



Lawrason Act

R.S. 33:321-463

Overview

The following is a summary of the general principles and guidelines concerning **Louisiana's Lawrason Act**. This document is presented in a frequently asked questions (FAQ) format. While fairly detailed, it is important to remember that every situation is unique and as a result each situation deserves careful individual review.

There are numerous links within the document directing your attention to areas within the document and to other related documents posted on the Louisiana Legislative Auditor's website and on external websites to facilitate your use of this document. For example, under the index section, you may go directly to any area of the FAQ by clicking the question you wish to view. Within the FAQ, there are several links to direct you to other areas of the FAQ and to relevant external documents. If you click on the individual question number, a link will take you back up to the index to allow you to select another question to view.

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LAWRASON ACT

I. General

Q.1. What is the Lawrason Act, and where is it found? [R.S. 33:321](#) – [33:463](#)

A.1. Louisiana Revised Statutes [33:321-463](#), commonly known as the Lawrason Act, is the body of law that governs operations of most of the incorporated municipalities in this state.

- The Act, enacted in 1898 and amended several times over the years, sets forth a general legislative charter for all municipalities created after its effective date other than those electing to operate under a home rule charter form of government, as well as for those created prior to its effective date that subsequently choose to accept its provisions;
- The intent of this law is to provide a uniform type of government for all municipalities in Louisiana; and
- This fundamental municipal incorporation law currently governs some 248 villages, towns, and cities.

Q.2. What is the purpose of the Lawrason Act?

A.2. The Lawrason Act allows the adoption of a Mayor-Board of Alderman form of government. Lawrason determines:

- Whether a municipality is considered a city, town or village;
- The qualifications, duties, powers, and methods of selection of officers by either election or appointment;
- The functions of each office:
 - [mayor](#)
 - [board of aldermen](#)
 - [clerk](#)
 - [treasurer](#)
 - [chief of police](#)
 - [mayor's court](#)
- The levying and collection of taxes; and
- The expenditure of funds.

Q.3. To whom does the Lawrason Act apply?

R.S. 33:321

A.3. Pursuant to R.S. 33:321, Louisiana’s Lawrason Act applies to all municipalities except those municipalities governed by a special legislative charter or by a home rule charter or plan of government adopted pursuant to Article VI of the Constitution of Louisiana.

Pursuant to R.S. 33:481 enacted in 2010, however, for any municipality governed by a special legislative charter:

- If the provisions of the special legislative charter are silent on a particular matter, then the provisions of Part I of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950 (Lawrason Act) govern.
- If a conflict exists between the provisions of the special legislative charter and the provisions of Part I of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950 (Lawrason Act), then the provisions of the special legislative charter govern.
- Part I of Chapter 2 of Title 33 is R.S. 33:321 to 33:463; Part I-A of Chapter 2 of Title 33 is R.S. 33:481.

The majority of municipalities in Louisiana are chartered under the Lawrason Act. As the law currently provides, a municipality created after July 29, 1898, is governed by the Lawrason Act, unless the municipality is eligible to exercise an option to adopt another form of government provided by statute or constitution (i.e. home rule charter) or special legislative charter.

- The former statutory provisions allowing for a commission plan or commission-city manager plan of municipal government were repealed by Act 39 of the 2010 Regular Session.

Local governments operating and governed by the Lawrason Act are also subject to the Louisiana Local Government Budget Act as set forth in LSA-[R.S. 39:1301-1315](#).

Q.4. May a municipality choose to be governed by the Lawrason Act?

R.S. 33:322

A.4. The legislative body of a municipality not governed by the Lawrason Act may:

- By majority vote, call an election to propose that the municipality becomes subject to the Lawrason Act;
- A majority of the legal votes cast are necessary to adopt this form of government; and

- If a majority of the votes cast are against adoption, the legislative body may not call another election on the question for at least 12 months after the election.

In the alternative, the legislature may enact law providing that a legislative charter municipality shall be governed by the Act.

Q.5. What are the different classifications of municipalities, and are they subject to change? [R.S. 33:341](#)

A.5. Municipalities are classified under the Lawrason Act as either cities, towns, or villages. They may be reclassified depending on population changes.

- Those having 5,000 inhabitants or more are cities;
- Those having fewer than 5,000, but more than 1,000, are towns; and
- Those having 1,000 or fewer inhabitants are villages.

These classifications are important as they will determine the number of aldermen that a municipality is required to have. For additional information see [Q.12.](#)

Q.6. What powers does the Lawrason Act give to municipalities? [R.S. 33:361](#)

A.6. Except as limited by the Lawrason Act, a municipality is vested with:

- All powers, rights, privileges, immunities, authorities, and duties in accordance with all constitutional and statutory provisions;
- The right to exercise any power and perform any function necessary or proper for the management of its affairs not denied by law; and
- The power for its board to levy and collect taxes, incur debt, and issue bonds and other evidences of indebtedness as authorized by law.

Because a Lawrason Act municipality is a legal fiction of the state, the state may remove existing powers or provide them with additional powers. When dealing with the federal government, municipalities have no sovereignty akin to states.

II. Municipal Officers

Q.7. How does a municipality exercise its powers?

R.S. 33:362

A.7. The powers of a municipality are divided into executive and legislative functions.

The legislative powers are vested in and exercised by the Board of Aldermen/
Council.

Under its legislative powers, the Board may:

- Enact ordinances and penalize their violation by a fine not to exceed \$500 dollars or imprisonment not exceeding 60 days, or both;
- Provide by ordinance for:
 - assessing against the adjoining property the cost of cutting, destroying, or removing noxious weeds, grass, or other deleterious, unhealthy, or noxious growths or accumulations on any sidewalk;
 - assessing upon the owner of that property adjoining the sidewalk (lot, place, or area within the corporate limits) the cost of cutting, destroying, or removing noxious weeds, grass or other deleterious, unhealthy, or noxious growths or accumulations; and
 - assessing upon the owner of any lot or place or area within the corporate limits the cost of cutting, destroying or removing noxious weeds, grass, or other deleterious, unhealthy, or noxious growth or accumulation on the lot or place or area; and (4) filing of notice of these costs, which shall constitute a privilege upon the property and shall be prior in rank to mortgages, vendor's privileges, and all other privileges except tax privileges; and
- Seek reimbursement from a former municipal employee on whose behalf the municipality paid licensure fees for a commercial driver's license when the employee is employed for a period of six months or less from the date upon which the municipality paid the licensure fee on behalf of the employee. Reimbursement is limited to the amount of the licensure fee paid by the municipality. The former employee is liable to the municipality for an amount equal to the amount of the licensure fee paid by the municipality;

The Board shall, subject to law and applicable civil service rules and regulations, by ordinance, provide policies and procedures to regulate the

employment of municipal employees including the hiring and firing of such employees;

The Mayor is the chief executive officer and oversees the executive (day to day) functions of the municipality. For additional information concerning the powers and duties of the Mayor, please see [Q.10](#).

Any department, other than the police department with an elected chief of police, must be created, abolished, merged, or consolidated by the board, upon written recommendation of the mayor.

Q.8. Who are the municipal officers exercising this power? [R.S. 33:381](#)

A.8. The Lawrason Act requires that a municipality have the following municipal officers:

- Mayor;
- Aldermen;
- Chief of police (Elected or Appointed);
- Tax collector; and
- Clerk.

In addition, the Lawrason Act authorizes the Mayor, subject to Board of Aldermen confirmation, to appoint other municipal officers as necessary.

[R.S. 33:386\(A\)](#)

Other officers may include, but are not limited to, the following:

- Municipal Attorney;
- Court Magistrate;
- Treasurer;
- Court Prosecutor; and
- Street Commissioner

A. Mayor

Q.9. What are the qualifications to be Mayor? [R.S. 33:384](#)

A.9. The mayor is elected at large and must be: [R.S. 33:381\(B\)](#)

- An elector of the municipality who;
- At the time of qualification as a candidate is domiciled and resides in the municipality; and

- Has been domiciled and has actually resided in the municipality for at least the immediately preceding year.

Q.10. What are the powers, duties, and responsibilities of the Mayor?

R.S. 33:404

A.10. The mayor has the following powers, duties, and responsibilities:

- To supervise and direct the administration and operation of all departments, offices, and agencies, other than a police department with an elected chief of police, in conformity with ordinances and law; no ordinance, however, may limit the authority granted to the mayor by this provision. All administrative staff members are subordinate to the mayor;
- To delegate performance of administrative duties to municipal officers or employees as he or she deems necessary and advisable;
- Subject to applicable state law, ordinances, and civil service rules and regulations, to appoint and remove employees, other than the employees of a police department with an elected chief of police. Appointment or removal of a nonelected chief of police, the clerk, the attorney, or any department head is, however, subject to board approval, except that in the case of a tie vote, the mayor's recommendation prevails.
- To sign all contracts on behalf of the municipality;
 - The mayor has statutory authority to sign all contracts contingent on the monies being appropriated by the Council. Once monies are appropriated (i.e. in the budget under the Local Government Budget Act), the Mayor is not required to return to the Council for authority to sign the contract document.
- To prepare and submit an annual operations budget and a capital improvements budget for the municipality to the board in accordance with the Local Government Budget Act (R.S. [39:1301](#), *et seq.*) and any other supplementary laws or ordinances.
 - Pursuant to Section [406](#) of the **Lawrason Act** the budget submitted by the Mayor to the Council is approved by the Council in the form of a budget ordinance and returned to the Mayor for his/her approval or disapproval;

- To represent the municipality on all occasions required by state law or ordinance;
- To be the keeper of the municipal seal and affix it as required by law;
- To sign warrants drawn on the treasury for money, to require that the clerk attest to such warrants, to affix the municipal seal thereto, and to keep an accurate and complete record of all such warrants;
- To have any other power or perform any other duty that may be necessary or proper for the administration of municipal affairs and that is not denied by law.
- **To preside over meetings of the board of aldermen and in cases of ties (except as to ordinances) shall give the deciding vote.**

[R.S. 33:405\(A\)](#)

Q.11. What officials must the Mayor appoint?

[R.S. 33:386](#)

A.11. At the first regular board meeting of the Board of Aldermen elected at a regular municipal election, the mayor, subject to board confirmation, must appoint:

- A clerk;
- A tax collector; and
- All other necessary, non-elected officers, including but not limited to the following:
 - Appointed Chief of Police;
 - Municipal Attorney;
 - Court Magistrate;
 - Treasurer;
 - Court Prosecutor; and
 - Street Commissioner

In the event of a vacancy, the mayor, subject to board confirmation, will appoint a successor. In making or approving appointments and in filling vacancies, the mayor and board shall give preference to municipal residents if all other considerations are equal.

Municipal officers appointed by the mayor hold their term until the time of the first regular meeting of the board of aldermen of the new term and do not need to be reappointed each year of their term. [AG. Op. No. 19-0062](#)

Once appointed and confirmed by the board of alderman, the appointed municipal officers noted above and department heads may only be removed upon recommendation of the mayor and confirmation by a majority of the board. In cases of a tie vote, the mayor's recommendation shall prevail.

See [AG Op. No. 11-0084](#)

B. Board of Aldermen

Q.12. How many Aldermen are there and how are they organized? [R.S. 33:382](#)

A.12. The number of aldermen depends upon the classification of the municipality.

- The number of aldermen in a **city** must not be fewer than five nor more than nine;
 - If a city has eight or more aldermen, two must be elected from each district and the remainder elected at large;
 - If a city has seven or fewer aldermen, an equal number of aldermen are elected from each district and the remainder elected at large;
- The number of aldermen in a **town** is five; and
 - If a town is divided into districts, one alderman is elected from each district and one elected at large;
- The number of aldermen in a **village** is three:
 - Aldermen in villages are elected at large;

A board not divided into districts may, by ordinance, divide the municipality into districts. Each district must contain as equal population as possible and the territory in each district shall be contiguous;

A board may, by ordinance, divide the board into divisions, so that aldermen are elected at large, but each alderman is elected to a specific division (designated alphabetically) for the sole purpose of nomination and election. Of the initial aldermen to be elected under this provision, the alderman senior in continuous service presides over Division "A", and the other aldermen preside over the other designated divisions according to their respective periods of continuous service;

If two or more aldermen in a municipality have served continuously for the same length of time, the alderman senior in age presides over the first applicable division, and then in alphabetical order;

The successor to any alderman presides over the same division as his predecessor. A candidate for nomination and election shall, at the time of filing his or her declaration as a candidate, designate the division for which he or she is a candidate. The electors shall elect one alderman from among the candidates for each division;

The board may establish, by ordinance, that aldermen are to be elected in a manner different from that provided in this Section. The ordinance may provide that all aldermen be elected at large, that a number of aldermen be elected at large and a number from districts in proportion other than that specified in this Section, or that only some of the board members be elected to particular divisions. No ordinance changing the manner in which aldermen are elected, however, shall be adopted within one year of the date of an election for aldermen;

Once the boundaries of districts or the divisions have been established by ordinance, they shall not be changed for two years from the effective date of the ordinance. The boundaries once established may be changed only by a vote of two-thirds of all board members. No change in the boundary of a district or the division shall be made, however, within one year of the date of an election for aldermen. The board shall reconsider the boundaries of the districts within six months of the official publication of the federal decennial census by the Census Bureau and within six months of any annexation. The purpose of reconsideration shall be to determine if the boundaries of the districts continue to divide the municipality into districts of nearly equal population;

If upon reconsideration, a board determines that unequal apportionment of the municipal population exists, the board shall, by ordinance, change the boundaries to reflect as nearly as possible an equal apportionment of the population; and

The boundaries of any election district for a new redistricting or apportionment plan from which members of the governing authority are elected shall contain, to the extent practicable, whole election precincts established by the parish governing authority.

Q.13. What are the qualifications to be Alderman?

R.S. 33:385

A.13. Qualifications of aldermen are the same as for the mayor, and in addition, those elected from wards must be residents of their respective wards (District).

Q.14. What are the powers, duties and responsibilities of the Board of Aldermen or council? [R.S. 33:362](#), [404.1](#)

A.14. The board of aldermen is the municipality's legislative body.

- An alderman acting alone, without the authority of the board, cannot bind the municipality;
- The board (by ordinance) sets the salaries of the mayor, aldermen, clerk, chief of police and all other municipal officers;
 - The board may increase or decrease the salaries of non-elected officials; and
 - The board may increase, but not decrease, the salaries for elected officials (including aldermen) during their term in office. Salaries may be decreased prospectively for elected positions.
- Board approval is required for the appointment or removal of a non-elected chief, clerk, municipal attorney, any department head and a CPA conducting the review, compilation or audit as required by the audit law;
- The board must approve or disapprove the annual operating and capital improvements budgets submitted by the mayor. (The Local Government Budget Act must be followed. R.S. 33:1301 *et seq.*);
 - The board of aldermen for a Lawrason Act municipality is excluded from the authority granted under R.S. 39:1305(F) for amendments to be made to the proposed budget prior to adoption.
- The express or implicit authorization of the board is required for all public expenditures. [AG Op. No. 09-0187](#); and
- The board and mayor shall produce an annual financial statement, which is available for inspection and transmitted to the Legislative Auditor no later than six (6) months after the end of the fiscal year.

Q.15. What authority does the Board of Alderman have to direct employees of a Lawrason Act municipality?

A.15. The Board of Alderman has authority to provide, by ordinance, general policies and procedures regulating the employment of all municipal employees. The mayor, however, has sole authority to direct the day to day operation of municipal employees, except those within a municipal police department under an elected chief of police.

Items governed by such general policies adopted through ordinance may include, but are not limited to, the following:

- Establishment of general office hours for municipal employees;
- Regulations requiring use of a time clock; and
- The earning, accrual, and use of leave, including any provisions for payment of leave upon separation.

Q.16. What happens if there is a vacancy on the Board? [R.S. 33:385\(B\)](#)

A.16. A vacancy in the office of alderman is filled pursuant to [R.S. 18:602](#). (R.S. 18:602 was amended in 2012 to modify all time limits therein from ten days to twenty days. The ten day time limit in [R.S. 33:385\(B\)](#), however, remains unchanged as noted below.)

- The governing authority, within twenty days, appoints a person who meets the qualifications of the office to fill the vacancy;
- The presiding officer is not required to vote on such an appointment unless a tie vote occurs, in which case he or she must vote to break the tie. However, in no case shall the presiding officer vote more than once on an appointment;
- In the event of a tie vote in filling a vacancy, the mayor as the presiding officer shall vote to break the tie;
- If the mayor fails or refuses to break the tie, the members of the board must notify the governor of the existence of a vacancy;
- Pursuant to R.S. 33:385(B), which was not amended to change the time limit, the governor must make an appointment to fill the vacancy within 10 days after receiving notice of the tie vote.
- If a vacancy is not filled within the time specified, the governor fills the vacancy.
- If the unexpired term of an office is 18 months or less, the person appointed to fill the vacancy or designated to assume the duties of the office serves for the remainder of the unexpired term;
- If the unexpired term exceeds 18 months, the governing authority, within twenty days after the vacancy occurs, must issue a proclamation ordering a special election to fill the vacancy and must specify in the proclamation (1) the dates on which the primary and general elections will be held and (2) the dates of the qualifying period for candidates in the special election. In

selecting the dates for such special elections, the governing authority may choose a gubernatorial or congressional election date, if such date is available within 18 months of the occurrence of the vacancy or may select an election date in accordance with state law;

- If the unexpired term exceeds 18 months but the vacancy occurs within 18 months of a regularly scheduled primary election for that office, no special election will be called, and the appointee shall serve for the remainder of the term of office;
- If the governing authority fails to issue the proclamation within twenty days after the vacancy occurs, the governor issues the proclamation;
- R.S. 18:602(F) provides the procedure when there is no quorum to choose a successor. The remaining members shall immediately inform the governor of the existence of the vacancies. Within twenty days after receipt of this notice, the governor shall make appointments to fill all the vacancies and shall issue a proclamation calling special elections to fill the vacancies if special elections are required.

