

OUTLINE



- History of Texas Cities
- Determining City Type
- General Law Cities
 - Type A
 - Type B
 - Type C
- Home Rule Cities
- Differences in Authority
- Preemption
- Resources

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History



- **1836-1845 – Republic of Texas**
 - Communities could incorporate as towns by a special act of the Congress of the Republic of Texas
 - Nacogdoches was the first town incorporated on June 5, 1837
 - Special acts of congress resembled basic charter
 - Special act = Could exercise only those powers granted in text of the act
 - 50 more towns were incorporated

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History



- **1845 – Texas annexed by the United States**
 - Communities could incorporate through a special act of the state legislature
- **1858 – Statute passed allowing for incorporation under general laws**
 - Foundation for the Local Gov't Code
 - Petition "Chief Justice of the County"
 - Election for incorporation
 - Election for mayor and alderman
- **1912 – Home Rule Amendment Article XI, Section 5 of Tex. Constitution**
 - Removed incorporation by special act
 - Cities over 5,000 power to adopt charter after election (self-government)



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Determining City Type



General Law

Type A
Type B
Type C



Home Rule

- A city's order of incorporation will determine type
- Must be filed with county clerk's office
- No statewide database



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General Law Cities



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General Law City Authority

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



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Power to Enact and Enforce Ordinances

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



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Other Regulatory Authority

- Building Code Standards – Local Gov't Code Ch. 214
- Weeds/Rubbish/Nuisance Abatement – Health & Safety Code Ch. 342
- Street Regulation – Transportation Code Ch. 311
- Zoning – Local Gov't Code Ch. 211
- Platting and Subdivision Regulations – Local Gov't Code Ch. 212
- Property Tax – Tax Code Ch. 302
- Sales Tax – Tax Code Ch. 321
- Hotel Occupancy Tax – Tax Code Ch. 351



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Types of General Law Cities

Type A

Local Gov't Code
Chapter 22

Type B

Local Gov't Code
Chapter 23

Type C

Local Gov't Code
Chapter 24



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General Law – Type A

- 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)
- Mayor pro tem elected to fill in for mayor
- Taxation:
 - Limited to \$1.50 or \$2.50 per hundred-dollar valuation, depending on pop.



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General Law – Type B

- 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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General Law – Type C

- Commission Form of Government
- Council = Mayor + 2 Commissioners
- Two-year terms (unless longer term adopted)
- Taxation:
 - Limited to \$0.25 or \$1.50 per hundred-dollar valuation, 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 pop.), unless the law specifically provides otherwise



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City Manager Form of Government in General Law City

- 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 City Authority

“ 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. ”



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Article XI, § 5 of the Texas Constitution

 Texas Constitution and Statutes

THE TEXAS CONSTITUTION ARTICLE 11

ARTICLE 11. MUNICIPAL CORPORATIONS

Sec. 5. CITIES OF MORE THAN 5,000 POPULATION: ADOPTION OR AMENDMENT OF CHARTERS; TAXES; DEBT RESTRICTIONS. (a) Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters. If the number of inhabitants of cities that have adopted or amended their charters under this section is reduced to five thousand (5000) or fewer, the cities still may amend their charters by a majority vote of the qualified voters of said city at an election held for that purpose. The adoption or amendment of charters is subject to such limitations as may be prescribed by the Legislature, and no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State. Said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half per cent. of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent. thereon, except as provided by Subsection (b). Furthermore, no city charter shall be altered, amended or repealed oftener than every two years.

(b) To increase efficiency and effectiveness to the greatest extent possible, the legislature may by general law authorize cities to enter into interlocal contracts with other cities or counties without meeting the assessment and sinking fund requirements under Subsection (a).

(Feb. 15, 1876. Amended Aug. 3, 1909, Nov. 5, 1912, Nov. 5, 1991, and Nov. 8, 2011.)



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Home Rule Charter

austin TEXAS ORDINANCES CHARTER

Search or jump to

VERSION: JUN 26, 2024 (CURRENT)

THE CODE OF THE CITY OF AUSTIN, TEXAS

SUPPLEMENT HISTORY TABLE modified

CHARTER

- ARTICLE I - INCORPORATION, FORM OF GOVERNMENT, POWERS.
- ARTICLE II - THE COUNCIL.
- ARTICLE III - ELECTIONS.
- ARTICLE IV - INITIATIVE, REFERENDUM, AND RECALL.
- ARTICLE V - ADMINISTRATIVE ORGANIZATION.
- ARTICLE VI - MUNICIPAL COURT.
- ARTICLE VII - FINANCE.
- ARTICLE VIII - TAXATION.
- ARTICLE IX - PERSONNEL.
- ARTICLE X - PLANNING.
- ARTICLE XI - FRANCHISES AND PUBLIC UTILITIES.
- ARTICLE XII - GENERAL PROVISIONS.

§ 1. - INCORPORATION.

The inhabitants of the City of Austin, Texas, within its corporate limits, as established by Chapter 90, page 634, Special Laws of Texas Austin enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under powers, privileges, rights, duties, and immunities as are herein provided.

Source: Ord. No. [20180809-113](#), Pt. 7, 8-20-18/election of 11-6-18.

§ 2. - FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be, and shall be known as, "council-manager government." Pursuant to th constitution, the state laws, and this Charter, all powers of the city shall be vested in and exercised by an elective council, hereinafter n determine policies, and appoint the city manager who shall execute the laws and administer the government of the city.

