

# Borough of Stanhope

Sussex County, New Jersey

~Ordinance 2023-06~

## **AN ORDINANCE TO AMENDING THE CODE OF THE BOROUGH OF STANHOPE TO REPEAL AND REPLACE EXISTING CHAPTER 10 "COURT"**

**WHEREAS**, Chapter 10, "Courts", was adopted by the Mayor and Council on December 27, 1948; and

**WHEREAS**, the Borough of Stanhope ("Stanhope") previously established a Municipal Court as of January 1, 1949 for the adjudication of offenses within the jurisdiction of such a court, and is permitted to join with other municipalities in the creation of a Joint Municipal Court; and

**WHEREAS**, currently the Borough of Hopatcong ("Hopatcong") and Stanhope have a shared municipal court arrangement and have expressed a desire to dissolve their current arrangement to join the established Andover Joint Municipal Court, which was established in October 2014; and

**WHEREAS**, the Mayor and Council now desire to amend Chapter 10, "Courts" of the Code of the Borough of Stanhope due to Stanhope joining the established Andover Joint Municipal Court

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Stanhope, Sussex County, New Jersey, that existing Chapter 10, of the Code of the Borough of Stanhope entitled "Court", is repealed and replaced as follows:

### **SECTION 1:**

Chapter 10. Joint Municipal Court

§10-1. Creation; name; jurisdiction.

- A. Creation of Court. There has been created a Joint Municipal Court consisting of the Township of Andover, the Township of Hampton, the Township of Fredon, the Township of Byram, Andover Borough, Stanhope Borough and Hopatcong Borough (collectively "the seven municipalities"). This Court was originally created by the shared services agreement in October of 2014 and is subject to the terms thereof. The shared services agreement is attached hereto and incorporated in this chapter and shall be approved by and filed with the Administrative Director of the Courts.

- B. Name of Court. The name of the Joint Municipal Court shall be the "Andover Joint Municipal Court (Andover, Hampton, Fredon and Byram Township and Andover, Stanhope and Hopatcong Borough)," and it shall have a Seal bearing said name.
- C. Jurisdiction. The jurisdiction of the Andover Joint Municipal Court shall be co-extensive with the territories of the Townships of Andover, Hampton, Fredon and Byram and the Boroughs of Andover, Stanhope and Hopatcong in the County of Sussex. The Court shall be under the jurisdiction of the Assignment Judge and Municipal Court Administrator for Vicinage 10, Morris/Sussex, of the Superior Court of New Jersey.

§10-2. Municipal Judge; powers, duties and qualifications

- A. There shall be a Joint Municipal Judge appointed by the Governor as provided by law with regard to joint municipal courts. The Municipal Judge shall serve for a term of three (3) years from the date of appointment and until a successor is appointed and qualified.
- B. The Municipal Judge shall have and possess the requisite qualifications in order to serve as a Municipal Court Judge as provided by the laws of the State of New Jersey.
- C. The Municipal Judge shall faithfully carry out all of the responsibilities of a Municipal Court Judge and shall abide by all rules and regulations established for Municipal Court Judges by the Administrative Office of the Courts, the New Jersey Supreme Court and any other applicable laws and rules.

§10-3. Municipal Prosecutor

There shall be appointed a Municipal Prosecutor for the Joint Municipal Court who shall prosecute all cases in the Joint Municipal Court.

- A. The Municipal Prosecutor shall be appointed annually by Andover Township at the same time and in the same manner as other annual appointments are customarily made and shall continue to serve until a successor is duly appointed and qualified.
- B. The Municipal Prosecutor shall serve at the will of Andover Township, which service may be terminated upon 30 days' written notice.
- C. Qualifications for the position of Prosecutor are that the appointee shall be a duly licensed attorney at law of New Jersey, in good standing, and shall remain so throughout the term of service.
- D. There shall also be appointed by Andover Township an Alternate Municipal Court Prosecutor, whose duties shall be the same as the Municipal Prosecutor's, but who shall act as Municipal Prosecutor only in the event the Municipal Prosecutor is absent or unavailable, or in the event the Municipal Prosecutor is unable to

represent the Township as a result of a conflict of interest. All provisions and references to Municipal Prosecutor in this chapter shall apply to the Alternate Municipal Prosecutor in all respects. In the event that the Municipal Prosecutor is absent, unavailable or unable to represent the Township due to a conflict of interest, the Municipal Prosecutor shall promptly notify the Municipal Court Administrator of such circumstances, and the matter shall then be reassigned or transferred to the Alternate Municipal Prosecutor, through the office of the Municipal Court Administrator.

