

"THE LAWRASON ACT"

**Prepared for the Louisiana Municipal Association
by**

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INTRODUCTION

Louisiana municipalities are governed by the Lawrason Act (hereinafter referred to as "Act") except those municipalities governed by a special legislative charter or a home rule charter or plan of government. (R.S. 33:321)

Prior to 1882, each municipality was incorporated by special legislative act which also set forth the municipal charter. In 1882, Act 49 was enacted, setting up a general method whereby any municipality might be incorporated. However this law allowed the body of a new municipality to draw up its municipal charter. Thus, between 1882 and 1898, each municipality enjoyed the right to draw up its own charter.

In 1898, the Act was enacted. It set forth a general legislative charter for all municipalities created after its effective date, as well as for those created prior to its effective date which chose to accept its provisions. The intent of this law was to provide a uniform type of government for all municipalities in Louisiana. This fundamental municipal incorporation law currently governs some 248 villages, towns, and cities.

The law is named after Judge Samuel McCutcheon Lawrason, a West Feliciana Parish lawyer born in 1852 in New Orleans. Educated in France, Spain, and West Virginia, he received his doctor of laws degree from the University of Louisiana in 1874 and opened his law practice that same year in New Orleans. He married and moved the following year to West Feliciana Parish, where he was elected parish judge. He later became a school board member, a member of the Louisiana State University's Board of Supervisors, a state senator (from 1896 to 1900 and again in 1920 to 1924), and vice president of the Louisiana Constitutional Convention of 1898. He died in 1924.

Among his numerous contributions to our state and system of government, the legislative act which bears his name is considered by many to be the most lasting and valuable. To this day, the Act continues to set the framework and guide the work of more than 75% of the incorporated municipalities in Louisiana.*

*INTRODUCTION originally prepared by the Louisiana Municipal Association.

ADOPTION OF MAYOR-BOARD OF ALDERMEN GOVERNMENT

The legislative body of a municipality not governed by the Act may, by majority vote, call an election to become so governed. A majority of the legal votes cast at the election are necessary to adopt this form of government. 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. (R.S. 33:322)

With respect to a municipality governed by a special legislative charter, if the charter is silent on a particular matter, then the Act governs. If a conflict exists between the charter and the Act, then the charter governs. (R.S. 33:481)

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

CLASSIFICATION OF MUNICIPALITIES

Classes - Municipalities are either cities, towns, or villages. Those having 5,000 inhabitants or more are cities; those having less than 5,000 but more than 1,000 are towns; and those having 1,000 or fewer inhabitants are villages. (R.S. 33:341)

Population changes - Whenever a census taken by resolution or a certified report from the federal Census Bureau shows that a municipality's population has increased or decreased so as to take the municipality out of its present class, the board of aldermen must, by resolution, 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. (R.S. 33:342(A)(1))

The mayor shall transmit the resolution to the governor. The governor investigates the facts. He is not bound by the census submitted and, if he believes the findings are inaccurate, he may ascertain the facts in any manner he deems appropriate. If the governor finds that the municipality is wrongly classified, he issues a proclamation correctly classifying the municipality, and the proclamation is transmitted to the mayor. (R.S. 33:342(B))

Upon receipt of the governor's 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 must be transmitted to the secretary of state for recordation. (R.S. 33:342(C))

However, the governing authority may elect not to change the classification of a village when a census shows that its population has increased by fewer than 200 persons since the last decennial census and such increase would otherwise change the classification to town. If the governing authority, by resolution, elects to retain its classification, the mayor must transmit a copy of the resolution to the governor and to the secretary of state for recordation. Laws

applicable to municipalities based upon their population shall be applicable to a municipality that elects not to change its classification based upon its population and not its classification. (R.S. 33:342(A)(2))

Judicial notice - The courts take judicial notice of the class to which each municipality belongs. (R.S. 33:342(D))

MUNICIPAL POWERS

A municipality may exercise any power and perform any function necessary, requisite, or proper for the management of its affairs not denied by law. In this regard, the board may levy and collect taxes, incur debt, and issue bonds and other evidences of indebtedness as authorized by law. (R.S. 33:361)

NOTE: Section 3 of Act 890 of 1985 - "Any tax or service charge being levied by any municipality subject to the provisions of Part I of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950 on January 1, 1986, is hereby ratified and shall continue to be levied as provided by law. Bonds or other obligations secured by any such municipality on the effective date of this Act (January 1, 1986) shall continue to be secured by the municipality until they are retired."

ELECTIONS

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. (R.S. 33:383(A)(1))

However, the governing authority, by ordinance, may adopt an irrevocable plan for holding elections at the 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. (R.S. 33:383(A)(2))

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. (R.S. 33:383(B))

Officers in office when a municipality elects to come under the Act retain their offices until the first election thereafter and possess the powers of like offices. (R.S. 33:383(D))

NOTE: The governing authority of any municipality with a population of not more than

1,000 persons according to the latest federal decennial census and which held municipal elections at the same time as the 2004 congressional election, was authorized, by ordinance, to adopt an irrevocable plan for holding municipal elections at the gubernatorial election. (RS. 33:383.2)

MUNICIPAL OFFICERS

The municipal officers are mayor, aldermen, chief of police, tax collector, and clerk. (R.S. 33:381(A))

Ordinance limiting terms for a municipality's elected officials approved by the voters of the municipality at an election is valid as no law, including the Lawrason Act, prohibits term limit provisions for public officials even though such ordinance is not specifically authorized by law. (AGO 00-158)

Position of clerk and tax collector is not a classified civil service employee under the 1974 constitution. (Carron v City of Opelousas, App 3 Cir. 2007, 970 So. 2d 1205)

A. Mayor

The mayor is elected at large. (R.S. 33:381(B)) He must be an elector of the municipality who at the time of qualification as a candidate has been domiciled and actually resided for at least the immediately preceding year in the municipality. (R.S. 33:384)

The mayor is the chief executive officer. (R.S. 33:362(B)) Upon written recommendation of the mayor, any department, other than the police department with an elected chief of police, may be created, abolished, merged, or consolidated by the board. (R.S. 33:362(C))

NOTE: Section 2 of Act 836 of 1997 - Any mayor serving as street commissioner on July 10, 1997 may continue to serve in such capacity.

The mayor has the additional powers, duties, and responsibilities:

(1) 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; however, no ordinance may limit the authority granted to the mayor by this provision. All administrative staff are subordinate to the mayor. (R.S. 33:404(A)(1))

Mayor can only be required to appoint department heads by ordinance if he initially made the recommendation to the board regarding the organization of municipal departments. (AGO 07-261)

Only mayor has power to conduct annual review and determine if pay raises are warranted for municipal employees. (AGO 12-0056)

Board can not mandate a cost of living salary increase to non-elected municipal employees who are under the supervision of the mayor, only mayor can determine if a pay raise is to be awarded to any such employee, provided that funds for the increase must be properly budgeted. (AGO 02-276)

Mayor is proper person to determine if non-officer employees are to be given raises. (AGO 97-492)

Maintenance of personnel records of nonclassified employees is within the control of the mayor as chief executive officer. (AGO 95-237)

Trial court order that mayor not interfere with appointed police chief was legally erroneous as contrary to clear authority granted to mayor to supervise police department's management. (Ford v. Wycoff, App 3 Cir. 2000, 757 So. 2d 833)

Mayor may not require police officer within a department headed by an elected chief of police to issue a citation. (AGO 04-0140)

Mayor may limit access to municipal facility if such access would impede daily operations of the facility or cause safety concerns. Further he may restrict access to municipal buildings by limiting the distribution of keys based on security concerns. (AGO 12-0021)

