



## Haskell General Election 2023

Welcome Prospective Candidate!

This packet offers insight into the election process for municipal governments and contains information and required forms for the 2023 General Election in Haskell, TX. The City Secretary's office is responsible for overseeing the election process to assist and administer the procedures accurately and fairly according to state and local election laws.

The Texas Election Code prescribes certain days to hold municipal elections for city officials. The General Election of city officers will be held on Saturday, May 6, 2023. The following offices are open for election this year:

1. City Council
2. City Council
3. City Council

TERM OF OFFICE – The term of office for council members is two years. All elections are at large. There is no filing fee for a place on the ballot.

Filing for a place on the ballot begins Wednesday, January 18 and ends Friday, February 17. Each submitted application must be carefully reviewed to determine whether it complies with the Election Code requirements. All forms must be filled out completely.

Interest in your municipal government is appreciated and I trust that this will be a positive and exciting experience for you and your supporters.

All necessary and required forms to file for a place on the ballot including campaign finance reports and guides are included in this packet. The City's Secretary's office is open to help you. If you have questions or if I can assist you, please contact my office at 940.864.2333, option 4 or [citysecretary@haskelltexasusa.com](mailto:citysecretary@haskelltexasusa.com).

Respectfully,

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Misti Bartley  
City Secretary

The following sites will help should you have any questions regarding reporting procedures, contributions, or expenditures:

Texas Ethics Commission – Information about Campaign Finance Forms  
[www.ethics.state.tx.us](http://www.ethics.state.tx.us)  
800.252.8683

Texas Secretary of State – General Election information  
[www.sos.state.tx.us](http://www.sos.state.tx.us)  
512.463.5555

Texas Election Code – State Election Statutes  
<http://www.statutes.legis.state.tx.us>

# Chapter One:

## Local Government in Texas

Understanding city government requires some knowledge of all local governments. This chapter briefly discusses counties, school districts, council of governments, and types of city governments.

### Units of Local Government

According to 2010 Census of Government figures, Texas has 1,209 cities, 254 counties, 1,082 school districts, and 2,291 special districts. During the past 20 years, the number of special districts has steadily increased, due mainly to the rapid creation of water districts in unincorporated areas. Conversely, the number of school districts has steadily declined as smaller systems have consolidated with larger ones. The number of counties has remained constant for 100 years, while the number of cities is increasing at an average of about 10 per year.

The United States Census Bureau also recognized that four of the 10 cities with the largest recent population gains were in Texas —San Antonio, Dallas, Fort Worth, and Frisco. Texas also had seven of the most recent 15 fastest-growing cities by percentage — New Braunfels, Frisco, McKinney, Georgetown, Rowlett, Midland, and Round Rock.

### Counties

Counties are known as “general purpose” governments due to the many different functions they perform. Counties serve the dual purposes of providing governmental services for the benefit of their residents and

administrative services on behalf of the state. Major governmental services include road construction and maintenance, jails and courts, welfare, health, and law enforcement. Administrative services performed by counties as agents of the state include voter registration and motor vehicle licensing.

### Special Districts

Schools and the many types of special districts are known as “single-purpose” governments, since they usually perform just one function, such as education, water supply, or hospital care. Most special districts serve a limited geographical area and were created because of the inability of general purpose local governments to provide a particular service.

### Councils of Governments

Councils of governments (COGs) are also known as “regional planning commissions.” COGs are defined as “political subdivisions of the state” under Texas law. However, COGs differ considerably from cities, counties, and other conventional local governments because they cannot levy taxes nor incur debt.

COGs are voluntary, area-wide associations of local governments. Their function is to foster local cooperation among localities by serving as forums for intergovernmental problem-solving and by planning governmental programs and facilities on a regional basis. Though they do not have broad power to execute projects, many of the state’s COGs provide direct services on a limited basis.

Each COG operates under the supervision of a governing body composed of elected officials representing participating local governments. Financing is provided by a combination of dues paid by member governments and federal and state funds.

## Cities

Among all of the different types of local governments, cities perform the greatest number of functions, both governmental and proprietary.

State law specifically defines and lists certain activities as either governmental or proprietary functions in the Texas Tort Claims Act. The law lists 36 functions that are governmental. Included among them are police and fire protection, health and sanitation services, street construction and design, transportation systems, establishment and maintenance of jails, and enforcement of land use restrictions. Three functions are listed as proprietary: the operation and maintenance of a public utility, amusements owned and operated by a city, and any activity that is abnormally dangerous or ultra-hazardous. Functions that are listed as governmental are not included as proprietary functions.

There are two categories of cities in Texas: home rule and general law.

Home rule cities are larger cities with more than 5,000 inhabitants in which the citizens have adopted a home rule charter. A charter is a document that establishes the city's governmental structure and provides for the distribution of powers and duties among the various branches of government.

The legal position of home rule cities is the reverse of general law cities. Rather than

looking to state law to determine what they may do, as general law cities must, home rule cities look to the state constitution and state statutes to determine what they may not do. Thus, if a proposed home rule city action has not been prohibited, limited, or pre-empted by the state, the city generally can proceed.

