

## **PARKING AUTHORITIES**

### **40:11A-1. Short title**

This act shall be known and may be cited as the "Parking Authority Law."

L.1948, c. 198, p. 975, § 1.

### **40:11A-2. Declaration of necessity of legislation**

It is hereby determined and declared:

(a) That the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion on the streets of urban centers of population in the municipalities of this State.

(b) That the parking of an excessive number of motor vehicles on the 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 traffic.

(c) That such parking prevents the free circulation of traffic in, through and from municipalities, impedes rapid and effective fighting of fires and the disposition of police forces and endangers the health, safety and welfare of the general public.

(d) That such parking threatens irreparable loss in valuations of property in the municipalities which can no longer be readily reached by vehicular traffic.

(e) That 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 the several residential, commercial and industrial areas of municipalities.

(f) That adequate provision of properly located terminal space for automobiles is a public responsibility.

(g) That the parking problem cannot be remedied by regulatory processes and cannot be effectively dealt with by private enterprise.

(h) That the establishment of parking authorities will promote the public safety, convenience and welfare and the necessity in the public interest for the provisions hereinafter enacted, is hereby declared as a matter of legislative determination.

P.L..1948, c. 198, p. 975, §2. Amended by L.1954, c. 138, p. 621, § 1, eff. July 12, 1954.

### **40:11A-3. Definitions**

The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "parking authority" or "authorities" or "parking authorities" shall mean any of the public corporations created pursuant to this act.

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(b) "Municipality" shall mean any city of any class, any town, township, village, borough or any other municipality of this State other than a county or a school district. "County" shall mean any county of any class of this State. "The municipality" shall mean the particular municipality for which a particular parking authority is created. "The county" shall mean the particular county for which a particular parking authority is created.

(c) "Governing body" shall mean in the case of a municipality the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality, and in the case of a county the board of chosen freeholders.

(d) "Clerk" shall mean the clerk of the municipality or the clerk of the board of chosen freeholders of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(e) "Area of operation" in the case of a parking authority of a municipality, shall mean the area of such municipality, and in the case of a parking authority of a county, shall mean the area of each municipality in the county (1) the governing body of which by ordinance, has consented to inclusion of the territory of the municipality within such area of operation, and (2) for which no parking authority was created prior to such consent or for which the parking authority previously created shall have ceased to exist prior to such consent.

(f) "Federal agency" shall mean and include the United States of America, the President of the United States of America and any department or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America.

(g) "Public body" shall mean the State, or any county, city, town, township, borough, village, school district, authority or any other political subdivision of the State.

(h) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this act.

(i) "Construct" and "construction" shall mean and include acts of planning, designing, construction, reconstruction, replacement, enlargement, improvement and betterment, also demolition or removal of buildings or structures on land acquired, held, leased or used for or with respect to a project.

(j) "Person" shall mean any person, association, corporation, nation, State or any agency or subdivision thereof, other than a county or municipality of this State or a parking authority.

(k) "Project" or "parking project" shall mean any area or place, garage, building, or other improvement or structure for the parking or storage of motor or other vehicles including, without limiting the foregoing, all real and personal property, approaches, meters, mechanical equipment, appurtenances and facilities either on, above or under the ground necessary or useful and convenient for or in connection with such parking or storage, together with such additional structures, buildings, space or accommodations as may be provided in accordance with paragraph (5) of section 6 hereof.

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(1) "Approach" shall mean any driveway, road or other structure or area necessary or useful or convenient for access to a project from a public street, road or highway.

P.L..1948, c. 198, p. 976, § 3. Amended by L.1954, c. 138, p. 622, § 2; L.1958, c. 22, p. 56, § 1, eff. April 22, 1958

### **40:11A-4. Creation of parking authorities**

The governing body of any county or municipality may, by resolution or ordinance, as appropriate, create a public body corporate and politic and a political subdivision of the State to be known as the "Parking Authority of the \_\_\_\_\_," inserting all or any significant part of the name of the municipality or county creating such authority. The creating resolution or ordinance, as the case may be, may provide that no real property shall be acquired by the power of eminent domain without the consent of the governing body. Such authority shall constitute an agency and instrumentality of the municipality or county creating it. Thereupon the governing body shall, by resolution or ordinance, as appropriate, appoint five persons as commissioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of 5 years, except that all vacancies shall be filled for the unexpired term.