Ordinance requiring the purchase of fuel and repair of vehicles and equipment to be rotated monthly with businesses located in the municipality interferes with the authority of the mayor to conduct the daily operations of the municipality and is improper. (AGO 07-0087)

Both mayor and board have the authority to set up advisory committees. (AGO 07-261)

(2) To delegate the performance of administrative duties to such municipal officers or employees as he deems necessary and advisable. (R.S. 33:404(A)(2))

As clerk is not an elected official, the mayor, with the confirmation of the board, may appoint someone other than the clerk to take the minutes of a board meeting. (AGO 06-0070)

(3) 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. However, appointment or removal of a nonelected chief of police, the clerk, the attorney, or any department head is subject to board approval, except that in the case of a tie vote, the mayor's recommendation prevails. Furthermore, selection or removal of any person engaged

to conduct an examination, review, compilation, or audit of municipal books and accounts pursuant to R.S. 24:513, is subject to board approval. (R.S. 33:404(A)(3))

Mayor's authority to hire and fire includes the power to suspend. (Bourgere v. Anzelmo, App 5 Cir. 1988, 517 So. 2d 1121)

Mayor does not have authority to abolish civil service position. (Walker v. City of Opelousas, App. 3 Cir. 2002, 817 So. 2d 1258)

Board does not have authority to remove nonelected chief of police without mayor's concurrence or recommendation. (In re Dismissal of Jordan, App 2 Cir. 1994, 631 So. 2d 57)

Ordinance giving authority to appointed department heads to hire and fire municipal employees is invalid as an infringement on the powers and function of the mayor. (AGO 07-0082)

"Selection" of auditor by mayor requires that the mayor expressly state a preference among auditor applicants. (AGO 10-0083)

(4) To sign all contracts on behalf of the municipality. (R.S. 33:404(A)(4))

While mayor may sign contracts on behalf of municipality, he may not enter into a contract involving expenditure of municipal funds, incurring municipal debt, or transfer of municipal property without board approval. (AGO 07-0018; 11-0084)

Mayor cannot unilaterally hire and pay an attorney to defend him at the cost of municipality unless board concurs or funds have already been budgeted by board for legal services. (AGO 09-0132)

Mayor alone can select lowest bidder for a contract when authorized by ordinance or municipal policy. (AGO 01-14)

Mayor cannot unilaterally terminate a contract which has been approved by board without a vote to do so by board. However, if mayor attempts to do so, and board tacitly ratifies his action, it might be judicially determined that contract was terminated. (AGO 090-0181)

In order for a contract extension approved by the city council to be valid, the mayor must sign the contract. (AGO 10-0245)

(5) 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 and any other supplementary laws or ordinances. (R.S. 33:404(A)(5))

Under this provision and the Local Government Budget Act, the annual budget submitted by the mayor must include recommended expenditures of the police department of an elected chief of police. (AGO 13-162)

(6) To represent the municipality on all occasions required by state law or ordinance. (R.S. 33:404(A)(6))

(7) To be the keeper of the municipal seal and affix it as required by law. (R.S. 33:404(A)(7))

(8) 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. (R.S. 33:404(A)(8))

Ordinance requiring all bills over \$100 be submitted to board for payment approval impinges on authority of mayor. (AGO 03-0036)

Mayor can pay specific bills without board approval when the bills fall within a category on approved budget and proper appropriations were made. Board can require list of all accounts and accounts payable and purchase orders be presented to them by mayor. (AGO 03-183)

Mayor may require an additional signature on all checks drawn upon municipal treasury so long as mayor still signs all checks, the additional signatory has no discretion regarding signing the checks, and mayor retains authority to revoke second signature requirement. (AGO 05-0003)

Mayor may not make changes to municipal budget unilaterally by refusing to pay salary of a Parish Council on Aging site manager after salary has been properly approved by previous mayor and board and funds have been duly appropriated. (AGO 09-0187)

Mayor has the authority to expend public funds to promote, encourage, and develop industry, trade and commerce, which may include the town hosting a music event, if the funding for the event does not exceed the amount allocated by the board in the funds budgeted for the purpose of entertainment and attractions. (AGO 10-0268)

(9) To have any other power or perform any other duty as may be necessary or proper for the administration of municipal affairs not denied by law. (R.S. 33:404(A)(9))

Control of litigation is within power of mayor, subject to budgetary control of board. (AGO 96-34)

Investment of surplus monies is an executive function and mayor can transfer monies from one investment vehicle to another without prior board approval. (AGO 00-205)

Disability - If the mayor is unable to carry out the duties of the office 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 any such disability. (R.S. 33:405(A)(4))

B. Board of Aldermen

Powers - The legislative powers of the municipality are vested in and exercised by the board. (R.S. 33:362(A)(1))

Board has control over the municipal fisc and their express or implicit authorization is required for all public expenditures. AGO 94-520

Board has no power to remove mayor from office. (Higginbotham v. Flood, App. 2nd Cir. 2010, 36 So. 3rd 444) Board has no power to declare a vacancy in elected office. (AGO 12-0097 and 12-0045)

Outside of R.S. 33:404(A)(3), board does not have authority to hire, fire, or discipline municipal employees or to review the termination of municipal employees made by the mayor. (AGO 12-0056)

Board can not mandate cost of living salary increase to non-elected municipal employees who are under the supervision of mayor, only mayor can determine if a pay raise is to be awarded to any such employee, provided that funds for the increase must be properly budgeted. (AGO 02-276)

Both mayor and board have authority to set up advisory committees. (AGO 07-261)

Aldermen have no individual authority to issue work orders to a department, as this administrative task is delegated to mayor. (AGO 92-454)

An alderman, acting alone and without authority from the board, cannot bind town to pay attorney for legal advice. (AGO 98-474)

These powers include, but are not limited to:

(1) Enacting ordinances and enforcing the same by fine not to exceed \$500 dollars or imprisonment not exceeding 60 days, or both. (R.S. 33:3612(A)(2)(b))

Board, by ordinance, can terminate mayor's authorization to use a municipal credit card. (AGO 04-0126)

Ordinance can require mayor to appoint department heads only if mayor initially made

recommendation to board regarding organization of municipal departments. (AGO 07-261)

Board can validly require all municipal vehicles, except police units, be parked at a municipal facility at close of the business day, if done by ordinance. (AGO 03-183)

Ordinance requiring purchase of fuel and repair of vehicles and equipment to be rotated monthly with businesses located in municipality interferes with authority of mayor to conduct daily operations of municipality and is improper. (AGO 07-0087)

(2) Providing by ordinance for assessing against the abutting property the cost of cutting, destroying, or removing noxious weeds, grass, or other deleterious, unhealthy, or noxious growths or accumulations on any sidewalk; assessing on the owner of such lot or place or area the cost of cutting, destroying, or removing noxious weeds, grass or other deleterious, unhealthy, or noxious growths or accumulations within the corporate limits; and on the owner of any lot or place or area within the corporate limit 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 providing for the filing of notice of such cost 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. (R.S. 33:362(A)(2)(c))

(3) Seeking reimbursement from a former municipal employee on whose behalf the municipality paid licensure fees for a commercial driver's license when such employee is employed for a period of six months or less from the date upon which the municipality paid such 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. (R.S. 33:362(A)(2)(d))

(4) Subject to law and applicable civil service rules and regulations, by ordinance, providing policies and procedures regulating the employment of municipal employees including the hiring and firing of such employees. (R.S. 33:362(A)(3))

Board cannot alter rules for vacation days for municipal employees by motion as an ordinance is required. (AGO 12-0043)

Board may adopt personnel policy, by ordinance, that regulates the rights of at-will non-civil service employees, neither in policy-making nor confidential duties, to engage in political activity and provide that such an employee shall be terminated or required to take a mandatory leave of absence if the employee participates in any political activity or seeks political office. (AGO 11-0215)

(5) Creating, abolishing, merging, or consolidating any department, other than the police department with an elected chief of police, upon written recommendation of the mayor. (R.S.

