

**TRANSLATION OF THE
MUNICIPAL AND
PROVINCIAL LAWS IN FORCE
IN THE ISLAND OF CUBA**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649339723

Translation of The Municipal and Provincial Laws In Force In The Island of Cuba by Various

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VARIOUS

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Cuba. Laws, Statutes, &c.

TRANSLATION

OF THE

MUNICIPAL AND PROVINCIAL LAWS

IN FORCE

IN THE

ISLAND OF CUBA.

WAR DEPARTMENT,
DIVISION OF CUSTOMS AND INSULAR AFFAIRS.
August, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899.

PROVISIONAL MUNICIPAL LAW FOR THE ISLAND OF CUBA.¹

TITLE I.

MUNICIPAL DISTRICTS AND THEIR INHABITANTS.

CHAPTER I.—*Municipal districts and their alterations.*

ARTICLE 1. A municipality is the legal association of all the persons who reside in a municipal district.

It is legally represented by a municipal council.

ART. 2. A municipal district is the territory under the administrative jurisdiction of a municipal council.

The following are the requisites of a municipal district:

1. That the number of resident inhabitants be not less than 2,000.
2. That it have, or that there may be apportioned to it, a territory in proportion to its population.
3. That it can meet the obligatory municipal expenses with the revenues authorized by law.²

¹ *General government of the island of Cuba.*—His Excellency the colonial secretary, in a telegram of the 25th instant, received to-day, says the following: "His Majesty the King has deemed proper to issue, under date of the 21st instant, the following royal decree: 'In view of the reasons stated to me by the colonial secretary, in concurrence with the council of secretaries, and by virtue of the authority granted my Government by article 89 of the constitution of the Monarchy, I decree the following: Article 1. There shall be promulgated and enforced in the island of Cuba, provisionally, the organic municipal, and provisional laws of the Peninsula, modified as prescribed by article 89 of the constitution of the Monarchy. Article 2. My Government shall inform the Cortes of this decree, in compliance with the said article. Given at the Palace on June 21, 1878. Alfonso.' Jose Eduyayen, colonial secretary." And this Government having ordered the immediate enforcement of the foregoing royal decree, it is published in the *Gaceta*, together with the laws referred to in the same, for the consequent effects. Havana, June 28, 1878. Arsenio Martinez de Campos.

² By a royal order from the department of the interior of September 26, 1885, the resolution adopted by the deputation of Zamora, in the proceedings instituted in order to transfer the seat of the municipality of Olmo de Guarena to Vallesca, for the reasons which follow, was declared final:

Whereas, according to certificates of July 27 and 28 last, duly executed, the municipal council resolved upon the transfer, and that the municipal district in question has 166 residents, of whom 93 signed, on the 24th of the said month, a petition addressed to the municipal council requesting that the measure be carried out, the residence of the petitioners being duly certified to; whereas, according to several royal orders, among others those of October 8, 1879, and July 13, 1880, from which emanated the legislation observed on the subject, issued in accordance with a report from the council of state, the resolutions of provincial deputations relating to the change of the seat of municipalities are final when they are issued in accordance with the report of a majority of the municipal council and with that of the residents of the district, which requisites are present in this case.

The present municipal districts which have a municipal council may continue in existence even though they do not fill the requisite prescribed in number 1 of this article.

ART. 3. Municipal districts may be changed:

1. By their annexation in whole to one or more adjoining districts.
2. By the annexation of part of a district, either to constitute, in itself or with one or more parts, an independent municipality, or either to annex it to one or to several of the adjoining districts.¹

ART. 4. The abolition of a municipality and its annexation to one or more of the adjoining districts is proper—

1. When, on account of the lack of means or other good reasons, it is resolved and requested by the municipal councils and a majority of the inhabitants of the municipalities interested.
2. When, on account of the widening and development of building, the limits of the towns become confused and it is not easy to determine their true limits.²

ART. 5. The segregation of a part of a district in order to annex it to other existing ones is proper when requested by a majority of the residents of the portion to be segregated and when it can be effected without prejudicing the legitimate interests of the rest of the municipality, nor cause it to lose the conditions mentioned in article 2.

The segregation of part of a district in order to constitute one or more independent municipalities, in itself or in union with one or more portions of adjoining districts, may take place by the agreement and on the request of a majority of the persons interested and without prejudicing legitimate interests of other towns, provided the new districts which are to be formed include the conditions mentioned in article 2.³

¹ By a royal-decree ruling of July 5, 1883, it was resolved that it behooves the governor of the province, and in a proper case the provincial deputation, as a court having jurisdiction over litigative matters to determine to what municipal district a piece of land belongs, the jurisdiction over which is disputed by two municipalities, without prejudice to the question of ownership.

