CITY COUNCIL **The City of Orange Township, New Jersey**

DATE _____ **NUMBER** 52–2023

TITLE: AN ORDINANCE RESCINDING ORDINANCE #42-2022 ADOPTED ON AUGUST 3, 2022, CREATING A PARKING AUTHORITY IN ACCORDANCE WITH N.J.S.A. 40:11A-1 *ET SEQ.*

WHEREAS, Ordinance #42-2022 an Ordinance of the Municipal Council of the City of Orange Township, County of Essex, State of New Jersey, Creating a Parking Authority in accordance with N.J.S.A. 40:11A-1 et seq.; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Orange Township, that Ordinance #42-2022 is rescinded.

Adopted:

Joyce Lanier
Municipal Clerk

Tency A. Eason
Council President

Approved:

Dwayne D. Warren, Esq., Mayor

APPROVED AS TO FORM, SUFFICIENCY AND LEGALITY

CITY COUNCIL **The City of Orange Township, New Jersey**

DATE August 3, 2022 **NUMBER** ~~42-2022~~

TITLE: **AN ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY, CREATING A PARKING AUTHORITY IN ACCORDANCE WITH *N.J.S.A.* 40:11A-1 *ET SEQ.***

WHEREAS, the Municipal Council ("Council") of the City of Orange Township ("City") recognizes that the greatly increased use of motor vehicles of all kinds by the public has caused serious traffic congestion on City streets; and,

WHEREAS, the parking of an excessive number of motor vehicles on City streets has contributed to this congestion to such an extent as to interfere seriously with the primary use of such streets for the movement of vehicular traffic; and,

WHEREAS, such parking prevents the free circulation of traffic in, out and through the City, and impedes rapid and effective fighting of fires and disposition of police forces, endangering the health, safety and welfare of the general public; and,

WHEREAS, this parking crisis, which threatens the welfare of the community, can be reduced by providing sufficient off-street and on-street parking facilities properly located in throughout the City; and,

WHEREAS, this parking problem can no longer be remedied by regulatory processes and cannot be effectively dealt with by private enterprise; and,

WHEREAS, the Parking Authority Law, *N.J.S.A.* 40:11A-1 *et seq.*, authorizes the Council to create a parking authority to construct, manage and operate off-street parking projects within the City and, subject to the provisions of *N.J.S.A.* 39:4-202, manage and operate on-street and other parking meters and related facilities, as well as enforce the applicable law, ordinances and regulations as to the parking of vehicles in the City; and,

WHEREAS, the Council has determined that creation of a parking authority in the City will promote free movement of traffic and relief of traffic congestion on City streets, thereby improving conditions affecting the public safety and welfare therein, as well as provide an additional sources of revenue to the City, thereby reducing the tax burden on property owners; and,

WHEREAS, the Council further recognizes that creating a parking authority requires an amendment to the Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY:

Section 1 **Amendment to Municipal Code**
Part I of the Municipal Code, as amended, is hereby further amended as follows:

Chapter 22 - Parking Authority

§ 22-1 Authority established.

(UNDERSCORES ARE ADDITIONS, (PARCEN STRIKEOUTS) ARE DELETIONS)

A. McBrayer

Pursuant to *N.J.S.A.* 40:11A-1 *et seq.*, and any amendment thereof or supplement thereto, a body corporate and politic, to be known as the "Parking Authority of the City of Orange Township", is hereby created.

§ 22-2 Members; appointment; terms.
The Parking Authority shall consist of 7 persons serving as Commissioners, 5 of whom shall be appointed by the City Council, and the remaining 2 appointed by the Mayor.

The first 5 Commissioners shall be appointed by the City Council to terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointments. Thereafter, those 5 Commissioners shall be appointed to terms of 5 years, except that all vacancies shall be filled for the unexpired term.

Pursuant to *N.J.S.A.* 40:11A-4, the remaining 2 Commissioners shall first be appointed by the City Council to terms of 1 and 2 years, respectively, and thereafter shall be appointed by the Mayor to terms of 5 years, except that all vacancies shall be filled for the unexpired term.

§ 22-3 Authority; commissioners; misconduct; removal.

A. No commissioner of the Parking Authority may be an officer or employee of the City of Orange Township; provided, however, that Mayor and City Council may appoint the City's Traffic Engineer or Chief of Police to the Parking Authority. A Commissioner shall hold office until a successor has been appointed and qualified. A certificate of the appointment or reappointment of any Commissioner shall be filed with the City Clerk and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner. A Commissioner shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses incurred in the discharge of official duties.

B. The powers of the Parking Authority shall be vested in the Commissioners thereof in office from time-to-time. A majority shall constitute a quorum of the Parking Authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the Parking Authority upon a vote of the majority of the Commissioners present, unless in any case the bylaws of the Parking Authority shall require a larger number. The Parking Authority shall select a Chair and a Vice Chair from among its Commissioners, and it may employ a Secretary, technical experts and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, the Parking Authority may call upon the City Attorney, as the case may be, or may employ its own counsel and legal staff. The Parking Authority may delegate to 1 or more of its agents or employees such powers and duties as it may deem proper.