Q.17. May an Alderman hold two positions in a municipality? (Dual Office-holding)

A.17. Louisiana's dual officeholding and dual employment laws prohibit a person who holds an elective office in a political subdivision of this state from at the same time holding any other elective or full-time appointed position or employment under the municipal government while a member of the board

[R.S. 42:63\(D\)](#)

For additional information on the Dual Officeholding and Dual Employment laws, please see the LLA's [FAQ on Dual Employment/ Dual Officeholding](#).

Q.18. What are the duties of the Mayor Pro Temp?

[R.S. 33:405](#)

A.18. The Mayor Pro Temp, in cases where there is a vacancy in the office of mayor, shall perform all the duties of the mayor until the vacancy is filled as otherwise provided by law.

The board of aldermen shall select one of its members to be mayor pro tempore.

If the mayor is unable to carry out the duties of the office of the mayor by reason of physical or mental disability, as determined by a licensed physician, the mayor pro tempore shall perform all of the duties of the mayor for the duration of the disability.

If the mayor is unable to attend a meeting of the board of aldermen, the mayor pro tempore shall preside at the meeting in the absence of the mayor. The mayor pro

tempore shall have all rights and powers granted to the mayor with regard to presiding at any meeting.

Except as provided or upon the written consent of the mayor, the mayor pro tempore shall have no additional authority to perform the duties of the mayor.

C. Chief of Police

Q.19. What are the qualifications of a Chief of Police? [R.S.33:381.1, 33:385.1](#)

A.19. The qualifications depend on whether the chief of police is elected or appointed.

An elective chief is elected at large and generally must be:

- An elector of the municipality; and
- A domiciliary of the **municipality** for at least the immediately preceding year at the time of qualification as a candidate. [R.S. 33:385.1](#);
 - The elected chief of police of a **village** at the time of qualification as a candidate must, however, have been domiciled for at least the immediately preceding six months in the village. [R.S. 33:385.1](#)

The qualifications of R.S. 33:385.1 apply to an individual appointed to fill a vacancy of an elected chief of police.

The provisions of R.S. 33:385.1 do not apply to municipalities with an appointed chief of police; however, the mayor and board of alderman may through ordinance provide for residency requirements.

Q.20. What are the powers, duties, and responsibilities of the Chief of Police? [R.S. 33:423](#)

A.20. The powers and duties of the chief of police will differ depending upon whether the position is an elective or appointive position.

The chief of police is *ex officio* a constable. He or she has general responsibility for law enforcement in the municipality and is charged with the enforcement of all ordinances within the municipality and all applicable state laws. He or she is to perform all other duties required of him or her by ordinance, and as mandated by the Mayor in the case of an appointed chief of police.

The chief of police (elected or appointed) may be tax collector or assessor, if the board so decides; [R.S. 33:381\(B\)](#)

Elected Chief:

- An elected chief is to make recommendations to the mayor and board for appointment of police personnel, for the promotion of officers, to effect disciplinary action, and for dismissal of police personnel. The nominations or recommendations are to be made regardless of race, color, disability, or creed; [R.S. 33:423](#)
- The elected chief of police has the inherent authority to control or administer the day to day operations of the police department, including equipment and work schedules, within the confines of the adopted budget;
- May make provisional appointments, subject to approval by the mayor and board of alderman;

Appointed Chief:

- The duties, responsibilities and qualifications of an appointed chief are defined by ordinance. He or she has no other authority.

Q.21. What distinguishes an elected Chief of Police from an appointed Chief of Police?

A.21. The primary distinction between the authority of an elected chief of police and a chief of police who holds an appointed office is regarding the day to day control of the police department. Where the chief is appointed, the mayor administers and supervises the police department as with other municipal departments and may compel a police officer to follow a reasonable directive of the mayor. Where the chief is elected, only the elected chief may direct the personnel of the police department and the elected chief has control over the equipment and personnel of the police department.

See [R.S. 33:423\(C\)](#) for additional powers of a Chief of Police.

Q.22. May a Police Chief keep a separate account for donations and auxiliary purposes?

A.22. No authority permits the chief of police in a Lawrason Act community to establish a separate fund for depositing monies generated by the municipal police department. The control, appropriation, and payment of expenses of the police department are within the power of the mayor, board of aldermen, and the Treasurer of the City.

Mayoral authority over municipal fund accounts does not, however, extend to private funds generated by volunteer police reserve units. An elected chief of

police may maintain a separate record for a police reserve unit comprising cash donations derived from its security activities at festivals, football games, etc. Because the funds generated by the volunteer police reserve unit were the private property of the volunteer police organization, and as such, were not public funds, an elected chief of police has the inherent power to control this property. The fund should have sufficient accounting controls, such as expenditures being approved by a board of directors for the volunteer police reserve unit.

Q.23. May an elected Chief of Police in a Lawrason Act Municipality accrue annual leave?

A.23. Yes, an elected chief of police may accrue leave under an established municipal policy as any other municipal employee. In order to be paid for leave upon separation under a policy, the police chief's accrual and usage of leave must be documented during their term of office. See [AG Op. No. 15-0186](#)

D. OTHER MUNICIPAL OFFICERS

Q.24. What are the duties of the Clerk?

[R.S. 33:421](#)

A.24. The duties of the Clerk are:

- Minute book - The clerk is to keep a book to be labeled "Municipal Minutes, City of _____," or "Town of _____," or "Village of _____," as the case may be, in which the clerk shall record the proceedings of the mayor and board, keeping the minutes fully indexed alphabetically, so that all entries on the minutes can be easily found;
- Seal - The clerk is the custodian of the municipal seal;
- Docket - The clerk is to keep a book, to be styled "Municipal Docket, City of _____," or "Town of _____," or "Village of _____," as the case may be, upon which the clerk shall enter each claim against the municipality, and each subject matter to be acted upon by the mayor and board. After each meeting he or she shall make up the docket for the next regular meeting. Clerks are to examine the state laws and municipal ordinances to ascertain subject matter to be acted upon at the following meeting, and docket those matters;
- Records - Clerks are to keep other books and records provided for by ordinance, file them in the office, and preserve all records and papers pertaining to the business of the municipality;

- Tax records - The clerk is to keep a book to be styled "Tax Record, City (or town, or village) of _____," in which should be entered all deeds to individuals, and the list of lands sold to the municipality by the tax collector, showing (a) description of the land, (b) name in which property was held, (c) date of sale, (d) amount of taxes, costs, and damages due, and to whom the costs are owing, (e) when redeemed, (f) by whom redeemed, (g) date of redemption, and (h) amount paid therefor;
- The clerk shall serve as auditor; . The clerk must keep a book to enter and preserve accounts of each particular fund and the accounts of each municipal officer. The treasurer shall not receive money from any source until it has been reported to the clerk and audited, and a receipt warrant issued. All fines and forfeitures are to be reported by the collecting officer, immediately after collection, and paid into the treasury. The books of the auditor are subject to inspection by taxpayers of the municipality during business hours. [R.S. 33:422](#)
- The clerk may also be tax collector or assessor, if the board so decides. [R.S. 33:381\(B\)](#)

Q.25. What are the duties and responsibilities of the Tax Collector? [R.S. 33:424](#)

A.25. The tax collector must:

- Collect, account for, and pay over all taxes levied by the municipality;
- Perform all other duties required by ordinance, or required of collectors of parish and state taxes by law, subject to penalties prescribed by law for the collection of state and parish taxes;
- The tax collector, and sureties on the official bond, are liable to the municipality for any defalcation, shortage or embezzlement of, or failure to account for, funds of the municipality collected, until the municipality provides a quietus or discharge for the amount collected, and for all public money with which the tax collector may have been entrusted:
 - Notwithstanding that a tax collector's term may have expired, the liability of the tax collector, and the sureties on the official bond, shall be a continuing liability enforceable by the municipality against any property of the tax collector and that of the sureties on the official bond, standing of record in their names at the date of the discovery of a defalcation, shortage, embezzlement or failure to account for, the funds, and until quiet us or discharge has been obtained, and regardless of whether the official bond has been placed on record;

- If the surety on the bond is an indemnity company authorized to do business in this state, or if there are personal sureties, either the company or the personal sureties or the tax collector, may proceed by rule, taken contradictorily with the municipality in district court, to obtain a quietus from the municipality, and a cancellation of the official bond-- once more than two years have elapsed from the date of the discovery of a defalcation, shortage or embezzlement of, or failure to account for, any funds of the municipality and if no legal action has been taken by the municipality to collect from the tax collector or his sureties the sums representing the alleged defalcation, shortage or embezzlement of, or unaccounted for, funds;
- The obligations imposed upon the tax collector and the sureties on his or her official bond, and the measure of the respective liabilities of each on the bond and the effect thereof upon the respective properties of the tax collector, or sureties, shall be implied conditions of the bond fully binding and enforceable against the tax collector and sureties on the bond and their respective properties, as though the obligations had been specially written therein;
- The clerk or chief of police may be a tax collector or assessor, if the board so decides. [R.S. 33:381\(B\)](#)

Q.26. What are the duties of the Treasurer?

