

**ORDINANCE 2004-1**  
**AN ORDINANCE INCREASING THE COMPENSATION OF THE MAYOR OF THE TOWN**  
**OF EDGEWOOD, NEW MEXICO.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD, SANTA FE**  
**COUNTY, NEW MEXICO THAT:**

**SECTION 1. COMPENSATION**

The compensation for the mayor of the Town of Edgewood shall be as follows:

- A. The compensation of the mayor shall be \$1000.00 per month.

**SECTION 2. IMPLEMENTATION**

The Mayor elected to a full term of office in 2004 and his successors, shall receive compensation as established in this ordinance after the March 2004 regular municipal election. Persons elected to office at the March 2004 regular municipal election shall receive compensation as established in this ordinance upon taking office, as defined in § 3-8-33 NMSA 1978.

**SECTION 3. LIMITATIONS**

Nothing in this ordinance shall be construed to prohibit or preclude the payment of per diem and mileage or actual expenses of elected officials traveling on official business for the Town of Edgewood and approved by the governing body.

**SECTION 4. SEVERABILITY**

The provisions of this ordinance are hereby declared to be severable, and if any portion, sentence, phrase, or word thereof shall be held to be unconstitutional or word thereof shall be held to be unconstitutional or invalid, the remainder of this ordinance shall continue in force and effect and in application.

**SECTION 5. VALIDITY**

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

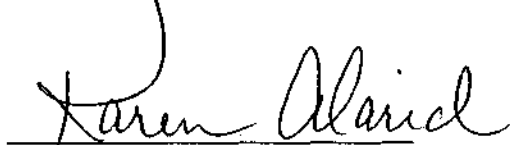
**SECTION 6. EFFECTIVE DATE**

Passed, Approved and adopted this 7th day of January 2004



Mayor Howard Calkins

ATTEST:



Karen Alarid

Clerk/Treasurer, Town of Edgewood



Q10-03  
97-00

TO:

FROM: Diane Lang, Director, Information Services

SUBJECT: MODEL ORDINANCE TO INCREASE SALARIES OF ELECTED OFFICIALS FOR NON-CHARTER MUNICIPALITIES

DATE:

Enclosed is a model ordinance to increase the salaries of elected officials. Article IV, Section 27 of the New Mexico Constitution prohibits either increasing or diminishing the compensation of any elected official during his or her term of office.

The enclosed ordinance sets forth 2 options - both labeled as Section 2. **Option 1** allows for staggered increases to reflect the years when current terms are up. Half would receive the increase two years before the other half. Those elected in 1996 would receive the increase upon taking office. The salary increase for the remainder whose terms are up in 1998 goes into effect upon the taking of office after elections in 1998. **Option 2** provides for the increase for all the governing body at the same time after the 1998 election. If this model ordinance is used, please make sure that only one of these options is adopted.

Another important consideration is that this ordinance must be adopted and published after adoption prior to the next regular municipal election.

Post-it* Fax Note 7671		Date 12/15/03	# of pages 3
To	Hann Alaniz	From	Roger
Co./Dept.	Edgewood	Co.	
Phone #		Phone #	
Fax #	286-4519	Fax #	

**MODEL ORDINANCE**

AN ORDINANCE INCREASING THE COMPENSATION OF THE MAYOR AND MEMBERS OF THE COUNCIL OF THE [CITY/TOWN/VILLAGE] OF \_\_\_\_\_, NEW MEXICO, AND REPEALING ORDINANCE NO. \_\_\_\_\_.

BE IT ORDAINED BY THE GOVERNING BODY OF THE [CITY/TOWN/VILLAGE] OF \_\_\_\_\_, \_\_\_\_\_ COUNTY, NEW MEXICO THAT:

Section 1. The compensation of the governing body of the [City/Town/Village] of \_\_\_\_\_ shall be as follows:

A. The compensation of the mayor shall be: (choose one of the following) \$ \_\_\_\_\_ per meeting / \$ \_\_\_\_\_ per month / \$ \_\_\_\_\_ per year.

B. The compensation of the [councilmembers/councilors/trustees/commissioners] shall be: (choose one of the following) \$ \_\_\_\_\_ per meeting / \$ \_\_\_\_\_ per month / \$ \_\_\_\_\_ per year.

