

AN ORDINANCE REPEALING AND AMENDING CHAPTER 130 OF THE SOUTH HARRISON TOWNSHIP CODE ENTITLED "TOWING"

WHEREAS, pursuant to N.J.S.A.40:48-2.49, the Township of South Harrison is authorized to enact an Ordinance setting forth regulations for the removal of motor vehicles from private or public property, including the fees charged for such removal and storage, and the notice requirements therefor; and

WHEREAS, the State of New Jersey enacted the Predatory Towing Prevention Act, P.L. 2007, c. 193(N.J.S.A.56:13-7, et seq.)(the "Act"), setting forth rules and licensing requirements for the operation of towing businesses within the State, which were to preempt municipal ordinances requiring same; and

WHEREAS, the Act was amended by P.L. 2009, c.39, to eliminate the licensing requirement, remove the municipal preemption, and thereafter permit municipalities to register or license towing operators; and

WHEREAS, the Township Committee of the Township of South Harrison finds it to be in the best interest of the Township and its citizens to enact an Ordinance to govern and regulate the practice of towing of motor vehicles throughout the Township;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of South Harrison that Chapter 130 of the Township Code entitled "TOWING" is hereby repealed and amended, in its entirety, as set forth below:

CHAPTER 130 TOWING

§130-1. Purpose

Pursuant to N.J.S.A.40:48-2.49, the Township of South Harrison is authorized to enact regulations, by Ordinance, for the removal of motor vehicles from private or public areas by operators engaged in such practice, including, but not limited to, the fees charged for storage following removal in accordance with Section §3 of P.L., c. 127(N.J.S.A.40:48-2.50), and the notice requirements therefor, as well as the mercantile licensing of such operators.

The Ordinance adopted by the Township sets forth non-discriminatory and non-exclusionary regulations governing operators engaged in the business of removing and storing motor vehicles including, but not limited to:

- A. A schedule of fees or other charges which an operator may charge vehicle owners for towing services, storage services or both;

- B. Minimum standards of operator performance, including, but not limited to, standards concerning the adequacy of equipment and facilities, availability and response time, and the security of vehicles towed or stored;
- C. The designation of a municipal officer and/or agency to enforce the provisions of the Ordinance; and
- D. That such regulations and fee schedules of individual towing operators shall be made available to the public during normal business hours of the Township.

§130-2. Definitions

The following words and terms used in this Section shall have the following meanings, unless the context clearly indicates otherwise:

ABANDONED VEHICLE.

Any vehicle that is abandoned on or along any highway, other than a limited-access highway, or other public property or on any private property without the consent of the owner or other person in charge of the property. A vehicle which has remained on or along any highway or other public property or on any private property without such consent for a period of more than forty-eight (48) hours, or for any period without current license plates shall be presumed to be an abandoned motor vehicle.

AUTO REPAIR FACILITY

Any public garage where motor vehicles are painted, serviced and/or repaired.

BASIC TOWING SERVICE shall mean towing as defined in this Section and other ancillary services as may be specified by the Director of the New Jersey Department of Consumer Affairs by regulation or Statute. Basic Towing Service shall also include private property towing and other non-consensual towing as defined in this Section and other ancillary services that include the following: arriving at the site from which a motor vehicle will be towed; fifteen (15) minutes waiting time; hooking a motor vehicle to or loading a motor vehicle onto a tow truck; transporting a motor vehicle to a storage facility; unhooking or unloading a motor vehicle from the tow truck; and situating the motor vehicle in the space in which it will be stored. "Basic Tow" also includes issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; issuing an itemized bill; three (3) trips to the motor vehicle in storage which, if applicable, includes making a vehicle available to an insurance appraiser or adjuster; issuing documents for the release of a motor vehicle to its owner or other person authorized to take the motor vehicle; and retrieving a motor vehicle from storage during the hours in which the storage facility is open.

CLEAN-UP AND REMOVAL COSTS

All costs incurred by the Township, its agents or the towing operator in the removal or attempted removal of hazardous substances and disposal thereof, or costs for the taking of reasonable measures to prevent or mitigate damage, whether actual or threatened to the public health, safety or welfare.

CODE OFFICIAL

An individual who is duly appointed by the Township Committee responsible for enforcing Codes in the Township of South Harrison. It shall be the duty of the Code Enforcement Officer to carry out the provisions of the Ordinances listed in the Code of the Township of South Harrison.

DECOUPLING FEE

Shall mean a charge by a towing company for releasing a motor vehicle to its owner or operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle actually having been moved or removed from the property.

DISCHARGE

Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous substances into the water, lands or air of the State of New Jersey.

DISPATCH FACILITY

A place established to transmit requests for towing services. (i.e., Gloucester County Dispatch Communication Center or South Harrison Township Police Department).

HAZARDOUS SUBSTANCES

The list of hazardous substances adopted by the Environmental Protection Agency (EPA) pursuant to §101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," P.L.96-510(42 U.S.C. Chapter 9601, et seq.), and amendments thereto, and those substances listed by NJDEP as environmental hazardous substances pursuant to N.J.S.A.34:5A-4, and amendments thereto.

LICENSES AND INSPECTIONS

The State of New Jersey Licenses and Inspections Agency.

LICENSE TERM. The period of twenty-four (24) months from February 1 to January 31.

