

Precincts, Polling Places and Redistricting



Elections Division – Legal Section
March 2, 2021



Resources

- **May 1, 2021 Election Law Calendar**
<https://www.sos.state.tx.us/elections/laws/advisory2020-37.shtml>
- **Elections Forms Index**
<https://www.sos.state.tx.us/elections/forms/pol-sub/index.shtml#photo-id>
- **Conducting Your Elections Page**
<https://www.sos.state.tx.us/elections/laws/county-voter-reg-laws.shtml>
- **Texas Election Code**
<https://statutes.capitol.texas.gov/>
- **Covid Resources for Election Officials**
<https://www.sos.state.tx.us/elections/covid/index.shtml>



Types of Precincts in Counties

- Commissioners Precincts
- Justice Precincts
- County Election Precincts
- Election Day Precincts



254 Counties, Many Variations

- The number of justice precincts, county election precincts and election day precincts will vary depending on the population of the county, district boundaries, and type of election.



Commissioners Precincts

- Each county must be divided into four commissioner precincts.
- Tex. Const. Art. 5, § 18



Justice Precincts

| County Population | Minimum # of Precincts | Maximum # of Precincts |
|-------------------------------------|------------------------|------------------------|
| Less than 18,000 | 1 | 4 |
| 18,000 or more but less than 50,000 | 2 | 8 |
| 50,000 or more | 4 | 8 |

- Majority of Texas counties have 4 JPs, next most common is counties with 1 JP
- Two Judges may be elected from one JP (certain populations)
 - Precinct 1, Place 1
 - Precinct 1, Place 2
- Constable Precincts and JPs share the same boundary lines.



Lingo

- We sometimes hear counties refer to precincts as “boxes” and commissioners precincts as “precincts.”
 - We prefer that you specify “commissioner precinct,” “justice precinct,” “county election precinct (voter registration precinct),” or “election day precinct” to allow us to assist you properly.



What is an Election Precinct?

- **County Election Precinct**
 - Created by order of commissioners court and is the basic unit of voter registration.
- **Election (Day) Precincts**
 - The area served on election day by a single polling place. It could be a single county election precinct, combined county election precinct, or consolidated county election precinct (counties); or the precincts created by a local authority (May elections).



Use of County Election Precincts

- County Election Precincts **MUST** be used for the following elections:
 1. General election for state and county officers;
 2. Special election ordered by the Governor;
 3. Primary election;
 4. Countywide election ordered by county;
 5. Election held by political subdivision on uniform date in November

Sec. 42.002, Texas Election Code



Use of County Election Precincts

- Political subdivisions holding an election on the November uniform election date **must** use county election precincts and the county polling places on Election Day.
- This is the case even when the county has adopted the countywide polling place program. In that case, the entity **must** have a presence in every countywide location in the county, not just the locations physically within the territory of the political subdivision.

Secs. 42.002; 43.004; 43.007(e), TEC



County Election Precincts

- **Territory Contained in a County Election Precinct**
 - Each county election precinct (including a consolidated precinct) may **NOT** contain territory from more than one of each of the following territorial units:
 - Commissioners precinct;
 - Justice precinct;
 - Congressional district;
 - State representative district;
 - State senatorial district; or
 - State Board of Education District.

Sec. 42.005, TEC



County Election Precincts

- **Population Requirements for County Election Precincts (42.006)**
 - A county election precinct must contain at least 100 but not more than 5,000 registered voters.
 - **EXCEPTIONS:**
 - County with population under 100,000: minimum number of voters contained in county election precinct is 50.
 - County with a population under 50,000: may contain fewer than 50 registered voters if the commissioners court received a written petition signed by at least 25 registered voters of the county requesting continuation of the precinct.
 - Voters on the “S” list are excluded in determining totals.
- **NOTE:** When in conflict, Section 42.005 (officer/territory lines) prevails over Section 42.006 (population requirements).



County Election Precincts

- **Combining incorporated and unincorporated territory (42.007)**
 - A county election precinct may not contain territory inside a city with a population of 10,000 or more and territory from outside that city.
 - **EXCEPTIONS:** If the commissioners court determines that either of the two areas:
 - cannot constitute a separate election precinct of suitable size that contains the permissible number of voters; or
 - cannot be combined with other territory on the same side of the city boundary to form a precinct of suitable size with the permissible number of registered voters without causing another precinct to fail to meet those requirements.