**(Option 1) Section 2. Implementation.**

A. Persons elected to a full term of office at the March, 1996 regular municipal election, and their successors, shall receive compensation as established in this ordinance upon taking office, as defined in 3-8-33 NMSA 1978.

B. Persons elected to a full term of office at the March, 1998 regular municipal election, and their successors, shall receive compensation as established in this ordinance upon taking office, as defined in 38-33 NMSA 1978.

**(Option 2) Section 2. Implementation.**

Those members of the governing body elected to a full term of office in 1996 and their successors, shall receive compensation as established in this ordinance after the March, 1998 regular municipal election. Persons elected to office at the March, 1998 regular municipal election shall receive compensation as established in this ordinance upon taking office, as defined in 3-8-33 NMSA 1978.

Section 3. Nothing in this ordinance shall be construed to prohibit or preclude the payment of per diem and mileage or actual expenses of elected officials traveling on official business of the [City/Town/Village] and approved by the governing body.

Section 4. The provisions of this ordinance are hereby declared to be severable, and if any portion, sentence, phrase, or word thereof shall be held to be unconstitutional

or word thereof shall be held to be unconstitutional or invalid, the remainder of this ordinance shall continue in force and effect and in application.

Section 5. Any existing ordinance of the [City/Town/Village] of \_\_\_\_\_ or any portion thereof which conflicts with the provisions of this ordinance is hereby repealed to the extent that it conflicts with this ordinance.

Section 6. Ordinance No. \_\_\_\_\_ of the [City/Town/Village of \_\_\_\_\_] pertaining to the compensation of the mayor and [councilmembers/councilors/trustees/commissioners] is hereby repealed but nothing in this repealer shall preclude elected officials from receiving compensation at their existing rate until any change provided by this Ordinance becomes effective.

Section 7. After proper publication as required by state statute, this ordinance shall become effective on \_\_\_\_\_, 199\_\_.

PASSED, ADOPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

[City/Town/Village of \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

**Technology Net  
Elected Official Comparison Report  
10/28/2003**

**Job #2770 - BOARD CHAIRMAN**

Post-it® Fax Note 7671		Date 1-14-04	# of pages 4
To <u>Kay Dexter</u>		From <u>Karen</u>	
Co./Dept.		Co. <u>TOE</u>	
Phone #		Phone #	
Fax # <u>734-6605</u>		Fax #	

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
ALBUQUERQUE	\$0.00							
<b>Average</b>	<b>\$0.00</b>							

**Job #2775 - BOARD MEMBER**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
HATCH	\$4,800.00	<input type="checkbox"/>						
ALBUQUERQUE	\$0.00							
<b>Average</b>	<b>\$4,800.00</b>							

**Job #2705 - CITY COUNCILOR**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
CARLSBAD	\$120.00							
LOVINGTON	\$2,400.00							
SUNLAND PARK	\$2,400.00							
RATON	\$3,600.00							
ROSWELL	\$4,316.00							
AZTEC	\$4,800.00							
BERNALILLO	\$4,800.00				<input type="checkbox"/>		<input type="checkbox"/>	
DEMING	\$5,220.00				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RUIDOSO	\$6,000.00			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
RIO RANCHO	\$6,096.00							
ALBUQUERQUE	\$8,320.00							
FARMINGTON	\$10,000.00			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
TAOS	\$13,811.00							
SANTA FE CITY	\$15,000.00							
ALAMOGORDO	\$1,200.00							
CORRALES	\$1,800.00							
BLOOMFIELD	\$3,000.00							

ARTESIA	\$7,200.00						
PORTALES	\$4,800.00						
HOBBS	\$4,800.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
GRANTS	\$5,782.00						
LOS LUNAS	\$8,500.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
BELEN	\$8,700.00						
LAS VEGAS	\$10,392.00						
GALLUP	\$15,000.00						
LAS CRUCES	\$19,442.00						
SILVER CITY	\$0.00						
RED RIVER	\$7,200.00						
HOPE	\$0.00						
LOGAN VILLAGE	\$1,200.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
MORIARTY	<del>\$0.00</del> 500.00 per month = \$6,000 per year						
CLAYTON	\$2,400.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
MESILLA	\$0.00						
RUIDOSO DOWNS	\$4,880.00						
CLOVIS	\$5,000.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Average</b>		<b>\$6,392.87</b>					
NEW MEXICO MUNICIPAL LEAGUE	\$0.00						

