

Opinion No. 70-40

April 15, 1970

BY: OPINION OF JAMES A. MALONEY, Attorney General

TO: Mr. John E. Conway City Attorney P.O. Box 750 Alamogordo, N.M. 88310

QUESTIONS

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Must a duly-passed municipal resolution or ordinance be set out in complete text on the ballot of a referendum election?

CONCLUSION

Yes.

OPINION

{*70} ANALYSIS

Section 14-13-17B, N.M.S.A., 1953 Comp., directs that the ballot show the complete text. The words "the ballot shall contain the text of the ordinance or resolution. . . ." are open to no other interpretation. See statute on rules of construction, Section 1-2-2A, N.M.S.A., 1953 Compilation (1969 P.S.). Also see "Approaching Statutory Interpretation in New Mexico", 8 Nat. R.J. 679 (1968).

The New Mexico Supreme Court has held that, unless there is ambiguity in a statute, construction is uncalled for. **Atlantic Oil Producing Co. v. Crile**, 34 N.M. 650, 287 P.696 (1930); **Montoya v. McManus**, 68 N.M. 381, 362 P.2d 771 (1961).

It is our opinion that this statute is not ambiguous. Thus, the cases calling for construction of ambiguities in the most reasonable, practical manner are not applicable.

As a practical matter, it will be difficult to include seven or eight legal-size pages on the ballot, but we find no authority or means by which the code could be construed to allow a synopsis of the ordinance.

{*71} We must conclude that the entire text must be printed on the ballot.

By: Frank N. Chavez

Assistant Attorney General