

Opinion No. [30-48]

March 17, 1930

BY: J. A. MILLER, Assistant Attorney General

TO: Hon. J. E. Kisner, Village Clerk, Columbus, New Mexico.

MUNICIPAL CORPORATIONS -- Election -- Qualification for voting.

OPINION

Reference is made to yours of the 14th inst. in which you ask as applicable to an approaching municipal election:

"Must a prospective voter, otherwise qualified, be an actual owner of real estate within the corporate limits, in order to be qualified and entitled to vote in municipal elections?"

If this election is one for the election of officers only the answer to your question is to be found in section 1 of Article VII of the Constitution of the State of New Mexico, which reads in part as follows:

"Every male citizen of the United States who is over the age of twenty-one years and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days next preceding the election, except idiots, insane people, persons convicted of a felonious or infamous crime, unless restored to political rights, and Indians not taxed, shall be qualified to vote in all elections for public officers . . ."

Municipal officers are public officers and no property qualification is required of electors for such officers.

If, by any chance, your election is to involve any bond issue or the creating of indebtedness, another section of the constitution must be considered, that is, section 12 of Article IX of the Constitution which prohibits the creation of municipal debt unless the question of incurring the debt shall, at a regular election for officers of the town "have been submitted to a vote of such qualified electors thereof as have paid a property tax therein during the preceding year."

From a reading of these two quotations you will see that one may be a qualified elector and vote for officers without being a property owner but he may not vote to incur indebtedness unless he is not only a qualified elector otherwise but has also actually paid a property tax within the year next preceding.