

## Opinion No. 69-11

February 18, 1969

**BY:** OPINION OF JAMES A. MALONEY, Attorney General Oliver H. Miles, Assistant Attorney General

**TO:** Honorable Raymond O. Polk, Mayor, Village of Hatch, Hatch, New Mexico

### QUESTIONS

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Can one who resides outside the corporate limits of a municipality be appointed by the governing body to fill a vacancy for the office of municipal judge?

#### CONCLUSION

No.

### OPINION

#### {\*18} ANALYSIS

The governing body of a municipality may fill vacancies by appointment of a municipal judge to serve until the next regular election. Section 37-1-4, N.M.S.A., 1953 Compilation.

Article V, Section 13 of the New Mexico Constitution (1967 P.S.) provides:

"[Residence of public officers.] All district, county, precinct and municipal officers, **shall be residents** of the political subdivisions for which they are elected or appointed." (Emphasis added).

Municipal judges are elected officials, Section 14-9-1, N.M.S.A., 1953 Compilation and therefore are within the scope of Article V, Section 13 cited above. The clear import of these provisions is that a municipal judge must be a resident of the municipality which he serves.