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OPINION LETTER NO. 200  
Answer by Letter - Klaffenbach

Honorable Robert L. Dunning  
State Representative, 117th District  
Route 3  
Clinton, Missouri 64735



Dear Mr. Dunning:

This letter is in response to your opinion request asking:

"Whether or not the Mayor of a Fourth Class City has the power to fill a vacancy in the office of Alderman where the vacancy occurred within six months preceding a general municipal election and where the City has no ordinance prescribing the manner in which the vacancy in the office of an Alderman should be filled."

You also state:

"The City of Lincoln, Missouri, is a Fourth Class City with a Mayor and four aldermen. Because of resignation there is a vacancy in the office of all four aldermen. That vacancy occurred within six months of the next general election and the City has no ordinance prescribing the manner in which a successor shall be appointed or elected."

Honorable Robert L. Dunning

Section 79.280, as amended by House Bill No. 971, Second Regular Session, 79th General Assembly, provides:

"If a vacancy occur in any elective office, the mayor or the person exercising the duties of the mayor shall cause a special election to be held to fill such vacancy; provided, that when any such vacancy occurs within six months of a municipal election, no election shall be called to fill such vacancy, but the same shall be filled by the mayor or the person exercising the duties of the mayor by appointment; provided further, that any vacancy in the office of alderman which may occur within said six months preceding a municipal election shall be filled in such manner as may be prescribed by ordinance. If a vacancy occur in any office not elective, the mayor shall appoint a suitable person to discharge the duties of such office until the first regular meeting of the board of aldermen thereafter, at which time such vacancy shall be permanently filled."

It is our view that under the provisions of the above quoted section if such a city does not have an ordinance providing how a vacancy in the office of alderman shall be filled when such vacancy occurs within six months preceding a municipal election, such a vacancy is to be filled by the mayor by appointment.

Very truly yours,



JOHN ASHCROFT  
Attorney General