

**OPINION  
59-106**

April 2, 1959           (OPINION)

**ELECTIONS**

**RE: Precincts and Voting Places - County Commissioners**

- Designation of Voting Place

This is in reply to your request for an opinion dated March 24, 1959, on the question relative to the authority of the board of county commissioners to designate a polling place for a general election for a township having within its boundaries an incorporated city or village.

The question apparently arises under the provisions of section 16-0906 of the 1957 Supplement to the North Dakota Revised Code of 1943.

"TOWNSHIP MAY HAVE VOTING PLACE WITHIN A TOWN OR MUNICIPALITY. A township having within its boundaries or which is within five miles of a town, or an incorporated city or village may hold an election and have its voting place within such town, city or village if:

1. The board of county commissioners designates a voting place within such town, city or village; or . . . ."

In construing the language of this section in context with other provisions of chapter 16-09 it is noted under section 16-0901 that the entirety of civil townships, cities, or villages shall be preserved as precincts except when such preservation shall be in conflict with the provisions of this chapter.

It is further noted that this same section also provides that: ". . . . in no case shall a precinct be composed of parts of two civil townships, or part of a township and of a city or village, except as provided in this chapter. . . ." It further provides that no precinct in which voting machines are not used shall contain more than 500 electors.

The language of section 16-0906 as set out above strongly indicates in our opinion that the authority of the county commissioners is not absolute but is limited and contingent upon other factors. The impetus for designating a polling place for such township within a city or village should come from the township.

The right of the county commissioners to establish a voting place for a township within a town, city or village would have to be based on some compelling extenuating circumstances unless the request to establish such voting place is made by the township.

LESLIE R. BURGUM

Attorney General