

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 5. TRANSPORTATION

SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES

CHAPTER 5002. PORT FREEPORT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 5002.001. DEFINITIONS. In this chapter:

- (1) "Board" means the port commission of the district.
- (2) "Commissioner" means a port commission member.
- (3) "District" means Port Freeport.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 21.050, eff. September 1, 2009.

Sec. 5002.002. NATURE AND PURPOSE OF DISTRICT. The district is created under Section [59](#), Article XVI, Texas Constitution, to make improvements for the navigation of inland and coastal waters, and for the preservation and conservation of inland and coastal waters for navigation and for control and distribution of storm and flood waters of rivers and streams in aid of navigation.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.003. LEGISLATIVE FINDINGS. All property situated in the district and subject to taxation will benefit from the improvements to be constructed by the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.004. DISTRICT TERRITORY. The district is composed of the territory in Brazoria County described by Section 1, Chapter 55, Acts of the 40th Legislature, 1st Called Session, 1927, as that territory may have been modified under:

- (1) Section 3, Chapter 103, Acts of the 41st

Legislature, 1st Called Session, 1929 (Article 8263a, Vernon's Texas Civil Statutes), on or after May 23, 1929, and before August 30, 1971;

(2) Section 3a, Chapter 103, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8263a, Vernon's Texas Civil Statutes), on or after May 16, 1951, and before August 30, 1971;

(3) Subchapter H, Chapter 62, Water Code; or

(4) other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

SUBCHAPTER B. DISTRICT ADMINISTRATION

Sec. 5002.051. PORT COMMISSION; TERM; ELECTION. (a) The district is governed by an elected board consisting of six commissioners.

(b) Commissioners serve staggered six-year terms.

(c) An election shall be held in the district every two years to elect two commissioners.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 21.051, eff. September 1, 2009.

Sec. 5002.052. NAVIGATION PRECINCTS. For the purpose of electing commissioners, the district is divided into four navigation precincts. The boundaries of the navigation precincts are described by Section 4a, Chapter 55, Acts of the 40th Legislature, 1st Called Session, 1927.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. 3166), Sec. 1.04, eff. April 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1729, 89th Legislature, Regular Session, for amendments affecting the

following section.

Sec. 5002.053. ELECTION BY POSITION; QUALIFICATIONS. (a) Commissioners are elected by position as follows:

(1) the commissioner elected for Position 1 is at large and must reside in the district;

(2) the commissioners elected for Positions 2 and 3 must reside in Navigation Precinct No. 1;

(3) the commissioner elected for Position 4 must reside in Navigation Precinct No. 2;

(4) the commissioner elected for Position 5 must reside in Navigation Precinct No. 3; and

(5) the commissioner elected for Position 6 must reside in Navigation Precinct No. 4.

(b) Each commissioner must be a qualified voter of the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.054. PLACING CANDIDATE ON BALLOT. A request for placing the name of a candidate on the ballot must be filed with the board's presiding officer and be:

(1) in writing and signed by the candidate; or

(2) in the form of a petition signed by at least 25 qualified voters of the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.055. ELECTION ADMINISTRATION; NOTICE OF ELECTION. (a) The board shall make arrangements for each election.

(b) Notice of the election, signed by the board's presiding officer or secretary, must be published once a week for two consecutive weeks in a newspaper of general circulation within the district. The first publication must occur not later than the 14th day before the date of the election.

(c) All district voters may vote for candidates for commissioner in all navigation precincts.

(d) The board shall declare the results of each election.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.056. DATE COMMISSIONER TAKES OFFICE. A commissioner shall take office on the appropriate date following the person's election.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.057. BOND. As a qualification for office, a commissioner must post a bond in the amount of \$10,000 that is:

(1) executed by the commissioner and by two solvent sureties or by a surety company authorized to do business in this state; and

(2) approved by the county judge of Brazoria County.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.058. VACANCIES. (a) Except as otherwise provided by this section, if a vacancy occurs in the office of commissioner, the board shall appoint a commissioner for the remainder of the unexpired term.

(b) If more than two vacancies occur at the same time, the remaining commissioners shall call a special election to fill the vacancies.

(c) If the remaining commissioners fail to call the election within 15 days after the date the vacancies occur, the judge or judges of the district court or courts of the judicial district in which the district is located, on the petition of a voter or creditor of the district, may:

(1) order that an election be held, specifying the date of the election;

(2) order the Brazoria County clerk to publish notice of the election; and

(3) name the officers to hold the election.

(d) The returns of an election held by order of the district judge or judges shall be made and filed in the office of the clerk of

the district court, and the clerk of the district court shall declare the result of the election.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.059. DISTRICT TREASURER. (a) The board shall appoint from time to time a person to serve in the office of district treasurer.

(b) The district treasurer shall perform the duties for the district that were performed before September 1, 1999, by the county treasurer of Brazoria County.

(c) Before receiving district money from any source, the district treasurer shall execute a good and sufficient bond payable to the board for the benefit of the district in an amount set by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 5002.101. DEPOSITORY. (a) The board by resolution shall designate a bank in Brazoria County as the district's depository.

(b) The designated bank serves as the depository for a term of two years and until a successor depository has been selected.

(c) All money of the district shall be secured in the manner provided for the security of county funds.

(d) The tax assessor and collector for Brazoria County or another official performing the duties of tax assessor and collector for the district shall:

(1) deposit all taxes collected for the district in the depository bank designated as depository for Brazoria County; and

(2) promptly transfer and deposit the money to the district's account in the district's depository.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

Sec. 5002.102. MAINTENANCE OF BOOKS, RECORDS, AND ACCOUNTS. The district shall maintain the books, records, and accounts of the district. The Brazoria County treasurer is not required to maintain any books, records, or accounts for the district other than as required by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. 920 (H.B. [3166](#)), Sec. 1.04, eff. April 1, 2009.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 5002.151. DEFINITIONS. In this subchapter:

(1) "Port use" means any use permitted or allowed, with or without a special use permit, in the following zoning districts under the zoning ordinance, or any additional use subsequently permitted or allowed in the following zoning districts under an amendment to the zoning ordinance:

(A) a zoning district designated as DT, C-1, C-2, C-3, or W-1; or

(B) a zoning district designated as "IN," other than heavy industrial or other heavy industrial uses as defined in the zoning ordinance.

(2) "Port zone" means:

(A) the lands within the protected zone that are located both south of West Eighth Street and east of Cherry Street; and

(B) all lands east of Farm-to-Market Road 1495 that are included within the Plat and Dedication of the Freeport Townsite recorded in Volume 2, at Page 95 of the Brazoria County Real Property Records.

(3) "Protected zone" means the portion of the corporate limits of the City of Freeport as they exist on September 1, 2023, that lies:

(A) within the enclosed space bounded by beginning at the intersection of State Highway 36 and the center of the Brazos River, then north along the center of the Brazos River to the intersection of the center of the Brazos River and the center of

the DOW fresh water canal, then north and east along the center of the DOW fresh water canal to the intersection of the center of the DOW fresh water canal and Farm-to-Market Road 1495, then south along Farm-to-Market Road 1495 to the intersection of Farm-to-Market Road 1495 and State Highway 36, and then west along State Highway 36 to the intersection of State Highway 36 and the center of the Brazos River;

(B) within Brazoria County 2020 United States Census tract 664501 blocks 2027, 2032, and 2034;

(C) within the enclosed space bounded by beginning at the intersection of Farm-to-Market Road 1495 and the Intracoastal Waterway, then west along the Intracoastal Waterway to the intersection of the Intracoastal Waterway and the Brazos River, then south along the Brazos River to the Gulf of Mexico, then east along the Gulf of Mexico to the intersection of a line extending from the southern terminus of Farm-to-Market Road 1495 due south to the intersection with the Gulf of Mexico, and then due north to the intersection of Farm-to-Market Road 1495 and the Intracoastal Waterway;

(D) adjacent to the old Brazos River channel and inside the floodgate, which is zoned as a W-1 District under the zoning ordinance, and bounded by Farm-to-Market Road 1495 on the west;

(E) within the portion of Brazoria County 2020 United States Census tract 664200 blocks 2059, 2060, and 2061 that lies within 3,500 feet of the centerline of State Highway 332;

(F) within the 13.316 acre tract of land described in that certain Deed recorded in Volume 11199, at Page 471 of the Brazoria County Real Property Records; or

(G) within the 56.751 acre tract of land described in that certain Deed of Exchange recorded in Volume 86286, at Page 927 of the Brazoria County Real Property Records.

(4) "Zoning ordinance" means Chapter 155, Code of Ordinances, of the City of Freeport, Texas in effect on January 1, 2023.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. [5336](#)), Sec. 1, eff. June 13, 2023.

Sec. 5002.152. POWERS REGARDING PORTS AND FACILITIES. Except as provided by Section 5002.153, the district may:

(1) acquire by gift, purchase, or eminent domain and own land adjacent or accessible by road, rail, or water to navigable water and ports developed by the district that is necessary for the development and operation of the navigable water or ports within the district or necessary for or in aid of the development of industries and businesses on that land; and

(2) construct, extend, improve, repair, maintain, and reconstruct, cause to be constructed, extended, improved, repaired, maintained, and reconstructed, and own, rent, lease, use, and operate any facility of any kind necessary or convenient to the exercise of the rights, powers, privileges, and functions granted by this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

Sec. 5002.153. LIMITATION ON ACQUISITION AND USE OF REAL PROPERTY WITHIN THE CORPORATE LIMITS OF CERTAIN MUNICIPALITIES. After the effective date of the Act enacting this section, the district shall not:

(1) acquire by gift, purchase, or condemnation any real property located within the protected zone unless:

(A) the acquisition is of a residential lot or lots for which no change in the permitted use will be sought by the district; or

(B) the acquisition is submitted to the qualified voters of the municipality within which the real property is located at an election held on a uniform election date and is approved by a majority of the votes received at the election;

(2) use any property owned or acquired by the district in the port zone for anything other than a port use; or

(3) use any property owned or acquired by the district in the protected zone that is not in the port zone for anything other than a use permitted under the zoning ordinance unless the use

is approved by the governing body of the municipality in which the land is located.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

Sec. 5002.154. CALLING ELECTION. The governing body of a municipality shall call an election under Section 5002.153(1)(B) to be held on the next uniform election date within 30 days of the municipality's receipt from the district of a written request for the election and the description of all property subject to the election.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

Sec. 5002.155. REPLATTING OF LAND. (a) The district may replat land owned by the district in accordance with Subchapter A, Chapter 212, Local Government Code, for the purpose of combining previously platted lots for development.

