

Opinion No. 42-4035

February 26, 1942

BY: EDWARD P. CHASE, Attorney General

TO: Mrs. Veva Daniel Village Clerk Deming, New Mexico

{*165} In your letter dated February 21, 1941, you inquire what section of the election law governs the election of the village board of trustees. There are several laws which must be taken into consideration {*166} in holding a village election.

The calling and conducting of an election and the notice required to be published is found in Section 90-608 of the 1929 Compilation. However, this law has been superseded insofar as registration of electors is concerned by a law which I shall mention hereafter. The village officers which are to be elected are set forth in Chapter 1, Laws of 1937, Section 1, and consist of a mayor, four trustees, and a clerk. Under Section 90-3506 of the 1929 Compilation, the board of trustees also has power to provide by ordinance for the election of a treasurer if such is desired. Chapter 219, Laws of 1939, fixes the date of elections in towns and villages, and also fixes the term of the village officers which are to be elected. Chapter 99, Laws of 1939, governs the voting division in municipal elections. Chapter 152, Laws of 1939, Section 1, Provides that the word "election" shall be construed to mean and apply to all primary elections, general elections, special elections and municipal elections relative to the requirements of the general registration laws.

Section 41-720 of the 1929 Compilation is still in effect insofar as the duties devolving upon the clerk of a municipality is concerned, said duties being the same as those devolving upon county clerks in general elections. Under Section 5, Chapter 142, Laws of 1941, it is the duty of the municipal clerk to obtain from the county clerk the original affidavits of registration for all voting divisions in whole or in part within such municipality at least three days prior to any municipal election, and such original affidavits shall constitute the registration list for such municipal election. Chapter 113, Laws of 1941, governs eligibility for appointment as election officials in a municipal election. Section 26, Chapter 147, Laws of 1935, provides for erecting election booths and furnishing supplies necessary for the elections.

I have searched the various laws diligently and so far as I am able to ascertain, the foregoing constitute in general the laws which should be followed in holding elections in a village.

By C. C. McCULLOH,

Asst. Atty. General