

STATE OF KANSAS

*Office of the Attorney General*

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*Curt T. Schneider*  
*Attorney General*

July 12, 1978

ATTORNEY GENERAL OPINION NO. 78-223

Mr. Brainard L. Anderson  
Greeley County Attorney  
511 Second Street  
Tribune, Kansas 67879

Re: Cities--Ordinances--Procedure

Synopsis: A city which has had in force for fifteen years or more an ordinance providing for solid waste collection, which was initially adopted by a vote of the electorate of the city, may amend or repeal such ordinance and enact a new ordinance providing for mandatory collection of solid waste by action of the governing body, and a new election is not required for the repeal and enactment of such an ordinance.

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Dear Mr. Anderson:

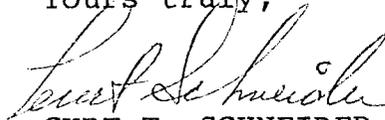
You advise that the City of Tribune has been operating for the past 15 years or more under an ordinance concerning trash and garbage collection which took effect by a vote of the electorate of the city. This ordinance does not provide for mandatory use of the collection service. You advise that the city has been urged to enact a new ordinance providing for mandatory trash and garbage collection, and the question has been raised whether repeal of the existing ordinance and enactment of a new or amended one in its stead requires a vote of the people. You advise that the city attorney has concluded that an election is necessary, and you have concluded that an election is not required.

I agree with you that no election is necessary to enact such an ordinance. The governing body of the city is vested with all of the legislative power of the city, except when and as specific

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decisions are committed to the electorate at large. Under K.S.A. 12-3013, the statute providing for municipal initiative elections, an ordinance which has been enacted by a popular vote and which has been in effect for ten years may thereafter be amended or repealed by the governing body. There is no Kansas statute which absolutely and forever forbids a city governing body to amend or repeal an ordinance which was first enacted by a popular vote of the people. K.S.A. 12-3013, as indicated, forbids governing body action only for a ten-year period, and I find no other Kansas statute which imposes any such limitation on the exercise of the legislative power of the governing body. Thus, I concur with you that the city may repeal the existing ordinance and enact a new one under K.S.A. 1977 Supp. 65-3410 and its general constitutional legislative powers under Article 12, § 5 of the Kansas Constitution.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj