

Kennedy

&

Graven

CHARTERED

Scott J. Riggs  
470 US Bank Plaza  
200 South Sixth Street  
Minneapolis MN 55402

(612) 337-9260 telephone  
(612) 337-9310 fax  
sriggs@kennedy-graven.com  
<http://www.kennedy-graven.com>

**MEMORANDUM**

**To:** Honorable Faribault Charter Commission Members  
Timothy C. Murray, City Administrator

**From:** Scott J. Riggs, City Attorney  
David T. Anderson, Assistant City Attorney

**Date:** September 21, 2018

**Re:** Proposed Charter Language Regarding Primary Elections

---

**I. Overview**

In 1994, the City of Faribault adopted Resolution 94-060, attached hereto as Exhibit A, which established a policy for municipal primary elections. Specifically, the Resolution provides that a municipal primary election shall only take place before a general election if there are three or more candidates for *each* open city council seat or if there are four or more candidates for an open mayoral seat. For example, if there are three openings on the city council, nine or more city council candidates are required to trigger the need for a city council primary. In contrast, a mayoral primary is simply triggered when four or more candidates file for an open mayoral seat.

The policy set forth in Resolution 94-060 is inconsistent with state statute, as Minn. Stat. § 205.065, subd. 4 provides that when a municipality opts to have municipal primaries, they shall do so unless “not more than twice the number of individuals to be elected to a municipal office file for nomination for the office...”. In other words, the statute requires a primary if more than six candidates file for three open city council seats, or, if more than two candidates filed for an open mayoral seat. Because charter cities are provided with the authority to adopt their own rules for primary elections, the City and Rice County have each adhered to Resolution 94-060 since its adoption, notwithstanding its inconsistencies with Minn. Stat. § 205.065, subd. 4.

Minn. Stat. § 205.02 expressly provides that in all home rule charter cities, primary elections held for choosing city officials “shall be held as provided in [state law], except that [Minn. Stat. §] 205.065, subdivision 4... [does] not apply to a city *whose charter* provides the manner of holdings

**FARIBAULT CHARTER COMMISSION  
AGENDA ITEM NO. 4.A.4.**

its primary...”. As previously indicated, it is Resolution 94-060 that provides the manner for holding primaries in Faribault, not the City Charter.

**II. Proposed Charter Language**

Based on the information above and assuming that the practice for primary elections adopted 24 years ago is desired to be continued, language similar to that contained in Resolution 94-060 should be added to the Faribault City Charter to both clarify the City’s primary election procedure and adhere to plain language of Minn. Stat. § 205.02. Amending the City Charter to include the language below would suffice and would allow the City to continue its current practices in conformance with state law and as established by Resolution 94-060:

4.05. Municipal Primary Elections. When there are at least three times as many city council candidates that have filed for nomination as there are open city council seats, a primary election shall be held to narrow said field to two times as many candidates per open seat. When there are four or more candidates that have filed for nomination for an open mayoral seat, a primary election shall be held to narrow said field to two mayoral candidates. Unless otherwise inconsistent with this Section 4.05, all provisions governing municipal primary elections contained in Minnesota law shall apply.

Please let me know if you have additional questions or concerns regarding this matter.

SJR

EXHIBIT A

CITY OF FARIBAULT  
RESOLUTION 94-60

RESOLUTION OF THE FARIBAULT CITY COUNCIL  
ESTABLISHING POLICY FOR MUNICIPAL PRIMARY ELECTIONS

WHEREAS, Minnesota State Law and the Faribault City Charter provide the City Council with discretion in the holding of municipal primary elections, and

WHEREAS, the purpose of primary elections is to narrow the field of a large number of candidates in elections so that the voters can have clearer choices in the general election, and

WHEREAS, the City Council does not wish to needlessly hold primary elections, and

WHEREAS, there is a need for a uniform policy direction for the establishment of municipal primary elections.

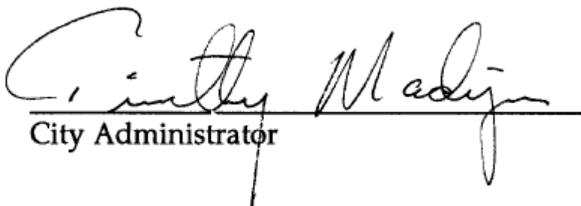
NOW, THEREFORE, BE IT RESOLVED that the City Council adopt the following policy regarding primary elections:

"When there are three or more candidates for each City Council vacancy, a primary election will be held to narrow the field down to two candidates per council vacancy. When there is four or more candidates for the Mayor's position, a primary election will be held to narrow the field to two candidates."

Adopted: March 22, 1994

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Administrator