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Terms, Qualifications, and Vacancies

General Information

A city is home rule if it has a charter. It is Type C (general law) if it is governed by a mayor and two commissioners. If the city is not home rule or Type C, it is either Type A or Type B. Type A and Type B general law cities have five aldermen and a mayor. The only way to determine which type a city is, is to obtain a copy of the records of the incorporation election from the county clerk or the city secretary. If a general law city with an alderman form of government has a population of over 600, it is probably (but not absolutely) a Type A City.

The general rule for residence and age requirements is section 141.001(a)(2),(5) of the Election Code.

Any city, whether home rule or general law, that has increased its terms of office to 3 years or 4 years must fill vacancies by a majority vote at a special election within 120 days after the vacancy or vacancies occur; except that a home-rule municipality may provide by charter or charter amendment the procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less. See Art. XI, Sec.11 (as amended) for details.

Filling Vacancies

Type A City (Local Gov't Code, Section 22.010)

- Term of office -- 2 years/can opt for up to 4 (Local Gov't Code, Section 22.035)*
- Population -- at least 600 (Local Gov't Code, Section 6.001)
- One vacancy -- city council may fill vacancy by appointment (majority of remaining members, excluding the mayor, make the appointment) until the next regular city election (at which time office will go on ballot for unexpired term, if any) or call a special election to fill the vacancy for the remainder of the unexpired term.*
- Two vacancies at same time -- city council must order a special election to fill the vacancies for the remainder of the unexpired term.*
- A special election ordered to fill these vacancies is governed by Title 12 of Election Code.
- *A 3-year or 4-year term requires adoption by election (Art. XI, Sec.11, Tex.Const.); once adopted, vacancies must be filled by special election. See Art. XI, Sec.11 for details.

Type B City (Local Gov't Code, Section 23.002)

- Term of office -- 1 year/can opt for up to 4 (Local Gov't Code, Section 23.026)*
- Population -- 200 - 9,999 (Local Gov't Code, Section 7.001)
- All vacancies are filled by appointment by remaining aldermen for the unexpired term only.*
- *A 3-year or 4-year term requires adoption by election (Art. XI, Sec.11, Tex.Const.); once adopted, vacancies must be filled by special election. See Art. XI, Sec.11 for details.

Type C City (Local Gov't Code, Section 24.026)

- Term of office - 2 years/can opt for up to 4 (Local Gov't Code, Section 24.023)*
- Population - 201-4999 (Local Gov't Code, Section 8.001)
- One vacancy -- remaining members of commission fill the vacancy for the remainder of the unexpired term. (Local Gov't Code, Section 24.026)*
- Two vacancies - county judge must order a special election to fill the vacancies.*
- *A 3-year or 4-year term requires adoption by election (Art. XI, Sec.11, Tex.Const.); once adopted, vacancies must be filled by special election. See Art. XI, Sec.11 for details.

Home Rule City (Local Gov't Code, Chapter 26)

- Term of office - 2 years/can opt for up to 4 (Tex. Const. Article XI, Section 11)*
- Population - more than 5,000
- Vacancies are filled as provided in charter.*
- NOTE: If population of 1.5 million or more and 270 days or more remain before date of next general election, governing body must order special election. (Local Gov't Code, Section 26.045)
- *A 3-year or 4-year term requires adoption by election (Art. XI, Sec.11, Tex.Const.); once adopted, vacancies must be filled by special election; EXCEPT a home-rule municipality may provide **by charter or charter amendment** the procedure for filling a vacancy occurring on its governing body for an unexpired term of 12 months or less. See Art. XI, Sec.11 (as amended) for details.

Independent School District (Education Code, Section 11.060)

- Term of office - 3/4 years (Education Code, Section 11.059)
- A vacancy may be filled by appointment by the remaining members of the board until the next regular school board election. The board also has the option to fill the office by special election. If more than one year remains in the term of the vacated office, it must be filled no later than 180 days after the date the vacancy occurs. (Education Code, Section 11.060)

Qualifications for Office

Type A City (Local Gov't Code, Section 22.032)

- Mayor
Residence -- 1 year in state prior to the filing deadline; 1 year in city prior to election day
Age -- 18
Must be a registered voter in territory elected from by the filing deadline_
- Alderman
Residence -- 1 year in state prior to filing deadline; 6 months in the city (or ward) prior to filing

deadline (Texas Elec. Code, Section 141.001(a); Brown v. Patterson, 609 SW 2nd 287)

Age -- 18

Must be a registered voter in territory elected from by the filing deadline*

Type B City (Local Gov't Code, Section 23.024)

- Residence -- 1 year in state prior to filing deadline; 6 months in city (or ward) prior to election day
- Age -- 18
- Must be a registered voter in territory elected from by the filing deadline*

Type C City (Election Code, Section 141.001)

- Residence -- 1 year in state and 6 months in city prior to filing deadline
- Age -- 18
- Must be a registered voter in territory elected from by the filing deadline*

Home Rule City

- Residence -- use general rule if charter does not specify a requirement
- A charter may require up to 12 months residence in a city.
- Age -- charter may require 21. (see Election Code, section 141.003)
- Must be a registered voter in territory elected from by the filing deadline unless charter expressly conflicting*
- Any requirement that a candidate must own property is unconstitutional. Turner v. Fouche, 90 S. Ct. 532 (1970).

School Board Trustee (Education Code, Chapter 11)

- Residence -- 1 year in state and 6 months in school district prior to filing deadline (Texas Elec. Code, Section 141.001(a); Brown v. Patterson, 609 SW 2nd 287)
- Age -- 18 years
- Must be a registered voter in territory elected from by the filing deadline*
- In addition to the general felony rule at Election Code Sec. 141.001 (finally convicted), must not be convicted (finally convicted or otherwise) of specific crimes in Education Code in time to serve. Sec. 11.066

***House Bill 484 (2015) amends Election Code Section 141.001 to provide a new general rule (for most offices) that a candidate must be a registered voter of the territory elected from as of the filing deadline (unless outside law conflicts).**

Government Code Section 601.009 provides that office-holders must be registered voters of the area they were elected from as of the time they are sworn in.

For more details, see our [VR for Candidates \(HB 484\) FAQ](#).

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