33:362(C))

Number - The number of aldermen in a city must be not less than five nor more than nine; the number of aldermen in a town is five; and the number of aldermen in a village is three. (R.S. 33:382(A))

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. If a town is divided into districts, one alderman is elected from each district and one elected at large. Aldermen in villages are elected at large. (R.S. 33:382(B))

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 must be contiguous. (R.S. 33:382(C)(1))

The board may, by ordinance, divide the board into divisions, such that aldermen are elected at large but each alderman is elected to a specific division for the sole purpose of nomination and election and which is designated alphabetically. Of the initial aldermen to be elected under this provision, the alderman senior in point of 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 division first in alphabetical order. The successor to any alderman presides over the same division as his predecessor. A candidate for such nomination and election shall, at the time of filing his declaration as a candidate, designate the division for which he is a candidate. The electors shall elect one alderman from among the candidates for each division. (R.S. 33:382(C)(2))

The board may establish, by ordinance, that aldermen are to be elected in a manner different from that provided in R.S. 33:382. 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 R.S. 33:382, or that only some of the board members be elected to particular divisions. However, no ordinance changing the manner in which aldermen are elected shall be adopted within one year of the date of an election for aldermen. (R.S. 33:382(D))

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 only be changed 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. (R.S. 33:382(E))

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 any such reconsideration shall be to determine if the boundaries of the districts continue to divide the municipality into districts of nearly equal population. (R.S. 33:382(F)(1))

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. (R.S. 33:382(F)(2))

The boundaries of any election district for a new 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. (R.S. 33:382(G))

Qualifications - Qualifications of aldermen are the same as for the mayor, and in addition, those elected from wards must be residents of their respective wards. (R.S. 33:385(A))

Vacancies - A vacancy in the office of alderman is filled pursuant to R.S. 18:602. [The governing authority, within 20 days, appoints a person to fill the vacancy who meets the qualifications of the office. The presiding officer is not be required to vote on such an appointment unless a tie vote occurs, in which case he must vote to break the tie; however, in no case shall he vote more than once on the appointment. If a vacancy is not filled within the time specified, the governor fills the vacancy. If the unexpired term of an office is one year 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 one year, the governing authority, within 20 days after the vacancy occurs, must issue a proclamation ordering a special election to fill the vacancy and specify in the proclamation, the dates on which the primary and general elections will be held and, 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 a year of the occurrence of the vacancy or may select an election date in accordance with state law. If the governing authority fails to issue the proclamation within 20 days after the vacancy occurs, the governor issues the proclamation. 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 do so, the members of the board must notify the governor of the existence of the vacancy, and within **10** days after he receives the notice, the governor shall make an appointment to fill the vacancy. (R.S. 33:385(B))

Dual officeholding - In addition to the Dual Officeholding and Dual Employment Law (R.S. 42:61 et. seq), the Act provides that no board member shall hold any other office or employment under the municipal government while a member of the board, except as is provided for in R.S. 33:381 and R.S. 33:386. (R.S. 33:385(C))

NOTE: Section 2 of Act 836 of 1997 - Any alderman serving as clerk or as street commissioner on July 10, 1997 may continue to serve in such capacity.

Board member cannot also be a member of municipal planning commission or municipal board of adjustment. (AGO 07-0109)

Council - The governing authority may, by resolution, elect to be known and referred to as a village, town, or city council as appropriate. Each member of the council is known and referred to as a council member. The governing authority may make other conforming changes in naming conventions, but no change shall in any way alter the applicability of state law to the municipality, its governing authority, or the members thereof. The governing authority shall submit a copy of the adopted resolution to the secretary of state for recordation. (R.S. 33:343)

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

Mayor must vote to break a tie vote for mayor pro-tempore. (AGO 03-0053)

If the mayor is unable to attend a board meeting, the mayor pro tempore shall preside with all rights and powers granted to the mayor with regard to presiding. (R.S. 33:405(A)(3))

If the mayor is unable to carry out the duties of the office 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 any such disability. (R.S. 33:405(A)(4))

Otherwise, the mayor pro tempore has no additional authority to perform the duties of the mayor except as provided by law or upon the written consent of the mayor. (R.S. 33:405(A)(4))

Mayor pro tempore is authorized to sign municipal payroll checks in mayor's absence. (AGO 09-0103)

C. Chief of police (marshal)

The chief of police (marshal) is elected at large. (R.S. 33:381(B)) He must be an elector of the municipality. At the time of qualification as a candidate, he must have been domiciled for at least the immediately preceding year in the municipality. (R.S. 33:385.1(A)) However, the elected chief of a village at the time of qualification as a candidate must have been domiciled for at least the immediately preceding six months in the village. (R.S. 33:385.1(B))

Municipalities where the chief is appointed rather than elected as of August 1, 1970, may continue to operate with an appointive chief. (R.S. 33:381(B))

A majority of the qualified electors voting at a special election called by the board for that

purpose, may authorize the mayor to appoint the chief, with board approval. The election must be called only upon the presentation of a petition, directed to the board and signed by at least 25% of the qualified electors of the municipality. Once the election has been called and held, no further or other election on the same question can be held for at least four years.

Upon a vote to authorize the mayor to appoint the chief, the first appointment shall be made at the end of the term of the chief in office at the time the election was held unless at that time the office of chief is vacant or the incumbent is an appointed official.

Upon the expiration of at least four years after the effective date of determination that the chief be appointed rather elected, the people may determine that the office shall be elective, but only in the same manner and procedure as described above. (R.S. 33:381.1)

A municipality with a population of 5,000 or less according to the latest federal decennial census, voters may, at a special election called by the municipal governing authority for that purpose, authorize the mayor to thereafter appoint a marshal who is the chief of police with the approval of the governing authority or provide for the election of a marshal who is the chief of police. The election is called only upon the adoption of an ordinance by a two-thirds vote of the governing authority. Once the election has been called and held, no further or other election on the same question shall be held for at least four years. If the voters authorize the mayor to appoint the marshal, the first appointment shall be made at the end of the term of the marshal in office at the time the election was held unless at that time the office of marshal is vacant or the incumbent is an appointed official. If the voters vote to elect the marshal, the term for the elected marshal shall begin at the end of the term of the marshal in office at the time the election was held unless at that time the office of marshal is vacant. Upon the expiration of at least four years after the effective date of any such determination that the marshal shall be an appointed rather than an elected official or an elected rather than an appointed official, the people of any such municipality may determine that said official shall be elected or appointed, according to the same procedure. (R.S. 33:381.2)

In addition, certain municipalities have been authorized by law to conduct an election to abolish the office of chief of police. (See LOCAL PROVISIONS)

Powers. The chief is ex officio a constable. He 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 is to perform all other duties required of him by ordinance. (R.S. 33:423) The chief of police may be tax collector or assessor, if the board so decides. (R.S. 33:381(B))

Term. The term of a nonelected chief of police ends at the time of the first regular meeting of the board of aldermen succeeding each regular municipal election. (R.S. 33:386(D))

General.

