

Port of Houston Authority

BARGE FLEETING LEASING POLICY



A. Purpose.

The purpose of this Barge Fleeting Leasing Policy (the “Policy”) is to set out the principles under which submerged lands owned or regulated by the Port of Houston Authority (the “Port Authority”) may be leased for barge fleeting and staging.

B. Background.

1. The State of Texas granted to and imposed on the Port Authority the purpose and authority to operate, develop, and regulate waterways within the Port Authority’s jurisdiction, including activities in aid of navigation and commerce thereon.

2. The Port Authority owns and has authority to manage and regulate submerged lands in and around the Port of Houston (“Submerged Lands”), including the lands that lie beneath the Houston Ship Channel (the “Ship Channel”), pursuant to Special District Local Laws Code Chapter 5007.

3. The circumstances concerning the movement and fleeting of barges in navigable waters within the Port Authority’s jurisdiction have changed over the years. For example, the number of barges and barge traffic in the Ship Channel has steadily increased in recent years, resulting in safety issues associated with congestion, crowding of the waterways, and increased barge push-ins along banks in areas lacking mooring infrastructure. The demand for barge fleeting and staging areas that provide for secure moorings near terminals has also increased. Port Authority owned and managed Submerged Lands are available for barge fleeting in commercially desirable areas, and development of these sites could promote more efficient and safer barge operations within the Port Authority’s jurisdiction.

C. Policy Statement.

It is the policy of the Port Authority to lease suitable Port Authority owned or managed Submerged Lands for barge fleeting and staging in a manner that:

1. Facilitates safe and efficient commerce and navigation;
2. Is reasonable and fair;
3. Considers the needs of all interested parties; and
4. Appropriately utilizes the important public resource of Submerged Lands.

D. Application of Policy.

1. The Port Authority may enter into leases for barge fleeting and staging on suitable Submerged Lands adjacent to Port Authority upland property and private uplands, and open water areas accessible to ship channels in Harris County.

2. The determination whether the Port Authority will enter into any such lease will be made at the sole discretion of the Port Authority, and in each event that a determination to lease is made, the leasing shall be accomplished in accordance with the principles of the policy statement set forth in Section C above.

3. Submerged Lands shall be leased at the established rate for private adjacency and at the then prevailing market rate for Port Authority adjacency and open water.

4. Such leases are subject to permitting procedures established by Port Authority staff.

5. The Port Commission may establish exclusion areas, within which no barge fleeting or staging is permitted.

E. Authority of the Port Commission and Delegation of that Authority.

1. Primary Port Commission Authority. Leasing of Port Authority owned and managed properties including Submerged Lands is under the exclusive control of the Port Commission which, pursuant to Texas Special District Local Laws Code Chapter 5007, has responsibilities including:

a. Authorizing, establishing, regulating and leasing all structures for facilitating or accommodating commerce or navigation;

b. Leasing lands including submerged lands for limited periods for purposes consistent with facilitating or accommodating commerce or navigation;

c. Ensuring that no structures are constructed on said lands by anyone except the Port Authority, except under a franchise or lease granted by the Port Authority;

d. Constructing, maintaining, operating and developing channels, and prescribing fees and charges to be collected for their use;

e. Entering into all leases necessary or convenient for carrying out the

powers granted by the state of Texas to the Port Authority; and

f. Approving by resolution or order all leases entered pursuant to this statute.

The Port Commission shall exercise this authority by approving leases of Port Authority Submerged Lands for barge fleeting and staging, and delegating, as it deems appropriate, review and approval of items to Port Authority staff.

2. Delegation of Authority to Executive Director and Designees. Except with respect to its approval of leases subject to Port Commission approval by law, or as otherwise provided by Port Commission-approved policies, the Port Commission hereby delegates to the Executive Director, and his or her designees, the barge fleeting and staging leasing activities described as Staff Responsibilities in Section F below.

F. Staff Responsibilities.

1. The Port Commission hereby directs staff to prepare and from time to time update reasonable standards and procedures consistent with this Barge Fleeting Leasing Policy for staff's administration of such activities, including those listed below:

a. Establish a point of control and coordination for Port Authority barge fleeting and staging leasing activities;

b. Assign responsibilities for management of the Port Authority's barge fleeting and staging leasing activities; and

c. Assign responsibilities for evaluating activities subject to this Policy.

2. Standards and procedures developed by staff are subject to revision by the Port Commission.

G. Policy Authority and Construction. The authority for this Policy comes from Texas Special District Local Laws Code, Chapter 5007, and Texas Water Code, Chapters 60, 61, and 62.

H. Policy Responsibility.

1. This Policy is not intended to constrain the discretion of the Port Commission, which may amend this Policy at any time for any reason.

2 In the absence of a contrary directive by the Executive Director, the Director of Channel Development is responsible for this Policy's implementation, and is the contact for its interpretation.

I. Supersedes Prior Policies. This Policy supersedes and replaces any prior policies adopted by the Port Commission regarding Barge Fleeting Leasing.

J. Non-binding Statement of Intent. This Policy is a nonbinding statement of intent, which does not create a property interest in any person, does not constitute a contractual obligation of the Port Authority to others, and does not waive any of the Port Authority's immunities under law, including the Port Authority's immunity from suit and its immunity from liability. The Port Authority reserves the right to assert every defense to any claim that is available to it under law.

K. Adoption. This Policy was adopted by the Port Commission on June 27, 2017, as evidenced by Minute No. 2017-0627-35.

Policy Owner: Channel Development
Policy Version: 1.0