C. No Commissioner or employee of the Parking Authority shall acquire any interest, direct or indirect, in any parking project or in any property included or planned to be included in the project, nor shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any parking project. If any Commissioner or employee of the Parking Authority owns or controls an interest, direct or indirect, in any property included or planned to be included in a parking project, that Commissioner or employee shall immediately disclose the same, in writing, to the Parking Authority, and such disclosure shall be entered upon the minutes of the Parking Authority. Failure to disclose such interest shall constitute misconduct in office. Upon such disclosure, such Commissioner or employee shall not participate in any action by the Parking Authority affecting such property.

D. For inefficiency or neglect of duty or misconduct in office, a Commissioner of the Parking Authority may be removed by the Mayor and City Council, but a Commissioner shall be removed only after he shall have been given a copy of the charges at least 10 days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. In the event of the removal of any Commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the City Clerk.

§ 22-4 Powers and purposes.

A. The Parking Authority shall constitute a public body corporate and politic and a political subdivision of the state with the same territorial boundaries as the boundaries of the City, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate its corporate purposes and the purposes and provisions of *N.J.S.A.* 40:11A-1 *et seq.*

B. The purposes of the Parking Authority shall be the construction, provision or operation of off-street parking projects within the City and shall include, to the extent authorized by the Mayor and City Council, the management and operation of on-street and other parking meters and related facilities and enforcement of the applicable law, ordinances and regulations as to the parking of vehicles in the City, and the consequent promotion of free movement of traffic and relief of traffic congestion on City streets and improvement of conditions affecting the public safety and welfare therein.

C. The Parking Authority is hereby authorized to plan, design, construct, reconstruct, enlarge, improve, manage, maintain, repair, operate and use such parking project or projects as, in the opinion of the Parking Authority, will provide an effective and satisfactory method for promoting the purposes of the Parking Authority.

D. The Parking Authority shall have perpetual succession and have the following powers in addition to any others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Parking Authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this its enabling legislation, to carry into effect the powers and purposes of the Parking Authority.

(2) To conduct research respecting parking and the possibility or necessity of fulfillment of public needs in relation thereto.

(3) To acquire by gift, purchase, lease, devise or otherwise, and hold and use, and to construct, improve, maintain, operate, own, manage, or lease either in a capacity of lessor or lessee, parking projects and any land, franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, meters, equipment or facilities to be devoted to the parking or storage of vehicles of any kind or which, in the opinion of the Parking Authority, are necessary or useful and convenient in connection therewith or with the promotion of free movement of traffic.

(4) Subject to the provisions of § 22-4D, to lease as lessor any real property, parking project or portion or portions of parking projects for any business, commercial or other use to any person for such consideration and for such period or periods of time and upon such other terms and

conditions as it may fix and agree upon. Any such lease may be upon condition that the lessee shall or may construct or provide any building or buildings or other facilities on such real property, parking project or projects or portions thereof, including space for business, commercial or other uses, all upon such terms and conditions as may be agreed upon.

(5) To sell, transfer and dispose of any property or interest therein at any time acquired by it upon such terms and conditions as it may determine, with or without public bidding in accordance with applicable law.

(6) To fix, alter, charge and collect rents, rates and other charges at reasonable rates to be determined exclusively by it, for the use of the facilities and projects of the authority and for all services sold, furnished or supplied directly or indirectly by the Parking Authority through said facilities and projects, which shall, together with any grants, receipts, contributions or income from other sources, be sufficient to provide for the payment of the expenses of the Parking Authority, repair, maintenance and operation of its facilities and projects, and payment of the principal of and interest on, and any premiums upon the redemption of, its bonds and other obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds or other obligations.

(7) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to the Parking Authority's control.

(8) To borrow money and accept grants from and to enter into contracts, leases or other transactions with the State of New Jersey, any federal agency, any person, or any municipality, county or other public body.

(9) To mortgage, pledge, hypothecate or otherwise encumber all or any of its property or assets then existing or thereafter acquired or coming into existence, including real and personal property donated to it by a municipality or county.

(10) To enter into contracts with the State of New Jersey or any municipality, county or governmental agency for the use of any project of the Authority.

(11) To do and perform any acts and things authorized by *N.J.S.A.* 40:11A-1 *et seq.*, through or by means of its own officers, agents and employees, or by contract with any person.

(12) To enter into and perform any and all contracts, execute any and all instruments, and do and perform any and all acts and things necessary or useful and convenient for the purposes of the Parking Authority or to carry out any of the powers expressly granted to it by *N.J.S.A.* 40:11A-1 *et seq.*, or any other acts subject to the Local Public Contracts Law.

E. The Parking Authority shall not engage directly in the sale of gasoline or accessories for, or in the repair or other servicing of, automobiles and other motor vehicles, except in emergency, or shall engage directly in the sale of any commodity of trade or commerce.

F. The Commissioners shall exercise all of the powers and authority granted and subject to all the provisions *N.J.S.A.* 40:11A-1 *et seq.*

G. The Parking Authority shall not have the power to acquire property by eminent domain without the consent of the City Council.

§ 22-5 Parking Enforcement Officer.

The Parking Authority shall have the power to appoint 1 or more Parking Enforcement Officers. As used in this chapter, a Parking Enforcement Officer means a person appointed pursuant to this act to exercise the power and authority described herein. Parking Enforcement Officers are not special law enforcement officers within the meaning of P.L.1985, c.439 (*N.J.S.A.* 40A:14-146.8 *et seq.*) and are not members of the City of Orange Township Police Department. Parking Enforcement Officers shall not be eligible for membership in the Police and Firemen's Retirement System established pursuant to P.L.1944, c.255 (*N.J.S.A.* 43:16A-1 *et seq.*).

A. Qualifications.

No person may be appointed as a Parking Enforcement Officer unless the person:

(1) is a resident of this State throughout the term of appointment;

(2) is able to read, write and speak the English language well and intelligently;

(3) is of sound mind and in good health;

(4) is of good moral character;

(5) has not been convicted of any offense involving dishonesty or which would make that person unfit to perform the duties of a Parking Enforcement Officer.

B. Powers and duties.

(1) The Parking Enforcement Officer shall enforce state, county, City and Parking Authority statutes, ordinances and/or regulations related to the parking of vehicles within the City of Orange Township, and shall possess the power and authority to:

(a) issue a parking ticket for a parking offense, as those two terms are defined in the Parking Offenses Adjudication Act, P.L.1985, c.14 (*N.J.S.A.* 39:4-139.2 *et seq.*);

(b) serve and execute all process for any parking offenses issuing out of the court having jurisdiction over the complaint;

(c) issue warnings for violations of any state, county, City and/or Parking Authority statutes, ordinances, resolutions and/or regulations related to the parking of vehicles within the City of Orange Township;

(d) cause any vehicle parked, stored, or abandoned in the City in violation of a statute, resolution, ordinance, or regulation to be towed away from the scene of the violation and to collect from the vehicle's owner or the owner's agent, on behalf of the City, the costs of the towing and subsequent storage of the vehicle before surrendering the vehicle to the owner or agent;

(e) issue a complaint, summons, or parking ticket for the failure to abide by any parking regulation or parking restriction promulgated by the Parking Authority;

(f) attend participate, testify and assist in the prosecution, if necessary, in any court proceedings relating to any actions taken by said Parking Enforcement Officer;

(g) inspect the conditions of parking meters or other parking regulating devices, and if necessary, report to the appropriate individual responsible for the necessary repairs or replacement.

C. Fingerprinting.
Every applicant for the position of Parking Enforcement Officer, appointed pursuant to this chapter, shall have fingerprints taken, which shall be filed with the Division of State Police and Federal Bureau of Investigation.

D. Eligibility determination.
Before any Parking Enforcement Officer is appointed pursuant to this chapter, the Chief of Police, or, in the absence of the Chief, other chief law enforcement officer of the City, shall ascertain the eligibility and qualifications of the applicant and report these determinations, in writing, to the Parking Authority.

E. Firearms banned.
No Parking Enforcement Officer may carry a firearm while engaged in the actual performance of the officer's official duties.

F. Training course.
No person appointed may commence duties as a Parking Enforcement Officer unless that person has successfully completed a training course conducted or approved by the City or Parking Authority. The training requirements may be waived by the appointing authority for any person eligible to be appointed as a Parking Enforcement Officer who has substantially equivalent training and background, as determined by the Chief of Police or, in in the absence of the Chief, other chief law enforcement officer of the City.

Section 2 Severability of Ordinance Provisions.
Each Section of this Ordinance is an independent Section and any part hereof found unconstitutional, void or ineffective for any cause shall not affect the validity or constitutionality of any other parts hereof.

Section 3 Conflicts and Inconsistencies.
All other Ordinances and parts of Ordinances that conflict or are inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.

Section 4 Effective Date.
Following final passage, this Ordinance shall take effect upon the expiration of 20 days after publication, unless otherwise provided by the Municipal Council.

Adopted: **August 3, 2022**

(UNDERSCORES ARE ADDITIONS, ~~{BRACED STRIKEOUTS}~~ ARE DELETIONS)

Joyce L. Lanier
City Clerk

Council President

Approved:

Dwayne D. Warren

Dwayne D. Warren, Esq.
Mayor

PURPOSE: **To create the Parking Authority of the City of Orange Township.**
FISCAL IMPACT: **Minimal.**

ORDINANCE NO. 42-2022

REGULAR MEETING – July 6, 2022

INTRODUCTION-FIRST READING

MOTION TO ADOPT: Coley **SECOND: Summers-Johnson**

YEAS: Hilbert, Ross, Summers-Johnson, Wooten & Council President Eason
NAYS: Coley
ABSTENTIONS: None
ABSENCES: Montague, III

SECOND READING/PUBLIC HEARING – August 3, 2022

MOTION TO ADOPT: Ross **SECOND: Hilbert**

YEAS: Coley, Hilbert, Montague, III, Ross, Wooten & Council President Eason
NAYS: None
ABSTENTIONS: None
ABSENCES: Summers-Johnson