

3 Chapter Three

Roles and Responsibilities of Officers in Home Rule Cities

All members of the city council play special roles in making the city government operate effectively in a home rule 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, just as the governor serves as chief executive of the state. The mayor presides over council meetings, is the signatory for the city, 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 either by provisions in the charter or 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.

All charters designate the mayor as presiding officer of the city council and as such, his or her actual powers in legislative matters can be greater than those of other councilmembers. For example, as presiding officer of the council 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 charters of some cities authorize the mayor to veto ordinances and other enactments approved by the city council.

Appointive Powers

Appointive powers represent another area in which the mayor's powers often outrank those of councilmembers, especially in mayor-council cities where the mayor is authorized to appoint department heads and advisory board members. In council-manager cities, however, the mayor's appointive powers are more limited, since the city manager appoints all or most administrative employees, and the full council usually appoints the members of advisory boards and commissions.

Signatory Duties

As signatory for the city, the mayor is 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 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.

Powers of the Mayor in Mayor-Council Home Rule Cities

In mayor-council home rule cities, the mayor serves in the dual roles of administrator and political head of the city. He or she is in city hall on a continuing basis, working with department heads on routine items that need to be addressed

each day, handling emergencies, and performing all of the ceremonial duties that go with the office. In most cases, the charter gives the mayor broad authority to deal with the many problems that arise each day. A skilled administrative staff usually is available to help the mayor carry the day-to-day load. Also, in some cities the charter gives the mayor the power to veto actions of the council.

The broad powers of the mayor in mayor-council cities usually are offset by charter provisions that require the council to ratify mayoral appointments and other key actions. Also, the requirement for council approval of the budget provides councilmembers with an effective method of slowing down a zealous mayor by reducing or abolishing expenditures.

Further checks can be created by distributing governmental powers in a certain way. Under the Houston charter, for example, provision is made for an elected city comptroller responsible for supervising the expenditure of municipal funds independent of both the mayor and council.

Powers of the Mayor in Council-Manager Home Rule Cities

Under the council-manager form of government in a home rule city, the mayor's administrative responsibilities differ sharply from those of a mayor in a mayor-council city. Under the council-manager plan, the mayor has no day-to-day administrative duties: these are vested in a city manager who is responsible for implementing policies established by the council. In most council-manager cities, the mayor is in city hall on an irregular basis and is involved very little in routine operational matters.

The charters of most council-manager cities make it clear that decision-making is to be exercised by the full council, and that the mayor is to be considered the same as any other member of the council for policy purposes. This is accomplished by concentrating administrative powers in the hands of the city manager and by usually requiring action by the whole council, and not just the mayor, to appoint key board and commission members.

And finally, a number of state laws further ensure that the full council share appointive powers. An example is Local Government Code Section 211.008, which requires that the "local legislative body" appoint the zoning board of adjustment.

Limitations on the Mayor's Powers

As noted above, the powers of the mayor in both mayor-council and council-manager home rule cities can be limited by requiring full council approval of the budget and board and commission appointments, and by distributing

governmental powers among a variety of city officials rather than concentrating them in the office of mayor. Another way to impose restraints on the mayor is to limit his or her power at the council table. For example, some charters in home rule cities do not allow the mayor to initiate motions at council meetings. Some charters also forbid the mayor from voting except to break a tie.

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 usually selected by majority vote of the council, and his or her term is often the same as that of a councilmember. In some cities, the term of mayor pro tem is shorter; in one city, for example, each councilmember serves a three-month term as mayor pro tem on a rotating basis.

Office of Councilmember in a Home Rule City

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 must 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 city 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 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.

In addition to these everyday duties, councilmembers spend considerable time representing the city in a wide circle of external relationships. Examples include:

- ★ Serving on committees of the Texas Municipal League and other statewide local government organizations.
- ★ Working with state legislators on city-related bills.
- ★ Working with the National League of Cities, the U.S. Conference of Mayors, and other national public interest groups on municipal issues pending before Congress or federal regulatory agencies.
- ★ Supporting efforts of the chamber of commerce, industrial foundations, and other organizations to foster the city’s economic development.

Size of the Council

There is no state law requiring the city council of a home rule city to be any particular size. As is true in so many other areas of home rule, the size of the governing body is determined by the city’s charter.