By a royal order of May 21, 1887, issued by the department of the interior, it was declared that, in order to transfer the seat from one town to another, the same formalities must be observed, in so far as possible, as those for the change of municipal districts.

² By a royal decree of July 12, 1884, of the department of the interior, a resolution of the provincial deputation of Barcelona was declared null, which decided the annexation in whole of the district of Santa Maria de Sans to the capital of the province, because the wishes of the residents of both towns were not stated.

³ Circular royal order of February 26, 1875, stating the conditions necessary to request the annexation and segregation of a municipal district, and stating the documents which must accompany the petitions relating thereto.

His Majesty the King (whom God preserve), has informed himself of the numerous statements addressed to the department of the interior by residents of different towns, requesting that the segregation of some zones of the municipal district of which they form part be ordered, either to constitute an independent municipality or to be annexed to other different ones from those they actually belong to; and the repetition of such appeals, as well as the lack of documents which is observed in all

ART. 6. In any of the cases of annexation or segregation the persons interested shall indicate the new demarcations of lands and shall effect the division of property, lands owned in common, public uses and credits, without prejudice to the rights of ownership and public and private servitudes existing.

ART. 7. The Governor-General of the island shall decide the proceedings relating to the creation, segregation, or abolition of municipalities and municipal districts, after reports from the governor and from the deputation of the province.

His decision shall be final when it is in accordance with the report of the provincial deputation.

In case of disagreement the proceedings shall be forwarded to the colonial department, which shall decide after consulting with the council of state.

ART. 8. Every municipal district shall form part of a judicial district and of a province, and can not belong, for any reason whatsoever, to different jurisdictions of the same order.

ART. 9. In order to transfer a municipal district from one judicial district to another, proceedings shall be instituted bearing the municipal councils of the town and of the seats of the judicial districts, as well as the deputation and the governor.

of them, require the adoption of rules in accordance with which said segregation may take place, and the reminder that until the present municipal law is repealed or amended, it behooves the provincial deputations in the first place to decide this class of requests. It is sufficient to look at the law to judge what documents are necessary in these proceedings. According to article 5 of said law, in order that the segregation of part of a municipal district may be proceeded with, the following requisites are necessary:

1. That a majority of the residents of the zone to be segregated requests it.
2. That this segregation does not prejudice the legitimate interests of the municipality.
3. That it does not cause it to lose the conditions mentioned in article 2 of the same law.

It is therefore indispensable and you must see most especially that all proceedings for the segregation are accompanied with the following documents:

(1) Petition of all the residents who request the segregation; (2) certificate from the secretary of the municipal council, viséd by the mayor and drawn up after the signatures, in which the residence of the subscribers shall be stated; (3) certificate of the secretary of the municipal council, also viséd by the mayor, of the total number of residents of the municipal district in question; (4) a similar certificate with regard to the part of the district which it is desired to segregate; (5) a certificate from both municipal councils, if the segregation is made in order to annex the part segregated to another municipality, relating to the conjunction of pasture grounds which the residents of the zone it is desired to segregate may have with each one thereof; (6) a similar certificate issued only by the municipal council to which the zone to be segregated belongs, in case the segregation is to take place in order to establish a new municipality; (7) reports from the municipalities interested and from all the towns situated on the boundaries of the same; (8) a plan of the ground.

By a royal order of April 23, 1880, the proceedings instituted with regard to the segregation of territory of the municipalities of Sabanilla del Eucomendador and Alfonso XII, and their annexation to that of Unión de Reyes in the island of Cuba, was decided in favor of the provincial deputation of Matanzas after a report from the council of state.

The Governor-General shall forward the proceedings, with his report, to the colonial department, which shall decide thereon after hearing the council of state.

ART. 10. Groups of population, although they have their own municipal council, situated at a maximum distance of five kilometers from the district line of the capital of the island or from any other town containing the same or a larger number of inhabitants, may be annexed to said districts by virtue of a resolution of a royal decree issued after consultation with the council of state.

CHAPTER II.—*Inhabitants of municipal districts.*

ART. 11. The inhabitants of a municipal district are divided into residents and transients.

The residents are subdivided into residents and denizens.

ART. 12. Residents are all emancipated Spaniards who permanently reside in a municipal district and are recorded as such in the register of the town.

Denizens are all Spaniards who, without being emancipated, reside permanently within the district, forming part of the family or household of a resident.

Transients are all persons who are not included in the foregoing paragraphs and are temporarily in the district.

ART. 13. Every Spaniard must be registered as a resident or denizen of some municipality.

A person who resides alternately in different ones shall claim the residence of one of them.

Nobody can be a resident of more than one town; if any person is recorded in the registry of two or more towns, the last declared residence shall be considered the valid one, the previous ones being thenceforth considered annulled.