General law cities are smaller cities, most of which are less than 5,000 in population. All general law cities operate according to specific state statutes prescribing their powers and duties. General law cities are limited to doing what the state authorizes or permits them to do. If state law does not grant general law cities the express or implied power to initiate a particular action, none may be taken.

Approximately seventy-five percent of all Texas cities operate under the general laws; the remainder are home rule cities. "General law" is a term used to describe all of the state laws applicable to a particular class of things. A general law city, therefore, is one that is subject to all of the state laws applicable to such cities, many of which are found in the Local Government Code.

General law city officials occasionally call the Texas Municipal League office to request a copy of their "city charters." Unlike home rule cities, general law cities do not have charters. The creation of a general law city is documented in its incorporation papers, filed at the county courthouse, which describe when the city was established and its original boundaries.

## Categories of General Law Cities

There are three categories of general law cities: Type A, Type B, and Type C. Although it is sometimes difficult to distinguish between

the types, it is necessary to know the difference in order to determine which state laws apply.

### **Type B General Law Cities**

Most new cities begin as Type B general law cities under a state law that permits the incorporation of any area containing 201 to 10,000 inhabitants. Later, as the population of a city grows to 600 or more, it can make a transition to Type A.

In a Type B general law city with the aldermanic form of government, the governing body is known as the “board of aldermen” and includes six members (a mayor and five aldermen), all of whom are elected at-large. At its discretion, the board of aldermen may provide by ordinance for the appointment or election of such additional officers as are needed to conduct the business of the city.

### **Type A General Law Cities**

Type A general law cities are usually the larger general law cities. Most were incorporated under Type B status and then switched to Type A status when their population increased to 600 or more, or when they had at least one manufacturing establishment.

The governing body of a city operating as a Type A general law city is technically known as the board of aldermen, although many cities refer to it as the “city council.” It varies in size depending on whether the city has been divided into wards. If the city has been divided into wards, the council consists of a mayor and two councilmembers from each ward—whatever the number. If the city has not been divided into wards, the governing body always consists of a mayor and five councilmembers.

In addition to the city council, other municipal officers include a marshal, treasurer, tax assessor-collector, city secretary, city attorney, and engineer. Whether these offices are elective or appointive depends on the method selected by the city council for filling them. Moreover, the city council may provide by ordinance for the appointment or election of such other municipal officers as it deems necessary.

### **Type C General Law Cities**

A Type C city operates with the commission form of government. The governing body is known as the “board of commissioners” and always consists of a mayor and two commissioners. No other elective officers are required; however, the board of commissioners must appoint a city clerk, and may provide by ordinance for the election or appointment of such other officers as are required.

In a Type C city of 500 or less population, the board of commissioners must follow the requirements applicable to a Type B general law city—that is, the board of commissioners has the same powers and duties as the board of aldermen in a Type B general law city, except where specifically provided otherwise. In a city of over 500 population, the board of commissioners must follow the requirements of a Type A general law city, except where specifically provided otherwise.

Any city operating under the commission form of government can change over to the aldermanic form of government, and vice versa. The commission form of government in a general law city should not be confused with the commission plan adopted by the City of Galveston at the turn of the century. Under the Galveston plan, each member of the

municipal governing body—the city commission—simultaneously served as legislators and heads of the city’s administrative departments. Thus, one member of the governing body served as “police commissioner,” another served as “fire commissioner,” and so on, with each commissioner exercising day-to-day supervisory authority over a particular department.

General law cities operating under the commission form of government are not authorized to adopt the Galveston plan. In a general law city, one commissioner, acting alone, has no individual power; only the commission, acting collectively, exercises power.

## City Manager Plan

The city manager plan can be adopted in any general law city under the provisions of Chapter 25, Local Government Code:

- 1) Upon presentation of a petition signed by at least 20 percent of the total number of qualified voters voting for mayor in the last preceding city election, the mayor must call an election on the question of adopting the city manager plan within 10 days after the date the petition is filed.
- 2) If a majority of the votes cast at the election favor adoption of the city manager plan, the council must, within 60 days after the election, appoint a city manager and fix his or her salary by ordinance.
- 3) The administration of the city is to be placed in the hands of the city manager, who serves at the pleasure of the city council.

- 4) In any city where the city manager plan has been approved, all officers of the city, except members of the governing body, thereafter shall be appointed as may be provided by ordinance.
- 5) Procedures for repealing the city manager plan are essentially the same as for adopting it.

The basic structure of the city manager plan is similar to that of a private corporation, in which the stockholders elect a board of directors which then hires a president to run the company. Under the city manager plan, the voters elect a city council which, in turn, hires a city manager to administer the city’s day-to-day affairs.

Under the city manager plan, the council serves as the legislative body. The council sets policy, it approves the budget and sets the tax rate, and it determines the size of the payroll and the extent and cost of municipal services. In short, the council is the final authority on all of the many policy decisions that determine the scope and functions of the city government.

The mayor and councilmembers have no administrative duties under the city manager plan. These are vested in the city manager, who is responsible for directing the workforce and programs of the city in accordance with ordinances, rules, and regulations adopted by the council.

The typical city manager in Texas is appointed for an indefinite term and is subject to dismissal by the council at any time except as otherwise prohibited by law. He or she is designated as the chief executive and administrative officer of the city and is accountable to the council for the proper conduct of all municipal operations. The

manager has the unilateral authority to hire, discipline, and fire the department heads under the manager's control. In some cases, however, certain employees, such as the city attorney or municipal judge, are directly hired and/or supervised by the council rather than the manager. Although the manager's role varies from one city to another, the primary function is to implement the policies established by the council and ensure that the city is operated in an economical and responsible manner. Specific duties of the manager may include the following:

- 1) Enforcing all city ordinances, rules, and regulations.
- 2) Supervising all municipal employees and programs.
- 3) Preparing and executing the city's annual budget pursuant to the revenue and expenditure plans adopted by the council.
- 4) Managing the city's funds and preparing periodic reports that advise the council and the general public of the city's financial condition.
- 5) Providing information to the council to facilitate its ability to make informed decisions in the best interests of the city.
- 6) Preparing council meeting agendas and attending all such meetings to serve as a resource to the council and the public.
- 7) Drawing the council's attention to community needs and recommending alternatives by which the council can respond to those needs.

Adopting the city manager plan does not change the basic governmental framework of a general law city. Rather, it is an administrative mechanism added to the basic structure.

Legislation passed in 2003 clarifies that city councils of cities that have not adopted a city manager plan under chapter 25 of the Local Government Code are free to delegate by ordinance management duties to a city administrator.

## The Home Rule Concept

Although scholars have used a variety of flowery phrases to describe the concept of home rule, the principle is simple: home rule is the right of citizens at the grassroots level to manage their own affairs with minimum interference from the state. Home rule assumes that governmental problems should be solved at the lowest possible level, closest to the people.

As mentioned earlier, home rule cities look to the state to tell them what they are prohibited from doing, rather than for specific grants of authority to undertake particular functions. In *Forwood v. City of Taylor*, the Texas Supreme Court summarized Texas' home rule doctrine as follows:

*It was the purpose of the Home-Rule Amendment ... to bestow upon accepting cities and towns of more than 5,000 population full power of self-government, that is, full authority to do anything the legislature could theretofore have authorized them to do. The result is that now it is necessary to look to the acts of the legislature not for grants of power to such cities but only for limitations on their powers.*

As a result of the *Forwood* case and other court decisions upholding their broad powers, home rule cities have the inherent authority to do just about anything that qualifies as a

“public purpose” and is not contrary to the constitution or laws of the state.

## **Inherent Powers of Home Rule Cities**

An “inherent power” is one that is possessed by a city without its having been specifically granted by the state. It is the right to perform an act without having received that right from the Texas Constitution or the state legislature.

Home rule cities have many inherent powers. A discussion of some of the inherent powers of major significance may explain why so many cities have chosen to adopt home rule charters.

### **Municipal Organization**

In contrast to counties or general law cities, whose organization is fixed by state law, the governmental structure of a home rule city is left entirely to the discretion of local voters. The citizens of a home rule city are free to decide their form of municipal government (mayor-council, council-manager, and so on); choose between a large or small city council; provide for the election of the city council at-large, by single-member district, or by place; fix the terms of office for councilmembers at two, three, or four years; or establish overlapping terms of office. Moreover, they can decide whether the mayor is to be elected directly by the voters, selected from among members of the council, or chosen by some other method.

The citizens of a home rule city also have total discretion over the city’s administrative structure. Subject only to local preferences, the charter can establish a simple

administrative framework or a complex one, provide for the appointment or election of major administrative officials, and so on. And finally, the charter can provide for the creation of any boards or commissions that local voters decide are necessary to make the city function effectively.

### **Annexation**

From 1912-2019, when H.B. 347 passed, the inherent power to unilaterally annex adjoining areas was one of the most important home rule prerogatives. To annex “unilaterally” means that the city can bring an adjacent, unincorporated area into the city without the permission of the persons residing in that area.

In 2019, the legislature passed H.B. 347. The bill drastically altered the annexation landscape for all cities. The bill provides that a city:

- 1) May annex vacant land at request of the owner
- 2) may annex an area with a population of less than 200 only if the following conditions are met, as applicable: (1) the city obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area; and (2) if the registered voters of the area do not own more than 50 percent of the land in the area, the petition described by (1) is signed by more than 50 percent of the owners of land in the area; and
- 3) may annex an area with a population of 200 or more only if the following conditions are met, as applicable: (1) the city holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and



a majority of the votes received at the election approve the annexation; and (2) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

### **Initiative, Referendum, and Recall**

Initiative, referendum, and recall are inherent home rule powers that are reserved for exclusive use by local voters in order to provide direct remedies in unusual situations. There is no constitutional or statutory authority for initiative, referendum, or recall. These powers are unique to home rule cities, and they are not available to voters at any other level of government, including the state.

