

(Opinion #356 answered by letter, by General Eagleton 9-25-62)

September 25, 1962

FILED
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Honorable E. J. Cantrell
Member, Missouri House of
Representatives
Third District
St. Louis County
3406 Airway
Breckenridge Hills, Missouri

Dear Mr. Cantrell:

I have your opinion request regarding the City of Overland (4th Class City, non-charter).

Basically, you asked two questions. First, is it legal for residents of Overland to petition the Board of Aldermen? Second, can the Board of Aldermen enact an ordinance which would place on the ballot a certain question?

As to your first question, the answer is in the affirmative. As to your second question, the answer is in the negative.

A citizen's right of petition is "inalienable." I, as Attorney General, am petitioned almost every day in terms of the mail I receive. Likewise, a member of Congress, or a member of the General Assembly, or a member of the Board of Aldermen. This "petition" need take no precise form and can consist of an individual letter, or a document signed by many individuals. There is no precise mode of procedure by which such a "petition" is to be received, accepted, or filed.

With respect to the right of a fourth class city to place on the ballot a proposition by way of referendum, I call your attention to an opinion of this office which was issued to Representative Young on December 1, 1961 (copy enclosed).

Honorable E. J. Cantrell

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As you will note from reading this opinion, there is no statutory authority for such a procedure. Also, in passing, I call your attention to a landmark case entitled Mills v. Sweeney, 114 N.E. 65, which deals with this proposition.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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