Election Day Precincts

- County Election Precincts may be combined or consolidated for certain county held elections.
 - This creates “election day precincts” meaning these precincts only exist for the election.

NOTE: When the Election Code refers to “election precinct” it generally means the election day precinct, i.e. the precincts established for an election.



Combining Precincts

- **COMBINING PRECINCTS**

- When two or more county election precincts vote at the same polling place but the precincts are reported separately and separate paperwork is kept for each precinct.

- Population Requirements for combining precincts
- Restrictions

Sec. 42.0051, TEC



Consolidating Precincts

- **CONSOLIDATION OF PRECINCTS**

- Consolidation of precincts occurs when two or more county election precincts are consolidated for a single election precinct and reported as such.
- The polling place in a consolidated precinct must be located in a place that can adequately serve the voters of the precinct.
- **Consolidation can only occur in specific elections:**
 - **Special Elections (42.008):**
 - Consolidation can occur in a special election that requires the use of county election precincts.
 - Occurs on recommendation of County Election Board.
 - **Primary Elections (42.009):**
 - Consolidation can occur on order of the County Executive Committee of political party.



| | Combine (42.0051) | Consolidate (42.008/42.009) |
|--------------------------|--|--|
| Description | <p>If as a result of redistricting, a county election precinct is left with fewer than 500 voters, the county may combine it with another county election precinct.</p> <p>*If county of 250,000 or more may combine if 500 or more but fewer than 750 registered voters.</p> | <p>If it is a special election ordered by the governor or a primary election, a county election precinct may be consolidated with another county election precinct.</p> |
| Purpose | Avoid additional expenditures in precinct with fewer voters. | Avoid additional expenditures in certain elections. |
| Limitation | May not combine in such a manner that violates Voting Rights Act. | May not consolidate in such a manner that does not provide polling places that adequately serve voters. |
| Duration | <p>Single election.</p> <p>*In March/April of odd year, commissioners court should review boundary lines.</p> | Single election. |
| Elections | General Election, Special Election, Primary Election | Special Election, Primary Election |
| Different Ballot Styles? | Yes. | No. NOTE: In special election, must have at least one consolidated precinct wholly located in each commissioner precinct. |
| Records | Records must be maintained and reported by county election precinct | Records must be maintained and reported by consolidated precinct |

Redistricting in Texas

- Texas Constitution, Article III, Sections 26 and 28 address the redistricting process in Texas.
 - Congressional Districts
 - Legislative Districts (150 House, 31 Senate)
- The Texas Election Code provides that changes resulting from legislative redistricting must be ordered before October 1 of the redistricting year. (Sec. 42.032)
- The U.S. Census Bureau announced delays in delivering redistricting data to the states until after the Texas legislative session has ended. This will result in a delay to the legislative redistricting process. However, this presentation will assist your county to prepare for the upcoming legislative redistricting process.



Reviewing County Election Precincts

- Commissioners courts are required to review county election precinct boundaries in March or April of odd-numbered years to determine compliance with 42.005, 42.006, and 42.007. (42.031)
 - 42.005 (officer line rule)
 - 42.006 (population rule)
 - 42.007 (combining Incorporated/Unincorporated territory)



Reviewing County Election Precincts

When reviewing county election precincts remember that:

- Each county election precinct (including a consolidated precinct) may **NOT** contain territory from more than one territorial unit provided under **Section 42.005**
- A county election precinct must contain at least 100 but not more than 5,000 registered voters under **Section 42.006** (but exceptions apply)
- A county election precinct may not contain territory inside a city with a population of 10,000 or more and territory from outside that city under **Section 42.007** (but exceptions apply)



Reviewing County Election Precincts

- A county shall order the boundary changes necessary for compliance before **May 1** of the odd-numbered year in order to achieve compliance with state law. Changes will be effective on January 1 of the even-numbered year following odd-numbered year. (42.031, 42.033)



Reviewing County Election Precincts

- Commissioners court may only order changes during **odd-numbered March or April** unless the change is necessary to:
 - Comply with Sec. 42.005 (“officer rule”) or Sec. 42.032 (redistricting)
 - Reduce the number of registered voters so it is in compliance with Sec. 42.006 (“population rule”), or
 - Include a suitable building for a polling place if no suitable building exists within the existing boundary lines.