Initiative is a procedure under which local voters directly propose (initiate) legislation. Citizen lawmaking through the initiative process allows local voters to circumvent the city council by direct ballot box action on new ordinances that have wide support in the community, but which the council refuses to enact.

The initiative process begins with circulation of a petition setting forth the text of the desired ordinance. Then, petitioners must obtain the number of voter signatures needed to force the city council to submit the ordinance to the people at a citywide election. Petition signature requirements vary from charter to charter. Some are based on a percentage of the number of qualified voters in the city, while others are expressed as a ratio of the number of votes cast at the last general city election.

After a completed petition is filed, the city secretary checks it to make sure that all of those who signed are qualified voters. If the petition complies with the requirements of the charter, the city council has two options: (1) it can adopt the proposed ordinance; or (2) it must call an election on the ordinance. If, at the election on the proposed ordinance, a majority of those voting favor its adoption, the ordinance is put into effect.

Referendum is a procedure under which local voters can repeal unpopular, existing ordinances the council refuses to rescind by its own action. The procedures for forcing the city council to call a referendum election are usually the same as for initiative elections. Petitions calling for an election to repeal "Ordinance X" are circulated. When the required number of signatures is obtained, the petition is submitted to the city council, which can either repeal the ordinance by its own action or call an election at which the people can vote to repeal it. If, at such election, a majority favors retaining the ordinance, it is left on the books. If a majority favors its repeal, it is rescinded when the council canvasses the election returns.

Recall is a process by which local voters can oust members of the city council before the expiration of their terms. Under most charters, a recall election begins with the filing of an affidavit stating the name of the councilmember whose removal is sought and the grounds for removal. The city clerk or secretary then furnishes the person filing the affidavit with petition forms that must be completed and returned within a prescribed time.

Most city charters impose two further limitations on recall efforts. First, they prohibit more than one recall election per

councilmember per term. Secondly, they forbid recall elections for any councilmember during the early stages of his or her term—as, for example, prohibiting an election to recall a councilmember within 60 days of the date he or she was sworn into office, or prohibiting recall elections for councilmembers whose terms will expire within 60 days. The following language is typical of charter recall provisions:

*The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk a petition, signed by qualified voters of the city equal in number to at least ten percent of the qualified voters of the city, demanding the removal of a councilman.*

### **Charter Amendments**

In addition to initiative and referendum, direct lawmaking by local voters can be accomplished through amendments to the charter document itself. Under Section 9.004 of the Local Government Code, citizens can force the city council to call an election on a proposed charter amendment by simply filing a petition signed by five percent of the qualified voters or 20,000, whichever is less. Voter-initiated charter amendments, if adopted, can change most aspects of the city government.

### **Limitations on Home Rule Powers**

Although the powers of a home rule city are extensive, they remain subject to all of the limitations imposed by state and federal law. Some of these are briefly summarized below.

Every city must comply with the federal and state constitution and statutory requirements.

Examples include state statutes that require every city to pay unemployment taxes, that require cities with 10,000 or more in population to pay longevity compensation to its police officers and firefighters, or prohibit conducting regular city elections on any day except on those days prescribed by the Election Code.

Though certain limitations are imposed on home rule cities by the state, some can be further narrowed by local action. For example, the Texas Constitution authorizes any city with more than 5,000 inhabitants to levy property taxes at a maximum rate of \$2.50 per \$100 assessed valuation. But a home rule charter may set a local ceiling lower than that. If a city's charter limits the city tax rate to \$1.70 per \$100 of assessed valuation, this provision has the same effect as state law. The city council is bound by it even though the state constitution permits a higher rate.

Additionally, the governing body of a home rule city cannot act on any matter which has been preempted by the state. For example, the Texas Alcoholic Beverage Code fixes the business hours of retail liquor stores. Therefore, an ordinance requiring liquor stores to open or close at times other than those prescribed by state law may not be enacted.

Finally, when a charter provision conflicts with a state law, the state law controls, unless expressly stated otherwise.

### **The Charter Document**

Although all municipal governments are subject to an abundance of federal and state laws, the charter remains the most important document for a home rule city. Members of the council should read the charter

immediately upon their election to office; annual reviews also can be useful.

Most charters include the following components:

- Provisions establishing the city's form of government (mayor-council, council-manager, and so on) and its legislative and judicial machinery;
- Organizational provisions establishing the administrative structure of the city government and the means for financing its operations;
- Provisions governing the procedures of the city council and advisory boards and commissions, and procedures for granting franchises, and assessing and collecting taxes; and,
- Popular controls over the city government, such as elections, referenda, initiative, and recall.

## Forms of Home Rule City Government

Every home rule city in the state operates under one of two forms of government: mayor-council or council-manager. Among Texas' approximately 385 home rule cities, the vast majority have the council-manager form.