Authority of chief as chief law enforcement officer of municipality, within municipal limits and as to all offenses, may not be superseded or limited by sheriff. (AGO 97-484)

Sheriff and chief of police within a municipality share concurrent jurisdiction. (AGO 05-0221)

Off-duty officers may utilize department equipment for private security work. (AGO 12-0009)

Chief may not by agreement transfer his powers and duties to mayor. (AGO 00-51)

Chief is not empowered to contract privately for the performance of office duties. (AGO 07-0048)

Chief is not authorized to enter into agreement permitting the use of a municipal facility during an emergency. (AGO 11-0105)

Chief cannot use a police vehicle assigned for him for personal use without authorization of mayor or board. (Lentini v. City of Kenner, 211 So. 2d 311 (La. 1968); AGO 96-475; AGO 00-398)

Ordinance may regulate use of police vehicles outside of municipal limits, but may not impinge upon authority of chief to supervise and control his office, office equipment, and office personnel. (AGO 97-558; AGO 05-0224)

Ordinance may not prohibit the elected chief of police or any of his certified police officers, while on duty, from carrying a taser or any other electrical device on their person. (AGO 13-162)

Mayor and board may require chief to restrict use of assigned vehicle to official business and may further require the vehicle to be parked at the police department when the vehicle is not being used for official business. (AGO 11-0125)

Board does not have authority to declare police department "drug" dog surplus property and sell the dog but could by specific budgetary appropriations limit funding for the continued maintenance and use of the "drug" dog. (AGO 05-224)

Reserve or auxiliary officers, whether compensated or not, are considered "police personnel" and must be approved by board. Once approved, they may not be compensated without approval of the governing authority. (AGO 02-0360)

Chief may authorize an on call reserve officer to drive police vehicle to and from home outside of

municipal limits; such use does not constitute compensation. (AGO 09-0013)

Absent an ordinance or civil service rule to the contrary, no state law prohibits placing a police department employee on administrative leave with pay while under investigation. (AG) 00-0254)

Police department is not a separate and distinct juridical entity from municipality for workers' compensation purposes. Dugas v. City of Breaux Bridge Police Department, 757 So. 2d 741 (App. 3 Cir, 2000)

There is no authority for the chief of police to establish a separate fund for the deposit of monies generated by the police department. (AGO 98-469) However, mayoral authority over municipal fund accounts does not extend to private funds generated by volunteer police reserve units. (AGO 91-568)

The elected chief of police is not required to inform the mayor when he leave town to attend mandatory police training. (AGO 13-162)

Elected Chief of Police.

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)

However, an elected chief may make a provisional appointment to immediately fill any vacancy in the police department subject to the approval of the mayor. Any such action shall be deliberated at the first special or regular meeting of the board after any such provisional appointment has been approved by the mayor. Any such provisional appointment shall remain in effect unless rejected by the board. (R.S. 33:423(C)(2)(a))

In addition, an elected chief may immediately effect disciplinary action on police personnel and dismiss any such personnel subject to board approval. Any such disciplinary action or dismissal shall be deliberated by the board at the first special or regular meeting after any such determination has been made by the chief. (R.S. 33:423(C)(1)(a))

Finally, there are several laws that authorize the chief of police of certain named municipalities to appoint and discharge and to impose discipline unilaterally within their department. (See LOCAL PROVISIONS)

Mayor and board lack authority to unilaterally terminate a police employee without recommendation of elected chief. Thibodeaux v. Hernandez, App. 3 Cir. 1997, 702 So. 2d 1157.

Chief is mandated by law to make personnel recommendation to mayor and board for

disciplinary action. Board and mayor may seek a writ of mandamus against the chief who fails to make a recommendation. (AGO 10-0052)

Once a recommendation is made by chief, board may take its own action. Grant v. Grace, 870 So. 2d 1011 (La. 2004) A decision by an elected chief that “no disciplinary or corrective action ... is justified or warranted” against an officer is a recommendation. (AGO 04-0271)

Neither mayor nor board may suspend or dismiss an elected chief. (AGO 97-246)

Elected chief is not required to establish certain "working hours". (Cogswell v. Town of Logansport, 321 So. 2d 774 (La. 2 Cir. 1975); AGO 95-13; 98-469)

An elected police chief may engage in private security employment during his off-duty hours as long as there is no conflict with municipal ordinance or ethical violation of the Code of Governmental Ethics. (AGO 12-0009)

Board may not legally prohibit an elected chief from holding employment in the private sector. (AGO 11-25)

Elected chief has discretion to determine whether charges are to be referred to district court or mayor's court. (AGO 81-1312)

Elected chief may use vehicle assigned on 24-hour basis for personal use so long as cost associated with the personal use does not exceed the public benefits of having the chief able to respond to emergencies on a 24-hour basis. (AGO 10-0250)

The use of a police vehicle by an officer of a police department under an elected chief of police to travel to and from home while on call, when authorized by the chief, is not for personal use. (AGO 13-52)

Board does not have authority to set quotas, either directly or indirectly, for amount of traffic tickets that must be issued by police department with an elected chief of police. However, establishing ticket quotas is permissible when done by the elected chief of police (AGO 05-0038)

Absent a controlling law or ordinance, department policy or custom regarding annual leave accumulation may be set by the chief. In the absence of any law, ordinance, policy, or custom, annual leave would have to be used before the end of the year or be lost. (AGO 99-0034)

Absent a specific ordinance providing so, an elected chief of police is not entitled to receive compensation for any accrued annual leave upon leaving office. (AG) 05-0007]]

An elected chief is without authority to unilaterally promote an officer. (AGO 04-0141)

Board cannot grant a raise to a police officer without first giving notice to elected chief of police as law requires that chief make a recommendation. (AGO 05-250)

Appointed Chief of Police. The 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 his jurisdiction, the chief of police must obtain a special commission from the sheriff. (AGO 10-0036)

Discipline of a police officer with an appointed chief is by mayor. (AGO 96-259)

D. Clerk

At the first regular board meeting succeeding each regular municipal election, the mayor, subject to board confirmation, must appoint a clerk. In making or approving such appointments and in filling vacancies, the mayor and board shall give preference to municipal residents if all other considerations are equal. (R.S. 33:386(A)) The term of the clerk ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D))

The clerk shall serve as auditor. (R.S. 33:422) The clerk may also be tax collector or assessor, if the board so decides. (R.S. 33:381(B))

NOTE: Any alderman serving as clerk on July 10, 1997 may continue to serve in such capacity. (Section 2 of Act 836 of 1997)

Position of clerk and tax collector is not a classified civil service employee under the 1974 constitution. (Carron v City of Opelousas, App 3 Cir. 2007, 970 So. 2d 1205)

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 he shall record the proceedings of the mayor and board, and keep the same fully indexed alphabetically, so that all entries on the minutes can be easily found. (R.S. 33:421)

As clerk is not an elected official, mayor, with confirmation of board, may appoint someone other than clerk to take minutes of a board meeting. (AGO 06-0070)

Seal - The clerk is the custodian of the municipal seal. (R.S. 33:421)

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 he shall enter each claim against the municipality, and each subject matter to be acted upon by the mayor and board. After each meeting he shall make up such docket for the next regular meeting. He is to examine state laws and municipal ordinances to ascertain subject matter required or proper to be acted

upon at the following meeting, and docket all such matters. (R.S. 33:421)

Records - He is to keep such other books and records as may be provided for by ordinance, and file in his office and preserve all records and papers appertaining to the business of the municipality. (R.S. 33:421)

Tax records - The clerk is to keep a book to be styled "Tax Record, City (or town, or village) of _____," in which he shall enter all deeds to individuals, and the list of lands sold to the municipality by the tax collector, showing (a) description of the land, (b) as whose property sold, (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. (R.S. 33:421)

Board may require by ordinance that position of clerk is full time and, unless an ordinance requires that clerk maintain his office in municipal hall, he is to keep his records wherever he has his office. (AGO 98-418)

Auditor - The clerk is also the auditor. He 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 the same 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 such 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)

E. Tax collector

At the first regular board meeting succeeding each regular municipal election, the mayor, subject to board confirmation, must appoint a tax collector. In making or approving such appointment and in filling vacancies, the mayor and board shall give preference to municipal residents if all other considerations are equal. (R.S. 33:386(A)) The term of the tax collector ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D))

The tax collector must collect, account for, and pay over all taxes levied by the municipality, and perform all other duties required of him by ordinance, or as may be required by law of collectors of parish and state taxes, under the same penalties prescribed by law for the collection of state and parish taxes. The tax collector, and the sureties on his official bond, are liable to the municipality for any defalcation, shortage or embezzlement of, or failure to account for, funds of the municipality collected by him, until he has obtained a quietus or discharge from the municipality for the amount of such collections, and for all public money with which he may have been entrusted.

