

Chapter 7

ADMINISTRATION OF GOVERNMENT

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[HISTORY: Adopted by the Board of Trustees of the Village of Jemez Springs as Ch. 2 of the 1996 Village Code. Amendments noted where applicable.]

GENERAL REFERENCES

Personnel policies — See Ch. 76.

Employee Manual — See Ch. A140.

ARTICLE I
In General

§ 7-1. Incorporation.

The Village was incorporated as a municipal corporation and body politic under the constitution and laws of this state on June 15, 1954, as a Mayor-Council form of government. The Board of Trustees is comprised of four qualified electors of the Village. The Mayor and Trustees have the duties and responsibilities as designated in state law and are collectively known as the "governing body."

§ 7-2. Police powers extended to Village buildings and land.

The police power of the Village is hereby extended to include all buildings, lands, or property owned or leased by the Village or any agency of the Village and the general ordinances of the Village shall be applicable on such property.

§ 7-3. Seal.

The governing body may, by resolution, adopt a Village Seal, which may be altered at pleasure, that it deems appropriate for use by the Village Clerk/Treasurer in authenticating official documents.

ARTICLE II
Board of Trustees

§ 7-4. Public meetings.

The governing body shall annually adopt by resolution a notice of public meetings, in compliance with the requirements of state law, delineating what is appropriate public notice of any public meeting of the Village or any other board, commission or policy making body of the Village.

§ 7-5. Compensation for Mayor and Trustees. [Amended by Ord. No. 1; Ord. No. 17; Ord. No. 33; Ord. No. 87¹]

The Mayor and each Trustee shall be compensated at a rate set from time to time by ordinance of the governing body for each regular or special meeting attended by him.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 7-6. Meeting times. [Amended by Ord. No. 1; Ord. No. 9; Ord. No. 17]

- A. Regular meetings. The governing body shall convene in a regular meeting on the second Wednesday of each month at 6:00 p.m. The meeting will be held at any building owned by or controlled by the Village, or at any place within the Village limits as may be designated by call of the Mayor or Trustees.²
- B. Special meetings. Special meetings of the governing body shall be called in the following manner:
- (1) By written notice given by the Mayor on his own initiative;
 - (2) Upon written notice by the Mayor upon the written request of two or more Trustees;
 - (3) Upon written notice of two or more Trustees.
- C. In all cases the notice shall be given to all members of the governing body and the Clerk/Treasurer not less than 24 hours prior to the time for which the meeting is called, either by delivery of the same in person or by mailing, or by leaving the notice with a person over the age of 16 years who resides at the residence of the person being notified.
- D. The notice shall state the time the meeting will be held, which shall be between the hours of 8:00 a.m. and 9:00 p.m.; the place where it will be held, which shall be at the place designated for regular meetings, unless a conflict exists with another use of the building. In any event the meeting shall be called to be held within the Village limits, unless waived by the Mayor and Trustees. The notice shall briefly state the business to be transacted.

§ 7-7. Board rules of procedure. [Amended by Ord. No. 1]

The procedures described in Robert's Rules of Order, latest edition, will govern the proceedings of the governing body, where applicable, unless suspended or waived at any meeting by a concurrence of a majority of the governing body.

§ 7-8. Quorum of Board; absence of Clerk/Treasurer. [Amended by Ord. No. 1]

- A. The presence at a meeting of any three Trustees, or any two Trustees and the Mayor, shall constitute a quorum for the transaction of business. In the absence of the Mayor, the Mayor pro tem or, in his absence, a Trustee shall be elected by the Trustees to preside at the meeting.
- B. In the absence of the Clerk/Treasurer, the Trustees shall designate one of their number or some other person to act temporarily in place of the Clerk/Treasurer. The Clerk/Treasurer shall have no vote, but shall attend the meetings of the governing and shall have a right to present at all meetings except when, by resolution to meet in executive session, the Clerk/Treasurer are designated to be excluded.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. A quorum is necessary at any meeting in order for the governing body to conduct business. A quorum is a simple majority of all of the members of the governing body, including the Mayor. A majority of those present at a meeting may act on behalf of the Village; except that certain actions require an affirmative vote of a majority of all the members of the entire governing body, such as the passage of ordinances and resolutions.

§ 7-9. Mayor pro tem to preside in absence of Mayor.

The governing body shall elect one of its members to act as mayor pro tem in the absence of the Mayor. When presiding, the Mayor pro tem retains his right to vote as a Trustee and is not able to vote a second time to break a tie.

§ 7-10. Attendance of members.

The governing body can compel absent members to attend meetings by prescribing penalties for nonattendance.

§ 7-11. Trustee serving as Fire Chief. [Amended by Ord. No. 28³]

Any elected official may receive a salary as Fire Chief as well as retaining his capacity as an elected official on the governing body. He shall receive a salary in an amount as the governing body may from time to time designate.

§ 7-12. Disclosure of interest.

- A. Members of the governing body are required to disclose any financial interest or other possible interest in any decision of the governing body before a vote is taken.
- B. The disclosure of interest does not disqualify the member from voting unless a majority of the other members of the governing body decide that the member with the interest should abstain or unless the member wishes to disqualify himself/herself.

§ 7-13. Voting and veto powers of Mayor.

- A. The Mayor cannot vote on issues before the governing body unless there is a tie vote.
- B. The Mayor cannot veto any action of the governing body.

§ 7-14. Board of Finance.

- A. The governing body is the Board of Finance of the Village and the members of the governing body serve without additional compensation for these services.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. The governing body shall control the finances and property of the Village; shall appropriate money for municipal purposes only; and shall provide for payment of debts and expenses of the Village.

ARTICLE III
Municipal Court

§ 7-15. Municipal Court in general. [Amended by Ord. No. 27]

- A. The Municipal Court is a separate branch of Village government equal in power and prestige with the executive and legislative branches.
- B. The Municipal Court has jurisdiction over violations of municipal ordinances.
- C. The Municipal Judge may issue subpoenas and warrants and punish for contempt.
- D. The amount of bond required of the Municipal Judge shall be as set from time to time by the governing body. Expenses for the bond shall be paid by the Village.⁴
- E. The Municipal Judge must make monthly reports to the governing body of all money collected. The money and the report must be turned in to the Village by the 10th of the month following collection. The report must include the name of the person who paid the money, the amount paid, the purpose of the payment, and the date on which the payment was made. If a Municipal Judge fails to turn in the required reports or money, he is guilty of a misdemeanor and may be fined up to \$200, imprisoned up to 90 days, or both.
- F. The Municipal Judge shall annually, as a condition of discharging the duties of that office, successfully complete a judicial training program conducted under the authority, or with the approval of the Court Administrator of the State Administrative Office of the Courts, unless exempted from this requirement by the Chief Justice of the State Supreme Court. The Municipal Judge may not receive his salary until he has successfully completed, or been exempted from, the required judicial training program.

§ 7-16. Qualifications and oath of Municipal Judge. [Amended by Ord. No. 27]

- A. The Municipal Judge shall be a citizen of the United States, a resident of the state and a registered, qualified elector of the Village.
- B. The Municipal Judge must take an oath of office to support the constitution of the United States, the constitution and laws of the state and to faithfully perform the duties of the office.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 7-17. Compensation of Municipal Judge. [Amended by Ord. No. 7; Ord. No. 27; Ord. No. 32; Ord. No. 62; Ord. No. 86; 2-8-2006 by Ord. No. 158]

The Municipal Judge shall be paid the sum of \$314 per month to perform the duties as described in this chapter.

§ 7-18. Municipal Court sessions. [Amended by Ord. No. 27.]

Court sessions shall be continuous and the Municipal Court shall be open any day or night, including Sunday and holidays and any other day for court transactions.

§ 7-19. Appointment of temporary Municipal Judge. [Amended by Ord. No. 77]

- A. Whenever the Municipal Judge determines that he will be temporarily unable or unavailable to perform the duties of Municipal Judge, whether by reason of recusal or disqualification, absence, sickness or other incapacity, he shall appoint in advance of the event a temporary Municipal Judge to serve during his temporary absence. For the purposes of this subsection, "appointment" shall mean the Municipal Judge's designation of a temporary judge by actual notice to the temporary judge and by written notice filed with the Clerk of the court. Written notice shall indicate the name of the temporary judge, the reason for the appointment and the anticipated duration of the appointment. The appointment shall automatically cease when the Municipal Judge returns to his duties.
- B. In the event the Municipal Judge becomes unable or unavailable to perform the duties of Municipal Judge and has failed to appoint a temporary judge, the governing body shall appoint a temporary judge who shall serve until the regular Municipal Judge returns to his duties. If the governing body declares a vacancy in the office of Municipal Judge due to the death, removal, resignation or other circumstance causing a vacancy as provided by NMSA 1978, § 10-3-1, it may appoint a temporary judge to serve until a successor Municipal Judge has been duly appointed by the governing body pursuant to NMSA 1978, § 35-14-4.
- C. Qualifications. The temporary Municipal Judge shall be a registered qualified elector of the Village and shall reside within the corporate limits of the Village.
- D. Oath of office. Before assuming the duties of temporary judge, the temporary Municipal Judge shall take the oath of office as required by NMSA 1978, § 3-10-2. Once a qualified elector has taken the oath of office as temporary judge, he shall not be required to repeat the oath on subsequent appointments. Upon taking the oath of office, the temporary Municipal Judge shall be covered by the corporate surety bond covering all municipal officials.
- E. Salary. The temporary Municipal Judge shall be paid an amount set from time to time by ordinance of the governing body each day that he shall actually sit and serve as Municipal Judge, such sum to be paid out of the general fund of the Village.⁵

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- F. Administrative duties. The requirements of law relating to money collected, monthly reports, itemized statements and penalties shall apply to the temporary Municipal Judge.