### Mayor-Council Government

The mayor-council plan has two variants: strong-mayor and weak-mayor. Under the strong-mayor system, most key administrative and appointive powers are concentrated in the hands of a full-time mayor who also presides over meetings of the city council. The mayor usually has: (1) the power to appoint and remove department heads and the members

of most major boards and commissions; (2) the prerogative to prepare the city budget and, following its adoption by the council, to execute the budget; (3) a high enough salary to enable the officeholder to devote their full time to being mayor, as well as an office budget sufficient to hire an adequate staff; and (4) the power to veto actions by the city council. In a strong-mayor city, councilmembers have no administrative duties. Their role is to enact ordinances, adopt policies governing the operations of the city, and otherwise function as the legislative branch of the city government.

Under the weak-mayor system, the powers of the mayor are limited. First, the mayor may be selected by the council rather than being directly elected by the people, which dilutes his or her political influence. Secondly, the mayor's pay is usually minimal and few, if any, funds are provided for staff. Third, department heads often are appointed and removed by majority vote of the city council, which diffuses administrative authority. And finally, few weak mayors have either the authority to veto actions of the council or the exclusive power to develop and execute the budget, since these powers are collectively exercised by the council.

Very few home rule cities in Texas use the weak-mayor form of government.

### Council-Manager Plan

The basic structure of the council-manager form of government is similar to that of a private corporation where the stockholders elect a board of directors which then hires a president to run the company. Under the council-manager plan, the voters elect a city council which, in turn, hires a city manager to administer the city's day-to-day affairs.

In a council-manager city, as in any other form of city government, the council serves as the legislative body. The council sets policy, approves the budget and sets the tax rate, and determines the size of the payroll and the extent and cost of municipal services. In short, the council is the final authority on all of the many policy decisions that determine the scope and functions of the city government.

Under the council-manager plan, the mayor and councilmembers have no administrative duties. These are vested in the city manager, who is responsible for directing the workforce and programs of the city in accordance with ordinances, rules, and regulations adopted by the council. The typical city manager in Texas is appointed for an indefinite term and is subject to dismissal by the council at any time except as otherwise prohibited by law. He or she is designated, either by charter or ordinance, as the chief executive and administrative officer of the city and is accountable to the council for the proper conduct of all municipal operations. The manager has the unilateral authority to hire, discipline, and fire the department heads.

Although the manager's role varies from one city to another, the manager's primary function is to implement the policies established by the council and ensure that the city is operated in an economical and responsible manner. Specific duties of the manager may include the following:

- 1) Enforcing all city ordinances, rules, and regulations.
- 2) Supervising all municipal employees and programs.
- 3) Preparing and executing the city's annual budget pursuant to the revenue

and expenditure plans adopted by the council.

- 4) Managing the city's funds and preparing periodic reports that advise the council and the general public of the city's financial condition.
- 5) Providing information to the council to facilitate its ability to make informed decisions in the best interests of the community.
- 6) Preparing council meeting agendas and attending all such meetings to serve as a resource to the council and the public.
- 7) Drawing the council's attention to community needs and recommending alternatives by which the council can respond to those needs.

In larger cities, city managers spend comparatively little time on citizen contacts, personnel problems, and other routine matters. Managers in these cities usually have a sizable staff capable of handling day-to-day problems, thus allowing the manager to concentrate on communicating with the council, policy issues, planning activities, and work sessions with department heads.

On the other hand, the managers of medium-sized and smaller cities frequently operate with limited resources and small staffs. The manager must, by necessity, be personally involved in the details of providing police, fire, solid waste, and other services.

## Chapter Two: Roles and Responsibilities of Officers in General Law Cities

All members of the city council play unique roles in making the city government operate effectively in a general law city. Many of their functions are set by law, while others are established as a matter of local custom or policy.

### Office of the Mayor

The mayor occupies the highest elective office in the municipal government. As political head of the city, the mayor is expected to provide the leadership necessary to keep it moving in the proper direction.

Except under the city manager plan of government, the mayor is the city's chief executive officer. The mayor presides over council meetings and is generally recognized as the ceremonial and governmental head of the city for most purposes.

Most of the powers exercised by the mayor are created through ordinances and resolutions adopted by the city council. Very few mayoral powers are prescribed by state law.

### Legislative Responsibilities

The mayor's most important duty is to carry out the legislative responsibilities he or she shares with other members of the council—identifying the needs of the city, developing programs to satisfy those needs, and evaluating the extent to which municipal

services satisfactorily reflect the policy goals of the council.

Under the law, the mayor is the presiding officer of the city council. In this capacity as presiding officer, the mayor's actual powers in legislative matters can be greater than those of other councilmembers. For example, the mayor can influence the flow of debate through the power to recognize councilmembers for motions or statements.

Also, the mayor rules on questions of procedure at council meetings, and those rulings are binding unless successfully challenged by a majority of the governing body. Finally, the mayor of a Type A general law city can formally object to ordinances and other resolutions passed by the council. If the mayor objects to an ordinance or resolution before the fourth day after it is placed in the city secretary's office, it must be reconsidered by the governing body. If approved, it becomes effective (Local Government Code Section 52.003).

### Appointive Powers

Appointive powers represent another area in which the mayor's powers often outrank those of councilmembers, especially when the mayor is authorized by ordinance to appoint department heads and advisory board members. In Chapter 25 council-manager cities, the mayor's appointive powers are more limited, because the city manager may appoint all or most administrative employees. Although most of the mayor's appointive

powers are established by ordinances enacted by the city council, some are established by state law, such as the power to appoint commissioners of a housing authority (Local Government Code Section 392.031).