[R.S. 33:425](#)

A.26. The Treasurer is to:

- Receive, safely keep, and pay out according to law, all monies belonging to the municipality;
- Keep accurate accounts of all receipts and disbursements, and make written report of municipal finances to the mayor and board, at each regular meeting; and
- Perform all other duties prescribed by ordinance; and pay out money only on the warrant issued by the order of the mayor and board.

Q.27. What are the duties of the Street Commissioner?

[R.S. 33:426](#)

A.27. The mayor may appoint a street commissioner, subject to board confirmation. The street commissioner, under the direction of the mayor and board:

- Has general control of the streets, alleys, avenues, and sidewalks;

- Sees that they are always in proper repair by having them worked, repaired, altered, paved, lighted, sprinkled, and doing everything else to keep them in good repair and condition; and
- Performs all other duties as directed by the mayor.

Q.28. May the Mayor hire an attorney for the municipality? [R.S. 33:386\(C\)](#)

A.28. The mayor, subject to board confirmation, may:

- Appoint and fix compensation for an attorney for the municipality, whose duties may include representation of all municipal officers in actions against them in connection with and arising out of their functions as officers, and other duties as prescribed by the mayor. The municipality may also employ counsel to represent its interest should the occasion require;
- The board of aldermen in its discretion may also, upon request of the mayor, appoint one or more attorneys who shall be designated as court magistrate and who shall serve at the pleasure of the mayor and may from time to time be designated by the mayor to serve in his or her stead as the presiding official over the mayor's court. Magistrates designated by a mayor to preside over the mayor's court shall exercise the powers and authority of the mayor over the court. The board of aldermen shall fix and pay the salary of each magistrate, if any are appointed; and [R.S. 33:441\(B\)](#)
- Upon request of the mayor, the board of aldermen has discretion to appoint one or more attorneys who shall be designated as prosecutor and who shall serve at the pleasure of the mayor. The board of aldermen shall fix and pay the salary of each prosecutor, if any are appointed. [R.S. 33:441\(C\)](#)

The Mayor may hire special counsel to represent the municipality in specific matters, provided that the Board of Alderman approve the expenditure or otherwise appropriate funds through the budget that may be utilized for this purpose.

Q.29. What other rules apply to these appointed officials?

A.29. Bonds

- The clerk and tax collector must execute bonds to the municipality in amounts and with surety and conditions that may be prescribed by ordinance. They must also hold their offices until their successors are appointed and qualified. [R.S. 33:386\(B\)](#)

Compensation

- The board shall, by ordinance, fix the compensation of the mayor, aldermen, clerk, chief of police, and all other municipal officers. The board may, by ordinance, increase or decrease their compensation and the compensation of any nonelected municipal officer and may increase the compensation of other elected officials. The board shall not, however, reduce the compensation of any elected officials during the term for which they were elected.

[R.S. 33:404.1](#)

Term

- The terms of the clerk, tax collector, nonelected chief of police, street commissioner, attorney, and court magistrate end at the time of the first regular board meeting of the Board of Aldermen elected at a regular municipal election.

[R.S. 33:386\(D\)](#)

- Municipal officers appointed by the mayor hold their term until the time of the first regular meeting of the board of aldermen of the new term and do not need to be reappointed each year of their term.

[AG. Op. No. 19-0062](#)

Vacancy

- Any vacancy to which an officer is elected or appointed by the mayor and board may be filled for the term by the mayor and board at any regular or special meeting.

[R.S. 33:383\(C\)](#)

Conflict of Interest

- No board member or any other officer, shall be directly or indirectly interested in any work, business, or contract the consideration of which is to be paid from the treasury, nor be surety for any person having a contract, work, or business with the municipality, for the performance of which security may be required, nor be surety for any officer or employee.

[R.S. 33:385\(C\)](#)

III. Meetings

Q.30. What are the various rules regarding Board Meetings?

[R.S. 33:405](#)

A.30. **Presiding officer**

The mayor presides at all board meetings, and in case there is an equal division, he shall give the deciding vote.

If the mayor is unable to attend a meeting of the board of aldermen, the mayor pro tempore shall preside at the meeting in the absence of the mayor. The mayor pro tempore shall have all rights and powers granted to the mayor with regard to presiding at any meeting.

If both the mayor and mayor pro tempore are unable to attend a meeting of the board of aldermen, the board of aldermen may select another alderman to preside at the meeting in the absence of the mayor and mayor pro tempore. This person shall have all rights and powers granted to the mayor with regard to presiding at any meeting.

Agenda

Absent any ordinances providing for mechanisms for establishing the agenda, the mayor as presiding officer is responsible for setting the agenda for regular meetings. The agenda for special and emergency meetings will be established by the individual(s) calling the meeting (i.e. mayor or aldermen).

Initial meeting

The governing authority of a newly incorporated municipality may hold its first meeting at the most convenient time and place, but thereafter must meet regularly at the date, place, and hour formally designated by ordinance.

Regular meetings

The mayor and board must hold no fewer than one regular meeting in each month on a date and at a place and hour to be fixed by ordinance; and

The board must give public notice of the contents of the ordinance pursuant to Open Meetings Law.

Special meetings

Special meetings may be called by the mayor or a majority of the board. The board is to establish, by ordinance, how notice of special meetings is to be provided to board members and the mayor. The notice must specify the business to be considered at the special meeting. Public notice is to be given as provided in the Open Meetings Law.

[R.S. 33:405\(C\)](#) was amended in 2010 regarding an item not on the agenda for the special meeting.

... an item that is not on the meeting agenda may be considered by the mayor and the board of aldermen only after a unanimous vote of consent by the board and only after announcing the purpose of the item and allowing anyone in the audience to speak on the item.

Emergency meetings

In cases of extraordinary emergency, as defined in the Open Meetings Law, the mayor or any alderman may call an emergency meeting of the board. The board members and the mayor must be notified in the most practical manner available, and the purpose of the meeting may be stated in general terms. Notice is to be given as provided in the Open Meetings Law. The board may adopt at an emergency meeting an ordinance that it has not previously considered. The ordinance shall specify the nature of the emergency, and a two-thirds vote of members of the board is required for its adoption. No emergency ordinance can continue in force for more than 60 days, and any emergency ordinance that specifies a longer duration or no duration becomes void 60 days after its effective date.

Quorum

A majority of the members of the board constitutes a quorum at any meeting.

Continuance

Any meeting may be continued to another date announced at the meeting with the consent of a majority of the board members. Any meeting that fails for want of a quorum may be continued to a date announced at the meeting with the consent of the majority of aldermen present or, if only one alderman is present, to the date he announces. However, a meeting that fails for want of a quorum cannot be continued but once.

Open Meetings

All meetings are subject to the Open Meetings Law.

For additional information on the Open Meetings Law, please see the LLA's FAQ on the [Open Meetings Law](#).

Q.31. How and when are regular board meetings held?

R.S. 33:405

A.31. The board shall hold at least **one (1) regular meeting** per month;

- The date, time and place shall be established by ordinance; and
- A majority of the members constitutes a quorum.

Q.32. How are special meetings called?

R.S. 33:405(C)

A.32. Special meetings may be called by the mayor or by a majority of the board of aldermen/ council.

The board of aldermen/council shall establish by ordinance how notice of special meetings shall be provided to members of the board and to the mayor.

The notice for the special meeting shall specify the business to be considered at the special meeting. In other words, it is the notice which sets the items to be included on the agenda for the special meeting.

Additional items may be added for consideration during the special meeting only by unanimous consent by the board. Prior to voting to add additional items, the board shall announce the purpose of the additional item and allow anyone in the audience to speak on the item.

Any special meeting must comply with the provisions of the Open Meetings Law, including the posting of notice and agenda at least 24 hours, exclusive of weekends and legal holidays, prior to the special meeting.

Q.33. How are emergency meetings called?

R.S. 33:405(D)

A.33. In cases of extraordinary emergency as defined in R.S. 42:17(A)(5), i.e. Natural disasters, threats of epidemics, civil disturbances, insurrections, invasions, or other matters of similar magnitude, the mayor or any member of the board of aldermen/council may call an emergency meeting of the board/council.

