

Fundamentals of City Regulation

Newly Elected City Officials' Orientation
Presented by Stephanie Huser, TML Legal Counsel



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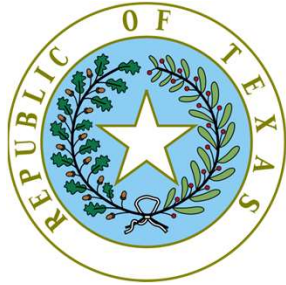
Outline

- Brief History of Texas Cities
- Determining City Type
- General Law Cities
- Home Rule Cities
- Differences
- Preemption
- Recent Legislation
- Resources



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Brief History



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Determining City Type



General Law

- Type A
- Type B
- Type C

Home Rule



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General Law Cities



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A general law city may *only* exercise those powers that are specifically granted or necessarily implied in state law.



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City Regulation Authority

The governing body of a municipality may adopt ... an ordinance, rule or police regulation that ... is for the good government, peace, or order of the municipality ...

- *Tex. Local Gov't Code Sec. 51.001*

A Type A general law city "may adopt an ordinance ... not inconsistent with state law that is necessary for the government, interest, welfare, or good order of the municipality ...

- *Tex. Local Gov't Code Sec. 51.012*

The governing body of a Type B municipality may adopt an ordinance ... not inconsistent with state law, that the governing body considers proper for the government of the municipal corporation ...

- *Texas. Local Gov't Code Sec. 51.051*



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Type A General Law Cities

Aldermanic Form of Government

Council = Mayor + 5 aldermen (if no wards)

Mayor doesn't vote except to break a tie

Quorum consists of 3 aldermen, except:

- Special meeting or meeting concerning taxation
- 2/3 requirement
- Mayor doesn't count toward quorum requirements

Two-year terms (unless diff term adopted)

H.B.1434 – May establish staggered terms

Mayor pro tem elected to fill in for mayor

Taxation:

- Limited to \$1.50 or \$2.50 per hundred, depending on pop.



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Type B General Law Cities

Aldermanic Form of Government

Council = Mayor + 5 aldermen

Quorum =

- Mayor + 3 aldermen, or
- 4 aldermen, if mayor absent

One-year terms

- (unless staggered 2-year terms are adopted)

Mayor pro tem elected to fill in for mayor

Mayor vote unclear

Taxation:

- Limited to \$0.25 per hundred-dollar valuation



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Type C General Law Cities

Commission Form of Government

Council = Mayor + 2 Commissioners

Two-year terms (unless longer term adopted)

Taxation:

- Limited to \$0.25 or \$1.50, depending on population



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Borrowing Provisions

(Local Gov't Code Chapter 51)

- Type B cities have the same authority, duties, and privileges as a Type A city, unless there is a conflicting state provision regarding only Type B cities
- Type C cities have the same powers as a Type B or Type A city (depending on population), unless the law specifically provides otherwise



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City Manager Form of Government

- Tex. Local Gov't Code Chapter 25
- Cities < 5,000 population
- Election
- Similar to private corporation
- City Administrator Option
- “Weak Mayor” vs. “Strong Mayor” form of government



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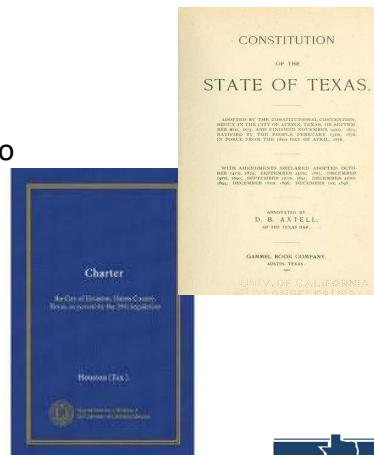
Home Rule Cities



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“Home-rule municipalities derive their powers from the Texas Constitution and possess the full power of self government and look to the Legislature not for grants of power, but only for limitations on their power.”

- Texas Supreme Court, May 2016



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Differences

- Citizen Initiative & Referendum (HR)
- Recall Election (HR)
- Removal (GL)
- Term Limits (HR)
- Maximum Property Tax Rates



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Maximum Property Tax Rate

- Home Rule: \$2.50 per \$100 valuation
- Type A with <5,000 population: \$1.50 per \$100 valuation
- Type A with >5,000 population: \$2.50 per \$100 valuation
- Type B: \$ 0.25 per \$100 valuation
- Type C: Same as Type A if 501-4,999 population, or same as B if 201-500 population



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Changing City Type

Changing to a Type A City

1. Affirmative vote of 2/3 of city council;
2. Record taken and signed by mayor; and
3. Record filed and recorded in county clerk's office.

