



## **FORMS OF MUNICIPAL GOVERNMENT IN NEW MEXICO**

**Municipality:** Any city, town, village or county which has incorporated, whether under general act (state statute or territorial law), special act or charter. There are currently 106 municipalities in New Mexico: 36 cities, 20 towns, 49 villages and 1 incorporated county, Los Alamos.

**Districting:** All municipalities with populations of 10,000 or more must elect their governing body members by district and the member representing a district must reside in that district. Los Alamos and the municipalities under 10,000 may district if they wish.

### **MAYOR/COUNCIL MUNICIPALITY:**

Voters have only those rights to vote on council actions that are provided in the statutes; they do not have the right to recall elected officials.

**Mayor:** Chief executive and administrator of the municipality. Presides at governing body meetings; votes only in case of a tie. Supervises appointed officers and employees of the municipality and, with approval of the majority of all members of the governing body, hires and fires. Has no veto over actions of majority of governing body.

**Governing Body:** Legislative branch of the municipality. Consists of the mayor and not less than 4 or more than 10 councilors or trustees. Councilors or trustees elect one of their members to serve as mayor pro tem, to perform the duties of the mayor in his/her absence. Mayor pro tem can vote on any issue even when he/she is presiding. Governing body controls all finances and property, passes ordinances and resolutions, approves hiring and firing but may not make appointments or hire on its own, sets salaries, establishes and abolishes jobs, sets its own rules and procedures. Governing body cannot remove the mayor, the judge or its own members.

**Judge:** Judicial branch of the municipality. Judge tries alleged violations of municipal ordinances, determines innocence or guilt of alleged offender, and passes sentence. Subject to local ordinance, the penalties may not exceed \$500 fine or 90 days in jail or both except for DWI convictions, where the maximum sentence is \$999 or 179 days in jail or both. Although court's budget must be approved by the governing body, the judge is independent in operating the court, expending the approved budget and in hiring, firing, and supervision of court employees. In Bernalillo County, all municipal courts and judges except Los Ranchos have been pre-empted by a metropolitan court.

**Manager:** Mayor/council municipalities over 1,000 population may establish the office of manager by ordinance, in which case the manager's powers and duties are the same as in a commission/manager municipality.

## **COMMISSION/MANAGER MUNICIPALITY:**

Voters have broad powers of initiative (election to force commission to enact an ordinance), referendum (election to overturn an ordinance already enacted), and recall (election to remove all elected officials except the Judge). Mayor/council municipality of 3,000 or more population may vote to become commission/manager.

**Governing Body:** Legislative branch of the municipality. A five member commission, representing five districts, compact in area and as nearly equal in population as possible. Same legislative and financial duties as in mayor/council form, but do not approve individual hiring and firing, which is authority of the manager.

**Mayor:** A commissioner elected by the other commissioners to preside. Has right to vote on any issue. Serves as legal and ceremonial head of the municipality, as well as principal spokesman and policy leader. Does not hire and fire or supervise municipal employees.

**Judge:** Judicial branch of municipality. Exactly the same duties and powers as in mayor/council form.

**Manager:** Non-elected chief administrator of the municipality. Appointed by the commission and serves at their pleasure. Supervises, hires and fires all municipal employees. Enforces all ordinances and implements all policies set by commission, prepares draft budget, attends all meetings of the commission, has no vote.

## **CHARTER FORM OF GOVERNMENT:**

Any incorporated municipality may adopt a charter form of government, but only larger municipalities have done so thus far. Corporate form is defined by a charter drawn up by a commission of citizens and adopted by majority vote of the electorate. Organized in whatever way the charter prescribes as to numbers and titles of governing body, method of election, terms, etc.

Charter cannot be inconsistent with the Constitution of New Mexico. Charter cannot authorize the expenditure of public funds for other than public purposes and cannot authorize the municipality to perform acts which have been specifically prohibited by general legislation of the state, including imposition of various taxes pre-empted by the state. Most charters include initiative, referendum and recall.

Charters adopted since passage of the Home Rule amendment to the state Constitution are called Home Rule cities, which theoretically means that they can do things not specifically authorized for municipalities by the state statutes, as long as those things are not specifically prohibited by statute either. Some examples of things which a Home Rule municipality might do are:

- Issue bonds for purchasing library books
- Enact its own procurement code
- Establish its own per diem, mileage and travel regulations
- Enact its own election code