Notice of emergency meeting shall be provided to the mayor and board/council members in the most practical manner available. The notice shall also state in general terms the purpose for the emergency meeting. Notice must also comply with the requirements of the Open Meetings Law, specifically R.S. 42:19, regarding notice and agenda

The board/council may adopt an ordinance at an emergency meeting that it has not previously considered. The emergency ordinance shall specify the nature of the emergency and requires two-thirds vote of the board/council for adoption.

The emergency ordinance may only be effective for sixty days. Any emergency ordinance stating a longer duration or no duration shall be void sixty days from becoming effective.

Q.34. What are the rules regarding ordinances and resolutions? [R.S. 33:406](#)

A.34. Ordinances

- Any law enacted by a board must be by ordinance. The style of all ordinances shall be: "Be it ordained by the board of aldermen of the City (or Town or Village, as the case may be) of;" and
- No ordinance may be adopted except by the affirmative vote of a majority of the board members.
- All appropriations, including adoption of the annual budget and any subsequent amendments, incurrence of debt, and issuance of bonds or other evidences of indebtedness shall be in the form of an ordinance.

However, the board may (by resolution, adopted by the affirmative vote of a majority of the board members) require the expenditure of funds previously appropriated. Within three days after its adoption, the resolution must be presented to the mayor for approval or disapproval.

Procedure for Ordinance

- Any alderman at any board meeting may introduce a proposed ordinance. Each proposed ordinance is to be in writing. An ordinance (except those involving the annual operating budget, a capital improvements budget, or a codification of municipal ordinances) may contain only one subject, which is to be indicated in its title;
- After a proposed ordinance has been introduced, copies are to be provided to all board members and the mayor;
- The title of a proposed ordinance, except those specifically authorized by [R.S.33:405\(D\)](#) (Emergency Ordinances to address Extraordinary Emergencies as defined in [R.S. 42:17\(A\)\(5\)](#)), must be published once in the official journal;

*R.S. 42:17(A)(5) defines/limits Extraordinary Emergencies as: Natural disasters; threats of epidemic; civil disturbances; suppression of insurrections; the repelling of invasions; or other matters of similar magnitude.

- The notice must indicate the time and place at which the board will consider its adoption;
- No ordinance, except one authorized by [R.S. 33:405\(D\)](#), is to be adopted until a public hearing on it has been held;
- No ordinance, except one authorized by [R.S. 33:405\(D\)](#), may be adopted at the meeting at which it is introduced;
- Each proposed amendment to an ordinance is to be presented in writing or reduced to writing before its final consideration;
- An amendment to a proposed ordinance shall not nullify the purpose of the proposed ordinance, nor (except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of ordinances) add a new subject matter;
- A proposed ordinance must be read by the title when called for final passage;
- The vote on an ordinance at final passage shall be taken by "yeas" and "nays," and the clerk is to enter the names of the aldermen voting for and against each proposed ordinance or amendment on the minutes;
- Every ordinance adopted by the board must be signed by the clerk and presented to the mayor within three days after its adoption;
- The mayor, within 10 days of receipt of an ordinance, must return it to the clerk with or without approval, or with disapproval;
- If the ordinance is approved by the mayor or is returned by the mayor with neither approval nor disapproval, the ordinance becomes law upon its return to the clerk;
- If the mayor fails or refuses to return an ordinance to the clerk within 10 days of its receipt, it becomes law at midnight of the tenth day after the mayor receives the ordinance;
- If the mayor disapproves the ordinance, he or she shall, within 10 days after its receipt, return to the clerk the ordinance (along with a written statement of reasons for the veto) for transmittal to each board member;
- The clerk is to record upon each ordinance the date of its delivery to the mayor and the date of receipt from the mayor, if any;

- An ordinance vetoed by the mayor must be considered again by the board at its next regular meeting after the veto. The board may vote on the ordinance at that meeting or at a continuance of that meeting;
 - If a board consists of three members, an affirmative vote by all board members is required to override a mayor's veto;
 - If a board consists of more than three members, an affirmative vote of two-thirds of the board's members is required to override a mayor's veto;
 - If a board overrides an ordinance vetoed by a mayor, the ordinance becomes law upon its enactment by the board;
 - The clerk is to keep a book entitled "Ordinances, City (or Town, or Village) of" in which shall be filed immediately after its passage the original of every ordinance that has been adopted by the board along with an attached a note stating the date of its enactment and a reference to the book and page of the board's minutes containing the record of its adoption;
 - The clerk is to publish each adopted ordinance once in the official journal within 20 days of its adoption and prior to its effective date, except as otherwise provided in [R.S. 33:405\(D\)](#);
 - Unless an ordinance specifies an earlier or later effective date, the ordinance takes effect on the thirtieth day after the meeting during which the ordinance was adopted;
 - Only the board may suspend an ordinance, and then only by the same vote and, (except for mayoral veto), according to the same procedures and formalities required for enactment of that ordinance; and
 - After January 1, 1986, every resolution suspending an ordinance shall fix the period of suspension, which cannot extend beyond one year and 30 days following the date of the meeting during which the ordinance was suspended.
- ❖ The Louisiana Municipal Association provides a summary of ordinance rules and samples on its website.

Resolutions

- Any act of the board that is not law is by resolution. A resolution must be approved by an affirmative vote of a majority of the board members present at a meeting. An approved resolution becomes effective without the signature or other action of the mayor.

IV. Mayor's Court

Q.35. What are the rules and requirements for a Mayor's Court? [R.S. 33:441](#)

A.35. Authorization

In Lawrason Act municipalities, except where a city court exists, there shall be a mayor's court in the municipality, with jurisdiction over all violations of municipal ordinances.

Jurisdiction

A mayor's court may hear all cases involving violation of municipal ordinances and may impose fines or imprisonment, or both, specified for the violation. A mayor's court also has jurisdiction to collect utility debts within the municipality when the amount in dispute does not exceed \$5,000. [See, Act 210 of the 2019 Regular Session.](#)

Presiding officer

The mayor is generally the presiding officer of the court; however, the mayor may request the board of alderman to appoint an attorney(s) to serve as magistrate to preside over the Mayor's Court, in lieu of the mayor.

Q.36. Where can I find additional information on Mayor's Courts?

A.36. Additional information on Mayor's Courts can be found in the Louisiana Legislative Auditor's [Mayor's Court FAQ](#).

V. Miscellaneous

Q.37. Who in a Lawrason Act municipality has the authority to supervise and direct day-to-day operations of municipal departments and agencies?

A.37. The AG has opined on numerous occasions that the Mayor generally directs the day-to-day operation of municipal departments and agencies in a Lawrason Act municipality. The only exception is for police departments with an Elected Chief of Police. (See [Q.21](#))

Q.38. How does the Lawrason Act address Expenditures and Warrants?

R.S. 33:462

A.38. All expenditures of money for any purpose whatever shall be:

- In fulfilment of a specific appropriation made by order and in no other manner; and
- In accordance with the Public Bid Law;

Every warrant (document ordering or authorizing the expenditure or withdrawal of municipal funds) drawn on the municipal treasury shall express on its face:

- to whom the warrant is issued;
- the purpose(s) for which the warrant is allowed; and
- the ordinance authorizing the issuance of the warrant, cited by minute book and page, in or upon it.

Q.39. Are municipalities required to file annual audits?

R.S. 33:463

A.39. Yes, municipalities are required to comply with the annual financial reporting requirements under the Audit Law, R.S. 24:511, et. seq. The level/ type of reporting will be dictated by the amount of revenue and other sources received by the municipality during its fiscal year.

In addressing this requirement, the Lawrason Act mandates that the mayor and board are to:

- Produce an annual financial statement of the municipality in accordance with generally accepted accounting principles;
- Ensure that the minutes of the board acknowledge that the financial statements have been produced and are available for public inspection; and
- Transmit a copy of the annual financial statement/Audit to the legislative auditor within six months of the close of the fiscal year.

The required audits of municipalities must be in accord with the Audit Law found at [R.S. 24:511, et seq.](#)

For additional information regarding the Audit Law, including additional audit-related requirements for municipalities such as, who is required to perform the audit, how often the audit is to be performed, and revenue-based audit requirements, please see the LLA's [Audit Law FAQ](#).

Q.40. What does the Lawrason Act require for elections?