Notwithstanding his term as tax collector may have expired, the liability of the tax collector, and the sureties on his official bond, shall be a continuing liability enforceable by the municipality against any property of the tax collector, and that of the sureties on his official bond, standing of record in his or their names at the date of the discovery of such defalcation, shortage, embezzlement or failure to account for, said funds, and until such quietus or discharge has been obtained, and regardless of whether the official bond has been placed on record or not.

If the surety on the bond is an indemnity company authorized to do business in this state, or if there are personal sureties, it or the personal sureties, or either of them, 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, if more than two years have elapsed from the date of the discovery of any defalcation, shortage or embezzlement of, or failure to account for, any funds of the municipality, without legal action having been taken by the municipality to collect the sum or sums representing the alleged defalcation, shortage or embezzlement of, or unaccounted for, funds, from the tax collector or his sureties.

The obligations imposed upon the tax collector, and the sureties on his official bond, and the measure of their respective liabilities on the bond and the effect thereof upon the respective properties of such tax collector, or sureties, shall be implied conditions of the bond fully binding and enforceable against the tax collector and sureties on his bond and their respective properties, as though the same had been specially written therein. (R.S. 33:424)

The clerk or chief of police may be a tax collector or assessor, if the board so decides. (R.S. 33:381(B))

Position of clerk and tax collector is not a classified civil service employee under the 1974 constitution. (Carron v City of Opelousas, App 3 Cir. 2007, 970 So. 2d 1205)

Some municipalities have been exempted from having a tax collector. (See LOCAL PROVISIONS)

F. Treasurer

The treasurer is to receive, safely keep, and pay out according to law, all monies belonging to the municipality. He must keep accurate accounts of all receipts and disbursements, and make written report of municipal finances to the mayor and board, at each regular meeting; perform all other duties prescribed by ordinance; and pay out money only on the warrant issued by the order of the mayor and board. (R.S. 33:425)

Fines collected for violation of municipal ordinances are to be deposited into the treasury unless provided otherwise by governing authority. (AGO 94-538)

G. Street commissioner

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; has them worked, repaired, altered, paved, lighted, sprinkled, and everything else done that ought to be done to keep them in good repair and condition; and performs all other duties as directed by the mayor. (R.S. 33:426)

The term of the street commissioner ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D))

NOTE: Any mayor or alderman serving as street commissioner on July 10, 1997 may continue to serve in such capacity. (Section 2 of Act 836 of 1997)

H. Attorney

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 such officers, and other duties as prescribed by the mayor. The municipality may also employ counsel to represent its interest should the occasion require. (R.S. 33:386(C))

The term of the municipal attorney ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D))

A municipal attorney is a public officer because he was not under the direct supervision or control of an employer. (Ardoin v. Rougeau, App. 3 Cir. 1996, 670 So. 2d 441)

I. Matters Regarding Officers

Appointment - At the first regular board meeting succeeding each regular municipal election, the mayor, subject to board confirmation, must appoint a clerk, tax collector and all other necessary officers whose election is not provided for in R.S. 33:381. In the event of a vacancy, the mayor, subject to board confirmation, will appoint a successor. In making or approving such appointments and in filling vacancies, the mayor and board shall give preference to municipal residents if all other considerations are equal. (R.S. 33:386(A))

NOTE: Section 2 of Act 836 of 1997 provides that "Any alderman serving as clerk and any mayor or alderman serving as street commissioner on July 10, 1997 may continue to serve in such capacity."

A position not specifically mentioned in R.S. 33:386 as an office nor specifically created by an ordinance is not an office, but employment within mayor's power to appoint and remove. (AGO 07-0122)

Bond - The clerk and tax collector must execute bonds to the municipality in such amounts and with such surety and conditions as may be prescribed by ordinance and 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. However, the board shall not reduce the compensation of any elected official during the term for which he is elected. (R.S. 33:404.1)

Salary fixed by ordinance cannot be increased by resolution, but only by amending ordinance. Salary of an elected official may be reduced after official is elected but before he begins his term, so long as the reduced salary is reasonable. (Smith v. Town of Cotton Valley, App. 2 Cir. 1991, 584 So. 2d 1199, writ denied 589 So. 2d 1057); however, the Third Circuit Court of Appeal has held that salary of an elected official is fixed on date of the official's election. (Avoyelles Parish Justice of the Peace v. Avoyelles Parish Police Jury, App. 3 Cir. 1999, 758 So. 2d 161, writ denied 754 So. 2d 217)

Annual salary of an elected official is not reduced by adoption of a budget which does not clearly indicate an intent to do so. (Matt v. Town of Eunice, App. 1 Cir. 1927, 6 La. App. 465)

Appropriation ordinance which has a line item "Administrative Salary" under the "Police Dept." does not fix the compensation of chief of police "with sufficient certainty" as required by law. At a bare minimum, ordinance to be valid for such purpose must state some version of "the salary of the chief of police is hereby fixed at \$_____." (Rogers v Town of Arcadia, App 2 Cir. 2002, 813 So. 2d 1110)

When board compensation is based upon a per diem per meeting, no compensation is due when meeting does not occur due to a lack of a quorum. (AGO 05-0179)

Term - The term of the clerk, tax collector, nonelected chief of police, street commissioner, attorney, and court magistrate ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D))

Vacancy - Any vacancy to which the 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 - In addition to the Code of Governmental Ethics (R.S. 42:1101 et seq.), the Act provides that 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(D))

BOARD MEETINGS

Open Meetings - All meetings are subject to the Open Meetings Law. (R.S. 33:405(G))

Presiding Officer - The mayor presides at all board meetings, and in case there is an equal division, he shall give the deciding vote. (R.S. 33:405(A)(1)) If the mayor is unable to attend a board meeting, the mayor pro tempore shall preside with all rights and powers granted to the mayor with regard to presiding. If both the mayor and mayor pro tempore are unable to attend a board meeting, the board may select another alderman to preside with all rights and powers granted to the mayor with regard to presiding at any such meeting. (R.S. 33:405(A)(3))

Mayor may adopt procedures for placing items on the meeting agenda and for conducting meetings of board so long as these procedures conform to ordinances. Mayor may instruct clerk to add or remove items from the agenda if not in conflict with clerk's duties or any other procedures adopted by board. Clerk does not have authority to refuse to place items on the agenda requested by mayor when no written rules have been adopted regarding the agenda and since mayor is supervisor of the clerk. (AGO 05-0145)

By ordinance, board may bind mayor and limit his authority to place items on the agenda of board meetings, except in two circumstances, when mayor calls a special meeting or when mayor calls an emergency meeting. (AGO 06-0083)

Board may, by resolution, adopt rules for participation in meetings and mayor is bound by the rules. (AGO 08-0325)

Initial meeting - The governing authority of a newly incorporated municipality may hold its first meeting at such time and place as may be most convenient, but thereafter must meet regularly at a specified date, place, and hour formally designated by ordinance. (R.S. 33:405(B))

Regular meetings - The mayor and board must hold not less than one regular meeting in each month on a date and at a place and hour to be fixed by ordinance. (R.S. 33:405(A)(2))