Changing to Home Rule

1. City council may order an election to create a charter commission, with 2/3 vote of council; or
2. Council must order an election if presented with a petition signed by at least 10 percent of the qualified voters



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Let's Summarize

| | General Law Cities | Home Rule Cities |
|---------------------------------------------------------|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| Does the city have a charter? | No | Yes |
| Where does the city get its authority? | Express grant of power (or necessarily implied) from the Legislature | Full power of self government and look to the Legislature only for limitations on its power |
| Can the city have citizen initiative and referendum? | No | Yes, only if the charter allows for it |
| Can the city have a recall election or set term limits? | No | Yes, only if the charter allows for it |



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Preemption



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Plastic Bags



Texas Health & Safety
Code § 361.0961(a)



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Alcoholic Beverages



Texas Alcoholic Beverage
Code §§ 1.06 and 109.57



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Dangerous Dogs



Texas Health & Safety Code
§ 822.047



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Oil & Gas Regulation

Texas Natural Resources
Code § 81.0523



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Transportation Network Companies

Texas Occupations Code
Chapter 2402



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Building Materials

Texas Government Code
Chapter 3000



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Recent Legislation



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Recent Legislation

- H.B. 2127 – “Super Preemption Bill”
- H.B. 1750 – Agricultural Operations
- H.B. 1819 – Juvenile Curfews
- H.B. 3137 – Firearm Insurance
- S.B. 29 – COVID-19 Preventative Measures

For more information, see our legislative updates here: <https://www.tml.org/867/2023>.



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TML Legislative Program

- TML Municipal Policy Summit
 - 2-day workshop to develop legislative policy recommendations
 - Participants are city officials appointed by TML President
- Cities, TML Regions, or TML affiliates submit resolutions for consideration
- TML Board discusses and votes on Legislative Program
- More information:
<https://www.tml.org/DocumentCenter/View/3848/Policy-Process-for-website>



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Resources



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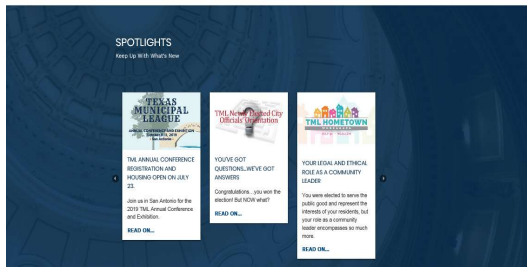
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Legislative Information:
<https://www.tml.org/319/Legislative-Information>



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Charters and Ordinances

franklinlegal.net
www.municode.com
www.amlegal.com

The screenshot shows the Franklin Legal website interface. At the top, there is a navigation bar with 'FRANKLIN' and 'SEARCH CODES'. Below this is a banner image with the text 'EXPERTS IN ORDINANCE CODIFICATION, CODE SUPPLEMENTATION, AND CUSTOMER SERVICE'. The main content area is titled 'Texas' and 'View All Texas Codes'. It features a grid of city names: Anahuac, Baird, Balcones Heights, Big Sandy, Canton, Addison, Athens, Harker Heights, Heath, Ivanhoe, Keene, Marshall, Argleton, Adry, Pleasanton, Port Isabel, Sour Lake, Stephenville, and Sweet Water. The TML TEXAS MUNICIPAL LEAGUE logo is in the bottom right corner.

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State Statutes

www.capitol.state.tx.us

The screenshot shows the Texas Constitution and Statutes website. It features a search bar with 'Code:', 'Article/Chapter:', and 'Art./Sec.' fields. Below the search bar is a list of codes under the heading 'TEXAS STATUTES'. The list includes: AGRICULTURE CODE, ALCOHOLIC BEVERAGE CODE, AUXILIARY WATER LAWS, BUSINESS AND COMMERCE CODE, BUSINESS ORGANIZATIONS CODE, CIVIL PRACTICE AND REMEDIES CODE, CODE OF CRIMINAL PROCEDURE, EDUCATION CODE, ELECTION CODE, ESTATES CODE, FAMILY CODE, FINANCE CODE, GOVERNMENT CODE, HEALTH AND SAFETY CODE, HUMAN RESOURCES CODE, INSURANCE CODE, INSURANCE CODE - NOT CODIFIED, LABOR CODE, LOCAL GOVERNMENT CODE, NATURAL RESOURCES CODE, OCCUPATIONS CODE, PARKS AND RECREATION CODE, PENAL CODE, and PROBATE CODE. The TML TEXAS MUNICIPAL LEAGUE logo is in the bottom right corner.

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Questions?

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