



## Forms of Government

Everything You've Always Wanted to Know,  
But Were Afraid to Ask

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**N**ew Jersey's current system and organization of local government continues to have basic roots in its early history as colony. Located in the middle of the thirteen colonies, New Jersey's early local governments adopted patterns of government which were a mix of those of her northern and southern neighbors. The following forms of government are in use today.

### **The Township Form (NJSA 40A:63-1)**

The township form is the oldest form of municipal government in New Jersey. Designed to parallel the New England Township meeting, the Township Act of 1899 abolished the township meeting and replaced it with a township committee with all municipal powers. This act, with a handful of amendments, served until it was repealed by the Township Act of 1989, which cleared up many of ambiguities of the previous law.

Under the current township government laws, the township committee remains the backbone of the municipality's government. Voters elect, at-large,<sup>1</sup> the township committee comprising three or five members. The elections are partisan and the committee members serve staggered three-year terms. The township committee elects the mayor for a one-year term. The mayor serves as chair of the township committee and has powers vested in the mayor's office by general law.

Under the township form, all legislative powers are concentrated in the committee. The committee also has all executive powers not placed in the mayor either by general law or the revised Township act. Additionally, all municipalities under the traditional form may appoint, including the township form, may appoint a municipal administration and "delegate to him all or a portion of the executive responsibilities of the municipality."<sup>2</sup> As of 2006, 144 municipalities operate under the Township form.

### **The Town Form (NJSA 40A: 62-1)**

The Town Form of New Jersey municipal government dates back to the Town Act of 1895, which was amended and revised by the Town Act of 1988. Voters elect the mayor and council in partisan elections. The mayor is elected at large and is known as the councilman at large. The mayor serves a two-year term, though voters can through petition and referendum change the term to three years. The mayor retains all executive responsibilities placed in the position by general law or the Town Act. All other executive authority lies with the town council.

The council consists of eight members serving two-year terms. Two council members are elected from each of four wards and they serve staggered two-year terms. Therefore, every year one seat from each ward is up for election. The mayor chairs the town council, and may vote on legislation and veto ordinances. The council can appoint, through ordinance, any subordinate officer with the exceptions of the municipal clerk, tax assessor and tax collector, which are appointed by mayor and council. Like the other traditional forms, the town council may appoint an administrator pursuant to NJSA 40A:9-136. As of 2006, nine New Jersey municipalities operate under the Town form.

### **The City Form (NJSA 40A:61-1)**

The City Form of New Jersey municipal government dates back to a series of laws passed by the state legislature between 1897 and 1899. The City Form was last revised by PL 1987, Chapter 314. Under this form, mayor and council are elected in partisan elections. The mayor serves a four-year term, unless a two or three-year term preceded the passage of the 1997 law. The mayor is the chief executive, may participate in council meetings and can vote to break ties. The mayor can veto ordinances and serves as the head of the police department. Meanwhile, the council is the legislative body of the municipality and appoints most of the subordinate officers of the city. Generally, the city council consists of seven members with six elected from wards for three-year terms and one elected at-large for a four-year term.<sup>3</sup>

Like the other traditional forms, a city may delegate all or a portion of the executive authorities to an administrator. As 2006, 15 New Jersey municipalities operate under the form.

### **The Borough Form (NJSA 40A:60-1)**

The Borough form remains the single most popular form of local government in New Jersey. This form dates back to the Borough Act of 1878 and was revised in 1897 and by the Borough Act of 1987. The Borough mayor is elected at-large to a four-year term. Six council members are elected at-large<sup>4</sup> to staggered three-year terms.

The Borough form is often referred to as a "weak mayor-strong council" form. The mayor retains all general law authority, presides over council meetings and can vote in the case of a tie. The mayor appoints, with the advice and consent of council, all subordinate officers of the municipality. The council is the legislative body of the Borough. All executive responsibilities not placed in the office of the Mayor by general law or the Borough law remains with the council.

Like the other traditional forms, a Borough may appoint an administrator and delegate all or a portion of the executive responsibilities to him/her. The council may also adopt an administrative code, prescribing how the council shall perform its duties. As of 2006, 218 New Jersey municipalities operate under this form.

### **The Village Form (NJSA 40A:63-8)**

Only the Village of Loch Arbour currently uses the Village Form of government, which is a result of the Village Act of 1891. Based on the 1989 revisions, any New Jersey municipality operating under the village form shall operate and transact all its business according to the laws of the Township form. Under the Village Form, the significant difference is that the committee is known as the Board of Trustees and the mayor is known as the President of the Board.

