



RECLASSIFICATION OF MUNICIPALITIES FOLLOWING A FEDERAL CENSUS

R.S. 33:341 – 33:342

INTRODUCTION

The recent completion of the decennial Federal Census requires that municipalities review their current classification status as a village, town, or city, and determine if the certified Federal Census population counts will require them to change such classification due to increases or decreases in the population of the inhabitants of the municipality. This requirement primarily effects Lawrason Act municipalities. Municipalities operating under Legislative or Home Rule Charters may be impacted as well.

The updated Federal Census population counts and proper classification of a municipality are important as various laws are made applicable based upon either the population or classification of a municipality. Laws based upon classification include laws which establish the number of aldermen/councilmembers that a Lawrason Act municipality is required to have.

Classification of Municipalities

R.S. 33:341

The provisions of [R.S. 33:341](#) classifies municipalities according to their population as either a village, town, or city.

Village – Population of one thousand or fewer inhabitants

Town – Population of less than five thousand but more than one thousand inhabitants

City – Population of five thousand or more inhabitants.

Number of Board of Aldermen/Councilmembers Based on Classification

R.S. 33:382

The number of aldermen/councilmembers for a Lawrason Act municipality is determined by its classification.

Villages

Villages have three aldermen/councilmembers which are elected at large.

Towns

Towns have five aldermen/councilmembers.

The aldermen/council members may either all be elected at large, or if the town is divided into districts, one alderman/councilmember shall be elected from each district and one elected at large.

Cities

Cities may have no fewer than five nor more than nine aldermen/councilmembers.

- If the city has eight or nine aldermen/councilmembers, two must be elected from each district, with the remainder elected at large.
- If the City has seven or fewer aldermen/councilmembers, an equal number of aldermen/councilmembers shall be elected from each district and the remainder elected at large.

The Attorney General (AG) has opined that [R.S. 33:382](#) mandates that the number of aldermen/councilmembers shall change when a municipality's classification is changed according to [R.S. 33:342](#). Further, the AG has opined that upon a classification change creating additional

alderman/councilmember seats, the municipality should follow the procedures outlined in [R.S. 18:602](#) to appoint and fill any newly created vacant seats and issue a proclamation ordering a special election, if needed. See **AG Op. No. 02-0029**.

Whenever a municipality loses population and is required to reduce the number of aldermen/councilmembers upon reclassification, the reduction in positions will take effect at the next regularly scheduled primary elections.

Reclassification Mandated Upon Completion of Federal Census

[R.S. 33:342](#)

The law mandates that municipalities reclassify upon confirmed changes in their population following a Federal Census when the population change brings them into a different category of municipality. For instance, if a town is certified as losing inhabitants following a Census such that its population drops below one thousand and one inhabitants, the municipality shall be reclassified as a village. The provisions of [R.S. 33:342](#) lay out the process for reclassification, including mechanisms that mandate the process occur.

The law provides a limited exception in [R.S. 33:342\(A\)\(2\)](#) to allow a village to elect to remain a village in certain circumstances. A municipality which is classified as a village may elect under this exception 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 Federal Census. See also, [AG Op. No. 24-0017](#) 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. *Id.*

For laws applicable to municipalities based upon their population, a municipality that elects not to change its classification from village to town, despite its population change, shall be controlled by its population and not by its classification.

There is no similar exception for towns which are required to reclassify as cities, nor are there any exceptions which would allow a municipality to avoid reclassifying upon a loss of population.



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Reclassification Process

The provisions of [R.S. 33:342](#) set forth six steps which must be undertaken in order for a municipality to modify/correct its classification following the completion of the Federal Census. Those steps are as follows:

1. Census

The provisions of [R.S. 33:342](#) mandate that the reclassification process of a municipality be undertaken upon the conclusion of the Federal Census every ten years, when a municipality receives a certified report from the Federal Census Bureau that shows an increase or decrease in population that would take a municipality out of its current classification.

The census report must be certified by the Federal Census Bureau. It is not sufficient for a municipality's clerk to certify to veracity of a copy of the Federal Census Report. See **AG Op. No. 98-0417**.

The AG has cautioned that the issuance of any official proclamation changing the classification of a municipality based upon the Federal Census should, out of an abundance of caution, wait to proceed until population counts from the Federal Census are no longer subject to correction for undercount or overcount. See **AG Op. No. 91-0364**.

[R.S. 1:11](#)(B) provides that a particular Federal Census shall become the "latest" and the "most recent" Federal Census on August first of the year following the year in which the Census is taken and shall remain so until August first of the year following the subsequent Federal Census.

The law, as discussed further below, also provides for an alternative census method in which the board of aldermen/council, through resolution, authorizes the taking of a special census.

The AG has opined that any census for the purpose of reclassification of a municipality must be either the Federal Census or a special census authorized by resolution of the governing authority of the municipality. However, the results of the Census, Federal or special, alone is insufficient for a municipality to reclassify. The municipality must meet all of the requirements set forth in [R.S. 33:342](#) in order to complete the reclassification process. See **AG Op. No. 05-0183**

2. Adoption and Transmission of Resolution Requesting Governor Reclassify the Municipality

Upon the certification of the results of the Federal Census by the Federal Census Bureau the board of aldermen/council shall adopt a resolution requesting the Governor to change the classification of the municipality.

The mayor, on behalf of the municipality, shall transmit the resolution to the Governor.

3. Governor's Investigation

Upon receipt of the resolution adopted by the municipality requesting reclassification, the Governor is charged with investigating the facts. The Governor's investigation is not bound by the census submitted; and, if the Governor believes that the results are inaccurate, the Governor may ascertain the facts in any manner the Governor deems appropriate. [R.S. 33:342\(B\)](#).

Traditionally, the Governor's executive counsel submits the resolution and accompanying documents to the AG in the form of an opinion request. See **AG Op. No. 05-0335**, **AG Op. No. 98-0468**, **AG Op. No. 91-0364**, and **AG Op. No. 89-0524**. Based upon the facts and documents presented, the AG will generally recommend either that the Governor proceed with reclassification, or, if there are deficiencies, note the deficiencies that must be corrected by the municipality in order to proceed with reclassification.

4. Governor Issues Proclamation Reclassifying Municipality

If the Governor, upon conclusion of the investigation, finds that the municipality is misclassified, the Governor shall issue a proclamation correctly identifying the municipality, and shall transmit such proclamation to the mayor of the municipality. [R.S. 33:342\(B\)](#).

5. Municipality Adopts Ordinance Changing Name of Municipality

Upon receipt of the Governor's proclamation, the board of aldermen/council shall adopt an ordinance changing the name of the municipality to reflect its new classification. For instance, if a village's increase in population requires it to become a town, the adopted ordinance shall order the municipality's name be the Town of (Name of Municipality). [R.S. 33:342\(C\)](#).

6. Municipality Records Proclamation and Ordinance with Secretary of State

The municipality shall ensure that a copy of the Governor's Proclamation and the adopted ordinance are transmitted to the Secretary of State for recordation. [R.S. 33:342\(C\)](#).

Upon the completion of the Reclassification Process, as noted above, a Lawrason Act municipality shall address any required changes in the number of required aldermen/councilmembers for their new classification pursuant to [R.S. 33:382](#). If the municipality is required to add additional aldermen/councilmembers, the municipality shall take the steps as outlined in [R.S. 18:602](#) to make appointments to fill any vacancy, and order the holding of a special election, if needed (See AG Op No 02-0029). If the municipality is required to reduce its number of aldermen/councilmembers following reclassification, such reduction will take effect with the next regularly scheduled primary election.

Judicial Notice of Classification

The Courts shall take judicial notice of the class to which each municipality belongs.

Special Census Authorized by Resolution of Board of Aldermen/Council

In lieu of relying on the Federal Census or if there are population increases or decreases between Federal censuses, the board of aldermen/council may, through adoption of a resolution, authorize the taking of a special census to determine the population of the municipality for the purpose of reclassification.

A municipality which questions the correctness of its population count in the Federal Census Report may through resolution authorize a special census. The results of the special census may then be used in the place of the Federal Census for the purpose of reclassification. See **AG Op. No. 91-0519**.

The results of any special census taken by resolution of the board of aldermen/council shall be certified by the person authorized to take the special census.

A resolution which retroactively adopts the findings of a third party, such as a university, does not meet the requirements of [R.S. 33:342](#). See **AG Op. No. 99-0107**.

[R.S. 1:11.1](#) authorizes incorporated municipalities to take a special census when ordered by the governing authority of the municipality, i.e., the board of aldermen/council, with all costs paid by the municipality. However, [R.S. 1:11.1](#) mandates that upon the taking of a special census, another special census shall not be taken for at least a three year period.

The AG has noted that [R.S. 1:11.1](#) does not identify or require a specific method to be utilized by a municipality in taking a special census. See [AG Op. No. 16-0106](#).

Upon the receipt of the certified results of the special census, the board of aldermen/council shall complete the remainder of the reclassification process (steps 2-6), as outlined above.

Additional Information on Lawrason Act

For additional information on the requirements of the Lawrason Act, please see the LLA's [Lawrason Act FAQ](#), which can be found on the [Legal Assistance & FAQs Overview](#) page of the Louisiana Legislative Auditor's website.