Mayor cannot unilaterally move a regular monthly meeting of board when it is set by ordinance. (AGO 08-254)

Mayor, on his own, cannot cancel a regular meeting of board which is set by ordinance. (AGO 93-644)

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. No business, except that specified in the notice, is to be considered at the meeting 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. (R.S. 33:405(C))

Mayor may not refuse to hold a special meeting that has been called by a majority of the board. (AGO 13-46)

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. The board may adopt an ordinance at an emergency meeting 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 it becomes effective. (R.S. 33:405(D))

Quorum - A majority of the members of the board constitutes a quorum at any meeting. (R.S. 33:405(E))

The mayor pro tempore is included in the number of board members for quorum purposes. (AGO 04-0359)

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 can not be continued but once. (R.S. 33:405(F))

ORDINANCES AND RESOLUTIONS

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" No ordinance can be adopted except by the affirmative vote of a majority of the board members. (R.S. 33:406(A)(1))

Lawrason Act does not require motion and second for introduction of an ordinance or resolution. (AGO 91-518)

Mayor is not allowed to cast his vote to break a tie vote of board in the enactment of an ordinance. (AGO 93-441)

Resolutions - Any act of the board which 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. No resolution requires the signature or other action of the mayor to become effective. (R.S. 33:406(A)(2))

Mayor may vote to break a tie vote to adopt a resolution when there is equal division of votes among board members present. When there is a tie vote, with a board member abstaining, mayor has no authority to cast the deciding vote. (City of Pineville v. American Federation of State, County, and Municipal Employees, 791 So. 2d 609 (La. 2001))

Mayor may not break a tie vote on a resolution by submitting his vote in writing after the meeting at which the tie vote occurred has adjourned. (AGO 07-0040)

Mayor may not veto a motion adopted by the board. (AGO 13-95)

Appropriations, etc - Any act of the board which would provide for the appropriation of funds, the incurrence of debt, or the issuance of bonds or other evidences of indebtedness must be by 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. The resolution must be presented to the mayor within three days after its adoption for his approval or disapproval.

An amendment to annual operating budget must be made by ordinance. (AGO 00-462)

Procedure for ordinance - A proposed ordinance may be introduced by any alderman at any board meeting. Each proposed ordinance is to be in writing. An ordinance can contain only one subject which is to be indicated in its title except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of municipal ordinances. (R.S. 33:406(B)(1))

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), must be published once in the official journal. The notice must indicate the time and place where 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), can be adopted at the meeting at which it is introduced.

(R.S. 33:406(B)(2))

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 to it. (R.S. 33:406(B)(3))

An ordinance can not be amended by a resolution or motion. (AGO 93-616)

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. (R.S. 33:406(B)(4))

Every ordinance adopted by the board must be signed by the clerk and presented by him to the mayor within three days after its adoption. (R.S. 33:406(C)(1))

The mayor, within 10 days of receipt of an ordinance, must return it to the clerk with or without his approval, or with his disapproval. If the ordinance is approved by the mayor or is returned by the mayor with neither his 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 receipt of the ordinance by the mayor. If the mayor disapproves the ordinance, he shall, within 10 days after its receipt, return the ordinance along with his written statement of the reasons for his veto to the clerk 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. (R.S. 33:406(C)(2))

Mayor's written reasons for veto of an ordinance is proper and valid if returned through electronic format and without a formal handwritten signature. (AGO 09-0016)

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. (R.S. 33:406(C)(3))

The clerk is to keep a book entitled "Ordinances, City (or Town, or Village) of" in which he shall file the original of every ordinance which has been adopted by the board immediately after its passage and attach a note to the ordinance 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. (R.S. 33:406(D)(1))

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). (R.S. 33:406(D)(2))

Unless an ordinance specifies an earlier or later effective date, the ordinance takes effect on the thirtieth day after the meeting in which the ordinance was adopted. (R.S. 33:406(E))

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. After January 1, 1986, every resolution suspending an ordinance shall fix the period of suspension, which can not exceed beyond one year and 30 days after the date of the meeting in which the ordinance was suspended. (R.S. 33:406(F))

MAYOR'S COURT

Authorization; Jurisdiction - Except where city courts exist, there shall be a mayor's court in the municipality, with jurisdiction over all violations of municipal ordinances. (R.S. 33:441 (A)) Since 1974, the legislature has created several specific mayor's courts by law (See LOCAL PROVISIONS)

A municipality may reactivate a mayor's court that was deactivated after effective date of constitution. (AGO 94-160)

A municipality created after 1973 cannot create a mayor's court. (AGO 96-141)

Mayor's court has concurrent (not exclusive) jurisdiction over violation of municipal ordinances with district court. (AGO 81-1339)

Presiding officer - As presiding officer of the court, the mayor may try all breaches of the ordinances and impose fines or imprisonment, or both, provided for the violation. (R.S. 33:441(A))

Mayor cannot validly issue an executive order compelling the referral of all misdemeanors "arising under" municipal ordinance to mayor's court. (AGO 81-1312)

Presiding officer of the court has sole discretion on whether or not to issue arrest warrants for persons who commit contempt of court by failing to appear pursuant to a subpoena. (AGO 98-235)

Costs - The mayor may also impose court costs not to exceed \$30 for each offense, as defined by ordinance, on any defendant convicted of a violation. The mayor may authorize that a portion of court costs assessed be deposited into a special account and transmitted to the Louisiana Association of Chiefs of Police to be used for law enforcement education and training as required by state law. (R.S. 33:441(A)(1)) In addition, there are several laws which authorize specific mayor's courts to impose additional local costs (See LOCAL PROVISIONS). Finally, the court is required by law to assess additional costs due the state.

Mayor may impose the statutory maximum and board may not limit mayor's authority in this respect. (AGO 97-118)]

Suspension of sentence; probation - When a defendant has been convicted of violation of an ordinance, the mayor may suspend the imposition or the execution of the whole or any part of the sentence and place the defendant on unsupervised probation upon such conditions as the mayor may fix. The suspension of sentence and probation shall be for a period of six months or such shorter period as the mayor may specify. However, in no case shall the probationary period imposed exceed the maximum penalty of imprisonment that may be imposed for violation of a particular ordinance. Further, the mayor may suspend the execution in whole or in part of a fine or imprisonment, or both, imposed for violation of an ordinance and place the defendant on unsupervised or supervised probation with such conditions as the mayor may fix and, at any time during the probation, modify, add, or discharge. The probation shall be for a period as the mayor shall specify up to one year. The mayor may terminate or revoke the probation at any time. At the termination of the probation, the mayor may set the conviction aside and dismiss the prosecution. (R.S. 33:441(A))

Mayor as magistrate - The mayor has the power of a committing magistrate. (R.S. 33:441(C))

Immunity - The presiding officer of a mayor's court is entitled to judicial immunity for his official acts as presiding officer in the same capacity as a judge in this state. (R.S. 33:441(D))

Appointed magistrates - The board may, upon request of the mayor, appoint one or more attorneys to be designated as court magistrate to serve at the pleasure of the mayor and who may from time to time be designated by the mayor to serve in his stead as the presiding official over the mayor's court. Whenever the magistrate is so designated by the mayor to preside over the mayor's court, he exercises the powers and authority of the mayor over the court. The board is to fix and pay the salary of the each magistrate, if any are appointed. (R.S. 33:441(B)(1)) The term court magistrate ends at the time of the first regular board meeting succeeding each regular municipal election. (R.S. 33:386(D)) In addition, there are several laws authorizing appointment of magistrates for specific mayor's courts. (See LOCAL PROVISIONS)

Appointed prosecutors - The board may, upon request of the mayor, appoint one or more

attorneys who shall be designated as prosecutor and who shall serve at the pleasure of the mayor. The board is to fix and pay the salary of each prosecutor, if any are appointed. (R.S. 33:441(B)(2))

Docket - The mayor shall keep a regular docket, on which he shall enter the causes arising under the ordinances and to be tried by him. He shall keep a perfect record of all cases tried. (R.S. 33:442)

Sessions - The mayor may hold his court at any time. (R.S. 33:442)

Marshal - The marshal is to attend the court and serve its process and act as its executive officer. (R.S. 33:442)

AD VALOREM TAXES

Assessment - The assessment of property for taxation is made by the clerk or tax collector, by copying from the parish assessment rolls that portion which embraces property or persons within the corporate limits. The copy may be made at any time after the assessment rolls are approved, and all changes in the parish assessment thereafter made shall likewise be made in the copy. The copy must be placed in the hands of the municipal tax collector, and be his warrant for the collection of municipal taxes.

