



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

April 13, 1979

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 57

James B. McKay, Jr.  
City Attorney  
P. O. Box 49  
El Dorado, Kansas 67042

Re: Cities--Ordinances--Exercise of Police Power

Synopsis: In the exercise of its police power, a city may regulate the installation of electrical wiring or equipment within the city's corporate limits, so long as that regulation is reasonably related to the public health, safety or morals.

\* \* \*

Dear Mr. McKay:

You inquire whether a city may require, by ordinance, the owner of a building located within the corporate limits of such city to have an electrical license before installing electrical wiring or electrical equipment in or on such building.

The general rule regarding a city's power to regulate the installation of electrical wiring or equipment is set out in 41 Am. Jur. Plumbers, Electricians and Other Artisans §5, as follows:

"Adoption of measures for the protection of the public against the improper installation of electrical wiring apparatus in such a way as to be dangerous to the life and property of the citizens of the municipality, by regulation of electricians or the installation of electrical work, is a proper exercise of municipal police power."

James B. McKay, Jr.  
Page Two  
April 13, 1979

McQuillin's multi-volume treatise on municipal corporations notes that "[i]t is generally if not universally true that under its police power a municipal corporation may regulate and supervise the installation of electrical apparatus inside or outside any building within its area." McQuillin, Municipal Corporations §24.537. See also 62 C.J.S. Municipal Corporations §257 and Anno. at 96 A.L.R. 1507.

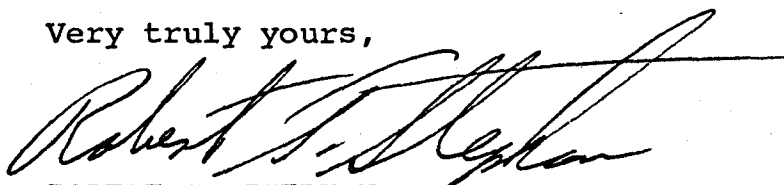
The Kansas Supreme Court apparently has not considered the specific question you present. There are, however, a number of the Court's opinions which are instructive. The Court has long recognized the right of cities to enact ordinances which are designed to promote the health, safety and welfare of their respective populations. In Cities Service Oil Co. v. City of Marysville, 117 Kan. 514 (1925), the Court upheld, as a valid exercise of a city's police power, an ordinance which required all petroleum storage tanks over a specified size to be placed underground. The Court noted that it would "not substitute its judgment upon a question of policy for that of the governing body of the city, but [would deny] effect to [an] ordinance only where its unreasonableness is so manifest as to show bad faith or such arbitrary conduct as to amount to practically the same thing." Id. at 515. In City of Wichita v. Stevens, 167 Kan. 409 (1949), the Court upheld, as a permissible exercise of police power, an ordinance which prohibited the possession of gambling devices (punch boards). For a review and summary of similar cases involving the permissible parameters of a city's or county's police power, see Clemons v. Wilson, 151 Kan. 257 (1940).

In our judgment, the risks inherent in the installation of electrical wiring and equipment are of such a nature as to come within the ambit of public safety and welfare and, thus, be subject to regulation by cities. Therefore, we conclude that, as a general rule, requiring a licensed electrician to perform the installation of electrical wiring or equipment is a proper and reasonable exercise of a city's police power. However, whether the terms of any specific ordinance bear a sufficiently reasonable relationship to the public safety and welfare to withstand challenge can ultimately be determined only by judicial review.

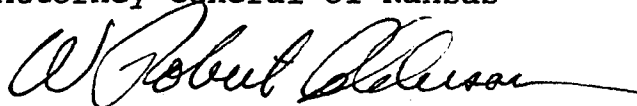
James B. McKay, Jr.  
Page Three  
April 13, 1979

This opinion should not be read, therefore, as approving the form or substance of any specific ordinance, but rather as addressing only the propriety of a city's regulation of the installation of electrical wiring and equipment.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



W. Robert Alderson  
First Deputy Attorney General

RTS:WRA:gk