

LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT

CHAPTER 22. ALDERMANIC FORM OF GOVERNMENT IN TYPE A GENERAL-LAW  
MUNICIPALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 22.001. CHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This chapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.002. CONTINUATION OF OFFICES IN MUNICIPALITY CHANGING TO TYPE A GENERAL-LAW MUNICIPALITY. If a municipality changes to a Type A general-law municipality under Subchapter B of Chapter 6, the officers serving in the municipality on the date of the change shall continue in office until their offices are superseded in conformity to the law applying to Type A general-law municipalities.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.003. DATE OF MUNICIPAL ELECTION. An election for officers of the municipality shall be held annually, except as otherwise provided by law, in each ward of the municipality on an authorized uniform election date as provided by Chapter 41, Election Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.004. PLURALITY VOTE REQUIRED FOR ELECTION OF MUNICIPAL OFFICER. To be elected to an office of the municipality, a person must receive more votes than any other person for the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.005. OATH FOR ELECTED OR APPOINTED OFFICER. (a) A person who is elected or appointed to a municipal office under this code must take

and sign the official oath of office before beginning to perform the duties of the office.

(b) The governing body of the municipality by ordinance may require a municipal officer to take any additional oath that the governing body considers best calculated to secure the faithful performance of the officer's duties.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.006. DATE ON WHICH OFFICERS BEGIN TO PERFORM DUTIES. A newly elected municipal officer may exercise the duties of office beginning on the fifth day after the date of the election, excluding Sundays.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.007. VACANCY CREATED ON FAILURE TO QUALIFY. If a municipal officer-elect fails to qualify for office within 30 days after the date of the officer's election, the office is considered vacant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.008. DISQUALIFICATION FROM OFFICE. (a) An officer who is entrusted with the collection or custody of funds belonging to the municipality and who is in default to the municipality may not hold any municipal office until the amount of the default, plus 10 percent interest, is paid to the municipality.

(b) If a member of the governing body changes the member's place of residence to a location outside the corporate boundaries of the municipality, the member is automatically disqualified from holding the member's office and the office is considered vacant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1096 (H.B. 3727), Sec. 1, eff. September 1, 2017.

Sec. 22.009. REMOVAL FROM OFFICE FOR MISAPPROPRIATION OF SPECIAL FUNDS. A municipal officer who misappropriates money in a special fund created by the municipality under Section 101.004 is guilty of malfeasance in office. On the complaint of a person who has an interest in the

affected funds, the officer shall be removed from office and is ineligible to hold any office in that municipality after removal.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.010. FILLING VACANCY ON GOVERNING BODY OR IN OTHER MUNICIPAL OFFICE. (a) If for any reason a single vacancy exists on the governing body of the municipality, a majority of the remaining members who are present and voting, excluding the mayor, may fill the vacancy by appointment unless an election to fill the vacancy is required by Section 11, Article XI, Texas Constitution. The mayor may vote on the appointment only if there is a tie.

(a-1) A person serving as a member of the governing body is not, because of that service, ineligible to be appointed to fill a vacancy in the office of mayor of the municipality, but the person may not vote on the person's own appointment.

(b) The person appointed to fill the vacancy serves until the next regular municipal election.

(c) In lieu of appointing a person to fill a vacancy on the governing body, a special election may be ordered to elect a person to fill the vacancy.

(d) If two or more vacancies on the governing body exist at the same time, a special election shall be ordered to fill the vacancies.

(d-1) A member of the governing body is ineligible to vote to fill a vacancy on the governing body by special election after resigning from the governing body.

(e) If a vacancy exists in any other municipal office, the mayor or acting mayor shall appoint a person to fill the vacancy, subject to confirmation by the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 513 (S.B. 653), Sec. 1, eff. June 16, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1096 (H.B. 3727), Sec. 2, eff. September 1, 2017.

