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City of Fort Hancock, Texas Incorporation in Texas

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***City of Fort Hancock, Texas
Incorporation in Texas***



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Incorporation in Texas

Chapter 5 of Texas Local Government Code provides territorial requirements for incorporation as general-law municipality.

§5.901 states that “A community may not incorporate as a general-law municipality unless it meets the following territorial requirements:

1. a community with fewer than 2,000 inhabitants must have not more than two square miles of surface area;
2. a community with 2,001 to 4,999 inhabitants must have not more than four square miles of surface area; and
3. a community with 5,001 to 9,999 inhabitants must have not more than nine square miles of surface area.

As of Census 2000, Fort Hancock CDP had a population of 1,731. Some population estimates now estimate Fort Hancock’s population at 2,001 or higher. Census 2000, however, listed the area of Fort Hancock CDP to be 37.81 square miles. This prohibits Fort Hancock CDP from incorporating as a general-law municipality. Fort Hancock’s only option would be to incorporate a two-square mile area and annex the rest of the CDP.

If Fort Hancock chooses to incorporate as a two-square mile area, the incorporating area would have to have a population of at least 201. If the population is between 201 and 599, Fort Hancock could apply to incorporate as either a type B or C general-law municipality. The two-square mile area would most likely center around Knox Avenue.

Incorporation as Type B general-law municipality (Sec. 7.002)

At least 50 qualified voters who are residents of the area to be incorporated must sign an application to incorporate and file this application with the Hudspeth County judge. “The application must state the proposed boundaries and name of the municipality, and it must be accompanied by a plat of the proposed municipality that contains only the territory to be used strictly for municipal purposes.”

Incorporation as Type C general-law municipality (Sec 8.002)

A written petition signed by at least 10 percent of the qualified voters of the area to be incorporated must be filed with the county judge. “The petition must request the county judge to order an election to determine whether the community will incorporate as a Type C general-law municipality.” “A community incorporating as a Type C general-law municipality adopts the commission form of government.”

Due to Fort Hancock’s low population this may be their safest option.

Incorporation as Type A general-law municipality (Sec 6.002)

If the area to be incorporated contains 600 or more inhabitants, the area may apply for incorporation as a Type A general-law municipality. This procedure is the same as for a Type B general-law municipality.

Differences between types of general-law municipalities

Sec. 6.001 A community may incorporate under this subchapter as a Type A general-law municipality if it:

1. constitutes an unincorporated city or town;

2. contains 600 or more inhabitants; and
3. meets the territorial requirements prescribed by Section 5.901

“A community incorporating as a Type C general-law municipality adopts the commission form of government.”

Sec. 7.001 A community may incorporate under this subchapter as a Type B general-law municipality if it:

1. constitutes an unincorporated town or village;
2. contains 201 to 9,999 inhabitants; and
3. meets the territorial requirements prescribed by Section 5.901

Sec 8.001 A community may incorporate under this subchapter as a Type C general-law municipality if it:

1. constitutes an unincorporated city, town, or village;
2. contains 201 to 4,999 inhabitants; and
3. meets the territorial requirements prescribed by Section 5.901

Options for Annexation After Incorporation

Texas Local Government Code Chapter 41, Section 41.003, Inclusion of Area Receiving Longstanding Treatment as Part of Municipality,” states that an area adjacent to the municipality may become part of the municipality via adoption of an ordinance:

1. the records of the municipality indicate that the area has been a part of the municipality for at least the preceding 20 years;

2. the municipality has provided municipal services, including police protection, to the area and has otherwise treated the area as a part of the municipality during the preceding 20 years;
3. there has not been a final judicial determination during the preceding 20 years that the area is outside the boundaries of the municipality; and
4. there is no pending lawsuit that challenges the inclusion of the area as part of the municipality

Under Chapter 42 of Texas Local Government Code, Section 42.021, the unincorporated area within one-half mile of the boundaries of the new municipality will be considered “extraterritorial jurisdiction.”

After annexation of extraterritorial jurisdiction by municipality, area within one-half mile of new municipal border becomes extraterritorial jurisdiction.

If Fort Hancock incorporates as a Type A general-law municipality, it may annex an area that is:

1. one-half mile or less in width; and
2. contiguous to a Type A general-law municipality

Also, a majority of the qualified voters of the area to be annexed must vote in favor of the annexation and any three of those voters may prepare an affidavit to the fact of the vote and file the affidavit with the mayor of the municipality. “The mayor shall certify the filed affidavit to the governing body of the municipality. On receipt of the certified affidavit, the governing body by ordinance may annex the area. On the effective date of the ordinance, the area becomes a part of the municipality.”

Section 43.055 of Texas Local Government Code limits annexation: “In a calendar year, a municipality may not annex a total area greater than 10 percent of the incorporated area of the municipality as of January 1 of that year, plus any amount of area carried over to that year.” However, the following annexations are not included:

1. annexed at the request of a majority of the qualified voters of the area and the owners of at least 50 percent of the land in the area;
2. owned by the municipality, a county, the state, or the federal government and used for a public purpose;
3. annexed at the request of at least a majority of the voters of the area; or
4. annexed at the request of the owners of the area.

If a municipality does not annex the entire 10 percent permitted, the unused allocation may be carried over for use in subsequent calendar years. A municipality carrying over an allocation may not annex in a calendar year a total area greater than 30 percent of the incorporated area of the municipality as of January 1 of that year.

Territorial Requirements for a General-Law Municipality

Texas Local Government Code

Chapter 5, §5.901

Population	Surface Area (sq. mi.)
<2,000	2
2,001-4,999	4
5,001-9,999	9

Incorporation as a Municipality

Population	Constitutes	Type	Section	Requirement to County Judge
≥600	Unincorporated city or town	A	6.001	Application to incorporate signed by at least 50 qualified voters
201-9,999	Unincorporated town or village	B	7.001	Application to incorporate signed by at least 50 qualified voters
201-4,999	Unincorporated city, town, or village	C	8.001	Petition signed by at least 10% of qualified voters