

**ORDINANCE ESTABLISHING A POLICY FOR THE USE OF E-MAIL COMMUNICATIONS BY MEMBERS OF THE GOVERNING BODY AND EMPLOYEES OF THE TOWNSHIP OF SOUTH HARRISON**

**WHEREAS**, the “Open Public Meetings Act”, N.J.S.A. 10:4-1, et seq., was established to assure that the public have access to all phases and conduct of the actions of its municipal government; and

**WHEREAS**, N.J.S.A. 10:4-8(b) provides, in part, that a public meeting includes any gathering of a majority of the members of a governing body “...by means of communication equipment, which is intended by or opened to all the members of a public body held with the intent...to discuss or act as a unit upon the specific public business of that body.” It is clear that the use of computers, cell phones and other electronic transmission devices for the purpose of communicating via e-mail is contemplated in this provision of the Statute; and

**WHEREAS**, the Township of South Harrison desires to establish a policy for the use of e-mail communications by members of the governing body and employees of the Township in order that the public have a full and complete access to the process of the conduct of the municipal government of the Township;

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of South Harrison, that the following shall be established as a policy for the use of electronic e-mail transmissions by members of the governing body and employees of the Township of South Harrison:

**SECTION I: PURPOSE.**

This Ordinance shall have the purpose to establish a policy for the use of electronically-transmitted e-mail, text messaging, twittering and like electronic communication by members of the governing body and employees of the Township of South Harrison.

**SECTION II: POLICY.**

The following shall constitute the Policy of the Township of South Harrison for the use of electronically-transmitted e-mail, text messaging, twittering and like electronic communication by members of the governing body and employees of the Township:

- A. Communications transmitted electronically shall not include an effective majority of the governing body in those instances where the context, subject matter or other terms of the e-mail communication is intended to discuss, act upon or deliberate upon matters that the governing body may consider. Communications may be transmitted to a majority of the governing body only in those instances where the immediate communication of the information contained therein is necessary to facilitate the work of the governing body but in no event shall such communications be intended to constitute a discussion, deliberation, or action of the governing body.

- B. When practicable, communications to a majority of the governing body shall not include a request for a response. Providing information to the entire governing body, or a majority thereof, should in those instances specifically indicate that there should be no e-mail reply or other communication contrary to the provisions of the “Open Public Meetings Act.”
- C. In instances where a response to a communication which was extended to a majority of the governing body is necessary, such response shall not invite or involve any decision making or deliberative function of the governing body or otherwise constitute an action upon the subject matter of the communication. In such instances, any response shall not be made to a majority of members of the governing body, either directly or indirectly through a third party.
- D. E-mail communications intended to constitute a “rolling” e-mail are not permitted. For the purpose of this subparagraph, a “rolling” e-mail occurs when one member of the governing body, or a third party, contacts other members via e-mail individually to successively discuss, deliberate or take action upon matters for which the governing body has jurisdiction to consider.
- E. No use of electronically transmitted communications shall be permitted by which a majority of the governing body shall be invited to comment, deliberate upon or otherwise act upon the subject matter of the communication.

### **SECTION III - DISTRIBUTION OF POLICY.**

The Clerk shall distribute copies of the above Policy to all members of the governing body and all employees of the Township of South Harrison at such time as persons shall be established in such positions. Upon enactment hereof, the Clerk shall distribute a copy of this Policy to all members of the governing body and employees of the Township and shall include this Policy within the Employee Policy Manual.

### **SECTION IV – REPEALER.**

All Ordinances of the Township of South Harrison inconsistent with the provisions of this Ordinance be and are hereby repealed to the extent of such inconsistency.

### **SECTION V – SAVED FROM REPEAL.**

All existing Ordinances not inconsistent with the provisions of this Ordinance be and are hereby saved from repeal. Should any Section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional, unlawful, or unenforceable by a Court of competent jurisdiction, all other parts or provisions of this Ordinance shall be severable and deemed lawful and enforceable.

**SECTION VI – EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon passage, publication and as otherwise provided by law.

TOWNSHIP OF SOUTH HARRISON

ATTEST:

BY: \_\_\_\_\_  
James McCall, Mayor

\_\_\_\_\_  
Nancy E. Kearns, RMC  
Municipal Clerk

**NOTICE**

The foregoing Ordinance was introduced at a Regular Meeting of the Mayor and Township Committee of the Township of South Harrison conducted on October 12, 2011, and will be considered for Final Hearing and adoption at a Meeting to be held on the 9<sup>th</sup> day of November 2011 at 8:00 p.m., at which time any objections hereto may be heard.

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Nancy E. Kearns, RMC  
Municipal Clerk

**NOTICE**

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COMMUNICATIONS BY MEMBERS OF THE GOVERNING BODY AND  
EMPLOYEES OF THE TOWNSHIP OF SOUTH HARRISON**

NOTICE is hereby given that the foregoing Ordinance O-11-16 was finally adopted at a meeting of the South Harrison Township Committee held on the 9<sup>th</sup> day of November 2011 at 8:00 p.m. in the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, New Jersey.

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Nancy E. Kearns, RMC  
Municipal Clerk