Sec. 22.011. FILLING VACANCY IN MUNICIPAL OFFICE UNDER SPECIAL CIRCUMSTANCES. If a vacancy occurs in a municipal office by a resignation or in another manner and if the vacancy cannot be filled as provided by other law, the commissioners court of the county in which the municipality

is located shall order an election to fill the vacancy if the court is petitioned to do so by at least 26 taxpaying voters residing in the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.012. RESIGNATION OF ELECTED OR APPOINTED MUNICIPAL OFFICER. A municipal officer elected or appointed under this chapter may resign by submitting the resignation in writing to the governing body of the municipality. The resignation is subject to the approval and acceptance of the governing body. However, a person who is appointed by the mayor may submit the written resignation to the mayor for the mayor's action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER B. GOVERNING BODY

Sec. 22.031. COMPOSITION OF GOVERNING BODY; WARD SYSTEM OPTIONAL.

(a) If the municipality is divided into wards, the governing body of the municipality consists of a mayor who is elected by the qualified voters of the municipality and of two aldermen from each ward who are elected by the qualified voters of the ward.

(b) If the municipality is not divided into wards, the governing body consists of a mayor and five aldermen who are elected by the qualified voters of the municipality, and the provisions of this subchapter relating to proceedings in a ward apply to the whole municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.032. QUALIFICATIONS OF MEMBERS OF GOVERNING BODY. (a) To be eligible for the office of mayor of the municipality, a person must be a registered voter and must have resided within the municipal limits for at least the 12 months preceding the election day. For purposes of this subsection, residency in an area while the area was not within the municipal limits is considered as residency within the limits if the area is a part of the municipality on election day.

(b) To be eligible for the office of alderman of the municipality, a person must be a registered voter and must reside on election day in the ward from which the person may be elected.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.033. GOVERNING BODY TO JUDGE ELECTION AND QUALIFICATION OF MEMBERS. The governing body of the municipality is the judge of the election and qualifications of its members.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.034. INITIAL ELECTION AND TERM OF OFFICE. (a) If the municipality is divided into wards, at the initial election for officers of the municipality, the mayor and the two aldermen from each ward shall be elected. The aldermen for each ward are the candidates from that ward who receive the highest and second highest number of votes at the initial election.

(b) The two aldermen elected from each ward shall draw lots at the first regular meeting of the governing body of the municipality to determine which alderman serves for one year and which alderman serves for two years after the initial election. At each following annual election, one alderman shall be elected from each ward for the regular term.

(c) If the municipality is not divided into wards, the governing body by ordinance may determine the number and the manner of deciding which aldermen elected at the initial election for officers serve for one year and which serve for two years.

(d) If the aldermen of the governing body of a municipality are not serving staggered terms of office as provided by Subsection (c), the governing body by majority vote may establish staggered terms by requiring the aldermen to draw lots.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 405 (H.B. 1434), Sec. 1, eff. June 9, 2023.

Sec. 22.035. REGULAR TERM OF OFFICE. The mayor and aldermen of the municipality are elected for a term of two years unless a longer term is established under Article XI, Section 11, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.036. INSTALLATION OF GOVERNING BODY. On the fifth day after the date of the election, excluding Sundays, or as soon as possible after

that fifth day, the newly elected governing body of the municipality shall meet at the usual meeting place and shall be installed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.037. MAYOR AS PRESIDING OFFICER; PRESIDENT PRO TEMPORE. (a) The mayor shall preside at all meetings of the governing body of the municipality and, except in elections, may vote only if there is a tie.

(b) At each new governing body's first meeting or as soon as practicable, the governing body shall elect one alderman to serve as president pro tempore for a term of one year.

(c) If the mayor fails, is unable, or refuses to act, the president pro tempore shall perform the mayor's duties and is entitled to receive the fees and compensation prescribed for the mayor.

(d) If the mayor and the president pro tempore are absent, any alderman may be appointed to preside at the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.038. MEETINGS. (a) The governing body of the municipality shall meet at the time and place determined by a resolution adopted by the governing body.

(b) The mayor may call a special meeting on the mayor's own motion and shall call a special meeting on the application of three aldermen. Each member of the governing body, the secretary, and the municipal attorney must be notified of the special meeting. The notice may be given personally or left at the person's usual place of residence.

(c) The governing body shall determine the rules of its proceedings and may compel the attendance of absent members and punish them for disorderly conduct.