**Job #2755 - COUNTY ASSESSOR**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
LOS ALAMOS	\$2,516.80			<input type="checkbox"/>				
EDDY COUNTY	\$53,296.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SAN JUAN COUNTY	\$56,950.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANDOVAL COUNTY	\$0.00							
<b>Average</b>		<b>\$37,587.60</b>						

**Job #2735 - COUNTY CLERK**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
SAN JUAN COUNTY	\$43,305.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

LOS ALAMOS	\$2,496.00		<input type="checkbox"/>					
EDDY COUNTY	\$49,796.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SANDOVAL COUNTY	\$0.00							

Average \$31,865.67

**Job #2720 - COUNTY COMMISSION CHAIR**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
EDDY COUNTY	\$19,854.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANTA FE COUNTY	\$17,264.00							
SAN JUAN COUNTY	\$25,708.00				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANDOVAL COUNTY	\$17,264.00							
LOS ALAMOS	\$7,196.80			<input type="checkbox"/>				

Average \$17,457.36

**Job #2715 - COUNTY COMMISSIONER**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
SAN JUAN COUNTY	\$25,708.00				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANTA FE COUNTY	\$17,264.00							
EDDY COUNTY	\$19,854.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANDOVAL COUNTY	\$17,264.00							
LOS ALAMOS	\$6,011.20			<input type="checkbox"/>				

Average \$17,220.24

**Job #2730 - COUNTY SHERIFF**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
LOS ALAMOS	\$5,990.40			<input type="checkbox"/>				
EDDY COUNTY	\$45,141.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SAN JUAN COUNTY	\$49,404.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANDOVAL COUNTY	\$0.00							

Average \$33,511.80

**Job #2750 - COUNTY TREASURER**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
EDDY COUNTY	\$43,301.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SAN JUAN COUNTY	\$43,305.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANDOVAL COUNTY	\$0.00							

Average \$43,303.00

**Job #2710 - JUSTICE / MUNICIPAL JUDGE - Elected**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	401k
SUNLAND PARK	\$5,760.00							
BERNALILLO	\$8,400.00							
LOVINGTON	\$14,400.00							
PORTALES	\$15,500.00							
ALAMOGORDO	\$25,000.00							
CLOVIS	\$40,000.00			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
SILVER CITY	\$34,000.00		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
BELEN	\$35,000.00							
LOS LUNAS	\$38,000.00		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
GRANTS	\$40,000.00							
TAOS	\$42,025.00							
FARMINGTON	\$45,000.00		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
LOS ALAMOS	\$50,918.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
CORRALES	\$6,000.00							
BLOOMFIELD	\$9,000.00							
DEMING	\$15,000.00							
RATON	\$24,000.00							
ARTESIA	\$24,000.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
AZTEC	\$25,000.00							
RUIDOSO	\$36,000.00			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
CARLSBAD	\$36,000.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ROSWELL	\$42,108.00							
LAS VEGAS	\$45,011.00							
HOBBS	\$48,000.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
SANTA FE CITY	\$49,500.00							
RIO RANCHO	\$51,950.00							
LAS CRUCES	\$56,580.00		<input type="checkbox"/>					



RED RIVER	\$6,000.00				
HOPE	\$3,883.00				
HATCH	\$4,800.00	<input type="checkbox"/>			
MORIARTY	\$0.00	<i>\$6,000 per year</i>			
CLAYTON	\$6,000.00				
MESILLA	\$6,000.00				
CLOUDCROFT	\$4,000.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SANDOVAL COUNTY	\$0.00				
RUIDOSO DOWNS	\$12,000.00				

