



City of Lawrence KANSAS

CITY COMMISSION

MAYOR
MIKE AMYX

COMMISSIONERS
ARON E. CROMWELL
LANCE M. JOHNSON
MICHAEL DEVER
ROBERT CHESTNUT

DAVID L. CORLISS
CITY MANAGER

City Offices
Box 708 66044-0708
TDD 785-832-3205
6 East 6th
785-832-3000
FAX 785-832-3405
www.lawrenceks.org

July 19, 2010

Hank Booth
Director, Government & Community Affairs
Lawrence Chamber of Commerce
734 Vermont, Suite 101
Lawrence, KS 66044-0586

Re: Primary Election for Office of City Commissioner

Dear Hank:

The Lawrence City Commission is considering adopting a charter ordinance exempting the City from a state law governing primary elections for the office of city commissioner. In 2008, the Kansas Legislature amended the primary elections law in an effort to reduce the instances in which primary elections are required to be held. Under the amended law, a primary election for Lawrence City Commission is required if ten (10) or more candidates file for the office of city commissioner. A primary election was not held in 2009 because just eight (8) candidates filed for office. Under the previous version of the law (prior to the 2008 amendments), a primary for city commission would have been held if seven (7) or more persons filed for the office. A staff memorandum is attached with additional information.

The City Commission is seeking input on this issue from Lawrence residents, particularly persons interested in local elections. The City Commission would like to know what the community believes is the appropriate number of city commission candidates to hold a primary election. If you have an opinion on this matter, please provide your comments in writing to the City Manager's secretary, Bobbie Walthall, at bwalthall@ci.lawrence.ks.us or by regular mail at P.O. Box 708, Lawrence, Kansas 66044 on or before **August 16, 2010**.

We look forward to hearing from you. Thank you for your continued involvement in our community.

Respectfully,

Toni R. Wheeler,
Director, Legal Department

C: David L. Corliss, City Manager
Jonathan Douglass, City Clerk





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July 19, 2010

Tom Kern,
President/CEO
Lawrence Chamber of Commerce
734 Vermont, Suite 101
Lawrence, KS 66044-0586

Re: Primary Election for Office of City Commissioner

Dear Tom:

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July 19, 2010

Ms. Gwendolyn Klingenberg
Lawrence Association of Neighborhoods
4900 Colonial Way
Lawrence, KS 66049

Re: Primary Election for Office of City Commissioner

Dear Gwen:

The Lawrence City Commission is considering adopting a charter ordinance exempting the City from a state law governing primary elections for the office of city commissioner. In 2008, the Kansas Legislature amended the primary elections law in an effort to reduce the instances in which primary elections are required to be held. Under the amended law, a primary election for Lawrence City Commission is required if ten (10) or more candidates file for the office of city commissioner. A primary election was not held in 2009 because just eight (8) candidates filed for office. Under the previous version of the law (prior to the 2008 amendments), a primary for city commission would have been held if seven (7) or more persons filed for the office. A staff memorandum is attached with additional information.

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Respectfully,

Toni R. Wheeler,
Director, Legal Department

C: David L. Corliss, City Manager
Jonathan Douglass, City Clerk





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July 19, 2010

Kay Hale and Diane Oakes, Co-Presidents
League of Women Voters
P.O. Box 1072
Lawrence, KS 66044

Re: Primary Election for Office of City Commissioner

Dear Ms. Hale and Ms. Oakes:

The Lawrence City Commission is considering adopting a charter ordinance exempting the City from a state law governing primary elections for the office of city commissioner. In 2008, the Kansas Legislature amended the primary elections law in an effort to reduce the instances in which primary elections are required to be held. Under the amended law, a primary election for Lawrence City Commission is required if ten (10) or more candidates file for the office of city commissioner. A primary election was not held in 2009 because just eight (8) candidates filed for office. Under the previous version of the law (prior to the 2008 amendments), a primary for city commission would have been held if seven (7) or more persons filed for the office. A staff memorandum is attached with additional information.

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We look forward to hearing from you. Thank you for your continued involvement in our community.