### **The Commission Form (NJSA 40:70-1 et seq.)**

The Progressive Movement reached New Jersey in the early 20th century in the form of the municipal Commission and the passage of the Walsh Act in 1911. In a five-member commission, each commissioner heads up one of the following departments: Department of Public Affairs; Department of Public Safety; Department of Public Works; Department of Parks and Public Property; or Department of Revenue and Finance. In three-member commissions, the Department of Public Affairs and Public Safety are combined as are the Department of Public Works and Parks and Public Property.

The Commissioners function as the legislative authority of the municipality. They are elected at-large in nonpartisan elections to serve concurrent four-year terms. The mayor is selected from among the Commissioners (often the one who received the most votes), makes most of the key appointments and has a vague, often undefined, supervisory authority.

The Commission form was once a very popular form, but the Progressives soon moved toward the Municipal Manager form. At its zenith, over 60 New Jersey municipalities operated under the Commission form, including the major urban cities. Today, 32 municipalities operate under the form.

### **The 1923 Municipal Manager Form of Government (NJSA 40-39-1 et seq.)**

This form is the early predecessor to the Faulkner Act's Council-Manager form and is reflective of the Progressive effort to bring a more businesslike, professional approach to local government. In effect, this form separated policy making (council) from policy implementation (manager).<sup>5</sup> By law, a municipality can adopt through a referendum, a three, five or seven-member council, elected at large in nonpartisan elections. The mayor is selected from the council but the duties associated with the title are essentially limited to presiding over and voting with the council and a handful of appointments. The manager serves as the chief executive of the municipality. The manager ideally is politically neutral and operates the municipality in a businesslike manner. The manager prepares the budget for the council, oversees the negotiation and implementation of contracts and handles most personnel matters.

With the passage of the Faulkner Act, municipalities have drifted away from this form towards the OMCL Council-Manager Form. Today, seven municipalities operate under this form.

## ***Faulkner Forms***

### **The Mayor-Council Plan (NJSA 40:69A-31)**

This form, also known as the "strong mayor" form, provides for the direct election of the mayor, who serves a four-year term. This form is designed for a mayor to be independent of council, in charge of the administration of the municipality.

The mayor is the chief executive of the municipality and has the enforcement responsibility for all ordinances, charter provisions and prepares the budget of the municipality. The mayor, with the advice and consent of the council, appoints and removes department heads, including a business administrator. The mayor has the right to speak at council meeting but has no vote and does not need to attend.

The council is the legislative body of the municipality. The membership is five, seven or nine members, who are elected either at-large or from wards. The council is generally limited to legislative functions, but has investigative power and may remove municipal officers for cause. The council can reduce items in the mayor's budget by a majority vote, but it needs a two-thirds majority to increase any item in the budget. A municipality under the Mayor-Council Form has the following options:

1. Elections can be partisan or nonpartisan. If elections are nonpartisan the municipality also has the option of run off elections.
2. Elections can be at-large or by wards. If the municipality is divided into wards, the municipality has the option over the number of wards.
3. The size of the council can be three, five or seven members.
4. Terms can be staggered or concurrent.

As of 2006, 67 municipalities operate under the OMCL Mayor Council Form.

### **Council-Manager Form**

This form is very similar to the previously mentioned 1923 Municipal Manager Law. Like the 1923 law, this form, it provides for an experienced professional to serve as the chief Executive.

The council is made up of five, seven or nine elected members. The council is the legislative body of the municipality but also appoints the positions of Municipal Clerk, Tax Assessor and well as provides for appointments of members of Boards, Commissions and Authorities. Perhaps most importantly, the council appoints a qualified manager to serve as the chief executive.

The mayor can either be selected from the council or directly elected. Either way, the mayor serves as the presiding member of the council. The Manager has the full administrative responsibility for the municipality, including appointment of department heads as well as subordinates, preparation and presentation of the budget and the negotiation of contracts.

A municipality under the Council-Manager form has the following options:

1. Partisan or nonpartisan elections. If the elections are nonpartisan, the municipality has the option of run-off elections.
2. Staggered or concurrent terms.
3. The mayor can be voted directly by the people or selected from among the council. If elected by the voters, the mayor serves a four-year term. If selected by the council, the mayor serves either a one, two or four year term, depending on whether the council serves staggered or concurrent terms and local ordinances.
4. Council members can be elected at-large or from wards. If the municipality operates under a ward-based system, the number of wards is also an option.
5. The size of the council can be five, seven or nine members.

As of 2006, 42 municipalities operate under the OMCL Council Manager form.