The governing body of any county, or of any municipality with a population of 35,000 or more, may by resolution or ordinance, as appropriate, provide for the appointment of two additional commissioners who shall serve 1- and 2-year terms, respectively, from the date of their appointment, but thereafter, such commissioners shall be appointed as aforesaid, and in the case of a municipality which has adopted a "Mayor-Council Plan" of government pursuant to the provisions of the "Optional Municipal Charter Law," P.L.1950, c. 210 (C. 40:69A-1 et seq.), the mayor shall appoint the two additional commissioners, to terms of five years, except that all vacancies shall be filled for the unexpired term.

No municipality the area of which has been included (with its consent) within the area of operation of a parking authority created by a county shall thereafter create a parking authority.

Upon the creation of any such authority, the clerk shall certify a copy of the ordinance or resolution creating the parking authority, and also a copy of the resolution or ordinance appointing the first commissioners thereof, which documents shall be filed with the clerk of the county and be recorded in records of certificates of incorporation, and the clerk of the county shall cause duplicate certified copies of said documents to be filed forthwith with the Secretary of State.

P.L..1948, c. 198, p. 978, § 4. Amended by L.1953, c. 153, p. 1367, § 1; L.1954, c. 138, P.L..1958, c. 22, p. 58, § 2, eff. April 22, 1958; L.1978, c. 144, § 1 eff. Nov. 22, 1978; L.1981, c. 462, § 33; LL..1982, c. 151, § 1, eff. Oct. 13, 1982; L.1983, c. 99, § 1, eff. March 11, 1983.

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### **40:11A-5. Authority; commissioners; misconduct; removal**

No commissioner of any authority may be an officer or employee of the municipality or county for which the authority is created; provided, however, that a municipality may appoint its traffic engineer or chief of police to such authority. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses, including traveling expenses incurred in the discharge of his duties. The powers of each authority shall be vested in the commissioners thereof in office from time to time. A majority shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of the majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The authority shall select a chairman and a vice-chairman 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, an authority may call upon any chief law officers of the municipality, or the county, as the case may be, or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers and duties as it may deem proper. No commissioner or employee of an 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 he 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 an authority owns or controls an interest direct or indirect in any property included or planned to be included in a parking project he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the governing body which made the original appointment, 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 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 clerk.

P.L..1948, c. 198, p. 979, § 5. Amended by L.1978, c. 98, § 1, eff. Aug. 14, 1978.

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### **40:11A-6. Powers and purposes of authority**

(1) Every 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 municipality or county creating the authority, 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 this act.

(2) The purposes of every parking authority shall be the construction, provision or operation of off street parking projects within its area of operation and, subject to the provisions of R.S. 39:4-202, shall include, to the extent authorized by the governing body of the municipality, 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 such municipality, and the consequent promotion of free movement of traffic and relief of traffic congestion on the streets of said area or municipality and improvement of conditions affecting the public safety and welfare therein.

(3) Every 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 authority will provide an effective and satisfactory method for promoting the purposes of the authority.

(4) Every parking authority shall have perpetual succession and have the following powers in addition to any others herein granted:

(a) 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 authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this act, to carry into effect the powers and purposes of the authority.

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

(c) 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 authority are necessary or useful and convenient in connection therewith or with the promotion of free movement of traffic, subject to the provisions of R.S. 39:4-202.

(d) Subject to the provisions of paragraph 5 of this section, 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

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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.

(e) 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.

(f) 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 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 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.

(g) 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 their control.

(h) 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.

(i) 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.

(j) 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.

(k) To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any person.

(l) 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 authority or to carry out any of the powers expressly granted to it by this act or any other acts subject to P.L.1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

(5) No parking authority shall 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, but any authority may include in any parking project, and provide and lease as lessor, structures, buildings, space or accommodations (whether constructed by the authority or by a lessee) for any business, commercial or other use, including the sale of gasoline or accessories for, or the repair or other servicing of, automobiles and other motor vehicles, if, in the opinion of the authority, such inclusion, provision and proposed leasing is necessary to assist in defraying the expenses of the authority and make possible the

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operation of the parking facilities of such project at reasonable rates and will increase the facilities for off street parking which can be feasibly included, financed, constructed and operated as part of such project.

P.L..1948, c. 198, p. 981, § 6. Amended by L.1954, c. 138, § 4; L.1958, c. 22, § 3, eff. April 22, 1958; L.1973, c. 268, § 1, eff. Nov. 29, 1973; L.1975, c. 96, § 1, eff. May 16, 1975.

### **40:11A-6.1. Audit of accounts of parking authority annually; filing**

It shall be the duty of every "parking authority, " created pursuant to the act to which this act is a supplement, to cause an annual audit of the accounts of the authority to be made and filed with the authority, and for this purpose the authority shall employ a registered municipal accountant of New Jersey or a certified public accountant of New Jersey. The audit shall be completed and filed with the authority within four months after the close of the fiscal year of the authority and a certified duplicate copy thereof shall be filed with the Director of the Division of Local Government in the Department of the Treasury within five days after the original report is filed with the authority.

P.L..1952, c. 303, p. 1020, § 1, eff. June 12, 1952.

### **40:11A-6.2. Certified copy of bond resolution and bond proceedings; filing**

Every such "parking authority" shall file a certified copy of every bond resolution as finally passed with the Director of the Division of Local Government in the Department of the Treasury and in addition shall file a certified copy of all bond proceedings with the said director.

P.L..1952, c. 303, § 2, eff. June 12, 1952.

### **40:11A-7. Right of eminent domain**

An authority shall have right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes unless in the resolution or ordinance creating the authority it is provided that no real property shall be acquired in said manner without the consent of the governing body, in which case said power shall not be exercised without said consent. Property already devoted to a public use may be acquired in like manner provided that no real property belonging to a public body or any corporation itself possessing the power of eminent domain may be acquired without its consent.

P.L.1948, c. 198, § 7. Amended by L.1953, c. 153, § 2; L.1954, c. 138, § 5.

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### **40:11A-7.1. Relocation or removal of public utility facilities**

Whenever an authority, or any municipality or county which has acquired by purchase or condemnation real property for any project or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any project or partly for such purposes and partly for other municipal or county purposes, shall determine that it is necessary that any tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities" ) of any public utility as defined in section 27:7-1 of the Revised Statutes in, on, along, over or under any project or any real property acquired as aforesaid, should be relocated in, or removed from, such project or real property acquired as aforesaid, the public utility owning or operating such public utility facilities shall relocate or remove the same in accordance with the order of such authority, municipality or county; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such public utility facilities in a new location, or new locations, and the cost of any lands, or any rights or interest in lands, or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interest in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be ascertained and paid by the authority, municipality or county making such order. In case of any such relocation or removal of public utility facilities as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such public utility facilities in their former location or locations.

P.L..1954, c. 138, § 13.

### **40:11A-8. Bonds; power to issue**

Every authority shall have power to issue its bonds from time to time in its discretion for any of its corporate purposes, including the paying or retiring of any bonds previously issued by it and the payment of any expense incurred or expected to be incurred and payable by it. Said authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable (a) exclusively from the income and revenues of the parking project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated parking projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government, State or county, or municipality, or a pledge of any income or revenues of the authority, or a mortgage of any parking project, projects or other property of the authority. This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds. Whenever and for so long as any authority has issued and has outstanding bonds pursuant to this act, it shall be the mandatory duty of the authority to fix, charge and



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collect rents, rates and other charges in accordance with clause (f) of paragraph (4) of section 6 of this act.

P.L..1948, c. 198, § 8. Amended by L.1954, c. 138, § 6; L.1958, c. 22, § 4, eff. April 22, 1958.