(b) The municipal authority responsible for approving the plat shall approve a replat requested by the district for the purposes set forth in this section within 60 days following receipt of the application for replat.

(c) The provisions of Subsection (b) do not apply to the replatting of land by the district if the replat creates or proposes municipally owned or municipally maintained public right-of-way or municipally owned or municipally maintained water, wastewater, or stormwater infrastructure within the property being platted.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

SUBCHAPTER E. RELATIONSHIP WITH MUNICIPALITIES

Sec. 5002.201. DISTRICT PROPERTY SUBJECT TO MUNICIPAL JURISDICTION. (a) This section applies only to property:

- (1) owned or leased by the district; and
- (2) located in:
 - (A) the district; and

(B) the boundaries or extraterritorial jurisdiction of a municipality with a population of less than 20,000 that is wholly located in the district and whose corporate limits border the Gulf of Mexico.

(b) Except as provided by Subsection (c), the district has exclusive land use jurisdiction over property to which this section applies.

(c) This section does not apply to an ordinance, rule, or other measure adopted by a municipality that:

(1) applies only to property within the boundaries of the municipality;

(2) regulates only the safety of the operations of the municipality or reasonable aesthetics, including regulations governing fire and emergency response, traffic, light, or noise;

(3) is commercially reasonable; and

(4) does not effectively prohibit development and operation of industries and businesses on property owned or leased by the district that are built in accordance with building codes adopted by the district that meet or exceed the building codes adopted by the local municipality.

(d) A municipality may conduct inspections to verify compliance with Subsection (c) if the inspections are conducted in a timely manner, and any differences in interpretation of applicable codes are determined in favor of the district.

(e) Except as provided by Subsection (c), a municipality may not adopt or enforce an ordinance, rule, or other measure that prohibits or restricts:

(1) the acquisition or leasing of property to which this section applies for a purpose described by Section [5002.152](#); or

(2) the development of industries and businesses on property to which this section applies.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. [5336](#)), Sec. 1, eff. June 13, 2023.

Sec. 5002.202. MUNICIPAL CONSENT NOT REQUIRED. Municipal consent is not required for the district to exercise a power or duty

under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2027, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 5002.203. DESIGNATION OF REINVESTMENT ZONE. Notwithstanding Subchapter B, Chapter 312, Tax Code, the district may submit a written request to the commissioners court of a county in which a property owned by the district is located for the commissioners court to designate the property as a reinvestment zone or area for the purposes of Chapter 312, Tax Code. The commissioners court may designate the property as a reinvestment zone or area if the commissioners court finds the criteria set forth in Section 312.202, Tax Code, are met for the property as if a municipality in which the property is located were creating the zone.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

Sec. 5002.204. ENFORCEMENT OF SUBCHAPTERS. (a) The provisions of Subchapters D and E may be enforced only through mandamus or declaratory or injunctive relief. A political subdivision's immunity from suit is waived in regard to an action under this subchapter.

(b) A court may award court costs and reasonable and necessary attorney's fees to the prevailing party in an action under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.

Sec. 5002.205. EFFECT OF INVALIDITY OF CERTAIN PROVISIONS. (a) This section applies only to a municipality with a population of more than 5,000 that is wholly located in the district and to property:

(1) owned or leased by the district;

(2) located in the district and within seven miles of the Gulf of Mexico; and

(3) located in the corporate limits or extraterritorial jurisdiction of a municipality that is subject to this section.

(b) If enforcement of any part of Section 5002.201 is ever permanently enjoined or held to be invalid or to violate the requirements of the Texas Constitution by a final, non-appealable order or judgment of a court of competent jurisdiction, other than pursuant to an action initiated by the district, then:

(1) all of Section 5002.201 will be automatically enjoined from enforcement; and

(2) the authority of a municipality subject to this section to regulate property subject to this section under Chapter 211 or 212, Local Government Code, or any local code or ordinance shall be expressly preempted and Chapter 232, Local Government Code, shall exclusively apply to such property.

(c) If enforcement of any part of Section 5002.153 or 5002.154 is ever permanently enjoined or held to be invalid or to violate the requirements of the Texas Constitution by a final, non-appealable order or judgment of a court of competent jurisdiction, other than pursuant to an action initiated by a municipality, then Section 5002.201 will be automatically enjoined from enforcement.

Added by Acts 2023, 88th Leg., R.S., Ch. 785 (H.B. 5336), Sec. 1, eff. June 13, 2023.