(d) An alderman shall be fined \$3 for each meeting that the alderman fails to attend unless the absence is caused by the alderman's illness or the illness of a family member.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 947 (H.B. 1734), Sec. 1, eff. June 14, 2013.

Sec. 22.039. QUORUM. A majority of the number of aldermen established by Section 22.031 for the municipality constitutes a quorum.

However, at a called meeting or at a meeting to consider the imposition of taxes, two-thirds of the number of aldermen established by that section constitutes a quorum unless provided otherwise.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.040. CHANGE OF WARDS. (a) The governing body of the municipality may divide the municipality into as many wards as it considers necessary for the good of the residents and may change ward boundaries. The wards must contain an equal number of voters as far as practicable.

(b) The governing body may not change the number of wards or boundaries of a ward during the three-month period preceding the date of a municipal election.

(c) The wards of a municipality that changes to a Type A general-law municipality under Subchapter B, Chapter 6, are not affected by that action.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.041. VACANCY ON GOVERNING BODY IS CREATED. (a) If an alderman moves from the ward from which the alderman is elected, the alderman's office is considered vacant.

(b) 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.

(c) In addition to an absence described by Subsection (b), a member of a governing body is also considered absent for the purposes of that subsection if the member is not present at the adjournment of a meeting at which a quorum is established, unless the member is first allowed to withdraw by the unanimous vote of the members present. This subsection applies only to a municipality that is located in a county that borders the United Mexican States and contains a municipality with a population of 500,000 or more.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 995 (H.B. 2259), Sec. 1, eff. June 14, 2013.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 120, eff. September 1, 2023.

Sec. 22.042. POWERS AND DUTIES OF MAYOR. (a) The mayor is the chief executive officer of the municipality. The mayor shall at all times actively ensure that the laws and ordinances of the municipality are properly carried out. The mayor shall perform the duties and exercise the powers prescribed by the governing body of the municipality.

(b) The mayor shall inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished.

(c) The mayor shall give to the governing body any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality.

(d) The mayor may administer oaths of office.

(e) In the event of a riot or unlawful assembly or to preserve the peace and good order in the municipality, the mayor may order and enforce the closing of a theater, ballroom, or other place of recreation or entertainment, or a public room or building and may order the arrest of a person who violates a state law or a municipal ordinance in the presence of the mayor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.043. PETITIONS AND REMONSTRANCES PRESENTED TO GOVERNING BODY. Petitions and remonstrances may be presented to the governing body of the municipality and must be in writing.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

#### SUBCHAPTER C. OTHER MUNICIPAL OFFICERS

Sec. 22.071. OTHER MUNICIPAL OFFICERS. (a) In addition to the members of the governing body of the municipality, the other officers of the municipality are the secretary, treasurer, assessor and collector, municipal attorney, marshal, municipal engineer, and any other officers or agents authorized by the governing body.

(b) The governing body by ordinance shall provide for the election or appointment of the officers provided by this section.

(c) The governing body may confer on other municipal officers the powers and duties of an officer provided for by this section.



Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.072. POWERS AND DUTIES OF MUNICIPAL OFFICERS; BOND. (a) The governing body of the municipality may require a municipal officer whose duties are prescribed by this code to perform additional duties.

(b) The governing body may prescribe the powers and duties of a municipal officer appointed or elected to an office under this code whose duties are not specified by this code.

(c) The governing body may require a municipal officer to execute a bond payable to the municipality and conditioned that the officer will faithfully perform the duties of the office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.073. POWERS AND DUTIES OF SECRETARY. (a) The secretary of the municipality shall attend each meeting of the governing body of the municipality and shall keep, in a record provided for that purpose, accurate minutes of the governing body's proceedings.

(b) The secretary shall:

(1) engross and enroll all laws, resolutions, and ordinances of the governing body;

(2) keep the corporate seal;

(3) take charge of, arrange, and maintain the records of the governing body;

(4) countersign all commissions issued to municipal officers and all licenses issued by the mayor, and keep a record of those commissions and licenses; and

(5) prepare all notices required under any regulation or ordinance of the municipality.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1324, Sec. 5(2), eff. June 17, 2011.

(d) The secretary shall draw all the warrants on the treasurer, countersign the warrants, and keep, in a record provided for that purpose, an accurate account of the warrants.

(e) The secretary serves as the general accountant of the municipality and shall keep regular accounts of the municipal receipts and disbursements. The secretary shall keep each cause of receipt and disbursement separately and under proper headings. The secretary shall also keep separate accounts with each person, including each officer, who has monetary transactions with the municipality. The secretary shall

credit accounts allowed by proper authority and shall specify the particular transaction to which each entry applies. The secretary shall keep records of the accounts and other information covered by this subsection.

(f) The secretary shall keep a register of bonds and bills issued by the municipality and all evidence of debt due and payable to the municipality, noting the relevant particulars and facts as they occur.

(g) The secretary shall carefully keep all contracts made by the governing body.

(h) The secretary shall perform all other duties required by law, ordinance, resolution, or order of the governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 47, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1184 (H.B. 3475), Sec. 3(2), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1324 (S.B. 480), Sec. 5(2), eff. June 17, 2011.

Sec. 22.074. CERTIFICATION OF SECRETARIES. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) A person may be certified to practice as a municipal secretary in this state. The person shall be granted a certificate on completion of a program of instruction for municipal secretaries conducted at an institution of higher education.

(c) A private association of secretaries of municipalities may contract with an institution of higher education to use the facilities of the institution to provide a program of instruction for municipal secretaries. The association shall develop the program with the assistance of the institution. The institution shall approve a program that meets qualifications for approval developed by the institution. The association shall conduct the program at the institution.

(d) A private association of secretaries that establishes a program of instruction under this section shall pay the costs of the program, including the payment of a reasonable fee to the institution that houses the program for the use of the institution's facilities. State funds may not be appropriated to finance a certification program established under this section.

(e) A private association of secretaries that establishes a program of instruction under this section shall issue a certificate to each person who successfully completes the program. A person who holds a certificate issued under this section must renew the certificate not later than five years after the date on which the original certificate was issued. The person may renew the certificate on completion of a supplementary program of instruction conducted at the institution of higher education.

(f) This section does not require a person to be certified as a municipal secretary in order to practice in that capacity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.075. BOND AND DUTIES OF TREASURER. (a) The treasurer of the municipality shall execute a bond. The bond must:

- (1) be in favor of the municipality;
- (2) be in the form and amount required by the governing body of the municipality;
- (3) have security approved as sufficient by the governing body;

and

- (4) be conditioned that the treasurer will faithfully discharge the duties of the office.

(b) The treasurer shall receive and securely keep all money belonging to the municipality. The treasurer shall make all payments on the order of the mayor, attested by the secretary of the municipality under the seal of the municipality. The treasurer may not pay an order unless the face of the order shows that the governing body directed the issuance of the order and shows the purpose for which it is issued.

(c) The treasurer shall render to the governing body a full statement of the receipts and payments. The statement must be rendered at the governing body's first regular meeting in every quarter and at other times as required by the governing body.

(d) The treasurer shall perform other acts and duties as the governing body requires.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.076. BOND OF MARSHAL; ABOLITION OF OFFICE. (a) The marshal of the municipality shall execute a bond. The bond must be conditioned that the marshal will faithfully perform the official duties as the governing body of the municipality may require.

(b) The governing body of a municipality with a population of less than 5,000 by ordinance may abolish the office of marshal and, at the same time in the ordinance, confer the duties of the office on a municipal police officer appointed as the governing body directs or on any other peace officer of the county. However, an elected marshal may not be removed from office under this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 22.077. REMOVAL OF MUNICIPAL OFFICERS. (a) The governing body of the municipality may remove a municipal officer for incompetency, corruption, misconduct, or malfeasance in office after providing the officer with due notice and an opportunity to be heard.

(b) If the governing body lacks confidence in a municipal officer appointed by the governing body, the governing body may remove the officer at any time. The removal is effective only if two-thirds of the elected aldermen vote in favor of a resolution declaring the lack of confidence.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 402, Sec. 4, eff. Sept. 1, 2001.