### **40:11A-9. Bonds; liability**

Neither the commissioners of an authority nor any person executing bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the State or any political subdivision thereof except the authority or a public body which in accordance with this act shall have guaranteed payment of principal of and interest on the same, and neither the State nor any political subdivision thereof other than the authority or such a public body shall be liable thereon. Except to the extent and for the purposes otherwise expressly provided by other laws, the bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities, and, together with interest thereon and income therefrom, shall be exempt from taxes.

P.L..1948, c. 198, § 9. Amended by L.1954, c. 138, § 7; L.1958, c. 22, § 5, eff. April 22, 1958.

### **40:11A-10. Bonds; provisions**

Bonds of an authority shall be authorized by its resolutions and may be issued in 1 or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding 6% per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or the trust indenture or mortgage (hereinafter mentioned) securing such bonds may provide. The bonds of a parking authority may be sold by the parking authority at public or private sale to such person or persons (whether or not constituting technical experts or agents referred to in section 5 of this act, either bidding alone or in conjunction with others) and at such price or prices as the parking authority shall determine; provided, however, that the interest cost to maturity of the money received for any issue of bonds (computed according to standard tables of bond values) shall not exceed 6% per annum.

P.L.1948, c. 198, § 10. Amended by L.1954, c. 138, § 8; L.1958, c. 22, § 6, eff. April 22, 1958.

### **40:11A-11. Bonds; validity**

In case of any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all

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purposes, the same as if such commissioners or officers had remained in office until such delivery. All bonds issued under the provisions of this act are hereby made and declared to be negotiable instruments under the negotiable instruments law of this State. (Subtitle 1 of Title 7 of the Revised Statutes.)

P.L..1948, c. 198, § 11. Amended by L.1954, c. 138, § 9.

### **40:11A-12. Bonds; powers of authority**

In connection with the issuance of bonds or the incurring of obligations and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any parking project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant as to the rents and fees to be charged in the operation of a parking project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to

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events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any parking project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

P.L.1948, c. 198, § 12.

### **40:11A-13. Rights of obligees**

An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee;

(a) By action or proceeding in lieu of prerogative writ, to compel said authority and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this act.

(b) By action to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

P.L.1948, c. 198, § 13. Amended by L.1953, c. 37, § 10, eff. March 19, 1953.

### **40:11A-14. Securing bonds by mortgage or trust indenture; powers of authority after default; pledge of revenue**

(1) Any bonds or any issue or issues of bonds of an authority may, in the discretion of the authority, be secured by a mortgage or trust indenture by and between the authority and a trustee or trustees within or without the State of New Jersey. Any such mortgage or trust indenture or any resolution authorizing the issuance of such bonds may include and set forth the agreements, covenants, pledges and other provisions on the part of the authority

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to be performed and made by the authority pursuant to this act in order to secure the payment of such bonds.

(2) An authority shall have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(a) To cause possession of any parking project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any parking project of said authority or any part thereof and of the rents and profits therefrom who may enter and take possession of such parking project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the court shall direct.

(c) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

(3) Any pledge of revenues or other moneys made by an authority pursuant to this act shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution or resolutions, mortgage or trust indenture, nor any other instrument by which such pledge is created, need be recorded.

(4) In the event of a default by an authority which results in title to a parking project passing to a private mortgagee or person, all tax exemption privilege or other special privilege accorded to such parking project because of its public nature shall cease, except exemptions from tax of bonds or the interest thereon or the income therefrom.

P.L.1948, c. 198, § 14. Amended by L.1958, c. 22, § 7, eff. April 22, 1958.

### **40:11A-15. Real property exempt from levy**

All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of any authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues.

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P.L.1948, c. 198, § 15.

### **40:11A-16. Bonds; legal investment for banks and trustees**

Notwithstanding any restrictions on investments contained in any laws of this State, the State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a parking authority created pursuant to this parking authority law and any amendments thereto; it being the purpose of this act to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations and that such bonds or other obligations shall be authorized security for all public deposits; provided, however, that nothing contained in this section shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

P.L.1948, c. 198, § 16.

