

TOWN OF KEARNY
HUDSON COUNTY, NEW JERSEY

ORDINANCE ADDING A NEW SECTION 7-41 OF THE TOWN CODE
CREATING A PARKING UTILITY
2023-(O)_____

WHEREAS, the Mayor and Council of the Town of Kearny, in the County of Hudson, State of New Jersey, (the "Town"), has determined that it is in the best interests of the residents of the Town to create a municipal parking utility; and

WHEREAS, pursuant to statute, a municipality is permitted to operate municipal utilities; and

WHEREAS, pursuant to N.J.S.A. 40A: 1-1, a municipal public utility is defined as any enterprise from which a municipality anticipates it will receive fees, rents or other charges; and

WHEREAS, a municipal utility is required for accounting and budgetary purposes, to be treated as a separate and distinct entity pursuant to N.J.S.A. 40A:4-62; and

WHEREAS, the Town wishes to create a municipal utility encompassing its parking operations to accurately and properly budget and account for the expenses and revenues relating thereto in a manner which is permitted by statute and which is separate and distinct from the usual operations of municipal government, with the acknowledgment that the power and authority of the Public Utility, as well as the implementation of the residential parking permit program under Section 7-40, shall be subject to modification as the program is tested in the field.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Kearny, in the County of Hudson, State of New Jersey, as follows:

A. New Section, Section 7-41, is hereby added to the Town Code to read as follows:

Section 7-41.1. Establishment. There is hereby created under the terms of this ordinance a public utility for the purpose of managing parking operations within the Town of Kearny, including the residential parking permit program under Section 7-40, the off-street residential parking permit program under Section 7-33 of the Town Code, and the off-street business parking program under Section 7-34 of the Town Code. For budgetary and accounting purposes, this utility shall be a separate entity, having its own separate account

and its own separate property, whether it be real, personal, or mixed.

Section 7-41.2. Official Name. The name by which the Utility shall be known is "The Town of Kearny Parking Utility", and hereinafter the "Utility".

Section 7-41.3. Functions. It shall be the function of the Utility to budget and account for the parking operations undertaken by the Town; to preserve, care for, lay out, construct, maintain, improve and operate lands, buildings, and facilities used for the provision of public parking and the enforcement of the Town's laws and regulations concerning parking; to construct, reconstruct, alter, provide, renew and maintain buildings or other structures and equipment and provide for the care, custody and control thereof in the operation of the Utility; to raise money necessary to pay for the lands, rights or interest therein acquired for parking activities, and for improving and equipping the same; to pay or make provision for the payment of the reasonable expenses in each fiscal year of the Utility; to pay to those persons entitled thereto the interest and principal on notes and bonds of the Utility, and to deposit and accumulate reserve funds or reserves. The Utility shall also create standard operating procedures for all employees assigned to the Utility.

Section 7-41.4. Governing Regulations. The Utility shall be governed by the ordinances, the Town Code, and the resolutions adopted by the Mayor and Council and by administrative directives.

Section 7-41.5. Financial Affairs. The financial affairs of the Utility shall be governed in accordance with the statutes applying to the financial affairs of the municipality and utilities in general and shall be subject to the oversight of the Chief Financial Officer of the Town.

Section 7-41.6. Acquisition of Property. The Utility may, from time to time, acquire such real property as may be authorized by the Mayor and Council by duly adopted ordinances according to the laws of the State of New Jersey.

Section 7-41.7. Appointment of Certain Employees, Salaries and Compensation. The Supervisor of the Parking Utility, and all other employees to be hired for the Utility, shall be appointed by the Mayor and Council. Salaries of the employees will be in accordance with classification and salary ordinances duly adopted by the Mayor and Council. Portions of salaries of existing employees may be pro-rated based on the amount of time spent on parking operations compared to the employees' full-time Town responsibilities.

Section 7-41.8. Utility Charges. The Utility shall have authority to charge and collect monies for the use of the Utility's facilities whether they be user charges, rental fees, or lease payments, and to use these monies to defray the cost of acquisition of lands, buildings and facilities, rights and interests therein, to equip the facilities, to pay the Utility's current expenses and to pay the interest and principal on notes and bonds all in accordance with such duly adopted ordinances and/or resolutions of the Mayor and Council. The Utility shall provide monthly reports to the Mayor and Council, the Town Administrator, and the Chief Financial Officer, which monthly reports shall include a statement of revenues and expenses for the month being reported.

Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

Repeal of All Inconsistent Ordinances. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

Effective Date. This ordinance shall take effect as of _____.

Introduced:

NOTICE OF PENDING ORDINANCE AND STATEMENT OF PURPOSE

PUBLIC NOTICE IS HEREBY GIVEN that the ordinance published herewith was duly introduced and passed upon first reading at a regular meeting of the Mayor and Council of the Town of Kearny, in the County of Hudson, New Jersey (the "Town"), held on _____, and a public hearing was held thereon on _____. The purpose of the ordinance is to provide for the creation of The Town of Kearny Parking Utility as a utility of the Town for budgetary and accounting purposes. Further notice is hereby given that a further public hearing will be held on said ordinance at a meeting of said Mayor and Council to be held at Town Hall, 402 Kearny Avenue, Kearny, New Jersey on _____ at _____, and during the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Town Clerk's office to the members of the general public who shall request the same, and thereafter said ordinance will be considered for final passage and adoption.