In all cases where persons or property have escaped taxation for a previous year, the clerk shall assess the same for taxation, and his assessment, when approved by the mayor and board, on notice to the person assessed, shall be binding and conclusive, unless appealed from within five days after their approval.

Levy - The mayor and board shall levy the municipal taxes at the regular meeting in September of each year, or, in case of failure to do so, at any other regular meeting thereafter.

Collection - The tax collector is to collect municipal taxes during the time and in the same manner and under the same penalties as the state and parish taxes are collected. He must, where not otherwise provided, be governed by the general revenue laws of the state, so far as applicable, in making such collection; but he is to make the required reports to the mayor and board, pay over the money collected to the municipal treasurer; and receive only such commission or compensation as may be allowed by ordinance.

Nonpayment - Sales for the nonpayment of municipal taxes are made by the tax collector at such place, within the corporate limits as the mayor and board may direct. The sale of real estate and the distraint and sale of personal property shall be made upon the same notice, at the same time, and in the same manner as provided by law for sale of like property for unpaid state and parish taxes.

The deed to the purchasers for lands so sold shall be filed with the parish clerk of court, and remain subject to redemption for the same length of time, and in the same manner as prescribed for the redemption of land sold for state and parish taxes.

Where lands are offered for sale for unpaid municipal taxes, and a person will not bid therefor, the amount of taxes, damages, and costs due the same shall be struck off to the municipality, and otherwise dealt with as lands which are sold to the state for delinquent state and parish taxes. The board may pay the state and parish taxes on lands thus acquired by it, and collect the money thus paid, with the damages and interest allowed individuals in similar cases under the general revenue laws of the state, from the date of such payment, upon the redemption of the lands from the municipal sale.

The deeds of the tax collectors to individuals and a list of the lands sold to the municipality, which shall be made as required to be made by the state and parish collector, shall be filed within 10 days after the tax sale, with the municipal clerk. Each shall have the same force and effect, and confer the same right, and be entitled to the same remedies, as deeds and lists made for delinquent taxes by the state and parish tax collector, but such title shall be subject to a title acquired under a sale for state and parish taxes. (R.S. 33:461)

EXPENDITURES AND WARRANTS

All expenditures of money for any purpose whatever shall be in pursuance of a specific appropriation made by order and in no other manner and shall be made in accordance with the Public Bid Law. Every warrant drawn on the treasury shall express on its face to whom issued and for what purpose allowed; and the ordinance authorizing its issue shall be cited by minute book and page, in or upon it. (R.S. 33:462)

Mayor may not expend municipal funds without a specific appropriation. (AGO 00-439)]

As all monies belonging to municipality are subject to control of the mayor and board, chief of police is subject to municipal regulations concerning the issuance of purchase orders. (AGO 93-75)

Once funds are budgeted and appropriated to police department pursuant to ordinance, authority to allocate expenditure of these funds rests with elected chief of police. (Doyle v. City of Harahan, App. 5 Cir. 1992, 610 So. 2d 272; AGO 99-406)

Board, constituting legislative branch of municipal government, has no duty to approve payment of bills by mayor. (AGO 89-90)]

ANNUAL FINANCIAL STATEMENT

The mayor and board are to produce an annual financial statement of the municipality in accordance with generally accepted accounting principles. The minutes of the board must acknowledge that the financial statements have been produced and are available for public inspection. A copy of the annual financial statement must be transmitted to the legislative auditor within six months of the close of the fiscal year. (R.S. 33:463)

LOCAL PROVISIONS

<u>Municipality</u>	<u>Subject Matter</u>
Albany -	authority to appoint court magistrate (R.S. 33:441.22)
Addis -	authority to appoint court magistrate (R.S. 33:441.16)
Amite City -	discipline of personnel by chief of police (R.S. 423.17)
Basile -	authorizes mayor to impose additional court costs (R.S. 33:447.8)
Benton -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Berwick -	authorizes appointment of court magistrate (R.S. 33:445)
Bienville -	authorizes election to abolish office of chief of police (R.S. 33:381(C)(28))
Blanchard -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Boyce -	chief of police authorized to effect disciplinary action on police personnel without approval of municipal governing authority. (R.S. 33:423(C)(1)(b)) chief of police authorized to appoint police personnel, including authority to make provisional appointments, subject to budgetary limitations of chief pertaining to the number of allotted positions for police department, subject to mayor's concurrence. (R.S. 33:423(C)(2)(b))
Broussard -	authority to appoint court magistrate (R.S. 33:441.26) discipline of personnel by chief of police (R.S. 33:423.15)
Brusly -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Carencro -	discipline of personnel by chief of police (R.S. 33:423.16)
Castor -	authority for appointed chief of police (R.S. 33:381(C)(9))
Central -	creates mayor's court (R.S. 33:453) authority to appoint court magistrate (R.S. 33:441.31)
Cheneyville -	appointed chief of police (R.S. 33:381(C)(19))
Clarks -	creates mayor's court (R.S. 33:451)
Clinton -	authorizes mayor to impose additional court costs (R.S. 33:447.3)
Cottonport -	authority to appoint court magistrate (R.S. 33:441.8)
Delcambre -	authority to appoint court magistrate (R.S. 3:441.3) authorizes mayor to impose additional court costs (R.S. 33:447.2)
Denham Springs -	exception to having tax collector (R.S. 33:381(D)(2) and R.S. 33:461(C)(2))
DeQuincy -	authority to appoint court magistrate (R.S. 33:441.15) authorizes mayor to impose additional court costs (R.S. 33:447.1) authorizes mayor to appoint one or more attorneys as magistrate (R.S. 33:441.15)
Dry Prong -	appointed chief of police (R.S. 33:381(C)(27))
Duson -	appointed chief of police (R.S. 33:381(C)(29))
Elton -	authorizes mayor to impose additional court costs (R.S. 33:447.5)
Erath -	permits alderman to enter into contracts with town (R.S. 33:385(C)) authority to appoint court magistrate (R.S. 33:441.9) authorizes mayor to impose additional court costs (R.S. 33:447.2)

<u>Municipality</u>	<u>Subject Matter</u>
Evergreen -	authority to appoint court magistrate (R.S. 33:452)
	authority to appoint court magistrate (R.S. 33:441.30)
Ferriday -	authority to appoint court magistrate (R.S. 33:441.14)
Forest -	creates mayor's court (R.S. 33:447)
Golden Meadow -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Goldona -	provides for election to abolish office of chief of police upon recommendation of mayor (R.S. 33:381(C)(32)) (Act 134)
Gonzales -	appointment, discipline, & discharge of personnel by police chief (R.S. 33:423.8)
Grambling -	appointed chief of police (R.S. 33:381(C)(23))
Gramercy -	authority to appoint court magistrate (R.S. 33:441.29)
	additional costs in mayor's court (R.S. 33:447.7)
Grand Cane -	appointed chief of police and authorizes board of aldermen, on mayor's recommendation, to abolish office. (R.S. 33:381(C)(17))
Grand Isle -	appointment, discipline, & discharge of personnel by police chief (R.S. 33:423.13)
Greenwood -	authority to appoint chief of police (R.S. 33:381(C)(22))
	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Gretna -	appointment and discharge of personnel by chief of police (R.S. 33:423.3)
	authority to appoint court magistrate (R.S. 33:441.20)
Gueydan -	restrictions on compensation increases for officials and employees. (R.S. 33:364)
Harahan -	authority to enact term limits for officials (R.S. 33:383.1)
	appointment and discharge of personnel by chief of police (R.S. 33:423.2)
	authority to appoint court magistrate (R.S. 33:443)
Heflin -	establishes mayor's court (R.S. 33:449)
Hessmer -	authority to appoint court magistrate (R.S. 33:441.23)
Hosston -	creates mayor's court (R.S. 33:454)
Ida-	creates mayor's court (R.S. 33:441.32)
Independence -	appointment and discharge of personnel by chief of police (R.S. 33:423.21)
Iowa -	authority to appoint court magistrate (R.S. 33:441.11)
	discipline of personnel by chief of police (R.S. 33:423.12)
Jamestown -	authority for appointed chief of police (R.S. 33:381(C)(8))
Jean Lafitte -	authority to appoint court magistrate (R.S. 33:441.2)
	authority to appoint chief of police (R.S. 33:381(C)(30))
	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Jena -	authority to appoint court magistrate (R.S. 33:441.25)
Jonesboro -	authority to appoint court magistrate (R.S. 33:441.19)
	name town hall (R.S. 33:365)
Jonesville -	authority for mayor pro tempore to preside in court (R.S. 33:441.4)
Kaplan -	authority over personnel by police chief (R.S. 33:423.24)

<u>Municipality</u>	<u>Subject Matter</u>
Kenner -	authority to appoint court magistrates (R.S. 33:441.1(A)) authority to institute prosecution by affidavit or information (R.S. 33:441.1(B)) authorizes clerk of court to use electronic signature or facsimile signature of prosecuting attorney to bills of information (R.S. 33:441.1(B)(3)) creates and provides for animal hearing officer (R.S. 33:441.1(C))
Kinder -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Lake Charles	- authorizes proration of ad valorem taxes on annexed property (R.S. 33:461(A)(1)(b))
Lecompte -	appointed chief of police (R.S. 33:381(C)(18))
Lisbon -	appointed chief of police (R.S. 33:381(C)(26))
Livingston -	discipline of personnel by chief of police (R.S. 33:423.18)
Lockport -	authority to appoint court magistrate (R.S. 33:441.10) authorizes mayor to impose additional court costs (R.S. 33:447.10)
Logansport -	authority to appoint chief of police (R.S. 33:381(C)(2))
Longstreet -	authority to appoint chief of police (R.S. 33:381(C)(21))
Loreauville -	appointed chief of police (R.S. 33:381(C)(11)) authority to appoint court magistrate (R.S. 33:441.21)
Lutcher -	authority to appoint court magistrate (R.S. 33:441.28) additional costs in mayor's court (R.S. 33:447.6)
Mandeville -	law enforcement jurisdiction of governing authority (R.S. 33:423.1)
Mansura -	authority to appoint court magistrate (R.S. 33:441.7)
Maurice -	permits nonresident to be elected chief of police (R.S. 33:385.1(A)) authority to appoint court magistrate (R.S. 33:441.5)
McNary -	authority to appoint chief of police or abolish the office (R.S. 33:381(C)(20))
Moreauville -	appointed chief of police (R.S. 33:381(C)(10))
Napoleonville	- authority for appointed chief of police (R.S. 33:381(C)(3)) exception to qualifications for elected chief of police (R.S. 33:385.1)
New Llano -	creates mayor's court (R.S. 33:448) authorizes mayor to impose additional court costs (R.S. 33:448)
New Roads -	authority to appoint court magistrate (R.S. 33:441.27)
Norwood -	appointed chief of police (R.S. 33:381(C)(6))
Oak Grove -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Oak Ridge -	appointed chief of police (R.S. 33:381(C)(12))
Oakdale -	special election for elected chief of police. (R.S. 33:381(C)(1))
Oil City -	appointed chief of police (R.S. 33:381(C)(15))
Palmetto -	academic scholarships. (R.S. 33:363)
Patterson -	appointment and discharge of personnel by chief of police (R.S. 33:423.7) authority to appoint court magistrate (R.S. 33:446)
Pearl River -	appointment and discharge of personnel by chief of police (R.S. 33:423.22)
Plaucheville-	appointed chief of police (R.S. 33:381(C)(5))

<u>Municipality</u>	<u>Subject Matter</u>
Ponchatoula-	authority of chief of police over personnel (R.S. 33:423.19)
Port Barre -	authorizes mayor to impose additional court costs (R.S. 33:447.2)
Port Vincent -	appointed chief of police. (R.S. 33:381(C)(1))
Richwood -	appointed chief of police (R.S. 33:381(C)(4)) exception to having tax collector (R.S. 33:381(D)(1) and R.S. 33:461(C)(1)) authorizes mayor to impose additional court costs (R.S. 33:447.2)
Rodessa -	appointed chief of police (R.S. 33:381(C)(16))
St. Francisville -	appointed chief of police (R.S. 33:381(C)(7))
St. Gabriel -	creates mayor's court (R.S. 33:450)
St. Joseph -	appointed chief of police. (R.S. 33:381(C)(1))
Scott -	discipline of personnel by chief of police (R.S. 33:423.5)
Shongaloo -	authority to appoint chief of police (R.S. 33:381(C)(13))
Sikes -	authority to appoint chief of police (R.S. 33:381(C)(25))
Simmesport -	authority to appoint court magistrate (R.S. 33:441.18) authorizes mayor to impose additional court costs (R.S. 33:447.2) authority for appointed chief of police (R.S. 33:381(C)(31))
South Mansfield -	appointed chief of police (R.S. 33:381(C)(14))
Sterlington -	exception to having tax collector (R.S. 33:381(D)(1)) authorizes mayor to impose additional court costs (R.S. 33:447.9)
Tickfaw -	authority of chief of police over personnel (R.S. 33:423.10)
Ville Platte -	discipline of personnel by chief of police (R.S. 33:423.4)
Vinton -	authorizes mayor to impose additional court costs (R.S. 33:447.4)
Walker -	authority to appoint court magistrate (R.S. 33:441.6)
Waterproof -	appointed chief of police (R.S. 33:381(C)(1))
Welsh -	authority to appoint court magistrate (R.S. 33:441.12) discipline of personnel by police chief (R.S. 33:423.25) (Act 120)
Westlake -	authority to appoint court magistrate (R.S. 33:441.13) grants jurisdiction over collection of utility accounts (R.S. 441.13)
Westwego -	appointment and discharge of personnel by chief of police (R.S. 33:423.6) authority to appoint court magistrate (R.S. 33:444) property taxes due on March 31st (R.S. 33:461(A)(4)(b)) duties of assistant chief of police determined by chief of police, and assistant chief acts as chief in the administration of the police department in the absence of the police chief. (R.S. 33:423.14)
White Castle -	authority to appoint court magistrate (R.S. 33:441.17) appointment and discharge of personnel by chief of police (R.S. 33:423.20) authorizes mayor to impose additional court costs (R.S. 33:447.2)
Winnfield -	discipline of personnel by police chief (R.S. 33:423.11)
Woodworth -	appointed chief of police (R.S. 33:381(C)(24))
Youngsville -	authority to appoint court magistrate (R.S. 33:441.24) discipline of personnel by police chief (R.S. 33:423.23)