### **40:11A-17. Contracts respecting labor and materials**

Subject to any of the foregoing provisions any authority may but without intending by this provision to limit any powers of such authority enter into and carry out such contracts or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the authority may deem desirable or as may be requested by any Federal agency that may assist in the financing of such project or any part thereof.

P.L.1948, c. 198, § 17.

### **40:11A-18. Powers of authority pertaining to other governmental agencies**

In addition to the powers conferred upon any authority by other provisions of this act, every authority is empowered to borrow money or accept contributions, grants or other financial assistance from the Federal Government, and, with the consent of the county or municipality to acquire, take over or lease, or manage, any parking project or undertaking constructed or owned by such county or municipality or any meters, equipment or other facilities of such county or municipality devoted to the parking or storage of vehicles of any kind or necessary or useful and convenient in connection therewith or with the promotion of the free movement of traffic, and to these ends, to comply with such

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conditions and enter into such mortgages, trust indentures, leases, or agreements, as may be necessary, convenient or desirable. It is the purpose and intent of this act to authorize every authority to do any and all things necessary or desirable to secure the financial aid or co-operation of the Federal Government, the State Government, or any county or municipality in the undertaking, construction, maintenance, or operation of any parking project by such authority. Notwithstanding the provisions of any other law, the rents, rates and fees to be charged in the operation by a parking authority of any off-street parking project owned or leased by it shall be regulated and determined solely by the authority, and the local laws, ordinances, resolutions, rules and regulations of a municipality or county regulating the parking of vehicles shall apply to said project but only to such extent as may from time to time be approved by resolution of the authority.

P.L.1948, c. 198, § 18. Amended by L.1954, c. 138, § 10; L.1958, c. 22, § 8, eff. April 22, 1958.

### **40:11A-19. Taxation exemption**

Every parking project and all property of the parking authority are hereby declared to be public property of a political subdivision of the State and devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any subdivision thereof. All bonds are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose and to be a public instrumentality, and such bonds, and the interest thereon and the income therefrom, and all service charges, funds, revenues and other moneys pledged or available to pay or secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation except for transfer inheritance and estate taxes and taxes on transfers by or in contemplation of death, and in lieu of taxes by political subdivisions upon the property of a parking authority, the authority which owns or holds such property may agree to make payments to a political subdivision for the services, improvements or facilities furnished by it for the benefit of a parking project.

P.L.1948, c. 198, § 19.

### **40:11A-20. Restriction on alteration of powers**

The provisions of this act shall constitute a part of any and all contracts entered into by an authority created hereunder for the benefit and security of the creditors of such authority, and the State of New Jersey does hereby pledge to and agree with any person, firm or corporation or Federal agency subscribing to or acquiring the bonds issued by the authority for the construction, extension, improvement or enlargement of any project or facilities or part thereof that the State of New Jersey will not limit or alter the rights hereby vested in the authority and in the holders of such bonds until all bonds at any time issued together with the interest thereon and any premiums upon the redemption thereof are fully met and discharged. The State of New Jersey does further pledge in the event that any Federal agency shall contribute or agree to contribute any funds for the construction, extension, improvement or enlargement of any project or any portion thereof, the State of New Jersey will not alter or limit the rights and powers of the

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authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of any agreements between the authority and any such Federal agency and the authority shall continue to have and may exercise all powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States in the construction or improvement or enlargement of the project or such portion thereof.

P.L.1948, c. 198, § 20. Amended by L.1954, c. 138, § 11, eff. July 12, 1954.

### **40:11A-21. Municipal and county co-operation**

Any city, town, borough, village, township, or county, located in whole or in part within the area of operation of a parking authority organized pursuant to this chapter, or any amendments thereto, shall have the power from time to time to grant, appropriate, donate, contribute, or lend money to such authority or to agree to take such action.

P.L.1948, c. 198, § 21.

