CHARTER FORM OF GOVERNMENT: A census taken by a fourth class
CITY OF THE FOURTH CLASS: city pursuant to Section 81.030,
CENSUS: RSMo 1959, has the legal force
and effect of a federal decennial
census under Section 82.020, RSMo
1959, for the purposes of a deter-
mination of the population or number of inhabitants required
for adoption of a Charter form of government under Article VI,
Section 19, of the Constitution.

OPINION NO. 159

March 7, 1967

FILED
159

Honorable Everett Carlson
State Representative, District 19,
House Post Office
Capitol Building
Jefferson City, Missouri

Dear Representative Carlson:

This is in response to your request for an opinion con-
cerning whether or not the City of Lee's Summit is qualified
under the law and under the constitution to begin proceedings
to adopt a charter form of government.

Article VI, Section 19, of the Constitution states that
any city having more than 10,000 inhabitants may frame and adopt
a charter form for its own government, and prescribes the manner
by which this form of government is adopted.

It is our understanding that the population of Lee's Summit
in 1960, according to the federal decennial census, was 8,267
persons. You have also advised that since that census there has
been an annexation. However, the total 1960 census with the
annexed population did not exceed 10,000 inhabitants. In addition,
it is our understanding that Lee's Summit is classified as a
fourth class city, having been incorporated in the year 1868.

Section 82.020, RSMo 1959, states:

"Any city in this state which now has or
which may hereafter have a population of
more than ten thousand inhabitants accord-
ing to the last preceding federal decennial
census may frame and adopt or amend a chart-
er for its own government by complying with

the provisions of sections 19 and 20 of
article VI of the constitution of this
state, or any amendments thereof."

It appears to us in the absence of any other substantive
law bearing upon this point, that Lee's Summit would not qual-
ify inasmuch as the last preceding federal decennial census,
that is of 1960, even including the annexed area, did not ex-
ceed 10,000 inhabitants.

However, we call your attention to Section 81.030, RSMo
1959, which states in part:

"Any such city may at any time, by ordi-
nance and at the expense of the city,
cause an enumeration of its inhabitants
to be made, and its population ascer-
tained, and such census, when so taken,
shall have like force and effect as a
state or national census to authorize
such city to proceed in securing such
other incorporation as its population
may entitle it to under the laws and
constitution of this state, and for any
other purpose that the laws may require,
or have any other act or thing to be
done making the population a basis there-
of * * *"

The effect of this section then, which pertains to fourth
class cities, is to allow such city by ordinance and at its
own expense to cause a census to be taken and gives such census
when taken as provided in this context, the effect of a federal
decennial census. Section 81.030, is therefore applicable to
Lee's Summit and having given the city census the like effect
and force as the national census, it appears that there is a
manner for the adoption of the charter form of government with-
out waiting for another federal decennial census.

CONCLUSION

It is, therefore, the opinion of this office that a fourth
class city may cause a census to be taken at its own expense
pursuant to Section 81.030, RSMo 1959, and that this census will
have the like force and effect of a federal decennial census
under Section 82.020, RSMo 1959. The city census thus taken as

Honorable Everett Carlson

provided may then be used as the basis for determination of
the population or number of inhabitants required for adoption
of a charter form of government under Article VI, Section 19,
of the Constitution.

This opinion, which I hereby approve, was prepared by my
assistant John C. Klaffenbach.

Yours very truly,

NORMAN H. ANDERSON
Attorney General