### **Law Enforcement and Related Duties of the Mayor**

The office of the mayor involves a variety of law enforcement responsibilities. The mayor is specifically obligated by law to “actively ensure that the laws and ordinances of the city are properly carried out,” and “in the event of a riot or unlawful assembly or to preserve the peace,” the mayor may order the closing of certain public places.

Under extreme circumstances, as in the case of a riot, the mayor of a Type A general law city can summon a special police force into service (Local Government Code Section 341.011) or call for assistance from the Texas National Guard. Also, if the city has used the provisions of Sections 362.001 et seq., Local Government Code, to enter into a mutual law enforcement pact with other nearby cities or the county, the mayor can call on those localities for help in dealing with civil disorders and other emergencies. Additionally, most local emergency management plans authorize the mayor to exercise supreme powers in case of a public calamity, after the mayor has declared a local disaster or asked the governor to declare a state of emergency. State law also permits a mayor to require a mandatory evacuation order and control who can access an area during a phased reentry (Government Code Chapters 418 and 433).

### **Judge of the Municipal Court**

In every general law city where no separate office of judge of the municipal court exists by

ordinance, the mayor is ex officio judge of the court (Government Code Section 29.004). A mayor serving as the ex officio municipal judge must still receive the annual training required of all municipal judges.

### **Signatory Duties**

As signatory for the city, the mayor maybe required to sign a variety of documents to give them official legal effect. The mayor’s signature is required on all bonds, certificates of obligation, warrants, and other evidence of debt, as well as may be required on ordinances, resolutions, advertisements for bids on public works projects, contracts, and similar legal paperwork. The mayor is also responsible for signing proclamations recognizing special events and personal achievements.

### **Ceremonial Duties**

The mayor’s participation in local ceremonial events is a never-ending responsibility. The mayor is expected on a daily basis to cut ribbons at ceremonies opening new businesses; break the ground to begin the construction of new city facilities; and regularly appear at fairs, parades, beauty pageants, and other community celebrations.

The mayor also issues proclamations for a variety of purposes, whether to honor visiting dignitaries or declare “Support Your Local School Week.” And as a featured speaker before professional clubs, school assemblies, and neighborhood groups, the mayor can expect to be interviewed, photographed, and otherwise placed on extensive public display by the media.

## Administrative Duties

Except in Chapter 25 council-manager cities, the mayor serves in the dual roles of administrator and political head of the city, going to city hall on a regular basis, working with department heads on matters that need attention each day, and performing the ceremonial duties that go with the office. In some cases, ordinances approved by the council give the mayor wide latitude to deal with the many problems that arise each day. Also, an administrative staff is sometimes available to help the mayor, but the office still involves considerably more effort—and power—than its counterpart in cities operating under the city manager plan.

## Limitations on the Mayor's Powers

The broad powers of the mayor can be offset by several methods, including ordinance requirements that the council ratify mayoral appointments and other key actions.

Limiting the mayor's power at the council table is another way of imposing restraints. In Type A general law cities, for instance, the mayor is allowed to vote only in the event of a tie (Local Government Code Section 22.037). As state law is unclear on the mayor's ability to vote in Type B general law cities, those cities should consult with their local legal counsel with questions.

The mayor's prerogatives can also be restricted by the structure of the city government. Under the Chapter 25 council-manager plan, for example, the mayor has no administrative powers and will probably be in city hall on a less frequent basis. The ordinances of most council-manager cities also make it clear that decision-making is to be shared by the full council, and that the mayor

is to be considered the same as any other member of the governing body for policy purposes. This is accomplished by concentrating administrative powers in the hands of a city manager, who acts under the direction of the full council.

## Qualifications of Office

In Type A general law cities, every candidate for the office of mayor must meet the following qualifications:

- 1) Be a United States citizen;
- 2) Have been a resident of Texas for at least 12 months, as of the deadline for filing for the office;
- 3) Have resided in the city for at least 12 months preceding election day;
- 4) Be a registered voter;
- 5) Be 18 years of age or older upon the commencement of the term to be filled at the election;
- 6) Not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities; and
- 7) Not have been deemed mentally incompetent by a final judgment of a court.

(Election Code Section 141.001; Local Government Code Section 22.032).

In Type B and Type C general law cities, every candidate for mayor must meet the qualifications listed above, except that he or she must have resided in the city for six months, rather than twelve, preceding election day (Election Code Section 141.001; Local Government Code Section 23.024).

## **Terms of Office**

In a Type B general law city operating under the aldermanic form of government, the mayor's term of office is one year, unless the board of aldermen has enacted an ordinance providing a two-year term for the mayor and two-year overlapping terms for aldermen (Local Government Code Section 23.026). In a Type A general law city, the term of the mayor and members of the city council or board of aldermen is two years (Local Government Code Section 22.035). In a Type C general law city, the mayor's term of office is two years (Local Government Code Section 24.023).