R.S. 33:383 – 383.2

A.40. Elections

- Are held every four years on the date for municipal and ward elections. The officers elected take office on the first day of July following the election and hold office for four years;
- The governing authority, by ordinance, may, however, adopt an irrevocable plan for holding elections with congressional elections. The plan must be filed with the secretary of state not less than one year prior to the opening of the qualifying period for the congressional primary election at which municipal officers are elected initially under the plan. This election must be the first congressional primary election after termination of the terms of office of the municipal officers in office. The elected officers take office on January first following their election and hold office for four years;
- If no election is held on the day prescribed, or if a vacancy in any elected office occurs, or if an officer elected fails to qualify, the vacancy is filled in accordance with law;
- Officers in office when a municipality elects to come under the Lawrason Act retain their offices until the first election thereafter and possess the powers of analogous offices;
- In addition, the governing authority of a municipality with a population of not more than 1,000 persons (according to the latest federal decennial census) that held municipal elections at the 2004 congressional election, may, by ordinance, adopt a plan for holding municipal elections at the gubernatorial election. This plan may not be revoked by the governing authority. The plan must be filed with the secretary of state not less than one year prior to the opening of the qualifying period for the gubernatorial primary election at which municipal officers shall be elected initially under the plan with the first such election being held at the 2007 gubernatorial election. The officers elected under the plan take office on the first day of January following their election for four years. The officers elected at municipal elections held at the 2004 congressional election served until their successors elected under the plan took office on January 1, 2008;
- If no election is held on the day authorized by the adopted plan, or if a vacancy in any municipal office elective by the people occurs, or if an officer elected fails to qualify, the vacancy shall be filled in accordance with law. Any vacancy in a municipal office to which an officer is elected or appointed by the mayor and board of aldermen may be filled for the term by the mayor and board at any regular or special meeting; and

- Officers of a municipality who are in office when the municipality elects to come under the provisions of this Part under [R.S. 33:322](#), shall retain their offices until the first election under this section.

Q.41. Where are the local provisions for specific municipalities listed under Lawrason?

A.41. Numerous provisions for specific municipalities are listed in Title 33:

[RS 33:363](#), [RS 33:364](#), [RS 33:365](#), [RS 33:381](#), [RS 33:383.1](#), [RS 33:383.2](#); [RS 33:423.1](#) through [RS 33:423.21](#); [RS 33:441.1](#) through [RS 33:441.32](#); [RS 33:443](#) through [RS 33:454](#); [RS 33:2569](#) through [RS 33:2572](#).

Unless a municipality is specifically listed in the statutes, a Lawrason Act municipality must follow the general provisions of the Act.

Q.42. Does every employee who collects money have to be individually bonded?

A.42. The holders of some public positions, such as the tax collector, are required by statute to be individually bonded. See [\[Q.25\]](#)

For those positions that do not have a statutory bonding requirement, it is generally recommended that employees who handle money be bonded, whether individually or with a blanket bond. The decision as to what type of bond or whether an employee who handles money should be individually bonded is one for the agency, its risk management division and its insurer.

There is no specified minimum amount; however, the political subdivision should ensure that any bond is “good and sufficient.”

Factors the political subdivision should consider in setting a surety bond amount include, but are not limited to:

- The amount of money the employee will handle;
- The likelihood of fraud, waste, and abuse given the internal controls in place;
- The amount of insurance coverage for any potential loss, if any, and the amount such deductible; and
- The level of material impact any potential risk of loss would have on the financial position/stability of the political subdivision.

The political subdivision should consult with its legal counsel and its insurer to review the various factors applicable to their situation and risks of loss. Any policy developed requiring such bond, should generally be adopted through ordinance.

Q.43. How can a municipality unincorporate?

A.43. The law provides for two circumstances upon which a municipality may terminate its existence:

- Upon proclamation by the Governor after a latest census showing that the municipality's population has fallen below 100 people ([R.S. 33:231](#)); and
- Upon petition and affirmative vote of a majority of the electorate of a municipality with a population of 2,500 or less ([R.S. 33:251](#), et. seq.).

Q.44. How are the classifications changed? [R.S. 33:342](#)

A.44. Whenever a census taken by resolution or when a certified report from the federal Census Bureau indicates that a municipality's population has increased or decreased so as to remove the municipality from its present class, the board:

- By resolution may request the governor to change the classification;
 - The results of any census taken by resolution must be certified by the person authorized to take the census.
 - The provision of [R.S. 1:11.1](#) do not provide a specific method to be utilized by a municipality taking a special census by resolution; however the results must be submitted to the Governor for investigation and verification. [AG Op. No. 16-0106](#)

*A municipality which is classified as a village may elect not to change the classification of the municipality to a town if the census indicates that the population has increased by fewer than two hundred (200) persons since the last decennial census. If the governing authority, by resolution, elects to retain its classification as village and declines to change the classification to town as otherwise required, the mayor shall transmit a copy of the resolution to the governor and to the secretary of state for recordation. For laws applicable to municipalities based upon their population, a municipality that elects not to change its classification from village to town as authorized in this Paragraph despite its population change, shall be controlled by its population and not by its classification.

- The Mayor transmits the resolution to the Governor;
- The Governor investigates the facts but is not bound by the census submitted;

- If the Governor believes the findings are inaccurate, he or she may ascertain the facts in any manner he or she deems appropriate;
- If the Governor finds that the municipality is wrongly classified, he or she issues a proclamation correctly classifying the municipality, and the proclamation is transmitted to the Mayor;
- Upon receipt of the proclamation, an ordinance is to be adopted changing the name of the municipality to reflect its new classification;
- A copy of the proclamation and the ordinance shall be transmitted to the Secretary of State for recordation; and
- The courts shall then take judicial notice of the class to which each municipality belongs.

Q.45. What nomenclature is used in referring to the different classifications of municipalities?

R.S. 33:343

A.45. The governing authority of any municipality governed by the Lawrason Act may, by duly adopted resolution, elect to be known and referred to as follows:

- A village, town, or city council as appropriate for a municipality of its size or, if the municipality elects to retain its classification as a village as authorized in [R.S. 33:342](#)(A)(2), as appropriate for its classification rather than its size.
 - If the governing authority elects to be known as a village, town or city council, each individual member of such council shall thereafter be known and referred to as a council member. If the governing authority retains the default term, board of aldermen, each member is known and referred to as an alderman/alderwoman;
 - The municipal governing authority may make other conforming changes in naming conventions, but no such change alters the applicability of state law to the municipality, its governing authority, or its members; and
 - The governing authority shall then submit a copy of the adopted resolution to the office of the secretary of state for recordation.

Q.46. What other summaries of the Lawrason Act are available?

A.46. The Louisiana Municipal Association offers an excellent summary and *Powerpoint* on its website, which can be found [here](#).

VI. Relevant Attorney General Opinions

Hiring/Firing of Employees

AG Op. No. 17-0190 - The mayor may not remove the municipal attorney without approval of the Board of Alderman's Consent and the mayor's recommended replacement must be confirmed by the Board of Alderman. Until the Board approves a replacement municipal attorney recommended by the mayor, the incumbent municipal attorney remains in the position.

AG Op. No. 15-0033 - A town council must provide its elected police chief the opportunity to make recommendations concerning the re-hiring of a police officer before the municipality acts. However, the municipality need not adopt such recommendation and may take a different course of action.

AG Op. No. 12-0056 - The board of aldermen in a Lawrason Act municipality may not usurp the power of the mayor through the passage of an ordinance. The board does not have the authority to hire, fire or discipline municipal employees. Nor may it participate in an employee annual review process or modify the employee's pay.

AG Op. No. 11-0084 - A mayor has authority to appoint and remove city employees without input or approval from the city council, except as the mayor's action relates to policies and procedures that the council may develop regulating the employment (including the hiring and firing) of municipal employees. When appointing or removing department heads, a mayor's recommendation is subject to approval by the city council, except in the case of a tie vote, over which the mayor's recommendation prevails. On the other hand, the city council has the authority to create, abolish, merge or consolidate any departments of the city, but only upon written recommendation by the mayor.

AG Op. No. 05-0320 - The chief may not hire or appoint an assistant chief of police without the approval of the board and the mayor. While the mayor and board are not bound to accept the chief's first recommendation, they may not hire outside that recommendation. The assistant performs only those duties assigned by the chief, not by the mayor.

Also See **AG Op. No. 01-0007** and **AG Op. No. 01-0007A**

AG Op. No. 97-0492 - The board does not have authority to remove a nonelected chief of police without the mayor's concurrence or recommendation. *In re Dismissal of Jordan*, App 2 Cir. 1994, 631 So. 2d 57. Mayor does not have authority to abolish civil service position. *Walker v. City of Opelousas*, App. 3 Cir. 2002, 817 So. 2d 1258. The mayor is the proper person to determine if non-officer employees are to be given raises.

Authority to Expend Municipal Funds

AG Op. No. 12-0074 - The legislative powers of the board of alderman of a Lawrason Act Municipality include control over the municipal fisc and the board's express or implicit authorization is required for all public expenditures. In clarification of La. Atty. Gen. Op. No. 11-0228, for enterprise funds to be spent by a Lawrason Act municipality the enterprise funds must be approved and appropriated either through their annual budget process or pursuant to La. R.S. 33:462.