### **40:11A-22. Municipal parking authorities**

(1) The municipality for which a parking authority shall have been created shall have the power from time to time, by or pursuant to ordinance duly adopted or by instruments or other action authorized by such an ordinance and for such period and upon such terms, with or without consideration, as may be provided in such ordinance and accepted by the authority:

(a) To pledge to the authority, and covenant and agree with the authority to pay to or on the order of the authority, all or any part of any funds theretofore or thereafter received by the municipality for or with respect to the parking or storage of motor vehicles, in streets or otherwise, including funds collected in parking meters located in or along streets or otherwise;

(b) To sell, lease, lend, donate, grant or convey to the authority, or permit the authority to use, maintain or operate as part of its projects or to manage, any parking project or undertaking constructed or owned by the municipality, or any meters, equipment or other real or personal property owned by the municipality, which may be necessary or useful and convenient for the purposes of the authority and accepted by the authority;

(c) To appropriate money for all or any part of the cost of acquisition or construction of any parking project of the authority and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the local bond law, to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such project and appropriation, and to pay the proceeds of such bonds to the authority;

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(d) To covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such ordinance;

(e) To unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority; and

(f) Upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance.

(2) Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the municipality and on its behalf by such officer thereof as may be designated in the ordinance authorizing such guaranty, and such municipality shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of the authority may be made, and any ordinance authorizing such guaranty may be adopted, notwithstanding any statutory or other debt limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds guaranteed pursuant to said ordinance shall be included in the gross debt of such municipality for the purpose of determining the indebtedness of such municipality under or pursuant to the local bond law. The principal amount of bonds guaranteed pursuant to said ordinance and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of the local bond law (a) from and after the date of adoption of the ordinance authorizing such guaranty and until the end of the fifth fiscal year beginning next thereafter, and (b) in any annual debt statement filed pursuant to the local bond law as of the end of said fifth fiscal year or any subsequent fiscal year if the municipality shall not have been required to make any payment in such fiscal year on account of the principal of or interest on any of the bonds guaranteed pursuant to said ordinance.

(3) Any contract, covenant or agreement with an authority or pledge to an authority made by a municipality pursuant to this section regarding funds received by the municipality for or with respect to the parking or storage of motor vehicles in streets or otherwise as referred to in paragraph (1)(a) hereof, whether or not including funds collected in parking meters in or along streets or otherwise, may include or be supplemented with provisions, on such terms as may be authorized on behalf of the municipality and accepted by the authority, for or with respect to:

(a) The acquisition, installation, relocation, maintenance, repair, replacement, operation and disposition by the authority of all or any such parking meters in accordance with the applicable law, ordinances and regulations as to the parking of vehicles in the municipality;



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(b) The collection by the authority of all or any funds generated in all or any such parking meters, and the accounting for, and deposit, custody, safeguarding, allocation, use, application and disposition of, any such funds;

(c) The enforcement by the authority, on behalf of the municipality or otherwise, of all or any of the applicable law, ordinances and regulations as to the parking of vehicles in the municipality, whether upon streets or on lands or other facilities owned or maintained by the municipality or the authority or elsewhere;

(d) In order to implement such enforcement of applicable law, ordinances and regulations as aforesaid, the appointment by or on behalf of the municipality upon designation as required by the authority of persons to serve, under the supervision and direction of the authority, as parking enforcement officers of the municipality with full power and authority, in such manner and to such extent as may be approved on behalf of such municipality, (1) to issue summonses for violations of any provision of said law, ordinances or regulations, (2) to serve and execute all process with respect to any such violation issuing out of the police court of the municipality by whatsoever name the same shall be known, and (3) to cause any vehicle parked, stored or abandoned in violation of any provision of said law, ordinances or regulations to be towed away from the scene of such violation and collect from the owner of such vehicle the costs of the towing and subsequent storage of said vehicle before surrendering said vehicle to such owner; and

(e) The allocation and financing of the costs and expense of any of the foregoing.

(4) Every municipality which shall make any contract, covenant or agreement with an authority or pledge to an authority pursuant to this section is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform the same and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality. Every authority is hereby empowered to accept, and make and enter into, any of the contracts, covenants, agreements or contractual provisions referred to in this section and is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to carry out and perform the same. Any such contract, covenant, agreement, or pledge, and any instrument making or evidencing the same, may be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of such instrument or by the terms of such pledge or assignment.