In any city, the term of office for members of the governing body can be extended to three years or four years upon approval of a majority of the voters voting at an election on the question (Texas Constitution, Article XI, Section 11).

## **Vacancies**

When the mayor is temporarily unable to perform his or her duties because of illness, out-of-town travel, or similar reasons, the mayor pro tem assumes the responsibilities of the office on an interim basis (please see discussion of mayor pro tem on the next page). But if a permanent vacancy occurs in the office of mayor as a result of death, disability, resignation, or some other reason, the vacancy should be filled according to prescribed procedures.

In a Type B general law city operating under the aldermanic form of government, a mayoral vacancy must be filled by appointment by the board of aldermen. The term of the person appointed expires at the same time that the term of the person who vacated the office would have expired if he or she had remained

in office (Local Government Code Section 23.002).

In a Type A general law city operating under the aldermanic form of government, the vacancy can be filled either by appointment of the city council or by a special election if the mayor's office is the only one vacant. However, if another vacancy exists on the board of aldermen when the mayor's office is vacant, both vacancies must be filled at a special election. When a vacancy is filled by appointment, the term of the person appointed expires at the next general municipal election. When a vacancy is filled by special election, the person elected serves out the remainder of the unexpired term of the vacancy being filled (Local Government Code Section 22.010).

In a Type C city operating under the commission form of government, a vacancy in the office of mayor must be filled by appointment by the two remaining members of the board of commissioners. But if there are two vacancies on the board of commissioners, they must be filled at a special election called by the county judge, and the persons elected serve out the remainder of the unexpired terms of the vacancies being filled (Local Government Code Section 24.026).

If the terms of office in a city have been changed to three or four years, appointment to fill a vacancy is no longer an option. Any vacancy must be filled by special election (Texas Constitution, Article XI, Section 11).

## **Absences**

Under Section 22.041 of the Local Government Code, "if a member of the governing body is absent for three regular consecutive meetings, the member's office is considered vacant



unless the member is sick or has first obtained a leave of absence at a regular meeting.”

## **Removal**

Procedures for removing the mayor or a councilmember from office are set forth in Section 21.002 of the Local Government Code. Under the law, a member of the governing body is subject to removal for incompetence, official misconduct, or intoxication. A petition for removal must be filed with a district court, may be filed by any resident of the city, and must state the alleged grounds for removal. The judge may decide to issue a citation to the member in question or may decline to do so. If the judge declines to issue a citation, the petition is dismissed at the cost of the petitioner. If the judge issues a citation to the member, the member must appear before the judge to answer the petition and may request a trial by jury. The petitioner must execute a bond in an amount fixed by the judge. The bond shall be used to pay damages and costs to the member if the alleged grounds for removal are found to be insufficient or untrue. The final judgment on the issue may be appealed by either party. Conviction of the member for any felony or official misconduct will result in immediate removal, and the removed member is ineligible for reelection for two years.

There is no such thing in a general law city as “recall,” which is a procedure citizens can use to vote an incumbent mayor or councilmember out of office before the expiration of his or her term. The power of recall is limited to voters in home rule cities in which the charter provides for the procedure.

## **Compensation**

In Type C cities, the board of commissioners may, by ordinance, fix the mayor’s compensation at a maximum of \$5 for each regular commission meeting and \$3 for each special meeting. Alternatively, the board of commissioners in a city of less than 2,000 can pay the mayor a salary of up to \$600 per year, while the board of commissioners in a city of 2,000 or greater population can pay the mayor up to \$1,200 per year (Local Government Code Section 141.003).

In Type A and B general law cities, no maximum salary amount is fixed for the mayor. The governing body can set the mayor’s compensation at any level it chooses (Local Government Code Sections 141.001 and 141.002). Only one limitation exists: an elected officer cannot receive a pay increase that was approved during the term for which he or she is elected. Such increase will become effective only after the next general municipal election at which the office is filled (Local Government Code Section 141.001).

## **Expense Reimbursement**

It is commonplace for the city to reimburse the mayor for travel and other expenses incurred on official city business trips, such as meetings of the Texas Municipal League and similar organizations. Most city travel policies are established by ordinance or resolution.

## **Office of the Mayor Pro Tem**

The mayor pro tempore is a member of the council who performs the mayor’s duties during the mayor’s incapacity or absence. The mayor pro tem is selected by majority vote of the council from among its own membership.

The mayor pro tem's term is one year. The mayor pro tem retains the right to vote on all matters before the council while performing the duties of the mayor (Local Government Code Sections 22.037 and 23.027).

## Office of Councilmember

Councilmembers are the city's legislators. Their primary duty is policymaking, which includes identifying the needs of local residents, formulating programs to meet the changing requirements of the community, and measuring the effectiveness of ongoing municipal services.

