

Opinion No. 45-4768

August 14, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Nils T. Kjellstrom Assistant District Attorney Seventh Judicial District Hot Springs, New Mexico

{*117} In your letter dated August 8, 1945, you refer to Section 14-1405 of the 1941 Compilation relating to the Mayor in cities not having the right to vote except in the case of a tie. You inquire whether this provision applies to a Mayor in a town or village.

Since the city council in cities is composed of aldermen from each ward, ordinarily the council has several more members than the number provided by law to govern towns and villages. This may explain why the Mayor in a city does not have the right to vote except in case of a tie.

Section 14-1503 of the 1941 Compilation provides that the corporate authority of any town shall be vested in a board consisting of one Mayor, four other trustees and one Recorder.

Section 14-1508 of the 1941 Compilation provides that the corporate authority of any village shall be vested in a board of trustees consisting of a Mayor and four other trustees and a Clerk.

Section 14-1509 of the 1941 Compilation provides that any three of said board of trustees shall constitute a quorum. This section further provides that the Clerk shall not have the right to vote upon any question before the board. In the case of towns and villages the Mayor is specifically made a member of the board of trustees and is not prohibited from voting; only the Clerk appears to be prohibited from voting in matters before the board. For that reason, it is my opinion that Section 14-1405 of the 1941 {*118} Compilation pertaining to the office of Mayor in cities does not apply to that office in towns and villages, and in towns and villages the Mayor is a member of the board, entitled to vote the same as any other member.