 1, 2025.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1,

eff. January 1, 2020.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3972.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0302. IMPROVEMENT PROJECTS AND SERVICES. (a) The district, using money available to the district for the purpose, may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) The district may contract with a governmental or private entity to carry out an action under Subsection (a).

(c) An improvement project described by Subsection (a) may be located:

(1) in the district; or

(2) in an area outside the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0303. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA; BENEFIT BASIS. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with:

(1) Chapter 372, Local Government Code; or

(2) Chapter 375, Local Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.



Sec. 3972.0304. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that Chapter 380, Local Government Code, provides to a municipality.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0305. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0306. ADDING OR REMOVING TERRITORY. (a) The board may add or remove territory as provided by Subchapter J, Chapter 49, Water Code.

(b) The district may add territory as described by Subsection (a) only if the governing body of the city by ordinance or resolution consents to the addition.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0307. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3972.0401. DIVISION OF DISTRICT; PREREQUISITES. The district, including territory added to the district under Section 3972.0306, may be divided into two or more new districts only if the district has no outstanding bonded debt. Territory previously added to the district under Section 3972.0306 may be included in a new district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0402. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0403. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(b) If the board decides to divide the district, the board shall:

(1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any

outstanding district obligations;

(2) prepare a metes and bounds description for each proposed district; and

(3) appoint four initial directors for each new district.

(c) The governing body of the city shall appoint one director for each new district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0404. CONTRACT AUTHORITY OF NEW DISTRICTS. The new districts may contract with each other for any matter the boards of the new districts consider appropriate, including the joint construction or financing of a utility improvement.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3972.0501. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0502. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment imposed by the district on property in the zones.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER F. TAXES AND BONDS

Sec. 3972.0601. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or

other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Chapter 375, Local Government Code, or, if an improvement financed by an obligation issued under this section will be conveyed to or operated and maintained by a municipality or other retail utility provider pursuant to an agreement with the district entered into before the issuance of the obligation, in the manner provided by Subchapter A, Chapter 372, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0602. OPERATION AND MAINTENANCE TAX. If authorized by a majority of the district voters voting at an election held in accordance with Section 49.107, Water Code, the district may impose an operation and maintenance tax on taxable property in the district in the manner provided by that section for any district purpose, including to:

- (1) maintain and operate the district;
- (2) construct or acquire improvements; or
- (3) provide a service.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0603. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

- (1) the board shall impose a continuing direct annual

ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER G. SPECIAL BOND PROVISIONS

Sec. 3972.0701. APPLICABILITY. This subchapter applies only to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0702. CONFLICT OF LAWS. In the event of a conflict between this subchapter and any other law, this subchapter prevails.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0703. WRITTEN AGREEMENT REGARDING SPECIAL APPRAISALS. Before the district may issue bonds, the district and any person to whom the board intends that proceeds of the bonds be distributed, including the developer, another owner of land in the district, and any entity acting as a lender to the developer or other landowner for the purpose of a project relating to the district, must enter into a written agreement that:

(1) waives for the term of the agreement the right to a special appraisal with respect to taxation by the district under Subchapters B, C, D, E, F, and H, Chapter 23, Tax Code; and

(2) remains in effect for 30 years and is binding on the parties, on entities related to or affiliated with the parties, and on their successors and assignees.  
Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0704. REQUIREMENTS FOR ADVERTISING BOND ISSUE. A district may not advertise for an issuance of bonds until the completion of at least 25 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds.  
Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0705. REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until:

(1) the district submits to the Texas Commission on Environmental Quality:

(A) an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(B) a cash flow analysis to determine the projected rate of assessment, which includes the following assumptions:

(i) each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement;

(ii) interest income is only shown on the ending balance for debt service for the first two years; and

(iii) the projected rate of assessment is level or decreasing for the life of the bonds issued by the district;

(2) the completion of at least 75 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds; and

(3) the district has obtained an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property that is liable for district assessments and necessary to support the district bonds.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

Sec. 3972.0706. REQUIREMENTS FOR COLLECTION OF REVENUE TO PAY BONDS. The district may not collect an assessment to be used for the payment of bonds until:

(1) the completion of at least 95 percent of the underground water, wastewater, and drainage facilities financed from bond proceeds that are necessary to serve the projected build-out, as certified by the district's engineer;

(2) the district or other appropriate party has secured the groundwater, surface water, and water discharge permits that are necessary to secure capacity to support the projected build-out;

(3) the completion of at least 95 percent of lift station, water plant, and sewage treatment plant capacity sufficient to serve the connections constructed in the project for a period of not less than 18 months, as certified by the district's engineer; and

(4) the completion of at least 95 percent of the streets and roads that are necessary to provide access to the areas served by utilities and financed by the proceeds of bonds issued by the district, as certified by the district's engineer and constructed in accordance with municipal or county standards.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. 4730), Sec. 1, eff. January 1, 2020.

#### SUBCHAPTER I. DISSOLUTION

Sec. 3972.0901. DISSOLUTION BY CITY. (a) The city may dissolve the district in the manner provided by Section 375.263, Local Government Code, only if the city also complies with any

dissolution procedures in the entitlement agreement described by Section [3972.0109](#).

(b) In the case of a conflict between Section [375.263](#), Local Government Code, and the entitlement agreement, the entitlement agreement controls.

Added by Acts 2019, 86th Leg., R.S., Ch. 1010 (H.B. [4730](#)), Sec. 1, eff. January 1, 2020.