**Average** \$26,553.97

NEW MEXICO MUNICIPAL LEAGUE \$0.00

**Job #2700 - MAYOR**

Entity	Annual Salary	Combined	Full Time	Ret	Health	Dental	Life Ins	4011
CARLSBAD	\$240.00							
BLOOMFIELD	\$3,600.00							
RATON	\$3,600.00							
AZTEC	\$5,400.00							
CORRALES	\$6,000.00							
GRANTS	\$6,427.00							
ARTESIA	\$15,192.00							
PORTALES	\$7,800.00							
BELEN	\$8,700.00							
SUNLAND PARK	\$9,000.00							
BERNALILLO	\$9,600.00							
LAS VEGAS	\$10,392.00							
RIO RANCHO	\$12,192.00							
FARMINGTON	\$15,000.00			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
ROSWELL	\$17,264.00							
TAOS	\$27,622.00							
LAS CRUCES	\$48,605.00							
ALAMOGORDO	\$1,200.00							
LOVINGTON	\$3,600.00							
CLOVIS	\$6,000.00			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

RUIDOSO	\$6,000.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LOS LUNAS	\$8,500.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DEMING	\$8,400.00		<input type="checkbox"/>		<input type="checkbox"/>
SANTA FE CITY	\$15,000.00				
HOBBS	\$18,000.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GALLUP	\$21,000.00				
ALBUQUERQUE	\$82,000.00				
SILVER CITY	\$0.00				
RED RIVER	\$6,000.00				
HOPE	\$0.00				
LOGAN VILLAGE	\$1,800.00	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HATCH	\$7,200.00	<input type="checkbox"/>			
MORIARTY	\$0.00	<i>\$9,048.00 per year</i>			
CLAYTON	\$2,400.00		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MESILLA	\$3,000.00				
RUIDOSO DOWNS	\$12,000.00				
<b>Average</b>		<b>\$12,385.88</b>			
NEW MEXICO MUNICIPAL LEAGUE	\$0.00				



**NEW MEXICO MUNICIPAL LEAGUE**  
 PO Box 846  
 1229 Paseo de Peralta  
 Santa Fe, NM 87504-0846  
 (800) 432-2036 -- Toll Free  
 (505) 982-5573 - Phone  
 (505) 984-1392 - Fax

DATE: 11/19/03

PLEASE DELIVER TO:

Karen Alarid  
Edgewood

PHONE/FAX NO:

286-4519

NUMBER OF PAGES (including cover sheet): 4

FROM:

<input type="checkbox"/> Bill Fulginiti	Executive Director	<input type="checkbox"/> Linda Alire-Naranjo	Program Development Director
<input type="checkbox"/> Randy Van Vleck	General Counsel	<input type="checkbox"/> Barbara Otero	Conference Coordinator
<input type="checkbox"/> Regina Romero	Intergovernmental Relations Director	<input type="checkbox"/> Anita Tafoya	Support Services Director
<input checked="" type="checkbox"/> Diane Lang	Research & Communications Director	<input type="checkbox"/> Jackie Portillo	Support Services Coordinator
<input type="checkbox"/> Roger Makin	Communications Coordinator	<input type="checkbox"/> Cherise Montoya	Receptionist/Office Assistant
<input type="checkbox"/> Linda Gaume	Research Analyst	<input type="checkbox"/> Sharon Watson	Office Clerk
<input type="checkbox"/> Anita Hisenberg	Staff Associate	<input type="checkbox"/> Dan Cisneros	Controller
		<input type="checkbox"/> David Keyser	Deputy Controller

If there is a problem with transmission, please call (800) 432-2036

Comments:

Karen - AG says if no compensation has been provided before, it does not constitute an "increase" & so is legal to do during term of office. We'd recommend doing it after the election when new people are in - pass now-effective later.

The New Mexico Municipal League is a nonprofit, nonpartisan association representing and serving New Mexico's cities, towns and villages.

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**Opinion No. 69-02**

January 9, 1969

**BY:** OPINION OF JAMES A. MALONEY, Attorney General Gary O'Dowd, Assistant Attorney General

**TO:** Luis L. Fernandez, Chief, Local Government Division, Department of Finance and Administration, Legislative Executive Building, Santa Fe, New Mexico

**QUESTIONS****QUESTIONS**

When a municipality pursuant to Section 14-9-3, N.M.S.A., 1953 Compilation, provides for the first time that the mayor and council members are to be paid for attending council meetings, is it legal for the council members who were serving a term in office at the time the ordinance was enacted and who are still serving the same term to draw such compensation?

