

**ORDINANCE NO. 2023-**

**TOWNSHIP OF MIDDLETOWN  
COUNTY OF MONMOUTH**

**Ordinance Amending § 7-32 Of The Code Of The Township Of Middletown Governing  
The Township Attorney’s Position**

**WHEREAS**, the Township of Middletown (the “**Township**”) is removing the Township Attorney from a salaried position to a contractual arrangement, therefore, requiring certain amendments that had previously structured the position of Township Attorney as a salaried employee addressing generally only routine legal matters under said salary; and

**WHEREAS**, these amendments are called for to properly reflect the current role of the Township Attorney and contemporary structure of the position.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that § 7-32 of the Code of the Township of Middletown is hereby amended and supplemented, as follows:

**SECTION 1. Amendments to § 7-32.**

**§ 7-32. Township Attorney.**

- A. Appointment.** The Township Attorney shall be an individual appointed annually to serve as the Township’s Municipal Attorney and designated legal officer pursuant to N.J.S.A. 40A:9-139.
- B. Compensation.** The Township Attorney shall be compensated pursuant to an annually negotiated contract entered between the Township Attorney and/or their law firm and the Township. ~~by a flat fee retainer, within the available limits of appropriations, in an amount specified within the Township's applicable salary ordinances.~~
- C. Duties.** The scope of the Township Attorney’s services shall include, but not necessarily be limited to: ~~provided pursuant to the retainer relating to routine and reoccurring legal matters, shall be as follows:~~
  - 1. Provide general counsel to the Township Committee, Administrator and departments, except where alternate counsel is required by law or court rules.

2. Approve all resolutions, ordinances and instruments as to form and defensibility before introduction and approval.
3. Draft resolutions, ordinances and instruments. ~~not requiring extraordinary legal research and analysis.~~
4. Attend regular, workshop and special meetings of the Township Committee and give opinions on general questions of law that may arise at such meetings.
5. Provide management, recommendations and support in relation to litigation, trials, appeals and administrative proceedings to which the Township, its officers or employees may be a party to that are assigned to special counsel pursuant to resolution for the provision of professional legal services above and beyond the duties of the appointed Township Attorney as prescribed herein.

~~D. Additional duties. The Township Attorney shall also:~~

6. Maintain records of all actions, suits, proceedings and matters which relate to the Township's interest and report thereon from time to time as the Township Administrator or Township Committee may require.
7. Have power to enter into any agreement, compromise or settlement of any litigation in which the Township is involved, subject to the approval of the Township Committee.
8. Upon termination of service with the Township, forthwith surrender to the designated successor or Township Administrator all Township property, papers and records, together with a written consent to substitute the Township Attorney or special counsel, as applicable, in any pending actions or proceedings.
9. Special counsel. Whenever deemed to be in the interests of the Township, the Township Attorney, with the approval of the Township Committee, may appoint special counsel to assist in the preparation, trial or argument of any issue or proceeding, or in such other capacity as may be needed. If the Township Attorney should be disqualified with respect to any matter, the Township Committee may appoint special counsel to represent the Township for and with respect to such matter.

~~F. **Repealer.** All ordinances, or parts thereof, inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency. Ordinance No. 2008-2940<sup>[1]</sup> is repealed in its entirety.~~

~~[1] Editor's Note: Ordinance No. 2008-2940 provided for compensation of the Township Attorney.~~

~~G. **Effective date.** Upon final passage and publication as provided by law, this section shall take effect nunc pro tunc to January 1, 2009, and is intended to effectuate and ratify the appointment of the Township Attorney and the professional services agreement authorized pursuant to Resolution No. 09-001.~~

**SECTION 2. Repealer.**

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed. All portions of the ordinance not modified herein remain in full force and effect.

**SECTION 3. Severability.**

Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

**SECTION 4. Effective Date.**

This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.