#### §10-4. Municipal Court Administrator

There shall be an Administrator of the Andover Joint Municipal Court who shall perform the functions and duties prescribed for the Administrator by law, by the rules applicable to municipal courts and by the Municipal Court Judge. The compensation of the Administrator shall be determined by Andover Township. The duties of the Municipal Court Administrator shall include, but are not limited to:

- A. Carrying out the rules, regulations, policies and procedures relating to the operation of the Court.
- B. Interviewing and speaking to persons wishing to file criminal complaints or wishing information in that regard; receiving complaints and dispensing information relative to Court matters.
- C. Maintaining the financial records of the Court.
- D. Attending Court sessions; recording pleas, judgments and dispositions; arranging trial calendars, signing court documents; preparing and issuing warrants and commitments.
- E. Taking and preparing bail bonds, recognizances and security in lieu thereof; making inquiry concerning their sufficiency and equity; receiving and accounting for fines and costs;
- F. Interviewing persons on informal Police Court matters to determine if there is a basis for formal action and, if necessary, issuing summonses requiring Court appearances, maintaining and classifying records and files.
- G. Maintaining, forwarding, receiving and reporting such records, reports and files as are required by the State Director of Motor Vehicles.
- H. Making a yearly report to the Township Committee
- I. Performing all other duties required by law

## §10-5. Deputy Municipal Court Administrator

There shall be a Deputy Administrator of the Andover Joint Municipal Court who shall perform the functions and duties prescribed by law, by the rules applicable to municipal courts and by the Municipal Court Judge. The Deputy Administrator shall be appointed in accordance with the applicable Court rules. The compensation of the Deputy Administrator shall be determined by Andover Township.

### §10-5.1. Municipal Public Defender; Conflict Public Defender

The Township of Andover shall, by resolution, annually appoint a Public Defender to serve within the Andover Joint Municipal Court. The Public Defender shall be compensated as determined by the Township of Andover. It shall be the Municipal Public Defender's duties to represent eligible, indigent defendants, in proceedings over which the Andover Joint Municipal Court has jurisdiction.

- A. **Qualifications.** The Municipal Public Defender shall be an attorney at law of the State of New Jersey in good standing. The Municipal Public Defender need not be a resident of the Township and may hold the same title in one or more Municipal Courts. The Municipal Public Defender may represent private clients in this and any other municipality, subject to the Rules of Court governing the conduct of lawyers, judges and court personnel.
- B. **Term.** The Municipal Public Defender shall serve for a term of one year from the date of his or her appointment and may continue to serve in office pending reappointment of a successor. The Municipal Public Defender shall be removed by the governing body of a municipality for good cause shown and after a public hearing, upon due notice with an opportunity to be heard. Failure to reappoint a Municipal Public Defender shall not constitute a removal from office.
- C. **Salary.** Remuneration for the position of Municipal Public Defender and Conflict Public Defender shall be fixed by ordinance.
- D. **Duties.** The Municipal Public Defender shall represent defendants who meet the eligibility requirements set forth below. The Municipal Public Defender shall be responsible for handling all phases of the defense, including but not limited to discovery, pretrial and post-trial hearings, motions, removals to Federal District Court and other collateral functions. Duties of the Public Defender shall not include de novo appeals in Superior Court.
- E. **Eligibility for services.** To be eligible for the services of the Municipal Public Defender, a defendant must:
  - (1) Be charged with a crime as specified in N.J.S.A. § 2B:12-18; or

- (2) Be charged with an offense of which there is a likelihood, in the opinion of the Municipal Court, that the defendant, if convicted, will be subject to imprisonment or other consequence of magnitude; and
- (3) Meet the financial eligibility requirements, in the opinion of the Municipal Court, as set forth in N.J.S.A. § 2A:158A-14 and guidelines promulgated by the New Jersey Supreme Court; and
- (4) Provide all necessary applications, releases and authorizations, and documents.
- (5) Pay an application fee of \$200. This fee may be waived or reduced by the Municipal Court upon clear and convincing proof that the fee is an unreasonable burden upon the applicant. Said fee maybe paid over time, not to exceed four months.
- (6) In the event that the Municipal Court cannot determine eligibility before the time when the first services are to be rendered, the Municipal Court shall refer the defendant to the Municipal Public Defender provisionally. If it is later determined that the defendant is ineligible, or if it is determined that the initial determination was erroneous, the Court shall inform the defendant, and the defendant shall be obliged to engage his own counsel and to reimburse the municipality for the cost of the services rendered.

