

## New Jersey Statutes Governing Borough Form of Government

### 40A:60-1. Incorporation; Corporate Seal; Change of Name.

- a. The inhabitants of each of the several boroughs are hereby continued as a body politic and corporate in law as heretofore constituted and established and shall be known by the name of "the borough of \_\_\_\_\_, in the county of \_\_\_\_\_" (as the case may be), and the boundaries of the several boroughs shall be and remain as heretofore established by law.
- b. Each borough governed by the laws pertaining to the borough form of government shall have full power to sue and be sued and have a corporate seal.
- c. Any existing borough may, by resolution of the council, adopt a name, as prescribed in subsection a. of this section, and the borough clerk shall then file a copy of the resolution adopting said name with the county clerk, certified by the borough clerk. After the filing of such certificate said borough shall be known and designated by the name so adopted, but no suit, proceeding or instrument shall abate or in anywise be affected by any change of corporate name.

### 40A:60-2. Elected Officers.

- a. The mayor shall be elected by the voters of the municipality at large and serve for a term of four years and until his successor shall have qualified.
- b.
  - (1) The council shall consist of six members, elected at large, and shall serve for a term of three years and until their successors shall have qualified. Their terms shall be arranged, by lot if necessary, so that the terms of two councilmen shall expire at the end of each year; and
  - (2) Notwithstanding the provisions set out in paragraph (1) above, a borough that has been divided into wards prior to the effective date of this act shall continue to be divided into wards for so long as the ordinance establishing the wards remains in effect.
- c. There shall be held annually, at the time provided by law for holding general elections, an election for borough officers.

#### **40A:60-3. Organization; Officers; Meetings.**

- a. The mayor and council shall hold an annual meeting on the first day of January at 12 o'clock noon, or during the first seven days of January in any year.
- b. At its annual meeting, the council shall, by the vote of a majority of its number, elect a president of the council, who shall preside at all its meetings when the mayor does not preside. The president of the council shall hold office for one year and until the next annual meeting. He shall have the right to debate and vote on all questions before council.

If the council fails to elect a president at the annual meeting, the mayor shall appoint the president from the council and, in that case, no confirmation by the council shall be necessary.

- c. The president of the council shall perform all the duties of the mayor during any period in which the mayor is absent from the borough for three days or more or is unable to perform the duties of his office. Where such absence is intended, the president of the council shall become the acting mayor until the mayor's return. If the president of the council is unable to perform the duties of the acting mayor, then the member of council with the longest term of service may act temporarily for the president of the council.
- d. Three councilmen and the mayor or, in the absence of the mayor, four councilmen shall constitute a quorum for transacting business.
- e. The council may, at its annual meeting, establish for its members such committees of the council as will assist it for the ensuing year.
- f. The council shall hold such other meetings, at such time and place as it may by resolution direct, but all regular meetings shall be held within the borough.
- g. The mayor shall, when necessary, call special meetings of the council. In case of his neglect or refusal, any four members of the council may call such meeting at such time and place in the borough as they may designate, and in all cases of special meetings notice shall be given to all the members of the council, or left at their places of residence.
- h. No officer who has obtained tenure by any provision of any section herein repealed by section 8 [N.J.S. 40A:60-8] of this act shall be affected in any way by such repeal.

#### 40A:60-4. General Powers.

Every borough governed by the borough form of government pursuant to this act shall, subject to the provisions of this act or other general law, have full power to exercise all powers of local government in such manner as its council may determine.

#### 40A:60-5. Powers of the Mayor.

- a. The mayor shall be the head of the municipal government.
- b. The mayor shall have all those powers designated by general law.
- c. The mayor shall preside at meetings of the council and may vote to break a tie.
- d. Every ordinance adopted by the council shall, within five days after its passage, Sundays excepted, be presented to the mayor by the borough clerk. The mayor shall, within ten days after receiving the ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the clerk together with a statement setting forth his objections thereto or any item or part thereof. No ordinance or any item or part thereof shall take effect without the mayor's approval, unless the mayor fails to return the ordinance to the council, as prescribed above, or unless the council, upon consideration of the ordinance following its return, shall, by a vote of two-thirds of all the members of council, resolve to override the veto.
- e. No ordinance shall be passed, or appointment of any subordinate officer of the borough be confirmed, except by a vote of a majority of the members of the council present at the meeting, provided that at least three affirmative votes shall be required for such purpose, the mayor voting only in the case of a tie.
- f. If any ordinance contains more than one distinct section, clause or item, the mayor may approve one or more thereof and veto the rest.
- g. The mayor shall nominate and, with the advice and consent of council, appoint all subordinate officers of the borough, unless the specific terms of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within thirty days of that office becoming vacant.
- h. The mayor shall see to it that the laws of the State and the ordinances of the borough are faithfully executed. He shall recommend to the council such measures as he may deem necessary or expedient for the welfare of the borough. He shall maintain

peace and good order and have the power to suppress all riots and tumultuous assemblies in the borough.

**40A:60-6. Powers of the Council.**

- a. The council shall be the legislative body of the municipality.
- b. The council may, subject to general law and the provisions of this act:
  - (1) pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law;
  - (2) control and regulate the finances of the municipality and raise money by borrowing or taxation;
  - (3) create such offices and positions as it may deem necessary. The officers appointed thereto shall perform the duties required by law and the ordinances of the council. Other than the borough attorney, engineer, and building inspector, these officers shall be residents of the borough and shall serve at the pleasure of the council, except the clerk, who also shall be exempt from the borough residency requirement, the tax collector and tax assessor who shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes. The council may exempt officers from the residency requirements but only pursuant to the adoption of an ordinance to that effect;
  - (4) investigate any activity of the municipality;
  - (5) remove any officer of the municipality, other than those officers excepted by law, for cause; and
  - (6) override a veto of the mayor by a two-thirds majority of all the members of the council.
- c. The council shall have all the executive responsibilities of the municipality not placed, by general law or this act, in the office of the mayor.
- d. The council, whenever it fails to confirm the nomination by the mayor of any official to a subordinate office of the borough within 30 days of being presented such nomination, shall make the appointment to that office, provided that at least three affirmative votes shall be required for such purpose, the mayor to have no vote thereon except in the case of a tie.

**40A:60-7. Miscellaneous.**

- a. The borough council may, by ordinance, delegate all or a portion of the executive responsibilities of the municipality to an administrator, who shall be appointed pursuant to N.J.S. 40A:9-136.
- b. The borough council may, by ordinance, adopt an administrative code. The administrative code shall restate the major provision of the borough's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the council shall perform its duties. If the council organizes itself into standing committees or if the council members serve as heads of departments with administrative control over said departments, the administrative code shall specify the powers and duties of such committees or department heads and the manner in which they are appointed. The administrative code shall set forth the titles of the principal municipal officers, how the officers are appointed, how they are organized into departments, boards, commissions, and other agencies; whom they supervise, by whom they are supervised; what powers they have; and what procedure should be followed to carry on the activities of the borough government. The administrative code shall not grant any power or authority, nor authorize any procedure, unless such power, authority or procedure is authorized implicitly by the wording of the statute or derived by reasonable implication therefrom.
- c. The assets and liabilities of any board, commission or district created pursuant to the statutes repealed in section 40A:60-8 of this act shall be transferred to the municipality.
- d. The borough council may create such advisory councils to the municipality as it may choose, including councils for the functions absorbed by it of any heretofore existing boards, commissions or districts.