Unless restricted by state law, each councilmember is entitled to vote or abstain on every question decided at a council meeting, and has full parliamentary privileges in council meetings—including the right to speak and make motions when recognized by the chair and the right to introduce new ordinances and amendments to existing ones. Though foremost in importance, lawmaking is just one of many functions councilmembers perform. They also wear several other hats, which one writer describes as follows:

- **Regulator**—The council exercises regulatory powers over the conduct and property of its citizens. It has the power to declare certain conduct to be criminal, to require that certain businesses and activities be licensed, and to tell property owners how and for what purposes they may use their property.
- **Financier**—The council may levy taxes, assess fees and charges, and sell bonds in order to finance the many functions of the city government. The council also has to budget the expenditure of

the city's funds, and then explain to the people why municipal government is a bargain compared to the price of rampant crime, fires, disease, and all of the other problems that would flourish without proper city services.

- **Employer**—The council is responsible for all of the city's employees, and must see that they are adequately paid and provided with decent working conditions and fringe benefits.
- **Buyer**—The council is one of the biggest purchasers in the community, and must see to it that the city gets the best value possible for dollars spent.

Even this is not a complete description of all the challenges that confront councilmembers.

The real task is in providing leadership and direction for the city, in deciding what needs to be done, and in helping plan what the city will be for future generations.

## Qualifications

In general law cities, the qualifications for the office of councilmember are:

- 1) Be a United States citizen;
- 2) Have been a resident of Texas for at least 12 months as of the deadline for filing for the office;
- 3) Have resided in the city for at least six months preceding election day;
- 4) Be a registered voter;
- 5) Be 18 years of age or older upon the commencement of the term to be filled at the election;
- 6) Not have been convicted of a felony for which he or she has not been pardoned or otherwise released from the resulting disabilities; and

- 7) Not have been deemed mentally incompetent by a final judgment of a court.

(Election Code Section 141.001; Local Government Code Sections 22.032 and 23.024).

One additional requirement: if a Type A general law city has been divided into wards, every council candidate must, at the time of his or her election, be a resident of the ward he or she proposes to represent if elected (Local Government Code Section 22.032).

## Terms of Office

In a Type B general law city, the term of office for aldermen is one year, unless the board of aldermen has enacted an ordinance providing a two-year term for the mayor and two-year overlapping terms for aldermen (Local Government Code Section 23.026). In a Type A general law city, the term of office for members of the city council is two years (overlapping terms) (Local Government Code Section 22.035).

In any city, the term of office of members of the governing body can be extended to three years or four years upon approval of a majority of the voters voting at an election called on the question (Texas Constitution, Article XI, Section 11).

## Vacancies

In a Type B general law city operating under the aldermanic form of government, vacancies on the board of aldermen— whatever the number of vacancies—must be filled by appointment by the remaining members of the

board (Local Government Code Section 23.002).

In a Type A general law city operating under the aldermanic form of government, when there is only one vacancy on the governing body, the vacancy can be filled either by appointment of the city council or by means of a special election. However, if there are two or more vacancies on the governing body, such vacancies must be filled at a special election (Local Government Code Section 22.010).

In a Type C general law city, a single vacancy must be filled by appointment by the two remaining members of the board of commissioners. But if there are two vacancies on the board, they must be filled at a special election called by the county judge (Local Government Code Section 24.026).

## Absences

Under Section 22.038 of the Local Government Code, an illness of an alderman or someone in his or her family is the only reason for absence from council meetings in a Type A general law city without a fine. Unexcused absences are punishable by a fine of \$3 for each council meeting missed. If an alderman is absent for three consecutive regular meetings—unless because of sickness or the alderman has obtained a leave of absence at a regular meeting—his or her office shall be vacant. (Local Government Code Section 22.041).

There is no law applicable to absences by aldermen in Type B general law cities or members of the board of commissioners in cities operating under the commission form of government (Type C general law cities). However, in cities over 500 population, which operate under the commission form of

government, Sections 51.035 and 51.051 (the “borrowing provisions”) of the Local Government Code (relating to the application of laws to cities with the commission form) would probably make Sections 22.038 and 22.041 of the Local Government Code (relating to absences) applicable to such cities. Type B general law cities should contact their local legal counsel to discuss this issue, as state law is unclear.

## Removal

Procedures for removing a councilmember from office in a general law city are the same as for the mayor and are governed by Chapter 21 of the Local Government Code.

## Compensation

In Type C cities, the board of commissioners may, by ordinance, fix commissioners’ compensation at a maximum of \$5 for each regular commission meeting and \$3 for each special meeting. Alternatively, the board of commissioners in a city of 2,000 or greater population can provide for paying commissioners up to \$600 per year (Local Government Code Section 141.003).

In Type A and B general law cities, no maximum salary amount is fixed for aldermen. Therefore, the governing body can set councilmembers’ compensation at any level it decides. Only one limitation exists: an alderman cannot receive the benefit of a pay increase adopted during the term for which he or she is elected. Such increase will become effective only after the next general municipal election at which the office of the alderman serving at the time of the pay increase is filled

(Local Government Code Chapter 141).

## Expense Reimbursement

It is commonplace for cities to reimburse councilmembers for travel and other expenses incurred on official city business trips to meetings of the Texas Municipal League, a council of governments, and similar organizations. Most travel policies are established by ordinance or resolution.