F. Juvenile Defendants.

- (1) In the event the defendant is under the age of 18 years, the eligibility for service shall be determined on the basis of the financial circumstances of the individual and the individual's parents or legal guardian.
- (2) The Municipal Court shall be entitled to recover the cost of legal services from the parents or legal guardian and shall have the authority to require parents or legal guardians to execute and deliver any authorizations required to determine eligibility.

G. Municipal responsibilities and reimbursements.

- (1) The municipality shall be responsible for payment of all necessary services of representation as determined by the Court. The factors of need and real value to a defendant may be weighed against the financial constraints of the municipality in determining the necessary services
- (2) The municipality shall have a lien on any property to which the defendant shall have or acquire an interest up to the amount of the reasonable value of the services rendered to a defendant. To effectuate such lien, the Municipal Attorney shall file a notice, setting forth the services rendered to the

defendant and the reasonable value thereof, with the Clerk of the Superior Court. Within 10 days of said filing, the Municipal Attorney shall send a copy of the notice, with a statement of the date of the filing, to the defendant by certified mail to the defendant's last known address. The filing of the notice shall constitute a lien for a period of 10 years from the date of filing and shall have the priority of a judgment.

- (3) The Municipal Attorney may do all things necessary to collect any money due to the municipality for reimbursement for services rendered by the Municipal Public Defender, including remedies available for recovery of a civil judgment, counsel fees and costs.
- (4) All application fees collected shall be deposited in a dedicated fund administered by the Treasurer of the municipality and shall be used exclusively to meet the costs incurred in providing the services of a Municipal Public Defender.

H. There shall also be appointed by Andover Township a Conflict Public Defender, whose duties shall be the same as the Public Defender's but who shall act as Public Defender only in the event the Public Defender is absent or unavailable or in the event the Public Defender is unable to represent an eligible defendant as a result of a conflict of interest. All provisions and references to Municipal Public Defender in this chapter shall apply to the Conflict Public Defender in all respects. In the event that the Municipal Public Defender is absent, unavailable or unable to represent an eligible defendant due to a conflict of interest, the Municipal Public Defender shall promptly notify the Municipal Court Administrator of such circumstances and the matter shall then be reassigned or transferred to the Conflict Public Defender, through the office of the Municipal Court Administrator.

#### §10-5.2. Auditor

The auditor appointed by Andover Township shall act as the auditor for the Andover Joint Municipal Court. The auditor shall perform a yearly audit of the Andover Joint Municipal Court, which audit shall be prepared generally in accordance with the requirements of the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1, et seq. A copy of the complete audit shall be supplied to each participating municipality by September 1 of each year.

#### §10-5.3. Additional Court personnel

The Township of Andover shall hereafter, by resolution, have the power to designate such other persons as may be required to serve as clerks, staff and other officers thereof and to establish compensation to be paid to the respective persons to manage and run the day-to-day operations of the Joint Municipal Court. Compensation thereof shall be in accordance with the salary ordinance adopted annually by the Township of Andover.

§10-5.4. Withdrawal by member municipality

The members of the Andover Joint Municipal Court established by this article are the Township of Andover, Township of Hampton, Township of Fredon, Township of Byram, Borough of Stanhope, Borough of Hopatcong and Borough of Andover. Collectively, the Township of Andover, Township of Hampton, Township of Fredon, Township of Byram, Borough of Stanhope, Borough of Hopatcong and Borough of Andover shall be referred to as members. Any member of the Andover Joint Municipal Court may withdraw by complying with the provisions of the shared services agreement amongst the members identified in § 10-1.A above or such subsequent agreements or amendments then existing and in effect.

§10-5.5. Contributions and compensation

- A. The Township of Hampton, the Township of Fredon, the Township of Byram, the Borough of Stanhope, the Borough of Hopatcong and the Borough of Andover shall pay the Township of Andover a fee in accordance with the shared services agreement then existing between the parties.
- B. The Township of Andover shall remit fines and levies collected for infractions occurring in the Township of Hampton, the Township of Fredon, the Township of Byram, Stanhope Borough, Hopatcong Borough and Andover Borough to the applicable municipality on at least a monthly basis or as set forth in the agreement amongst the municipalities.

**SECTION 2 - SEVERABILITY**

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**SECTION 3 - REPEALER**

All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**SECTION 4: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon adoption and publication in accordance with law.

ATTEST: \_\_\_\_\_  
Ellen Horak, Borough Clerk

SIGNED: \_\_\_\_\_  
Patricia Zdichocki, Mayor