§ 3. - GENERAL POWERS.

The city shall have all the powers granted to cities by the constitution and laws of the State of Texas, together with all the implied pc use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of T government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, con property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordina of the good government, order, and peace of the city and the welfare, health, morals, comfort, safety, and convenience of its inhabit limitations imposed by the state constitution, the state laws, and this Charter, the city shall have, without the necessity of its express a XI, Section 5, of the Constitution of Texas, the people of the city are empowered by election to grant to or confer upon the city by expr

Source: Ord. No. [20180809-113](#), Pt. 7, 8-20-18/election of 11-6-18.

§ 4. - STREETS AND PUBLIC PROPERTY.

The city shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, highw and in, upon, over, and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, publ shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to



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Authority of Home-Rule Cities

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

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Maximum Property Tax Rates

- **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 pop., or same as B if 201-500 pop.


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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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Preemption



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Juvenile Curfew Ordinances



Local Government
Code § 370.007



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Alcoholic Beverages

Alcoholic Beverage Code
§§ 1.06 and 109.57



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Transportation Network Companies



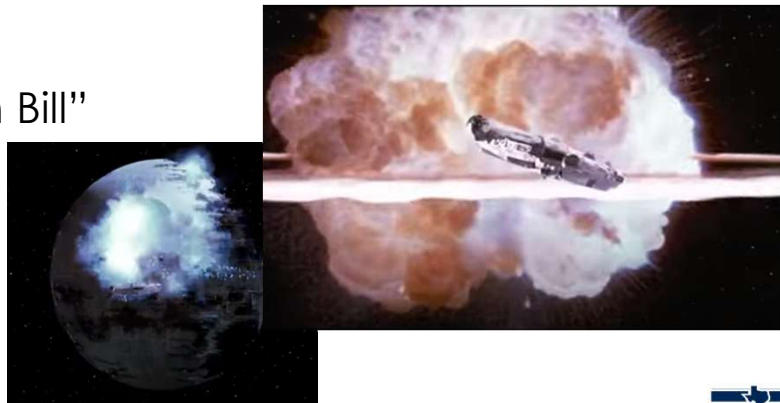
Texas Occupations
Code
Chapter 2402



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Texas Regulatory Consistency Act

H.B. 2127 –
“Super Preemption Bill”
“Death Star Bill”



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Texas Regulatory Consistency Act

Expressly prohibits adoption or enforcement of:

1. Employment related regulations that exceed or conflict with federal or state law. (e.g., employee breaks, hiring practices, scheduling practices, and employment leave.) ***Does not apply to city employee policies.
2. New or amended predatory lending regulations (payday loan establishments).
3. Regulations impeding a business involving animal breeding, care, treatment or sales or animal products – including veterinary practices in certain instances.
4. New or amended regulations relating to the retail sale of dogs or cats.
5. Regulations involving evictions.

“Field of Regulation Occupied by State Law” in eight statutory codes:

Agriculture Code
Business & Commerce Code
Finance Code
Insurance Code

Labor Code
Natural Resources Code
Occupations Code
Property Code

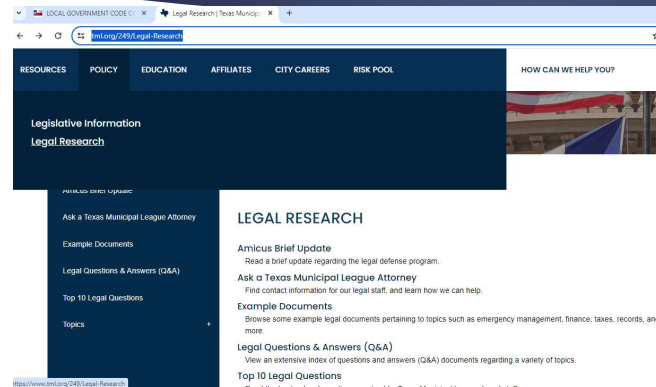


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Resources

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TML Website



Legal Q&As:

<https://www.tml.org/254/Legal-Questions-Answers-QA>

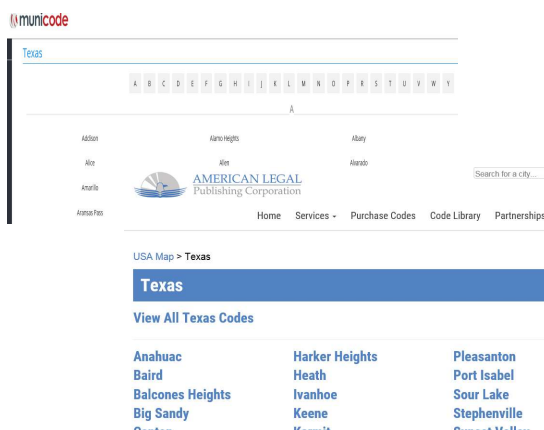
Legislative Information:

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



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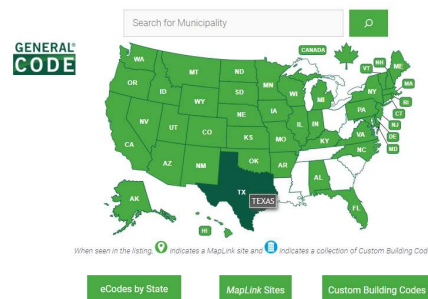
Charters and Ordinances



<https://www.generalcode.com/library/>

<https://library.municode.com/tx>

<https://codelibrary.amlegal.com/regions/tx>



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Thank you!

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