P.L. 1948, c. 198, § 22; amended by L. 1958, c. 22, § 9; 1967, c. 119; 1973, c. 268, § 2; 1987, c. 291, §1.

### **40:11A-22.1. Parking enforcement officer**

As used in this act, a parking enforcement officer means a person appointed pursuant to this act to exercise the power and authority described in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)). Parking enforcement officers are not special law enforcement officers within the meaning of P.L. 1985, c. 439 (C. 40A:14-146.8 et al.) and are not members of the police force of the municipality for which the parking authority shall have been created. Parking enforcement officers are not

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eligible for membership in the Police and Firemen's Retirement System established pursuant to P.L. 1944, c. 255 (C. 43:16A-1 et seq.).

P.L. 1987, c. 291, § 2.

### **40:11A-22.2. Qualifications**

No person may be appointed as a parking enforcement officer unless the person:

- a. is a resident of this State during the term of appointment;
- b. is able to read, write and speak the English language well and intelligently;
- c. is of sound mind and in good health;
- d. is of good moral character;
- e. has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of his office.

P.L. 1987, c. 291, § 3.

### **40:11A-22.3. Fingerprinting**

Every applicant for the position of parking enforcement officer appointed pursuant to this act shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and Federal Bureau of Investigation.

P.L. 1987, c. 291, § 4.

### **40:11A-22.4. Eligibility determination**

Before any parking enforcement officer is appointed pursuant to this act, the chief of police, or, in the absence of the chief, other chief law enforcement officer of the municipality shall ascertain the eligibility and qualifications of the applicant and report these determinations in writing to the appointing authority.

P.L. 1987, c. 291, § 5.

### **40:11A-22.5. Firearms banned**

No parking enforcement officer may carry a firearm while engaged in the actual performance of the officer's official duties. A parking enforcement officer shall be deemed to be on duty only while the officer is performing the public safety functions enumerated in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)) on behalf of a parking authority and when that officer is receiving compensation, if any, from the parking authority at the rates or stipends as shall be established by ordinance.

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P.L. 1987, c. 291, § 6.

### **40:11A-22.6. Training course**

No person appointed after the effective date of this act may commence his duties as a parking enforcement officer unless that person has successfully completed a training course conducted or approved by the municipality or parking authority.

P.L. 1987, c. 291, § 7.

### **40:11A-22.7. Waiver**

The training requirements set forth in section 7 of this act may be waived by the appointing authority for any person eligible to be appointed as a parking enforcement officer under this act who has substantially equivalent training and background, as determined by the chief of police or, in his absence, other chief law enforcement officer of the municipality.

P.L. 1987, c. 291, § 8.

### **40:11A-22.8. Uniform**

Every parking enforcement officer prior to the commencement of his duties shall be furnished with a uniform which shall identify the officer's function. The uniform shall include, but not be limited to, a hat and appropriate badges which shall bear an identification number or name tag and the name of the parking authority with which the officer is employed. The uniform shall also include an insignia issued by the parking authority which clearly indicates the officer's status as a parking enforcement officer.

P.L. 1987, c. 291, § 9.

### **40:11A-22.9. Insignia**

Within six months following the effective date of this act, parking authorities shall issue permanent insignia. The appointing authority may issue temporary insignia for use prior to the issuance of permanent insignia.

P.L. 1987, c. 291, § 10.

### **40:11A-22.10. Fees**

The parking authority may charge a reasonable fee for uniforms supplied pursuant to this act; however, the appointing authority shall not charge a fee for the costs of training or issuing a certificate of appointment.

P.L. 1987, c. 291, § 11.

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### **40:11A-22.11. Redesignation**

All persons currently employed under the supervision and direction of a parking authority as special law enforcement officers and who are exercising the power and authority described in paragraph (d) of subsection (3) of section 22 of P.L. 1948, c. 198 (C. 40:11A-22(3)(d)) on the effective date of this act are hereby designated parking enforcement officers.

