

LOCAL GOVERNMENT CODE

TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENT

SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES

CHAPTER 51. GENERAL POWERS OF MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. ORDINANCE, RULE, OR REGULATION NECESSARY TO CARRY OUT OTHER POWERS. The governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule, or police regulation that:

(1) is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality; and

(2) is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality.

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

Sec. 51.003. MUNICIPAL ACT OR PROCEEDING PRESUMED VALID.

(a) A governmental act or proceeding of a municipality is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable statutes and ordinances if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) an incorporation or attempted incorporation of a municipality, or an annexation or attempted annexation of territory by a municipality, within the incorporated boundaries or extraterritorial jurisdiction of another municipality that

occurred without the consent of the other municipality in violation of Chapter 42 or 43;

(4) an ordinance that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(5) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

Added by Acts 1999, 76th Leg., ch. 1338, Sec. 1, eff. June 19, 1999.

#### SUBCHAPTER B. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 51.011. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality.

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

Sec. 51.012. ORDINANCES AND REGULATIONS. The municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic.

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

Sec. 51.013. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued, implead and be impleaded, and answer and be answered in any matter in any court or other place.

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

Sec. 51.014. AUTHORITY TO CONTRACT. The municipality may contract with other persons.

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

Sec. 51.015. AUTHORITY TO HOLD, PURCHASE, LEASE, OR CONVEY PROPERTY. (a) To carry out a municipal purpose, the municipality may take, hold, purchase, lease, grant, or convey property located in or outside the municipality.

(b) The governing body of the municipality may manage and control the property belonging to the municipality.

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

Sec. 51.016. ADOPTION AND USE OF SEAL. The municipality may adopt a corporate seal for the use of the municipality. The municipality may change and renew the seal.

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

Sec. 51.017. CONTINUATION OF POWERS, DUTIES, PENALTIES, AND SUITS AFTER CHANGE TO TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality that:

(1) changed to that type under Subchapter B of Chapter 6; or

(2) changed its municipal type under the predecessor statutes to Subchapter B of Chapter 6.

(b) The municipality continues to have the powers, rights, immunities, privileges, and franchises possessed at the time the municipality changed to a Type A general-law municipality and continues to be subject to the duties it had at the time of the change.

(c) A right, action, fine, penalty, or forfeiture that, under the laws in effect before the municipality changed to a Type A general-law municipality, accrued in favor of the municipality in a suit or in any other manner continues to be vested in and shall be prosecuted by the municipality after the change.

(d) A suit pending against the municipality before the municipality changed to a Type A general-law municipality is not affected by the change. After the change, the municipality shall, as appropriate, prosecute or defend the suit.

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

Sec. 51.018. OWNERSHIP AND SALE OF PROPERTY AFTER CHANGE TO

TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality described by Section 51.017(a).

(b) The property belonging to the municipality before it changed to a Type A general-law municipality continues to belong to the municipality after the change.

(c) If, before changing to a Type A general-law municipality, the municipality was incorporated under a law of the Republic of Texas, the governing body of the municipality may sell the property and appropriate the proceeds of the sale for the acquisition, construction, maintenance, or operation of a water, sewer, gas, or electric light or power system in or outside the municipality or for any other public improvement in the municipality.

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

#### SUBCHAPTER C. PROVISIONS APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY

Sec. 51.031. SUBCHAPTER APPLICABLE TO TYPE B GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type B general-law municipality.

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

Sec. 51.032. ORDINANCES AND BYLAWS. (a) The governing body of the municipality may adopt an ordinance or bylaw, not inconsistent with state law, that the governing body considers proper for the government of the municipal corporation.

(b) The governing body may take any other action necessary to carry out a provision of this code applicable to the municipality.

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

Sec. 51.033. AUTHORITY RELATING TO LAWSUITS. The municipality may sue and be sued and may plead and be impleaded.

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

Sec. 51.034. AUTHORITY TO HOLD AND DISPOSE OF PROPERTY. The

municipality may hold and dispose of:

- (1) personal property; and
- (2) real property located within the municipal boundaries.

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

Sec. 51.035. AUTHORITY, DUTIES, PRIVILEGES. A Type B general-law municipality has the same authority, duties, and privileges as a Type A general-law municipality, unless the Type B general-law municipality in exercising the authority or privilege or performing the duty would be in conflict with another provision of this code or other state law that relates specifically to Type B general-law municipalities.

Added by Acts 1991, 72nd Leg., ch. 753, Sec. 1, eff. June 16, 1991.