§ 7-20. Authority of Municipal Judge. [Amended by Ord. No. 64]

When the Municipal Judge is satisfied that the public will be served, the ends of justice will be served, and not contrary to state law, the Municipal Judge may:

- A. Suspend in whole or in part the execution of a sentence;
- B. Place the defendant on probation for a period not exceeding one year on terms and conditions the court deems best, including but not limited to deferment or sentence, making restitution, or performing community service; or
- C. Impose any or all of the provisions of Subsections A and B of this section on the defendant.

§ 7-21. Discharge of liability. [Amended by Ord. No. 64]

Upon the successful completion of the terms and conditions of probation as stated in § 7-20B of this Code, the defendant's liability for any fine or other punishment imposed shall be fully discharged.

§ 7-22. Construal of provisions. [Amended by Ord. No. 64]

Sections 7-21 and 7-22 of this chapter shall be liberally construed to effectuate the intent of the Village to give the Municipal Judge wide discretion regarding probation, suspension and deferment.

§ 7-23. Work by prisoners. [Amended by Ord. No. 66]

Every person who has violated a municipal ordinance, has been incarcerated in the municipal jail, county jail, prison farm or other place provided by the Village for the incarceration of such offenders, and who has not paid in full any fine or penalty levied by the Municipal Judge shall work for the Village, as such labor the person's strength will permit, within or without the place of incarceration, as directed by the supervisor of the place of incarceration, and not exceeding 10 hours each working day.

§ 7-24. Credit for work done. [Amended by Ord. No. 66⁶]

Each prisoner required to work, as provided in § 7-23 of this chapter, shall be credited with eight times the federal hourly minimum wage per day worked toward the reduction of any fine.

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 7-25. Release from incarceration. [Amended by Ord. No. 667]

Each prisoner shall be released from incarceration upon working enough days to reduce the fine to nothing, unless a jail sentence was imposed by the Municipal Judge and the prisoner has not served the full term. In determining whether a jail sentence has been served, days worked for credit as set forth in § 7-24 above shall also be counted against the sentence imposed by the Municipal Court.

ARTICLE IV
Officers and Employees

§ 7-26. Position of Clerk/Treasurer. [Amended by Ord. No. 17; Ord. No. 114; 3-9-2004 by Ord. No. 152; 11-10-2010 by Ord. No. 171]

- A. A Clerk/Treasurer shall be appointed by the Board of Trustees subject to the provisions of the personnel merit system, and to perform the duties of a Village Clerk, as prescribed by law, or as prescribed by ordinance, by law or resolution of Village not contrary to law. The Clerk/Treasurer shall receive as compensation a salary set by the governing body.
- B. The Clerk/Treasurer shall keep in custody all minutes, ordinances and resolutions approved by the governing body; shall attend all meetings of the governing body; shall record all proceedings, ordinances and resolutions of the governing body; and shall, upon request, furnish copies of municipal records, unless prohibited by state or federal law. The Clerk/Treasurer may charge a reasonable fee for the cost of furnishing copies of Village records.
- C. When the governing body is acting as the Board of Finance, the Clerk/Treasurer shall serve as secretary, shall keep a public record of the proceedings, and shall convene a meeting of the Board of Finance whenever necessary or whenever requested to do so by any member of the Board of Finance.
- D. The Clerk/Treasurer shall administer the municipal elections pursuant to the requirements of state law.
- E. The Clerk/Treasurer shall serve as the Procurement Officer and perform other duties prescribed by law or by the governing body, Mayor or Supervisor.
- F. The Clerk/Treasurer shall under general direction supervise, plan, coordinate, and direct the activities of Human Resources. Complies, maintains, and reviews all reports, daily work records, time cards, payroll information, work specifications, and appropriate personnel documentation as prescribed by law.⁸
- G. The Clerk/Treasurer shall be bonded for a sum equal to 20% of the public moneys received by him/her in the preceding fiscal year, but in no instance shall a bond in excess of \$50,000 be required.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Original § 2-4-1G of the 1996 Code, regarding Finance Officer/HR Director, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 7-27. Village Marshal and police officers.

- A. The Village Marshal shall be appointed by the Mayor subject to the approval of a majority of all members of the governing body, subject to the provisions of the personnel merit system.
- B. Commission. Each police officer shall receive, from the governing body, an appointment, in writing, as a police officer of the Village.
- C. Oath. Each new police officer shall take an oath or affirmation within 10 days of appointment, to support the constitution of the United States, the constitution and laws of the state, and the ordinances of the Village, and to faithfully perform the duties of the office.
- D. Bond. The governing body shall require a corporate surety bond from the police officer for the care and disposition of Village funds in the employee's custody and for faithful discharge of the employee's duties. For purposes of this subsection, the corporate surety bond shall be taken on the Village Marshal representing the police officers of the Village. Expenses of the bond shall be paid by the Village.⁹
- E. Duties. A police officer of the Village shall execute and return all writs and processes as directed by the Municipal Judge, execute and return all criminal process as directed by the Municipal Judge if the criminal process arises out of a charge of violation of a Village ordinance prohibiting driving while under the influence of intoxicating liquor or drugs; serve criminal writs and processes in any part of county; and within the Village:¹⁰
- (1) Suppress all riots, disturbances and breaches of the peace;
 - (2) Apprehend all disorderly persons;
 - (3) Pursue and arrest any person fleeing from justice;
 - (4) Apprehend any person in the act of violating the laws of the state or the ordinances of the Village and bring him before competent authority for examination and trial; and
 - (5) Perform other duties as directed by the Village Marshal and the Mayor.

§ 7-28. Position of Finance Officer/HR Director. [Amended 3-9-2004 by Ord. No. 152]

- A. The Finance Officer shall receive all money belonging to the Village; keep the accounts and records in the manner prescribed by the governing body and state regulations; keep the money of the Village separate from any other money in his/her possession; expend the money only as directed by the governing body; submit monthly, or more often if required by the governing body, a report of the receipts and expenditures of the Village; prepare an annual budget; prepare monthly and at the close of the fiscal year a financial

9. Editor's Note: Original § 2-4-2E of the 1996 Code, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

report showing the receipts, expenditures and balances for each fund, payroll; and perform other duties prescribed by law or by the governing body, Mayor or Supervisor. A copy of the financial report shall be filed in the office of the Village Clerk/Treasurer as a public document. **[Amended 11-10-2010 by Ord. No. 171]**

- B. The Finance Officer/HR Director shall under general direction supervise, plan, coordinate, and direct the activities of Human Resources. Complies, maintains, and reviews all reports, daily work records, time cards, payroll information, work specifications, and appropriate personnel documentation as prescribed by law.
- C. The Finance Officer/HR Director shall receive as compensation a salary set by the governing body.

ARTICLE V Village Departments

§ 7-29. Establishing Village departments/divisions. [Amended by Ord. No. 77; 12-8-2004 by Ord. No. 155¹¹]

The governing body under the authority granted in NMSA 1978, §§ 3-13-1 and 3-37-3, designates the following departments and divisions/activities to provide the services to its citizens mandated or delegated by state law.

- A. Office of the Village Clerk/Treasurer:
 - (1) Finance.
 - (2) Central Purchasing.
 - (3) Human Resources.
- B. Police Department:
 - (1) Traffic Division.
- C. Volunteer Fire and Rescue Department.
- D. Wastewater Department.
- E. Public Library.
- F. Bath House.
- G. Public Works.

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 7-30. Office of Emergency Management. [Added by Ord. No. 20¹²]

The purpose of Subsections A through D of this section is to create an emergency management (defense) organization for the Village to be prepared for and to function in the event of emergencies endangering the lives and property of the residents of the Village. The duty of the emergency management organization shall be to plan for protection of the lives and health of the citizens of the Village and of property and property rights, both private and public, and all functions necessary and incident thereto.

- A. Establishment. There is hereby established under the executive branch of the Village an Office of Emergency Management which shall consist of a Director of Emergency Management who shall be appointed by the Mayor with the concurrence of the governing body and subject to approval of the State Director of Homeland Security and Emergency Management in accordance with state law.
- B. Duties of Director. The Director shall be in charge of the Office of Emergency Management and shall be responsible to the Mayor and the governing body for carrying out the emergency management program of the Village. He may be reimbursed for expenses incurred in the performance of his duties. It shall be the duty of the Director as soon as practicable after his appointment to establish an organization to carry out the purpose set forth in this section. He shall have all necessary power and authority to form committees or other bodies and with concurrence of the Mayor to appoint and designate the chairman or chief officer of such bodies as may be necessary to establish such an organization. He shall have such further duty and responsibility to cooperate with all emergency management agencies of other governmental units, including the state and federal governments.
- C. Plans; recordkeeping. The Director is further authorized to formulate written plans and gather information and keep written record to govern the functions of the emergency management organization.
- D. Emergency operating center. In the event of an emergency situation or condition such as from natural causes, civil disorder or riots, the Mayor of the Village shall cause to be activated an emergency operating center complete with the necessary communications capability for the continued performance of local government. This emergency operating center shall operate under the direction of the Mayor in carrying out his duties as elected chief executive officer and as specified in his oath of office. The Director shall act as the chief executive assistant to the Mayor in the execution of these duties or as the Mayor shall direct.

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).