



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 27, 1976

ATTORNEY GENERAL OPINION NO. 76- 28

Mr. Richard C. Dearth
City Attorney of Chetopa
1712 Broadway
Parsons, Kansas 67357

Re: Cities--Home Rule--Election of Officers

Synopsis: A city of the second class may by charter ordinance exempt itself from K.S.A. 14-201 and provide in lieu thereof substitute provisions authorizing the selection and appointment of city officers and employees by a two-thirds vote of the council.

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Dear Mr. Dearth:

As City Attorney for the City of Chetopa, you inquire concerning a proposed charter ordinance which would exempt the city, one of the second class, from K.S.A. 14-201 and provide substitute provisions in lieu thereof regarding the appointment of city officers and employees. The proposed ordinance would provide that all city officers and employees, except the city attorney, city treasurer and municipal judge, would be appointed from a list prepared by the city council from applications and interviews before the council. The appointments would be made by the council by a two-thirds vote. The mayor would be authorized to make temporary appointments to fill a vacancy, but such appointments would not extend beyond the next regular or special meeting of the council. The ordinance would further provide that the city attorney, city treasurer and municipal judge would be elected for two-year terms on the first Tuesday of each odd-numbered year. You inquire concerning the constitutionality of such a proposed ordinance.

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Under article 12, § 5 of the Kansas Constitution, Kansas cities are empowered to "determine their local affairs and government," subject to certain limitations, including enactments of the legislature applicable uniformly to all cities. The manner of selection and appointment of city officers and employees is essentially a matter of local concern and government. K.S.A. 14-201 is not applicable uniformly to all cities, but only to cities of the second class. Thus, I find no constitutional objection to the adoption of a charter ordinance exempting the city from K.S.A. 14-201 and providing substitute provisions in lieu thereof. Obviously, the city would wish to provide in such substitute provisions adequate provision for election of members of the governing body of the city, which is also covered by K.S.A. 14-201.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj