



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

February 4, 1975

Opinion No. 75-38

Mr. Richard H. Rumsey  
Rumsey, Cox & Rickey  
1041 North Waco  
Wichita, Kansas 67203

Dear Mr. Rumsey:

As counsel for the City of Cheney, you inquire concerning two proposed ordinances, one being a charter ordinance. The proposed charter ordinance exempts the city from the residence requirements of K.S.A. 15-209 as applied to the city administrator, the appointment of which is also authorized by that ordinance. The proposed ordinary ordinance prescribes the duties of that position, provides for fixing the salary thereof and other similar details.

These proposed ordinances constitute, in our opinion, a valid and lawful exercise of the constitutional home rule powers of the city. It is certainly within the home rule power of the city to exempt the position of city administrator from the residence requirement of K.S.A. 15-209, and it is within both the statutory power, see K.S.A. 15-204, and the constitutional power of the city to appoint such officers and employees as it deems appropriate. The enumeration of duties of the proposed city administrator suggests no improper delegation of duties by the governing body.

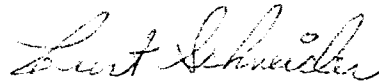
Section 2(A) of the ordinary ordinance provides that it shall be the duty of the administrator to recommend to the governing body the hiring and firing of city employees and administrative officers. It might be helpful, to avoid troublesome conflict in the future, if this particular provision were clarified, e.g., to specify more clearly whether the recommendation of the city administrator is a prerequisite to the hiring or firing of a city employee, and what group of positions are "administrative officers." It may also be helpful to include a provision dealing with vacancies in the

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position of city administrator. If the position is created, and the administrator becomes a valuable part of the functioning of city government, a vacancy in that position may give rise to temporary problems, part of which, at least, could be anticipated by a specific provision governing the filling of vacancies, and the discharge of the duties of that position in the interim.

The ordinances, as stated above, are in our opinion clearly lawful exercises of the constitutional home rule and statutory power of the city. I hope these brief suggestions will be helpful to you and the city.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj