

CHAPTER VI

MUNICIPAL NAMES AND MUNICIPAL CLASSIFICATION

MUNICIPAL NAMES

Types and Forms of Municipal Government

In New Jersey there is a distinction between “type” of municipality and “form” of government. Types of municipalities in New Jersey (cities, townships, boroughs, towns, villages) have developed historically, both during and after the colonial period. In 1798 the Legislature enacted the Township Law which divided the State into 104 townships. The State Legislature had previously recognized the four Cities of Burlington, Perth Amboy, New Brunswick and Trenton, as well as the Borough of Elizabeth and the Town of Paterson. At that time these six municipalities were still considered within the township boundaries.

From 1798 to 1875, the Legislature created and thereby incorporated municipalities other than townships by special acts. The cities, boroughs, and towns were carved from portions of the then existing townships. The Legislature gave these new municipalities an individual structure and specified their powers in each of these acts. Because the Legislature appeared to abuse this power of creating new municipalities, by interfering in the internal affairs of local government, the State Constitution was amended in 1875 to prohibit this method of incorporation. It required instead the enactment of general forms of government laws.

From 1875 to 1911, the Legislature started enacting general form of government laws. At the same time, it provided the residents of a portion of a municipality with local initiative to incorporate as a new municipality. Local initiative eliminated the need for special legislation at the State level each time a new municipality was to be created. An example of this method of local initiative would be whereby a group of residents would separate from their township by referendum and incorporate as a borough in order to operate under the Borough Form of government laws. There was such a flood of new incorporations that the Legislature began to take away the local power to incorporate. In 1897, the Legislature removed the power to incorporate new boroughs by local action. In 1982 the last remaining authorization to incorporate new municipalities was removed from the town laws. Up to 1911, a municipality’s type and form of government were always the same.

Since 1911, however, when optional forms of municipal government began to become available, many municipalities have changed their form of government, by

adopting a new form from among the optional forms the Legislature has enacted. These forms include the Commission Form of Government Act of 1911 (also known as the Walsh Act), the Municipal Manager Form of Government Act of 1923, and the Optional Municipal Charter Law of 1950 (also known as the Faulkner Act). Nevertheless, in changing their form of government, they have not changed their classification or type of government.

Thus, for example, borough x, in 1900, was a borough (by its incorporation and, thereby, its type) governed by the borough laws. In 1980, say, it adopted the Optional Municipal Charter Law (Faulkner Act) Council-Manager Form of government, which is entirely different from the old borough law. Its form of government is Council-Manager, but it is still called a borough and that is its classification or type.

Federal Revenue Sharing

The State and Local Fiscal Assistance Act of 1972, known as the Revenue Sharing Act, initiated an entirely new type of Federal assistance to State and local governments. It would allow maximum flexibility to State and local governments in choosing how the funds would be used, with a minimum of involvement by the federal government. The funds were distributed so that one third went to State governments and two thirds to local governments. "*Local governments*" were interpreted to mean municipalities and townships. The Federal Revenue Sharing funding formula was designed so that in some cases townships would receive more money than cities, boroughs, towns, and villages. In 1981 States were eliminated from the program. In 1986 Federal Revenue Sharing was also eliminated for local governments. In that final year, \$4.4 billion was provided to local governments nationwide under the program.

Name Changing in Essex County

In the early 1980s, in order to gain some advantage under Federal Revenue Sharing, 15 municipalities in Essex County, at a regular, general, or special election held in their respective municipalities, changed the name of the municipality so that the word "*township*" could be inserted into the official name. The federal government has considered, and still does consider, townships as different from other types of municipalities.¹

Eight of the 15 municipalities have dropped their original name and have fully adopted the term "township" as the type of municipality they are. In seven other municipalities a more confusing situation prevails. Four municipalities now have names providing two types of government. For example, there are such

¹The State Commission on County and Municipal Government, the New Jersey League of Municipalities, and other organizations are currently leading a campaign to change this federal policy.

places as the "Township of Glen Ridge Borough", which continues to function under the Borough Form of government even though technically it is known as a township. It may be even more confusing in the three municipalities operating under the Borough Form of government who have fully adopted the name "township" (see Table 15).

TABLE 15 MUNICIPALITIES WITH TWO TYPES OF NAMES				
Community	Type of Municipality	Year	Forms of Government	
Twp of Boro of Caldwell	Township	1981	Borough	
Twp of Glen Ridge Boro	Township	1981	Borough	
South Orange Village Twp	Township	1981	Special Charter	
City of Orange Twp	Township	1982	OMCL:MC	
MUNICIPALITIES WHOSE FORM OF GOVERNMENT IS NOT CONSISTENT WITH THEIR TYPE				
Community	Type of Municipality	Year	Forms of Government	
Essex Falls Township	Township	1981	Borough	
North Caldwell Township	Township	1982	Borough	
West Caldwell Township	Township	1981	Borough	
MUNICIPALITIES WHO HAVE DROPPED BOROUGH OR TOWN FOR TOWNSHIP				
Community	Dropped	Added	Year	Forms of Government
Verona Township	Borough	Township	1982	OMCL:CM
Irvington Township	Town	Township	1982	OMCL:MC
Belleville Township	Town	Township	1981	OMCL:CM
Bloomfield Township	Town	Township	1981	Special Charter
Montclair Township	Town	Township	1981	OMCL:CM
Nutley Township	Town	Township	1981	Commission
West Orange Township	Town	Township	1980	OMCL:MC
Fairfield Township	Borough	Township	1979	OMCL:SM

Since Federal Revenue Sharing is no longer in existence, there is no need for municipalities having two differing types of official name. Correcting this municipal name situation will make “*type of municipality*” and “*form of government*” consistent and less confusing for all. Every municipality should have one type of name only which is not inconsistent with its form of government. The four municipalities with two types of municipal names (Caldwell, Glen Ridge, South Orange, and Orange) and the three municipalities whose form of government is not consistent with its type (Essex Fells, North Caldwell, West Caldwell), should revert to their original names.

In order to prevent the confusion which might come from any future change in the *type* of municipality which is inconsistent with its form, the 1917 name changing statute, N.J.S.A. 40:43-4, would have to be amended. ***The Commission recommends that the statute provide that every municipality have one type of name only which is not inconsistent with its form of government.*** This would be applicable to future use of the statute and would also provide for a direct reversion to their original name for the seven affected municipalities. Those municipalities should be authorized to change the name on facilities, vehicles and letterhead over a period of time in order to save money on transitional costs.

CLASSIFICATION OF CITIES

Classification is a mechanism states use to get around provisions in their constitutions prohibiting the enactment of special laws for a single local government. The Legislature has recognized in New Jersey large and small municipalities as basic categories of size. Those municipalities above 12,000 in population are considered large and those below 12,000 are considered small. Nevertheless, only cities have been classified in New Jersey and of those there are only 52. Some 515 municipalities are not classified at all. Cities have been classified into four classes since 1882 (see Table 16).

Classification is used by the legislature every year for a number of reasons. It authorizes particular municipalities to undertake a specified activity - such as for example imposing a sales tax limited to certain classes of transactions² or for the appointment of deputy directors in second class cities and certain fourth class cities.³ Whatever the case, classification provides the means for some 52 cities to be granted or prohibited certain powers or functions.

First class cities are those that have a population of over 150,000; Newark and Jersey City are the only two that qualify for this designation. Second class are those cities that have a population between 12,000 and 150,000, which totals some 28 municipalities. The third class classification includes all other cities, except those along the Atlantic Ocean. These latter are categorized as under fourth class cities. The third class contains 15 cities and the fourth class comprises seven Atlantic Ocean resort cities.

²Karins v. Board of Commissioners of Atlantic City, 137 N.J.L. 349, 60A. 2nd 246 (1948)

³N.J.S.A. 40:72-9

**TABLE 16
CLASSIFICATION OF CITIES
(R.S. 40A:6-4)**

First Class: Over 150,000 population (Newark, Jersey City)

Second Class: Between 12,000 and 150,000

Third class: All others, except Atlantic Ocean resorts

Fourth Class: Atlantic Ocean resorts

<u>Second Class</u>	<u>Third Class</u>	<u>Fourth Class</u>
Paterson	Somers Point	Brigantine
Elizabeth	Woodbury	Ventnor City
Trenton	Burlington	Margate City
Camden	South Amboy	North Wildwood
East Orange	Northfield	Cape May
Clifton	Absecon	Wildwood
Bayonne	Salem	Sea Isle
Passaic	Linwood	
Union City	Egg Harbor City	7
Vineland	Bordentown	
Plainfield	Lambertville	
Perth Amboy	Beverly	
New Brunswick	Estell Manor	
Atlantic City	Port Republic	
Hackensack	Corbin City	
Linden		
Hoboken	15	
Long Branch		
Garfield		
Millville		
Rahway		
Englewood		
Summit		
Bridgeton		
Asbury Park		
Pleasantville City		
Ocean City		
Gloucester City		
28		

The current classification system is outdated. There is no reason why only cities should be classified. Why should 515 municipalities be excluded? Under the 1917 Home Rule Act, all municipalities have the same powers. Therefore, creating a difference between cities and others is nonsensical. All should have the same flexibility that is provided in the statutes for municipalities of equal or similar size.

The first and second class categorize the cities in terms of population, while the third and fourth class categorize the cities in terms of both their population and their location. In the third and fourth class cities this distinction between cities on or not on the Atlantic Ocean may have had validity back in the late 1800s when classification was devised, but it is now not pertinent. Brigantine, Margate, and Ventnor border the Atlantic Ocean, which makes them cities of the fourth class. Absecon, Linwood, and Northfield do not border on the Ocean, which make them cities of the third class. Why should there be a separation between these two classes on the basis of location? It is also interesting to note that Atlantic City is an Atlantic Ocean resort, but it is placed in the second class category because of its population. The fourth class category has outlived its purpose and should be eliminated.

The Commission recommends that the classification of cities laws be rewritten to include all municipalities with three classes based solely on population.

The new population limits should be:

First class municipalities - 100,000 and above

Second class municipalities - 12,000 to 100,000

Third class municipalities - below 12,000

This new classification system for municipalities would be more relevant in categorizing the ever changing and varied nature of municipalities in New Jersey.

FUTURE PUBLICATIONS OF THE STATE COMMISSION ON COUNTY AND MUNICIPAL GOVERNMENT

- Intergovernmental Funding Within New Jersey
- Municipal Volunteers and Independent Boards
- Local Budget Reporting
- Thoughts on the Form of County Government
- Open Space and Recreation in New Jersey

ABOUT THE COMMISSION

The New Jersey Legislature established the State Commission on County and Municipal Government in 1966 with the charge to “study the structure and functions of county and municipal government... and to determine their applicability in meeting the present and future needs of the State and its political subdivisions”. Since then, the Commission has had a long record of making a positive contribution to the legislative process, to improving the effectiveness of local government operations and to harmonizing policy between county and municipal government and the State government. The Commission, by amendment to its enabling act, became permanent in 1991.

To achieve as broad a representation as possible, the Commission is composed of fifteen members, with nine members named by the Governor, three Senators named by the President of the Senate, and three members of the Assembly named by the Speaker of the General Assembly. Of the Governor’s appointees, three are nominees of the New Jersey Association of Counties, three are nominees of the New Jersey State League of Municipalities, and three are from among the citizens of the State.

The Commission has worked extensively on structural studies dealing with the organization and form of county and municipal government. The Commission also engages in functional studies that are focused upon the services that local governments provide or should so provide. These intergovernmental functional studies have included examinations of solid waste, water supply, sewerage, roads, open space, judicial, human service, and redevelopment programs. In addition, a series of informational periodicals and handbooks are published for the use of officials, administrators and other interested in New Jersey government.

The newly enacted legislation expands the Commission’s duties to include the examination of the relationship between local government and the federal government. The legislation also explicitly authorizes the Commission to study the transfer of functions from one level of government to another, the purchase of services on a contractual basis, the establishment of regional special districts, authorities and commissions, and the merger of autonomous agencies into the existing structure of county and municipal government.

While the Commission’s research efforts are primarily directed toward continuing structural and functional studies, its staff is often asked to assist in the drafting of legislation and regulatory action based upon Commission recommendations. Numerous legislative bills have been enacted to implement Commission recommendations. The Commission also serves as a general resource to the legislature, executive agencies, local government officials and civic organizations, as well as to related activities at the national level.