

Opinion No. 50-5289

March 13, 1950

BY: JOE L. MARTINEZ, Attorney General

TO: Honorable J. D. Hannah State Comptroller Supreme Court Building Santa Fe, New Mexico

{*139} Receipt is acknowledged of your letter dated March 13, 1950, requesting an opinion from this office as to whether or not a Town Council can consolidate voting divisions for the municipal election to be held April 4, 1950, in conformity with Chapter 102, Session Laws of 1947.

Chapter 102 of the New Mexico Session Laws of 1947 reads as follows:

"Section 14-1301. VOTING DIVISIONS - PORTION WITHIN MUNICIPALITY - POWER OF CITY COUNCIL OR CITY COMMISSION TO CHANGE - WARDS AND OTHER SUBDIVISIONS FOR NOMINATIONS UNCHANGED. - In all municipal elections the same voting divisions **may** be used as are used at general elections **and** if any such voting division be partly within and partly without the corporate limits of any municipality, then and in that event, that portion of such division as may be within the municipal limits shall constitute a voting division for the purposes of municipal elections. Provided, however, that the city council or city commission of any municipality may **consolidate any two or more voting divisions within the municipality for city election purposes**. Provided, however, that nothing herein contained shall be construed as changing existing law as to **wards** or other municipal subdivisions for the purpose of nominating aldermen, trustees, councilmen, or like municipal officers."

The pertinent part of this chapter which determines your question is the interpretation of the whole Section 1 of Chapter 102 of the New Mexico Session Laws of 1947.

This statute specifically provides that the City Council or City Commission **of any municipality** may consolidate any two or more voting divisions within the municipality for city election purposes.

It is my interpretation that the words of any municipality include the word "town".

There is no special law which deals specifically with towns. The title of Section 14-1301 which Chapter 102 of the 1947 Session Laws amends is under the general heading of cities, towns and villages and specifically mentions municipal elections.

Volume 27, page 793 of Words and Phrases, gives the legal definition of "municipality" as follows: "Word, 'municipality' includes cities of all classes as well as towns." Goodman Warehouse Corporation v. Jersey City, N.J., 132 A. 503, 506.

Volume 27 of Legal Words and Phrases, on page 791, defines word "municipal" relates to cities, towns and villages and also state or nation; the adjective "municipal" is much more elastic than is the word "municipality" or the term "municipal corporation"; "municipal", as used by the Romans, originally, designated that which pertained to municipium, a free city or town, but the word has been extended to what belongs to a state or nation as a distinct independent body. City of Louisville v. Bubb, 75 Fed. 2nd 162, 165.

In view of the above and my interpretation of Chapter 102, the Town Council of the Town of Santa Rosa can consolidate voting {*140} divisions for the municipal election to be held on April 4, 1950, any two or more voting divisions within the municipality for city or town election purposes.