ART. 14. The character of resident is declared officially, or at the instance of a party, by the respective municipal council.

ART. 15. The municipal council shall officially declare as residents all emancipated Spaniards who at the time of the formation or correction of the registry have resided continuously for two years in the municipal district.

A similar declaration shall be made with regard to the persons who are filling public offices at that time requiring a fixed residence in the district, even though they have not completed the two years.

ART. 16. The municipal council, any time of the year, shall declare every person who requests it a resident, said person not being thereby exempted from paying the municipal taxes which correspond to him up to that date in the town of his previous residence.

The petitioner must prove that he has resided continuously in the district for a period of six months at least.

CHAPTER III.—*Registration.*

ART. 17. It is the duty of municipal councils to make a register of all the inhabitants of their district, stating whether they are residents, denizens, or transients, name, age, status (whether married or single), profession, residence, and other details required by statistics and determined by the government.¹

ART. 18. Every five years a new register shall be made, which shall be corrected every intermediate year by the official entries or at the instance of a party and by the eliminations on account of legal incapacity, death, or transfers of residence which have taken place during the year.

Residents who change their domicile, the parents and guardians of those who become incapacitated, and the heirs or legatees of deceased persons, are obliged to make the proper report to the municipal council, in order that the elimination may take place.

ART. 19. After the five-yearly registration has been made, or its annual rectification, the municipal council shall make up two lists in abstract, one stating the changes which have taken place during the year and another including all the inhabitants there may be in the district at the conclusion of the work.

These lists shall be published at once.

ART. 20. The registration and the rectifications shall take place in the month of December, and shall be, as well as the lists, at the disposal of all those who wish to examine them in the office of the secretary of the municipal council on working days and during office hours.

In the fifteen following days the municipal council shall receive the complaints which any resident of the district may make against the registry or its rectifications, and shall decide thereon during the rest of the month, entering in the book of minutes the decision adopted with regard to each person interested, who shall immediately be informed thereof in writing.

ART. 21. From these decisions of the municipal councils an appeal lies to the provincial deputation.

The appeal shall be instituted before the mayor within the three days following the written notification of the decision.

The mayor shall forward, without any delay whatsoever, the proceedings to the provincial deputation.

The deputation within the period of one month shall finally decide, in view of the reasons alleged by the persons interested and the municipal council, and shall communicate to the latter its decision, with the reasons therefor, after which, the proper corrections having been made during the following week, the registration shall be declared terminated and the corrected lists shall be published.

¹ With a circular from the General Government of October 12, 1882, there was forwarded to the municipal councils the form for the register they are to make in accordance with the provisions of this article.

ART. 22. The register is a solemn, public, and authentic document, which shall serve for all administrative purposes.

ART. 23. The municipal councils shall forward to the deputation, in the last month of each fiscal year, a statement of the number of residents, denizens, and transients, classified as may be determined by the Governor-General of the island, for the census of the population.

CHAPTER IV.—*Rights and obligations of inhabitants of municipal districts.*

ART. 24. All persons appealing to the municipal authority have a right to demand of the same a statement, in which there shall be stated the claim or complaint and the date and hour on which it was made.

ART. 25. All the inhabitants of a municipal district have a right of action against the decisions of municipal councils, as well as to denounce and prosecute criminally mayors, aldermen, and members of the assembly of associates in the cases and at the time and in the manner prescribed by the provisions of this law and those of the royal decree and regulations of September 12, 1868.¹

ART. 26. All the residents of a municipal district are subject to the taxes which may be imposed for the municipal and provincial services, in the manner and proportion determined by this law.

If the town has property owned by the community, the following rules shall be observed for its annual arrangement and distribution:

1. When the property in common can not be equally utilized by all the residents of a town, the enjoyment and benefit shall be awarded at public auction among the said residents exclusively, after the necessary appraisements and its division into lots in a proper case.

2. If the property is susceptible of general utilization, the municipal council shall distribute the products among all the residents, distributing them for the purpose into divisions or lots, which shall be awarded to each person in accordance with any of the three following bases:

By families or residents.

By persons or inhabitants.

By the quota of assessment, should there be any.

3. The distribution, according to residents, shall be made with strict equality to each one of them, without regard to the number of persons their family may consist of or of the number who live with them and are dependent upon them.

The distribution by persons shall take place by allotting to each resident the portion corresponding to him in proportion to the number of resident inhabitants of which his household or family consists.

¹ By a royal decree of June 21, 1878, issued by the secretary of the interior, refusing the admission of a claim it was ordered that the litigative procedure was proper when administrative resolutions had injured the right of a private party, which can not take place when a contract is in question to which he was not a party; that although by article 25 of the municipal law residents may denounce certain acts of the municipal council, they have not the right nor the authority to impugn the resolutions of the government which condemns the denunciation.