### **Small Municipality Form (NJSA 40:69A-115)**

This form is available only to municipalities under 12,000 in population, although a municipality that grows beyond 12,000 may retain the form. The Small Municipality is commonly thought of as a cross of the two most common "traditional" forms: the township and borough.<sup>6</sup> It is also a strong mayor form in that the mayor exercises the executive authority of the municipality. The mayor may in fact be a stronger position in this form than in the Mayor-Council since he/she is not only the chief executive but also the presiding officer of the council.<sup>7</sup>

The mayor in this form appoints an assessor, tax collector, treasurer, clerk and any officers provided for by local ordinance. He or she also appoints all other officers and employees of the municipality, unless the Civil Service provisions are in effect. The mayor has the dual role of chief executive and presiding officer of the council, and votes with council but has no veto power. The council is the legislative authority of the municipality. Under this form, the council passes ordinances and resolutions, passes the budget, consents to the appointments of the mayor and has investigative powers but it possesses no administrative authority.

An interesting provision of the Small Municipality Form allows the municipality to select and match most other Faulkner provisions. It is, however, the only Faulkner form that does not require the hiring of an administrator. As of 2006, 18 municipalities operate under the OMCL Small Municipality form.

## **Mayor-Council-Administrator (NJSA 40:69A-149-1)**

This is a Faulknerized version of the borough form of government, the only “weak mayor” form under the Faulkner Act.

The council is the legislative branch of the municipality. While the council has no appointive authority and no appointive responsibility, it does prepare the budget with the assistance of the treasurer and administrator. Although the Council does not appoint the administrator, the administrator may be removed from office at the pleasure of the council. As the executive authority, the mayor presides over the council but possesses no vote. He or she can veto ordinances but the council may override a veto by a two-thirds majority. The mayor is authorized to make a number of key appointments, including the administrator, assessor, collector, attorney, clerk and treasurer. There are three municipalities currently operating under this form.

## **Special Charters**

Pursuant to the State Constitution of 1947, a local government unit may operate under a unique form of government under a special charter provision. Under state statute, the governing body of a municipality may enact an ordinance for a special charter<sup>8</sup>, voters can petition for a special charter<sup>9</sup> or a charter study commission can recommend change to a special charter.<sup>10</sup> When this process is completed at the local level, the municipality petitions the state legislature for enabling legislation for the special charter.

Generally, municipalities adopting a special charter base the operations of the government on a Faulkner Act form while retaining some aspects of the previous form.<sup>11</sup> Since the passage of the State Constitution in 1947, 11 municipalities have been granted special charters. In addition, six municipalities operate under special charters granted in the late 19th century.<sup>12</sup>

## **Which Form Is Best?**

New Jersey Municipalities have a large variety of choices regarding local government administration. There is, however, surprising stability in some of the older forms. For instance, 218 municipalities in New Jersey continue to operate under the Borough Form. Clearly, those municipalities are quite happy with a traditional form.

As local leaders explore changing their local charters, many find that their current form is compatible with the current needs of their residents, while others choose other options under the Faulkner Act. Since New Jersey has such a diverse population and its municipalities vary widely in size and needs, it should come as no surprise that state law also provides a wide range of choices in how to organize and structure the administration of local governments.

What is clear is that there is no “best” form of local government. While municipalities with larger populations tend to adopt a Faulkner form, many municipalities continue under other forms of organization which best serve the special needs of their communities. By maintaining a wide range of choices, New Jersey municipalities continue the process of improving local government administration.

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<sup>1</sup> Winslow Township elects committee members by wards. The only committee member elected at-large is the mayor.

<sup>2</sup> NJSA 40A:9-136.

<sup>3</sup> The number of council members can vary. For instance, the City of Linden currently has eleven council members, a provision which preceded the 1987 revisions.

<sup>4</sup> The Boroughs of Roselle and Roselle Park elect council members from wards.

<sup>5</sup> Wolfe, Albert J., A History of Municipal Government in New Jersey Since 1798, New Jersey State League of Municipalities.

<sup>6</sup> Wolfe, Albert J., A History of Municipal Government in New Jersey Since 1798, New Jersey League of Municipalities.

<sup>7</sup> Modern Forms of Municipal Government, State of New Jersey State Commission on County and Municipal Government, 1992, pp. 29.

<sup>8</sup> NJSA 1:6-10

<sup>9</sup> NJSA 1:6-11

<sup>10</sup> NJSA 40:69A-16

<sup>11</sup> Modern Forms of Municipal Government, State of New Jersey State Commission on County and Municipal Government, 1992, pp. 59.

<sup>12</sup> Modern Forms of Municipal Government. Article published in New Jersey.