**CONCLUSION**

Ycs.

**OPINION****(\*4) ANALYSIS**

Section 14-9-3, N.M.S.A., 1953 Compilation provides compensation for the governing body of a municipality under the mayor-council form of government as follows:

"A. When deemed in the public interest the governing body may provide by ordinance that the mayor and the individual members of the governing body be paid compensation for actual attendance at a meeting of the governing body but no compensation shall be paid for attending more than four [4] meetings a month.

B. No mayor of mayor-council municipalities and commission-manager municipalities shall receive more than twenty dollars (\$ 20.00) for each meeting he attends. No member of the governing body or commissioners of a commission-manager municipality shall receive more than ten dollars (\$ 10.00) for each meeting he attends.

Article IV, Section 27 of the New Mexico Constitution provides that no law shall be enacted either increasing or decreasing the compensation of any public officer during his term of office. This constitutional provision has been held to apply to all public officers, whether their offices be created by the Constitution or by the Legislature. *State ex rel., Gilbert v. Board of County Commissioners*, 29 N.M. 209, 222 Pac. 654 (1924).

The purpose of Article IV, Section 27 of the New Mexico Constitution is to secure official independence. **Dorman v. Sargent**, 20 N.M. 413, 150 Pac. 1021 (1915). In **State ex rel. Gilbert v. Board of County Commissioners**, supra, {\*5} the New Mexico Supreme Court stated the purpose of this provision of our Constitution as follows:

"It was designed to protect the individual officer against legislative oppression which might flow from party rancor, personal spleen, enmity, or grudge. These could well harass and cripple the officer by reducing his compensation during his service; while, on the other hand, party feeling, blood, or business relations might be combined in such pernicious activity in the form of strong and powerful lobbying as to sway the members of the Legislature and cause the bestowal of an unmerited increase. To obviate these conditions is the purpose of this wise constitutional provision." *Id.* at 214.

We fail to see how the above stated purpose is in any way fostered by finding that Article IV, Section 27 of the New Mexico Constitution prohibits public officers from exercising an option to receive compensation already established by the legislature.

It is our opinion that Section 14-9-3, supra, provides for the amount of compensation that will be received by members of the governing body of a municipality under a mayor-council form of government. It is up to the members of the governing body to decide how much compensation, if any, they will receive within the salary limitations set by the legislature. Article IV, Section 27 prohibits the legislature from either increasing or decreasing the compensation provided for in Section 14-9-3, supra, during the term of office of those members of the governing body now holding office. It clearly does not prohibit members of the governing body from exercising their option, by adopting an ordinance, of receiving their statutory salary. However, this does not completely answer the question we have been asked as there is also a statutory provision restricting increases and decreases in compensation to municipal officers during their term of office.

Section 14-9-4, N.M.S.A., 1953 Compilation provides as follows:

"Officers -- **Change in compensation** -- Abolition of office -- Restrictions on eligibility. -- The compensation of any municipal officer, elected or appointed to an elective office, shall not be increased or diminished during the term to which he was elected or appointed. If the office is abolished, compensation shall cease at the time the office is abolished. No person who has resigned or vacated an office shall be eligible to fill the unexpired term of the office if the compensation for the office was increased." (Emphasis added).

It is our opinion that this section of the New Mexico Statutes prohibits members of the governing body of a municipality from changing their compensation during their term of office. However, this conclusion is not controlling in the present case.

Our research indicates that the majority of courts have held that if no salary was provided prior to a public official taking office, a salary may be provided during his term of office without violating a constitutional prohibition against increasing or decreasing the salary of an officer during the term of his office. See 114 A.L.R., 685, 688. Although we are concerned here with a statutory prohibition against increasing or decreasing municipal officers' salaries, we believe that those cases involving a similar constitutional prohibition are controlling. It is therefore the option of this office that a governing body of a municipality may provide a salary for themselves during their term of office if there was no salary provided when they took office. Anything said to the

contrary in Opinion No. 62-85, issued July 10, 1962, is hereby overruled.