Mr. Shortlidge:

K.S.A. 19-1310 provides thus:

"All attorneys registered under this act shall not be liable to pay any occupation tax or city license fees levied under the laws of this state by any municipality."

You request my opinion whether the City of Overland Park may by charter ordinance exempt itself from this prohibition.

Article 12, § 5(b) of the Kansas Constitution provides in pertinent part thus:

"Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges
and other exactions except when and as the
levying of any tax, excise, fee, charge or
other exaction is limited or prohibited by
enactment of the legislature applicable uni-
formly to all cities of the same class . . . . "

K.S.A. 19-1310 was first enacted in 1919, as § 3 of ch. 178.
Sections 1 and 2 of the original enactment, as amended many times
in the intervening years, are found at K.S.A. 19-1308 and K.S.A.
1977 Supp. 19-1309. K.S.A. 19-1310 applies to only those "attor-
eyes registered under this act." [Emphasis supplied.] Thus,
the application of K.S.A. 19-1310 is governed by the two preceding
sections of the act, now the sections referenced above. K.S.A.
19-1308 limits the application of the act to only those classes
of counties enumerated therein. The act does not apply to all
counties, and thus, it does not apply to all cities. The con-
stitutional power of a Kansas city to levy an occupation tax or
city license fee or tax is subject only to enactments of the
legislature which apply uniformly to all cities, or to all cities
within any one of not to exceed four classes of cities established
by the legislature for the purpose of imposing such limitations.
In Callaway v. City of Overland Park, 211 Kan. 646, 508 P.2d 902
(1973), the court recognized this principle thus:

"Referring . . . to the quoted portion
of subsection (b) [of Art. 12, § 5 of the
Kansas Constitution] it becomes apparent the
Constitution of the State of Kansas empowers
a city to impose or levy a business or occupa-
tion tax by revenue ordinance for the purpose
of raising revenue except where such tax has
been limited or prohibited by enactment of
the legislature applicable uniformly to all
cities of the same class." 211 Kan. at 649.

Neither K.S.A. 19-1310 nor the original enactment of which it
is a part, and as amended comprising K.S.A. 19-1308 and 1977 Supp.
19-1309, applies uniformly to all cities, nor to all cities of
any class of cities established by the legislature for the purpose
of limiting the imposing of such occupation taxes. Thus, in my
judgment, the City of Overland Park may exempt itself from the
prohibition of K.S.A. 19-1310, and impose an occupation tax upon
attorneys in that city. The enactment of an occupation tax is
clearly a local matter, and absent limiting legislation, as in this instance, it falls within the constitutional authority of the city.

Yours truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj