

**CHAPTER 40-06**  
**GOVERNING BODY IN MUNICIPALITIES, GENERAL PROVISIONS**

**40-06-01. Jurisdiction of governing body.**

Except as otherwise provided by law, a governing body of a municipality has jurisdiction:

1. Over any commons or public grounds belonging to such municipality and with the consent of the majority of the owners thereof shall have power to regulate the banks, shores, and wharves of that portion of any navigable stream within the corporate limits; and
2. In and over all places within one-half mile [804.67 meters] of the municipal limits for the purpose of enforcing health ordinances and regulations, and police regulations and ordinances adopted to promote the peace, order, safety, and general welfare of the municipality.

**40-06-02. Meetings to be public - Journal of proceedings to be kept - Pledge of allegiance.**

All meetings of the governing body shall be open to the public, and a journal of its proceedings shall be kept. At the beginning of each regularly scheduled meeting of the governing body, members of the governing body must be given the opportunity to participate in a voluntary recitation of the pledge of allegiance.

**40-06-03. Quorum.**

A majority of the members of the governing body of a municipality shall constitute a quorum to do business but a smaller number may adjourn from time to time. The governing body may compel the attendance of absentees under such penalties as may be prescribed by ordinance, and may employ the police of the municipality for that purpose.

**40-06-04. Reconsidering or rescinding vote at special meeting.**

No vote of the governing body of a municipality shall be reconsidered or rescinded at a special meeting unless there is present at such special meeting as large a number of members as were present when such vote was taken.

**40-06-05. Rules of procedure - Expelling members.**

The governing body of a municipality shall determine its rules of procedure, punish its members or persons present for disorderly conduct by fine, and with the concurrence of two-thirds of its members may expel a member from a session but may not expel the member a second time for the same offense. The governing body may fine or expel any member for neglect of duty or for unnecessary absence from its sessions.

**40-06-06. Conviction of bribery - Office deemed vacant.**

Any member of a city governing body convicted of bribery shall be deemed to have vacated that member's office.

**40-06-07. Exercise of power through ordinance when method of procedure not set out.**

The governing body of a municipality may provide by ordinance the details necessary for the full exercise of any power conferred upon it by any law of this state when the manner of exercising such power is not specified otherwise.

**40-06-08. Action on committee reports deferred upon request.**

Upon the request of any two members present, any report of a committee of the governing body shall be deferred for final action to the next regular meeting after the report is made.

**40-06-09. Change in number of members of city governing body - Election.**

1. The process for increasing or decreasing the number of members of a city governing body pursuant to sections 40-04.1-01, 40-08-03, and 40-09-01 may be initiated:
  - a. By resolution approved by a majority vote of the governing body of the city; or
  - b. By a petition signed by ten percent or more of the total number of qualified electors of the city voting for governor at the most recent gubernatorial election and submitted to the governing body of the city.
2. The governing body of the city shall submit the question of increasing or decreasing the number of members of the city governing body to the electors of the city at any regular city election or primary or general election as specified in the resolution or petition submitted pursuant to subsection 1. The question requires an affirmative vote of those voting on the question for passage.
3. If an increase in the number of members of the city governing body is approved by the electors, the additional members must be elected at the next regular city election or as specified in the resolution or petition pursuant to subsection 1. The additional members shall hold office for terms of four years and until a successor is elected and qualified, unless different terms are specified in the resolution or petition pursuant to subsection 1. The terms of office must be arranged on a staggered basis as otherwise provided by law.
4. If a decrease in the number of members of the city governing body is approved by the electors, the offices identified for abolition shall continue until the time when the terms of those offices expire. A different procedure for abolition of the offices may be specified in the resolution or petition pursuant to subsection 1.
5. All statutory provisions relating specifically to a ten-member council or eleven-member council, whether repealed or amended by chapter 401 of the 1993 Session Laws, including sections 40-08-03.1, 40-08-03.2, 40-08-04, 40-08-04.1, 40-08-06.1, and 40-12-01, continue to apply to those councils existing on August 1, 1993, until such time as an increase or decrease occurs in the number of members of those councils pursuant to this section.