Polling Places



Polling Places

- **GENERAL RULE**

- Each election precinct established for an election shall be served by a single polling place located within the boundary of the precinct.

Sec. 43.001, TEC



Location of Polling Places

- General Election or Special Election using County Election Precincts
 - Regular County Election Precincts: County Clerk/EA recommends location of polling place; commissioner court shall adopt designation.
 - Consolidated Election Precincts: Commissioners court designates the location of the polling place.
 - County population of more than 175,000: the commissioners court may not designate a location as a polling place that would require a voter to travel more than 25 miles from the voter's residence to their precinct polling place.

Sec. 43.002, TEC



Countywide Polling Places

In selecting countywide polling places, a county must adopt a methodology for determining where each polling place will be located. **The total number of countywide polling places may not be less than:**

- (1) 50 percent of the number of precinct polling places that would otherwise be located in the county for that election; or
- (2) for an election held in the first year in which the county participates in the program, 65 percent of the number of precinct polling places that would otherwise be located in the county for that election

Sec. 43.007, TEC



How Do You Determine How Many Polling Places You Are Required to Have?

- **Look at several different factors:**
 - Total number of County Election Precincts: This is your starting place for all elections!!
 - How many precincts have less than 500 or 750 (whichever is applicable) registered voters? These precincts are eligible to be **COMBINED** with other precincts under 42.0051.
 - Can you **CONSOLIDATE** precincts for the election? Possibly but see 42.008 and 42.009.
- This number will provide your minimum number of precinct polling places upon which you can begin your calculations.



November 2021

- What do we consider for this election?
 - 42.002(a)(1): Requires the use of county election precincts
 - 42.0051: Allows you to combine certain precincts based on population of precincts.
 - 42.008: Allows you to consolidate precincts for this election.
 - 43.001: Requires one polling place per election precinct.
- Most importantly: Will your polling places adequately serve the voters in your community? Just because you can go down to 65% or 50% of what you would have otherwise had open does not always mean you should!



Buildings as Polling Places

- Requirements
 - Must be located inside a building.
 - Must be a public building, if practicable.
 - May not be located at the residence of a person who is a candidate for elective office or related to the candidate.
 - Must be accessible
 - The entity that owns the public building may refuse use if more than one entity asks permission for the building and simultaneous use by several entities is impracticable.
 - Primary Election: if the parties share polling places, the polling place must be sufficient to accommodate both elections.

Sec. 43.031, TEC



Public Buildings as Polling Place

- If a public building is unavailable in a county election precinct, the county commissioners may purchase or construct a building in the precinct for that purpose. (Sec. 43.032, TEC)
- There is no charge (including a charge for personnel, utilities, or other expenses incurred before or after regular business hours) for the use of a public building if the day on which the election is held, the building is normally open for business. (Sec. 43.033, TEC)
- If the building is not normally open for business, a charge may be made only for reimbursement for the actual expenses resulting from the use of the building in the election.



Notice

- Consolidated Precinct:
 - Not later than 21st day before election day: Must post notice of consolidation, which must include the location of each polling place on bulletin board used for meeting notices. (4.003(b), 172.1112)
 - Not later than 10th day before election day: Must post notice at the polling place used in the preceding general election. Notice must have location of polling place for consolidated precinct and must be posted through election day. (4.003(b), 172.1112)



Notice

- Change in Polling Place in *Same* Election (Ordered by Governor or County Judge): If a polling place changes after notice of election is issued, CC/EA must give notice not later than the earlier of;
 - 24 hours after location is changed; or
 - 72 hours before polls open on election day.
- Notice Requirements
 - Must be given to all candidates.
 - District Office: Notice to County Chair
 - Independent Candidate: County Judge
 - Must post notice on website. (43.061)



Notice

- Change in Polling Place from *Previous* Election
 - Post notice at entrance to previous polling place
 - Must state location of new polling place.

Sec. 43.062, TEC



Notice

Notice of Nearest Polling Places in Countywide Election: Each countywide polling place must post a notice, at that location, of the four nearest locations, by driving distance.

Sec. 43.007, TEC



Thank you!

elections@sos.texas.gov