Method of Electing the Council

There are four basic methods of electing home rule city councils in Texas. The first is the at-large system, under which candidates are elected citywide without regard to where they live.

The second is the place system of electing the council, under which candidates run citywide, but each must file for a designated seat (place) on the council.

Under an at-large/from-districts system, candidates are elected citywide, but councilmembers must reside in designated geographical areas of the city.

Under a pure single-member district electoral system, all candidates for the council (not including the mayor) must live in designated districts of the city and are voted upon only by the voters residing in those districts.

Additionally, a number of cities use hybrid electoral systems that combine various features of the plans described above.

Mixed systems include those in which some members of the council are elected at-large and the remaining councilmembers are elected from single-member districts, or where some members of the council are elected at-large and the balance are elected from districts at-large.

Qualifications

Every candidate for the office of mayor or councilmember must meet the qualifications prescribed by the Texas Election Code, which requires that a candidate:

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

(Election Code Section 141.001).

The Election Code authorizes home rule cities to establish two exceptions to these six criteria. First, the charter can require council candidates to be up to 21 years old, rather than 18, upon the commencement of the term to be filled at the election. Second, the charter can require candidates to be residents of the city for 12 months, rather than 6 months, as of the deadline for filing for office (Election Code Section 141.003).

Terms of Office

The terms of office for mayors and councilmembers range from two to four years and are set by the city’s charter. More than 90 percent of all home rule charters provide continuity on the governing body by staggering councilmembers’ terms, thus preventing wholesale changeovers on the council at any one election. Under staggered term procedures, the terms of approximately half of the members of the council expire at one municipal election, and the other half expire at the next election. In the case of a 7-member city council with 2-year terms, the terms of three members might expire during each odd-numbered year, while the other four terms would expire during each even-numbered year. Some home rule charters limit the number of terms a councilmember may serve.

Vacancies

Vacancies on the council can result from resignation, death, disability, recall, or failure of a councilmember to meet the requirements of the charter. In some instances, a vacancy can occur if a member of the council announces for another elective office. For example, under Article XI, Section 11, of the Texas Constitution, in cities where the term of office for councilmembers is three or four years, any councilmember who announces for another elective office is automatically removed from the council if more than one year remains in his or her term at the time of such announcement.

Also, some city charters provide that any councilmember who runs for another office automatically vacates his or her seat on the council. A city charter may provide that:

If any officer of the city shall file as a candidate for nomination or election to any public office, except to some office under this charter, he shall immediately forfeit his office.

Procedures for filling vacancies vary from charter to charter. In some instances, charters require that vacancies on the governing body be filled by appointment of the council in every case, regardless of whether a regular municipal election is imminent. The charters of others require the council to fill a single vacancy by appointment, but if two or more vacancies exist, they must be filled at a special election. Under Article XI, Section 11, of the Texas Constitution, cities with three- or four-year terms must fill all vacancies by election. Finally, some charters require that all council vacancies must be filled by special election. Among these cities, the common practice is not to require special elections in cases where a regular municipal election is imminent; for example, within 60 to 90 days of the time the vacancy occurred.

Compensation

As with so many other aspects of home rule government, state law is silent regarding the compensation of mayors and councilmembers. As such, the salary can be governed by the charter or set by local policy if the charter is silent.

Salaries

In most of the cities operating under the mayor-council form of government, the mayor may receive a substantial salary for his or her full-time administrative services. In council-manager cities, the charter generally treats councilmembers as part-time legislators for whom minimum compensation is provided.

Most charters fix the dollar amount of the salary or fees to be paid to members of the governing body. A few permit the council to set its own compensation.

Expense Reimbursement

It is commonplace for cities to reimburse councilmembers for travel, hotel, and other expenses incurred on official city business trips to meetings of the Texas Municipal League, National League of Cities, and similar organizations. Only a small number of charters make any mention whatsoever of councilmembers' expense reimbursement. Most travel policies are established by ordinance or resolution.

Other Benefits

A final category of benefits for councilmembers includes staff and office facilities. Again, there is no consistency among cities: benefits range from providing part-time clerical help to full-time secretaries and administrative assistants.

As with so many other issues, the question of what—if any—staff and facilities should be provided to councilmembers must be decided locally.