AG Op. No. 11-0228 - Pursuant to the Local Government Budget Act and, specifically La. R.S. 33:1305, the mayor of a Lawrason Act municipality may spend only general and special revenue funds that the Board of Aldermen has approved, but this spending limitation does not apply to discretionary enterprise funds. The Board of Aldermen lacks authority to pass an ordinance that requires the mayor obtain Board approval for spending enterprise funds above two thousand dollars; it may, however, pass an ordinance requiring the mayor to submit a budget for using the municipality's enterprise funds.

AG Op. No. 09-0132 - No expenditure of public funds may be made without an appropriation from the board of alderman. The mayor may not bind the municipality contractually or incur debt on behalf of the municipality without the concurrence of the board of aldermen. The board may provide its approval through appropriation of funds under the adopted municipal budget.

AG Op. No. 10-0268 - The mayor has the authority to incur liabilities and authorize expenditures within the amount allocated in the budget. The mayor has authority to expend public funds to promote and develop an industry, which may include a music event, if the funding does not exceed the amount allocated by the Board of Aldermen in the budget.

Authority of Mayor

AG Op. No. 18-0124 – The mayor is not permitted to terminate an elected official such as the Chief of Police and hire a marshal.

AG Op. No. 18-0077 - The mayor or a Lawrason Act municipality, as the administrator of municipal property, has the general authority to place audio and video recording devices within a city hall building. The board of aldermen may regulate by ordinance the placement of such equipment within employees' offices, pursuant to the authority to set policies and procedures regulating the employment of municipal employees, and without encroaching on the mayors' control of daily operations.

[AG Op. No. 17-0092A](#) - The mayor may either request a magistrate appointment as provided for under [R.S. 33:441\(B\)\(1\)](#), or authorize the mayor pro temp through written consent to preside over the mayor's court under [R.S. 33:405\(A\)\(6\)](#).
Recalls [AG Op. No. 17-0092](#).

[AG Op. No. 12-0056](#) - The board of aldermen in a Lawrason Act municipality may not usurp the power of the mayor by passing an ordinance. The board does not have the authority to hire, fire or discipline municipal employees. Nor may it participate in an employee annual review process, nor modify employees' pay.

[AG Op. No. 12-0021](#) - The Mayor of a Lawrason Act municipality has authority to limit non-official public access to the municipal waste water treatment facility during working hours, particularly if the access impedes workers' productivity or causes safety concerns. Further, the Mayor may restrict access to municipal buildings after working hours based on security concerns.

Contracts

[AG Op. No. 17-0154](#) - The mayor of a Lawrason Act municipality has the sole authority to sign and execute contracts. The council is not permitted this authority. A contract signed by the council or a member of the council is without any legal effect.

[AG Op. No. 12-0154](#) - A Mayor-Board of Aldermen form of government operates through a system of checks and balances with the Mayor serving as the chief executive officer and the Board of Aldermen serving a legislative function. During his or her term, the Mayor may execute contracts on behalf of the Town pursuant to an ordinance, resolution, or other authorization by the Board of Aldermen. No express statutory authority exists for a member of the Board of Alderman to independently negotiate contracts on behalf of the Town.

[AG Op. No. 10-0245](#) - The mayor must sign a contract extension after it is approved by the city council.

[AG Op. No. 09-0181](#) - The Mayor of a Lawrason Act municipality is the sole authority to sign and execute contracts and agreements approved by the Board of Aldermen.

Meetings

[AG Op. No. 15-0122](#) - The board of aldermen in a Lawrason Act municipality may through ordinance develop or institute a procedure to allow individual council members to place items on the agenda, so long as the request complies with the timelines set forth in the ordinance and the notice provisions of the Open Meetings Law. In regard to special meetings, an individual council member may not add an agenda item without support of a majority of the council as required under R.S. 33 405(C), irrespective of

whether the council member attempts to add such an item more than twenty-four hours before the meeting. Finally, the Open Meetings Law requires a unanimous vote of those present to add an item to an agenda during the meeting; this requirement may not be lessened through ordinance.

[AG Op. No. 13-0046](#) - The mayor of a Lawrason Act community may not refuse to hold a special meeting that has been called for by a majority of the board of aldermen. A mayor of a Lawrason Act municipality who fails to perform a ministerial duty required of him or her by law could subject himself or herself to a mandamus action instituted by the board of aldermen.

[AG Op. No. 11-0275](#) - In conclusion, agenda items on a meeting notice of a public body must be reasonably clear so as to advise the public in general terms of the subjects that will be discussed. A council member serving as mayor pro tempore does not lose his or her ability to vote, and may cast votes for or against items on the agenda. Further, the mayor pro tempore may make or second a motion on the agenda. A quorum exists in a municipality of five council members when three members are in attendance, with one serving as the mayor pro tempore. Finally, two-thirds of a five member council is four members.

Setting Compensation

[AG Op. No. 19-0091](#) – A board of aldermen may increase the salary of its mayor during their current term of office to reflect a full-time workload by the mayor with a provision to decrease the salary beginning with a subsequent term of office. The effective date of such decrease cannot take effect until the date of the subsequent office holder’s election to the office.

[AG Op. No. 16-0161](#)- The salary of an elected official becomes fixed (for the purpose of the restrictions of Article X, §23 and R.S. 33:404.1) once the elected official qualifies and is elected for the position, not when they take their oath of office.

[AG Op. No. 09-0187](#) - The board of aldermen shall by ordinance fix the compensation of the mayor, aldermen, clerk, chief of police, and all other municipal officers. The board may by ordinance increase or decrease board members’ compensation and the compensation of any non-elected municipal officer and may increase the compensation of other elected officials. The board shall not reduce the compensation of any elected official during the term for which he or she was elected [R.S. 33:404.1](#).

Ordinances

[AG Op. No. 18-0113](#) - Ordinances adopted by the board of aldermen in a Lawrason Act municipality may not interfere with or infringe upon the inherent power and authority of an elected chief of police to supervise and control their office, equipment, and personnel.

[AG Op. No. 15-0122](#) - When a statute provides the Mayor with appointment authority over members of a board or commission, an ordinance providing otherwise is without effect.

[AG Op. No. 09-0182](#) - The principles of sovereignty dictate that any municipal ordinance that conflicts with a state law is invalid. Thus, a municipal ordinance may neither define conduct that is punishable as a felony under state law, nor may it attempt to preempt state law.

AG Op. No. 05-0231 - The governing board for a town governed by the "Lawrason Act" may adopt an ordinance designed to regulate the domicile of registered sex offenders within the town's limits as long as the ordinance does not conflict with state law and does not carry provisions that are more restrictive or that provide for punishment of any felony offense or carry penalties that are harsher than those provided by state law.

AG Op. No. 00-0462 - An amendment to the annual operating budget adopted by ordinance in a Lawrason Act municipality must be made by ordinance.

The procedures governing the enactment of ordinances in general in a Lawrason Act municipality are set forth in [R.S. 33:406](#). Interpreting [R.S. 33:406](#), the AG's office has recognized the distinction between a resolution and an ordinance, the latter carrying the force and effect of law, while the former expresses the opinion of the current administration.

[AG Op. No. 11-0220](#) - In a Lawrason Act municipality, if there is a tie vote by the board of aldermen concerning the adoption or amendment of an ordinance, the mayor cannot cast the tie-breaking vote, as the clear language of La. R.S. 33:406(A)(1) requires the affirmative vote of a majority of the aldermen. If there is a tie vote concerning the adoption of a resolution, and if the tie is a result of a member's abstention, the mayor cannot cast the tie-breaking vote, as this is not an equal division of the members present, but rather an equal division of the members voting. But, if there is a tie vote by the board of aldermen in the vote to adopt a resolution, as determined by an equal division of votes by the members present with no abstentions, consistent with the language of La. R.S. 33:405(A)(1), the mayor casts the deciding vote.

Qualifications for Office

[AG Op. No. 17-0095](#) - When a mayor of a Lawrason Act municipality moves outside of the district from which he is elected, and is no longer an elector of the municipality, he no longer meets the qualifications of office. A vacancy does not automatically occur when an elected municipal officer of a Lawrason Act municipality moves outside of the municipality; however, the board of aldermen has the authority to declare the office of mayor vacant provided the current mayor no longer meets the residency or domicile requirements of that office. We note that, "[t]he fact of change of residence may ipso facto, automatically give grounds for having an office declared vacated and the officer removed, but it cannot be said that the office is vacated until such is declared by a court

or other authorized official or governing body." Williamson v. Baskin, 339 So. 2d 474, 477 (La. App. 2 Cir. 1976).

Vacancy

[AG Op. No. 18-0019](#) - The approval of both the Mayor and Board of Aldermen is necessary to appoint a person to fill a vacancy in the position of chief of police.

[AG Op. No. 14-0003](#) - The appointment of an individual to fill a vacancy in the elected position of chief of police does not change the position from elective to appointive and does not change the duties, powers, or benefits inherent in the elected position. The individual appointed to serve as the Chief of Police cannot be removed without legal or just cause.

