

**Opinion No. 45-4817**

November 9, 1945

**BY:** C. C. McCULLOH, Attorney General

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

{\*155} In your letter dated November 8, 1945, you state that by proclamation the Town of Hot Springs is now entitled to, and desires to become a City.

Pursuant to Section 14-317 of the N.M. 1941 Compilation, the statute provides for publication of the Proclamation in a newspaper of general circulation in the County, and posting of a certified copy of the Proclamation in a conspicuous place within the limits of the municipality. There is further provision for action by the Board of Trustees relative to calling an election. You inquire when the election should be called, whether immediately, or at the next General Election.

Section 14-317, at the end thereof, provides as follows:

"\* \* \* At the end of five days after the posting of such Proclamation, the Board of Trustees of such town or village shall proceed to organize the same into a city by dividing it into wards of not less than four, and shall call an election for the election of an alderman from each ward, and a mayor from the City at large, and upon the election and qualification of such alderman and mayor, the term of office of the officers of such town or village shall expire, and thereafter such town or village shall be a City, with all the powers, privileges, duties and liabilities of Cities in the State of New Mexico."

From this language it is apparent that the Board of Trustees is authorized to call a Special Election immediately after the end of five days from the date of publication and posting of the Proclamation, in compliance with the statute. The Alderman and Mayor elected would hold office until the next General City Election date, or until their successors have been elected or appointed and qualified.