SUBCHAPTER D. PROVISIONS APPLICABLE TO TYPE C GENERAL-LAW  
MUNICIPALITY

Sec. 51.051. GENERAL POWERS OF TYPE C GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type C general-law municipality with 501 to 4,999 inhabitants has the same authority and is subject to the same duties as a Type A general-law municipality unless the authority or duties conflict with a provision of this code relating specifically to a Type C general-law municipality.

(b) The governing body of a Type C general-law municipality with 201 to 500 inhabitants has the same authority as a Type B general-law municipality unless the authority conflicts with a provision of this code relating specifically to a Type C general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(c), eff. Aug. 28, 1989.

Sec. 51.052. ALTERNATIVE GENERAL POWERS FOR CERTAIN TYPE C GENERAL-LAW MUNICIPALITIES. (a) A municipality that is incorporated as a Type C general-law municipality and that has \$500,000 or more of assessed valuation for taxable purposes,

according to its most recently approved tax rolls, may adopt the powers of a Type A general-law municipality regardless of any limitation prescribed by Section 51.051. On adoption of the powers, the municipality has the same rights, powers, privileges, immunities, and franchises as a Type A general-law municipality.

(b) For a municipality to adopt the powers:

(1) at least two-thirds of the governing body of the municipality at a regular meeting must vote to make the change and the vote must be recorded in the journal of the governing body's proceedings;

(2) a copy of the record of the proceedings must be signed by the mayor;

(3) a copy of the record of the proceedings must be attested by the municipality's clerk or secretary under the corporate seal; and

(4) a copy of the record of the proceedings must be filed and recorded in the office of the county clerk of the county in which the municipality is located.

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

#### SUBCHAPTER E. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 51.071. SUBCHAPTER APPLICABLE TO HOME-RULE MUNICIPALITY. This subchapter applies only to a home-rule municipality.

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

Sec. 51.072. AUTHORITY OF LOCAL SELF-GOVERNMENT. (a) The municipality has full power of local self-government.

(b) The grant of powers to the municipality by this code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government.

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

Sec. 51.073. ADOPTION OF CHARTER DOES NOT AFFECT RIGHTS AND CLAIMS. The adoption or amendment of the municipality's charter does not affect any previously existing property, action, right of

action, claim, or demand involving the municipality. A right of action, claim, or demand may be asserted as fully as though the adoption or amendment of the charter had not occurred.

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

Sec. 51.074. PERPETUAL SUCCESSION. The municipality may act in perpetual succession as a body politic.

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

Sec. 51.075. AUTHORITY RELATING TO LAWSUITS. The municipality may plead and be impleaded in any court.

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

Sec. 51.076. AUTHORITY RELATING TO PROPERTY. (a) The municipality may hold property, including any charitable or trust fund, that it receives by gift, deed, devise, or other manner.

(b) The municipality may provide that any property owned or held by the municipality is not subject to any kind of execution.

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

Sec. 51.077. LIABILITY FOR DAMAGES. The municipality may adopt rules, as it considers advisable, governing the municipality's liability for damages caused to a person or property. The municipality may provide for its exemption from liability.

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

Sec. 51.078. PRESERVATION OF CERTAIN POWERS GRANTED BEFORE 1913. Powers granted before July 1, 1913, to a municipality by general law or special law continue to be powers of the municipality after it adopts a home-rule charter if the powers are made a part of the charter.

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

Sec. 51.079. RESTRICTIONS APPLYING TO NONBINDING REFERENDUM. (a) A nonbinding referendum held by the municipality as a result of a petition by the voters of the municipality must be

held on the same date of an election called by the governing body of the municipality on another question or for the election of one or more municipal officers.

(b) The referendum may be held on a date other than one described by Subsection (a) if:

(1) one or more of the persons signing the petition agrees in a writing filed with the governing body of the municipality to pay, before the 60th day after the date of the referendum, all costs incurred by the municipality in holding the referendum; and

(2) the persons agreeing to pay the costs execute a bond complying with Subsection (c).

(c) The bond must be:

(1) payable to, approved by, and filed with the governing body of the municipality;

(2) executed with a corporate surety authorized to do business in this state;

(3) in an amount the governing body estimates is necessary to cover the costs the municipality will incur in holding the referendum; and

(4) conditioned that the persons executing the bond will pay, before the 60th day after the date of the referendum, all costs incurred by the municipality in holding the referendum.

(d) This section does not apply to a referendum that is expressly authorized by the state constitution or a statute.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 6(a), eff. Aug. 28, 1989.