[AG Op. No. 14-0051](#) - In the event of a vacancy in the office of mayor, no law prohibits the board of aldermen from appointing any person (regardless of kinship) who is otherwise qualified to hold that office. The compensation for the appointee must remain the same during the remainder of that term as that of the person elected to the office

[AG Op. No. 12-0045](#) opines that a vacancy does not automatically occur when an alderman of a Lawrason Act municipality has a residence outside of the municipality. The board of aldermen does not have the authority to declare a vacancy in office. The Louisiana Election Code provides for a judicial process to declare a seat vacant. Recalls previous opinions, including but not limited to, La. Atty. Gen. Op. Nos. [10-0213](#), [09-0065](#), [92-0262](#), to the extent the opinions concluded the board of aldermen has the authority to declare a vacancy in office if the current elected official no longer meets the residency and domicile requirements of the office.

Chief of Police

[AG Op. No. 20-0113](#) – the ordinances creating a “Purchasing Policy” for the town requiring approval by the mayor for purchases over \$50 are not applicable to the elected chief of police as R.S. 33:404(A)(1) excepts a police department with an elected police chief from the mayor’s supervision. Once the mayor and council have agreed on a budget, the elected chief of police has operational control over the expenditures of his department in accordance with specific appropriations therein. The elected police chief does not need further approval from either the mayor or the council before he makes the purchase of police equipment.

The chief of police may act in his *ex officio* constable capacity, but there is no authority for the chief of police so acting to receive any of the statutorily imposed fees or to draw upon the funds therefrom in the separate account of the marshal. R.S. 13:5807 and R.S. 13:1899.



Whether the police department can charge a fee for processing traffic citations for the City Court is a matter within the discretion of the Judge when assessing court costs. La. Code of Criminal Pro. Art. 887(H). Any funds received should be deposited into the municipal treasury. The municipality may, but is not required to, establish and administer a separate account within the general fund for money generated by the police department. If such a fund is established, the funds may only be appropriated to the police department at the discretion of the board of alderman by ordinance. R.S. 33:406.

AG Op. No. 19-0071 – The provisions of R.S. 33:423(C)(2)(a) allow an elected chief of police to make provisional appointments to fill vacancies only where a vacancy occurs by reason of death, resignation, or otherwise. The law does not provide for provisional appointments in other emergency situations. Provisional appointments under R.S. 33:423(C)(2)(a) are subject to approval by the mayor and must be deliberated at the first special or regular meeting of the board of aldermen. Once approved by the mayor, the provisional appointment remains in effect unless rejected by the board of aldermen. See also AG Op. No. 18-0158.

AG Op. No. 18-0124 – The mayor’s refusal to obtain or pay for insurance on the Chief of Police’s official police vehicle when the funds have been properly budgeted is an infringement on the Chief of Police’s inherent power to supervise the operation of the Police Department.

AG Op. No. 18-0111 - A municipality with an elected chief of police may not adopt an ordinance restricting access to areas of the police department building, as such ordinance infringes on the authority of the elected chief of police under the Lawrason Act.

AG Op. No. 18-0017 - An elected chief of police may not use his police vehicle for personal use unless expressly authorized by the municipality’s mayor and board of aldermen. The police chief’s spouse’s use of the police vehicle is restricted by Article VII, §14.

AG Op. No. 17-0112 - The mayor does not have the authority to control the expenditures of the police department. The elected chief of police has the inherent authority to control or administer the day-to-day operations of the police department.

The municipal governing authority has the final say on the number of police officers on the force by setting the budget for the police department. An elected chief of police is not required to set specific working hours but serves on a full-time basis. Once funds have been budgeted and appropriated, the elected chief of police is the appropriate person to determine what equipment and training is necessary for the police department. The elected chief of police may make provisional appointments with approval of the mayor; however, the appointment must be placed on the agenda of the next meeting for the governing authority to approve or reject

[AG Op. No. 17-0023](#) - An elected police chief has inherent power to control his office and equipment. This control includes obtaining new telephone services, so long as the selection of telephone services is within the parameters of the police department's budget as adopted by the board of alderman.

[AG Op. No. 17-0037](#) - The elected chief recommends the hiring/rehiring or reinstatement of suspended police department employees; however the decision to do must be made by the mayor and board of aldermen.

[AG Op. No. 16-0188](#) - The mayor as supervisor of an appointed chief of police may demand access to communications (letters, emails, etc.) regarding administrative matters and the general business of the police department. However, the appointed chief of police remains the chief law enforcement officer of the municipality and thereby the appointed chief's investigative records are not subject to a mayor's review.

[AG Op. 16-0049](#) - Town may by ordinance place restriction on the "personal use" of town vehicles, but may not restrict the "official use" of town vehicles by police officers under the direction of an elected chief of police. The use of a town vehicle by an employee or officer to drop off a child to school on their typical route to work should typically be classified as "incidental use" rather than "personal use" and would likely be permissible unless otherwise restricted by ordinance (or by order of the Elected Chief for police officers).

[AG Op. No. 16-0046](#) - The elected chief of police of a Lawrason Act municipality is considered the chief law enforcement officer of the municipality and has the inherent power and authority to supervise and control his office, equipment, and personnel. This authority includes the ability to fix and determine the work schedules of police personnel, to assign police vehicles, to provide for regulations concerning police uniforms, and to provide guidelines for the daily administration of his office. The governing authority cannot infringe upon the chief of police's inherent power and authority.

[AG Op. No. 14-0126](#) - The Board of Aldermen in a Lawrason Act Municipality, and the Municipal Fire and Police Civil Service Board of a small municipality as set forth in La. R.S. 33:2531, et seq., do not have the authority to initiate or conduct an investigation of an elected Chief of Police.

[AG Op. No. 14-0035](#) - The AG has recently opined that a town may not enact ordinances and policies that interfere with the inherent power and authority of an elected chief of police in a Lawrason Act municipality. Additionally, once the Mayor and Board of Aldermen have budgeted and appropriated funds for the police department, the authority to allocate the expenditure of the funds rests with the elected chief of police.

[AG Op. No. 13-0229](#) - R.S. 33:422 and La. R.S. 13:1898 require that fines collected from tickets issued by a police officer in a Lawrason Act municipality be deposited into the municipal treasury.

AG Op. No. 13-0056 - The Board of Aldermen may, by ordinance, prohibit the personal use of vehicles by the elected chief of police and police department employees, but the ordinance may not interfere with the chief's control of the vehicle for official law enforcement purposes. Thus, the ordinance may not prohibit a police officer who does not live within municipal limits from taking a department vehicle to and from work when the chief has authorized such use for those officers who have "on call" status.

AG Op. No. 12-0195 - In a Lawrason Act municipality (R.S. 33:321, et seq.) with an elected Chief of Police, the Mayor and Board of Aldermen may not adopt an ordinance that interferes with the Chief of Police's day to day operations of his or her department. However, in such a municipality with an elected Chief of Police, the Mayor and Board of Aldermen do have decision making authority regarding the hiring and termination of police personnel. Pursuant to the Louisiana Local Government Budget Act, an elected Chief of Police must provide written notification to his or her municipal governing authority in the event his or her department exceeds its fiscal operating budget as delineated by R.S. 39:1311.

AG Op. No. 12-0009 - An elected Chief of Police of a Lawrason Act municipality may engage in private employment during off-duty hours as long as there is no conflict with any relevant ordinances and the employment does not amount to an ethical violation of the Code of Governmental Ethics.

AG Op. No. 11-0143 - In a Lawrason Act municipality, the remedy of mandamus is available to a municipal governing authority to compel a chief of police (or any public officer) to perform the ministerial duties of his office.

AG Op. No. 11-0105 - There is no authority in the Lawrason Act, or within the Louisiana Homeland Security and Emergency Assistance and Disaster Act, to allow the elected police chief to obligate a municipal facility during an emergency. That authority lies strictly with the mayor or chief executive officer.

AG Op. No. 11-0025 - The governing authority of a Lawrason Act municipality may not prohibit, by ordinance, an elected chief of police from holding employment in the private sector.

AG Op. No. 10-0036 - The law enforcement authority granted the appointed chief of police is restricted to the territorial limits of the municipality. In order to be vested with police powers outside this jurisdiction, the chief of police must obtain a special commission from the sheriff as provided in La. R.S. 13:5540. It is our further opinion that your ability to exercise the parish-wide law enforcement authority granted to you under the terms of this special commission may be restricted by ordinance of the board of alderman, and/or at the mayor's direction, as by law you are subject to the mayor's supervision.

[AG Op. No. 06-0105](#) - The chief of police, elected or appointed, may not, by agreement, transfer any powers and duties to the mayor.

[AG Op. No. 05-0170](#) - The duties, responsibilities and qualifications of an appointed chief are defined by ordinance. He or she has no other authority.

[AG Op. No. 05-0127](#) - The aldermen may not adopt an ordinance regarding the duties of an appointed chief without the concurrence of the mayor.