P.L. 1987, c. 291, § 12.

### **40:11A-23. Aid by public bodies**

(1) For the purpose of aiding and co-operating in the planning, undertaking, construction or operation of parking projects of an authority, any public body within the territory of which any such project is located may:

(a) Acquire real property in its name for any project or for the widening of existing roads, streets, parkways, avenues or highways or for new roads, streets, parkways, avenues or highways to any project, or partly for such purposes and partly for other municipal or county purposes, by purchase or condemnation in the manner provided by law for the acquisition of real property by a municipality or county;

(b) Cause water, sewer, lighting and drainage facilities, or other works which it is otherwise empowered to undertake to be furnished adjacent to or in connection with parking projects; provided, nothing in this act shall authorize the construction of any public utility service or facility which would be competitive with any existing public utility as the same is defined by section R.S. 48:2-13 of the Title, Public Utilities;

(c) Furnish, dedicate, close, pave, install, grade, regard, plan, or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such parking projects, and cause services to be furnished to the parking authority of the character which such public body is otherwise empowered to furnish.

(2) In connection with any public improvements made by a public body in exercising the powers herein granted or referred to, such public body may incur the entire expense thereof. Any law or statute to the contrary notwithstanding, any sale, lease, loan, grant, gift, conveyance, contract, pledge or agreement provided for in this section or in section 22 of this act may be made by a public body without prior appropriation therefor, or referendum, or appraisal, or public notice, advertisement or bidding, and without the consent of any board, officer or other agency of the State, and without regard to any provisions of Title 40 of the Revised Statutes and of Title 40A of the New Jersey Statutes, except P.L.1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

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(3) An authority shall appoint a treasurer, who may also act as secretary of the authority, and all moneys of an authority shall be paid to the treasurer of the authority. Such treasurer shall file a bond of indemnity with the authority in an amount sufficient to cover the moneys from time to time under his control. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on checks of the treasurer on requisitions of the chairman of the authority or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such moneys shall, if required by the treasurer or the authority, be secured by obligations of the United States or of the State of New Jersey of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this paragraph, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this paragraph. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of an authority, and all banks and trust companies are authorized to give such security for such deposits.

(4) A parking authority shall not be subject to, or constitute a municipality or agency or component of a municipality subject to, any provisions of Title 40 of the Revised Statutes and of Title 40A of the New Jersey Statutes, except P.L. 1971, c. 198 "Local Public Contracts Law" (C. 40A:11-1 et seq.).

P.L.1948, c. 198, § 23. Amended by L.1954, c. 138 § 12; L.1958, c. 22 § 10, eff. April 22, 1958; L.1975, c. 96, § 2, eff. May 16, 1975.

### **40:11A-24. Termination of authority**

When any authority shall have finally paid and discharged all bonds or other obligations, which together with interest due thereon, shall have been secured by a pledge of any of the revenues or receipts of a project, it may, subject to any agreements concerning the operation or disposition of such projects, convey such project to the municipality or county creating the authority. When any authority shall have finally paid and discharged all bonds issued and outstanding and the interest due thereon, and settled all other obligations or claims which may be outstanding against it, it may convey all its property to the municipality or county, as the case may be, and terminate its existence. A certificate requesting the termination of the existence of the authority shall be filed with the clerk of the municipality or county creating such authority.

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If the certificate is thereafter approved by the municipality creating the authority, which approval shall be by ordinance, or by the county creating the authority, which approval shall be by resolution, the said certificate, together with a certified copy thereof, shall be filed with the clerk or register of deeds of the county in which said authority is located. Whereupon the property of said authority shall pass to the municipality or county creating such authority and the authority shall cease to exist.

The clerk of the county in each case, shall cause a duplicate certified copy of such documents to be filed forthwith with the Secretary of State.

P.L.1948, c. 198, § 24.

### **40:11A-25. Validity of chapter**

Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

P.L. 1948, c. 198, § 25.

### **40:11A-26. Inconsistent laws**

All general or special laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the exercise of the powers, duties and obligations authorized under the provisions of this act.

P.L.1954, c. 138, § 14.