Respectfully,

Toni R. Wheeler,
Director, Legal Department

C: David L. Corliss, City Manager
Jonathan Douglass, City Clerk



Memorandum

City of Lawrence

Legal Department

TO: David L. Corliss, City Manager

FROM: Toni R. Wheeler, Director

Date: June 29, 2010

CC: Jonathan Douglass, City Clerk
Diane Stoddard and Cynthia Wagner, Assistant City Managers

RE: Primary Elections Charter Ordinance

In 2008, at the request of the County Clerks' Association, the Kansas Legislature amended the primary elections law in an effort to reduce the instances in which primary elections are required to be held. The amendment has been subject to differing interpretations and may have created some unintended consequences. See the attached article in the Kansas Government Journal from June, 2009.

Upon consultation with the Secretary of State's Office and the Douglas County Clerk, it was determined under the amended primary election law that a primary election for Lawrence City Commission was not required to be held in 2009 because fewer than ten (10) candidates filed for the office. Under the prior statutory language, a primary election for City Commission would have been held if seven (7) or more persons filed for the office of city commissioner. A table of recent City Commission elections is provided below:

Year	Number of Candidates	Primary Election held?
2009	8	No
2007	9	Yes
2005	9	Yes
2003	11	Yes

When a primary election is required for the city commission election, the City reimburses Douglas County for all or a portion of the direct expenses of the primary election. If no other local offices require a primary election, the city reimburses Douglas County for all of the primary election's direct expenses. If another local office, i.e. USD 497 School Board, also requires a primary election, then the City and the school board share the cost of the primary election. (See K.S.A. 25-2201.) A table showing the costs to the city for past primary elections is provided below:

Year	No. of City Commission Candidates	Primary Election held?	Actual Cost to City	Did USD hold a primary?
2009	8	No	\$0	No
2007	9	Yes	\$34,263	No

The recommended 2011 budget for the City Clerk's office has \$34,000.00 budgeted for a

2005	9	Yes	\$27,548	No	primary election in the event a primary election is required
2003	11	Yes	\$12,055	Yes	

for the 2011 City Commission election.

Because the statutes governing primary elections for local office are non-uniform, Kansas cities may use a charter ordinance to exempt the city from all or a part of an enactment and may provide substitute or additional provisions on the same subject. Passing a charter ordinance requires adherence to special procedures for charter ordinances set forth in Article 12, Section 5 of the *Kansas Constitution*. Briefly, the procedures include (1) titling the ordinance as a charter ordinance; (2) designating the specific legislative enactment that the charter ordinance is making inapplicable to the city and including the substitute or additional provisions; (3) passing the charter ordinance by a two-thirds vote of the members-elect of the governing body of the city (four commissioners must vote in favor of it); (4) publishing the charter ordinance once each week for two consecutive weeks in the official city newspaper; (5) waiting for a 60-day period after final publication before the ordinance is effective to allow for a protest petition; and (6) recording the charter ordinance by the city clerk and filing a certified copy with the Secretary of State.

It is appropriate for the City Commission to consider whether changes to primary election laws for city commission elections are warranted. The City Commission has three options available to it. First, it can take no action and continue to operate under the current interpretation that a primary election is not required to be held unless ten (10) or more candidates file for the office of City Commissioner; or (2) adopt a charter ordinance eliminating the holding of primary elections altogether; or (3) adopt a charter ordinance that provides provisions that contain the language in the primary election law that existed prior to the 2008 amendments. The effect of this charter ordinance will be to require a primary election if seven (7) or more candidates file for the office of City Commissioner.

Action Requested: Direct staff as appropriate.

Current Law:**25-2108a****Chapter 25.--ELECTIONS
Article 21.--CITY ELECTIONS**

25-2108a. Time of primary elections; no primary, when. (a) There shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that such city has a city election, except as otherwise provided in subsection (b) of this section.

(b) A primary election shall be held if needed to reduce the number of candidates for each office in the general election to no more than three candidates. No primary election of city officers shall be held unless by holding such primary two or more persons will be eliminated as candidates for office. In the event there are not more than three times the number of candidates as there are officers to be elected, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general city election ballot.

History: L. 1976, ch. 186, § 1; L. 1982, ch. 157, § 5; L. 2008, ch. 165, § 3; July 1.

Prior to 2008 Amendments:**25-2108a****Chapter 25.--ELECTIONS
Article 21.--CITY ELECTIONS**

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(b) No primary election of city officers shall be held unless by holding such primary one (1) or more persons will be eliminated as candidates for office. In the event there are not more than two (2) candidates for any one office, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for such office, but the names of such candidates shall be placed on the general city election ballot.