



Texas Secretary of State
Ruth R. Hughes

Note - Navigational menus along with other non-content related elements have been removed for your convenience. Thank you for visiting us online.

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.

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

2/3/2020

Terms, Qualifications, and Vacancies

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*

*** Effective September 1, 2015, House Bill 484 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).** Given the effective date, the candidacy portion of the new law was NOT effective for candidates with applications due August 24, 2015 for the November 3, 2015 election (regular filing deadline) or any special election to fill a vacancy ordered before September 1, 2015. However, the new law applied to candidates in a special election ordered on or after September 1, 2015. Thus, candidates in a special election ordered on or after September 1, 2015, must be registered voters of the territory as of the date of the filing deadline for that election.

The new law also adds Government Code Section 601.009 to provide a new general rule that office-holders must be registered voters of the area they were elected from as of the time they are sworn in. **Given the effective date, the officer-elect portion of the new law will be in effect for new officers elected November 3, 2015.** This portion of the law is similar to requirements most general law cities and school

ELECTION CODE

TITLE 9. CANDIDATES

CHAPTER 141. CANDIDACY FOR PUBLIC OFFICE GENERALLY

SUBCHAPTER A. ELIGIBILITY FOR PUBLIC OFFICE

Sec. 141.001. ELIGIBILITY REQUIREMENTS FOR PUBLIC OFFICE. (a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

- (1) be a United States citizen;
- (2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;
- (3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - (A) totally mentally incapacitated; or
 - (B) partially mentally incapacitated without the right to vote;

- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;

- (5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

- (A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

- (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

- (C) for a write-in candidate, the date of the election at which the candidate's name is written in;

- (D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

- (E) for an appointee to an office, the date the appointment is made;

- (6) on the date described by Subdivision (5), be registered to vote in the territory from which the office is elected; and

- (7) satisfy any other eligibility requirements prescribed by law for the office.

(a-1) For purposes of satisfying the continuous residency requirement of Subsection (a)(5), a person who claims an intent to return to a residence after a temporary absence may establish that intent only if the person:

(1) has made a reasonable and substantive attempt to effectuate that intent; and

(2) has a legal right and the practical ability to return to the residence.

(a-2) Subsection (a-1) does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster.

(a-3) The authority with whom an application for a place on a general primary election ballot is filed under Section 172.022 shall, to the extent permitted by law, use Subsections (a) and (a-1) in determining whether a candidate meets the residency requirements for a public elective office.

(b) A statute outside this code supersedes Subsection (a) to the extent of any conflict.

(c) Subsection (a) does not apply to an office for which the federal or state constitution or a statute outside this code prescribes exclusive eligibility requirements.

(d) Subsection (a)(6) does not apply to a member of the governing body of a district created under Section 52(b)(1) or (2), Article III, or Section 59, Article XVI, Texas Constitution.

Acts 1985, 69th Leg., ch. 211, Sec. 1, eff. Jan. 1, 1986.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 614 (H.B. 417), Sec. 28, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 504 (H.B. 484), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1047 (H.B. 831), Sec. 1, eff. January 1, 2020.

Sec. 141.002. EFFECT OF BOUNDARY CHANGE ON RESIDENCE REQUIREMENT FOR PRECINCT OFFICE. (a) Instead of the six-month residence requirement prescribed by Section 141.001(a)(5), a candidate for or appointee to a precinct office must be a resident of the precinct on the date prescribed by Section 141.001(a)(5) and must have resided continuously in the county in which the precinct is located for six months immediately preceding that date if an order creating the precinct or changing the boundary of the precinct: