

Each day your Missouri Municipal League staff answers dozens of questions on municipal issues. This column discusses some of the most common questions the League staff receives. This issue's column is devoted to the classification of Missouri municipalities. As with all legal matters, municipal officials are urged to consult their city attorney for guidance in the specific problems faced by their municipality. Answers provided in this column should serve only as a general reference.

### WHY DOES A MUNICIPALITY'S CLASSIFICATION MATTER?

One of the first questions League staff may ask when someone calls the League with an inquiry is "What class of municipality is this"? That's because the classification of the municipality in many ways determines how the municipality operates. Different laws apply to different classes of municipalities. Everything, from whether the city may have a city manager to the number of elected members of the governing body, is determined by the municipality's legal classification. Knowing your municipality's classification is fundamental to understanding the authority and restrictions under which it operates.

### WHERE CAN I FIND OUT THE CLASS OF A PARTICULAR CITY?

There are lots of sources for this. Asking the city clerk is probably the easiest. The *Missouri Secretary of State's Blue Book* lists all Missouri municipalities, along with their classification and population and is available online at [http://www.sos.mo.gov/BlueBook/2013-2014/8\\_CityCounty.pdf#citiescounties](http://www.sos.mo.gov/BlueBook/2013-2014/8_CityCounty.pdf#citiescounties). Another great reference source is the League's website. The website includes a member search function that provides lots of details about all 675 League member municipalities - from classification to population to zoning enactment, as well as contact information.

### WHAT ARE THE CLASSIFICATIONS FOR MISSOURI MUNICIPALITIES?

In Missouri, municipalities fall into five distinct classifications: home rule charter, third class, fourth class, village and special legislative charter. The term municipality is used to include any of these types of political subdivisions,

while the word city, when used in a legal context, excludes villages. In Missouri, the phrase "statutory cities" is generally used to distinguish third class, fourth class, and villages from home rule cities.

### WHY AREN'T THERE ANY FIRST- OR SECOND-CLASS CITIES IN MISSOURI?

In 1875, the Missouri Constitution led the nation in providing that the state's largest municipalities could provide their own structure of government by drafting home rule charters for approval by the voters. For many years, St. Louis and Kansas City were the only constitutional charter cities in the state. In 1946, the voters approved a constitutional amendment to permit home rule status for municipalities over 10,000 population. Between 1946 and 1971, most of the existing first- or second-class cities (about 20) drafted and adopted home rule charters, in addition to the previously adopted charters in St. Louis and Kansas City. In 1971, the voters approved another amendment that broadened home rule powers and lowered the population requirement from 10,000 to 5,000. By 1975, all of the cities that were first or second class opted to become home rule charter cities, and the Missouri legislature repealed the chapters authorizing first- and second-class cities, realizing that in the future any growing municipality would opt for becoming a home rule city.

### WHAT DOES IT MEAN TO BE A HOME RULE CITY?

In essence, home rule charter cities have the authority to enact any local ordinance or policy as long as the authority can be found in the local charter and is not in conflict with state law or federal law. The 41 Missouri municipalities operating under home rule authority enjoy a much broader range of flexibility when responding to municipal needs than Missouri's statutory cities. Statutory cities only have those powers specifically granted to them under the Missouri statutes.

### WHAT ARE THE STEPS TO BECOMING A HOME RULE CITY?

A municipality must have a population of at least 5,000 to become a home rule city. The first step in moving towards home rule is having the municipal governing body submit the question "Shall a commission be chosen to frame a charter"? to the voters. The 13 members of the charter commission will

have the duty of creating the charter. The members of the committee are elected and typically an election is held in conjunction with the vote on whether to form a charter commission. The charter formed by the commission is then submitted to the electors at an election held at a time fixed by the commission, but not less than 30 days subsequent to completion of the charter; nor, more than one year from the date of the election of the commission. A technical bulletin on model charters is available to download on the League's website or by contacting League headquarters.

### WHAT ARE THE TYPES OF STATUTORY CITIES IN MISSOURI?

There are four classifications for statutory cities in Missouri: villages, fourth class, third class and special legislative charter (also called special charter). Much of the law regarding these four classifications can be found in their respective chapters in Missouri Statutes: Villages (Chapter 80), fourth class (Chapter 79), and third class (Chapter 77).

### WHAT ARE THE REQUIREMENTS FOR CHANGING A MUNICIPALITY'S CLASSIFICATION?

There are two basic requirements to change the classification. First, the municipality must meet the threshold population for the new classification: fourth class - 500 (with some exceptions); third class - 3,000; home rule - 5,000. Second, the change in classification must be approved by a simple majority of the voters in a city-wide election.

### OUR VILLAGE POPULATION IS MORE THAN 500, SHOULDN'T WE BE CLASSIFIED AS A FOURTH-CLASS CITY?

It should be emphasized that once a community is incorporated under a given classification, the municipality does not automatically change classifications with a gain or loss of population. A municipality may change classification only when the change is approved by a majority vote of the people. Some of the more notable examples of municipalities having perhaps unexpected classifications include: fourth class, St. Peters with a population of 52,000; third class, Huntsville population 1,564; and Bel-Ridge, village, with a population of 2,737.

## WHAT IS A SPECIAL CHARTER OR LEGISLATIVE CHARTER CITY?

Special charter cities operate under their own unique individual charters granted to them by the Missouri Legislature, generally in the late 1800s. They are similar to home rule charter cities in that the procedures and powers of the city are delimited by their local charter. However, unlike home rule charter cities, special charter cities would need the formal action of the state legislature to change their charter; while home rule charter cities can amend their local charter by a vote of the local citizens. Further, special legislative charter cities must look to their charter or state law to find a grant of authority before they may carry out a policy or program. Whereas, home rule charter cities generally need only make sure the policy will not conflict with state or federal law. Missouri Statute Chapter 81 provides the primary guidance for the operation of special charter cities. All special charter cities (regardless of population) have the option of changing to home rule with a vote of the people. Augusta, Miami, Missouri City, Liberty, Chillicothe, Pleasant Hill, Carrollton and La Grange are the only remaining special charter cities in Missouri.

## WHAT ARE THE PRIMARY DIFFERENCES BETWEEN VILLAGES AND FOURTH-CLASS CITIES?

One of the most noticeable distinctions between municipal classifications is simply the different names given to the governing bodies. In villages, the legislative body is known as a board of trustees. The trustees elect from among their members a chairman who presides at the board meetings. Fourth-class cities are governed by a board of aldermen and a mayor who is elected at large. Usually the aldermen are elected from wards, while in villages the trustees are elected at large. A recent change to Missouri law allows aldermen in fourth-class cities to be elected at large in cities with a population of less than 1,000.

One of the most important differences between villages and fourth-class cities is that the general property tax levy for a village is limited to \$.50 (per one-hundred dollars assessed valuation) while fourth-class cities may levy a tax up to \$1 (per one-hundred dollars assessed valuation). Both have the ability to impose a \$.30 levy (per one-hundred dollars assessed valuation)

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above their respective limits with a two-thirds vote and a four-year sunset. Generally, the statutes governing fourth-class cities are considered to be at least somewhat less ambiguous than those governing villages. There are approximately 300 villages and 550 fourth-class cities in Missouri.

## WHAT ARE THE PRIMARY DIFFERENCES BETWEEN FOURTH CLASS AND THIRD-CLASS CITIES?

Again, one of the most noticeable distinctions between classifications is simply the different names given to the governing bodies. In third-class cities, the legislative members are known as city councilmembers (with exceptions) while in fourth-class cities they are called aldermen. Both third- and fourth-class cities have mayors. In general, the taxing authority and most other powers are very similar between third- and fourth-class cities. Both third- and fourth-class cities have the option of employing a city administrator. The ability of the citizens to recall elected officials via petition and recall an election is provided under third-class city statutes, but not in fourth class. Another important distinction is that third-class cities have the option of utilizing alternative forms for their governance. These forms include the City Manager Form and the City Commission Form. There are approximately 55 third-class cities in Missouri.

## WHAT ARE THE ALTERNATE FORMS OF GOVERNMENT IN THIRD-CLASS CITIES?

State law (Chapter 78 RSMo.) for third-class cities provides two alternative structures for the operation and division of authority in those cities: Commission Form and City Manager Form. Under the Commission Form, the lines between the legislative branch and executive branch are softened. In addition to having a vote as a member of the governing body, each commissioner also is given executive power and oversight for particular departments in the city government. West Plains is the only remaining Commission Form, third-class city in Missouri. The other alternate form for third-class cities is the City Manager Form. While the terms city administrator and city manager both denote an appointed municipal official serving in an executive capacity, there is a very important distinction. In city administrator cities, the elected mayor is considered the chief executive officer while, a city manager in a third-class city is technically the chief executive.

Much more information about the different forms of municipal government in Missouri is available in the League's technical bulletin *Forms of Government in Missouri Municipalities*, available online on the MML website under the "Publications" tab. □