

1 **8-201. Commencement of action**

2 A. **How commenced.** An action is commenced by filing one of the following with the  
3 court:

4 (1) a complaint consisting of a signed, sworn written statement containing the  
5 facts, the common name of the offense charged, and where applicable, a specific section number  
6 of either the municipal ordinance or the New Mexico Statutes Annotated, 1978 Compilation, that  
7 contains the offense. A separate complaint shall be filed for each defendant;

8 (2) a traffic citation issued and signed by a state or local traffic enforcement  
9 officer under Section 66-8-130 NMSA 1978;

10 (3) a citation issued and signed by an official authorized by law that contains  
11 the name and address of the cited person, the specific offense charged, a citation to the specific  
12 section of law violated, and the time and place to appear. Unless the person requests an earlier  
13 date, the time specified in the citation shall be at least three (3) days after issuance of the citation;  
14 or

15 (4) an order finding a person to be in direct criminal contempt.

16 A copy of every citation issued shall be delivered to the person cited, and the original shall be filed  
17 [~~as soon as practicable~~] with the municipal court within seven (7) days of the issuance of the  
18 citation or, in any event, no later than one (1) day prior to the date cited for the defendant to appear.

19 Any citation that sets an appearance date and is untimely filed may be dismissed with or without  
20 prejudice by the court on its own motion. All complaints and citations shall be signed, as defined  
21 in Rule 8-209(J) NMRA, and the municipal court shall not accept for filing any unsigned  
22 complaint or citation. In the event that an unsigned complaint or citation commences an action,  
23 the case shall be dismissed without prejudice.

1           B.     **Jurisdiction.** Municipal courts have jurisdiction in all cases as may be provided by  
2 law.

3           C.     **Where commenced.** The action shall be commenced in the municipality where the  
4 offense is alleged to have been committed.

5           D.     **When commenced.** All prosecutions for the commission of any offense made  
6 punishable by ordinance shall be commenced within the time provided by law.

7           E.     **Arrest without a warrant; criminal complaint.** In all municipal court cases, if  
8 the defendant is arrested without a warrant, a criminal complaint shall be prepared and a copy  
9 given to the defendant prior to transferring the defendant to the custody of the detention facility.  
10 If the defendant is not provided a copy of the criminal complaint upon transfer to a detention  
11 facility, without just cause or sufficient reason, the complaint may be dismissed without prejudice  
12 or the defendant may be released from custody. If the defendant is in custody and the court is open,  
13 the complaint shall be filed immediately with the municipal court. If the court is not open and the  
14 defendant remains in custody, the complaint shall be filed the next business day of the court. If the  
15 defendant is not in custody, the complaint shall be filed with the court as soon as practicable.

16          F.     **Name of defendant.** In every complaint or citation, the name of the defendant, if  
17 known, shall be stated. A defendant whose name is not known may be described by any name or  
18 description by which the defendant can be identified with reasonable certainty.

19 [As amended, effective September 1, 1990; November 1, 1991; May 1, 1997; September 15, 1997;  
20 as amended by Supreme Court Order No. 08-8300-047, effective December 31, 2008; as amended  
21 by Supreme Court Order No. 16-8300-007, effective for all cases pending or filed on or after  
22 December 31, 2016; as amended by Supreme Court Order No. 20-8300-008, effective for all cases

**MUNICIPAL COURT  
RULE 8-201**

**Supreme Court Approved  
November 1, 2021**

- 1 pending or filed on or after December 31, 2020; as amended by Supreme Court Order No. 21-
- 2 8300-022, effective for all cases filed on or after December 31, 2021.]