MOTOR VEHICLE

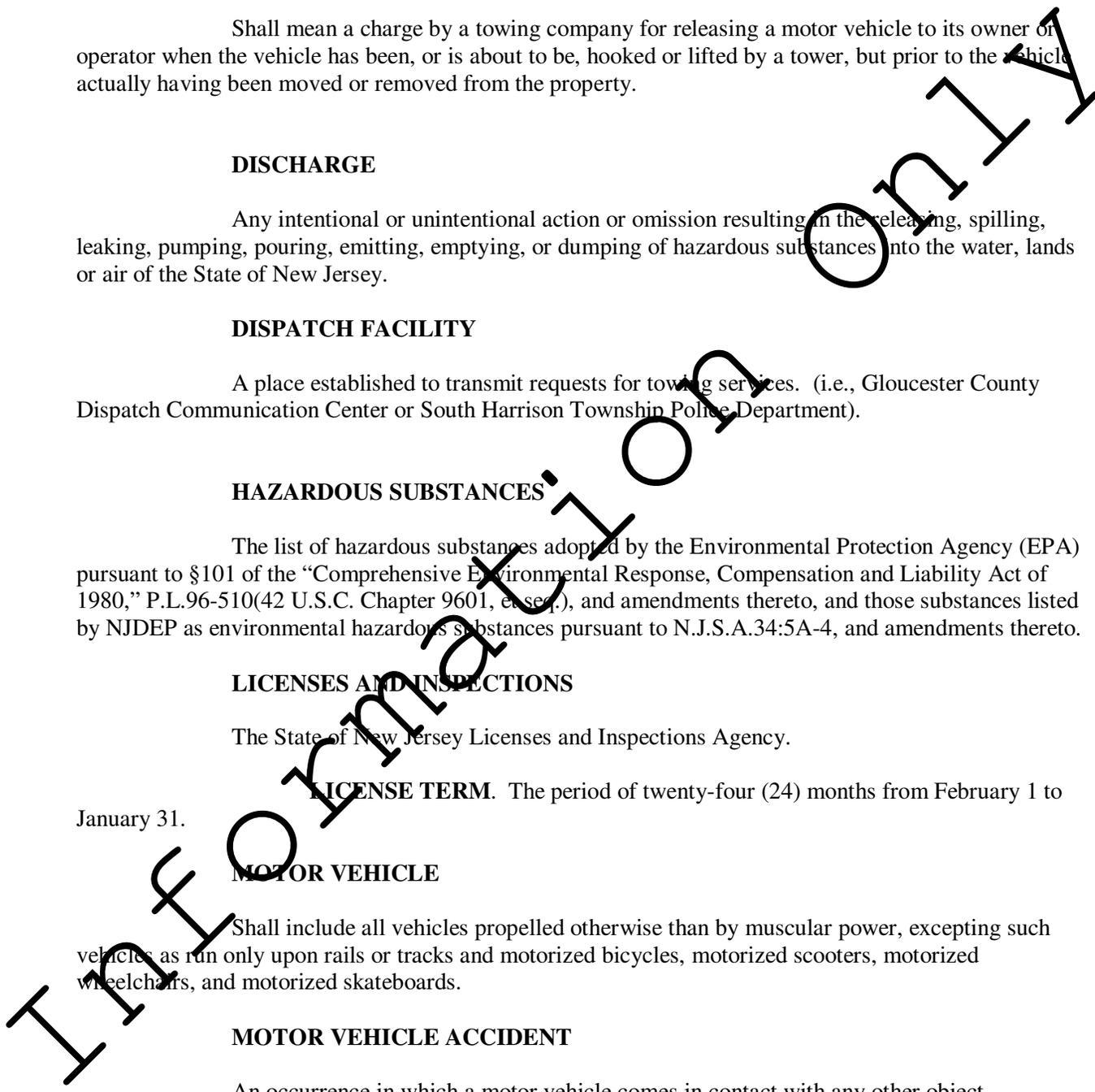
Shall include all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs, and motorized skateboards.

MOTOR VEHICLE ACCIDENT

An occurrence in which a motor vehicle comes in contact with any other object, including pedestrians, for which the motor vehicle must be towed or removed from the scene thereof.

NIGHT HOURS

At the closing time of normal business hours anytime between 6:00 p.m. and 8:00 a.m., Monday through Friday, including weekends and holidays.



NON-CONSENSUAL TOWING

Shall mean the towing of a motor vehicle without the consent of the owner or operator of the vehicle.

OUTSIDE SECURED

Any portion of a towing facility that is not indoors and is secured by a fence, wall or other man made barrier and is installed with a passive alarm system (i.e., bell ringer located in the gate area to the enclosed facility) or a similar on-site security measure.

PERSON

Shall mean an individual, a sole proprietorship, partnership, corporation, limited liability company or any other business entity.

PETROLEUM OR PETROLEUM PRODUCTS

Oil or petroleum of any kind and in any form, including, but not limited to, oil petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, and oil mixed with other wastes.

POLICE HELD VEHICLES

Motor vehicles which are alleged to have been involved in illegal activity; involved in a fatal motor vehicle collision; or any vehicles so designated by a South Harrison Township Police Officer.

PRIVATE PROPERTY OWNER

Shall mean the owner or lessee of private property, or an agent of such owner or lessee, but shall not include a private property towing company acting as an agent of such owner or lessee.

PRIVATE PROPERTY TOWING

Shall mean the non-consensual towing from private property or from a storage facility of a motor vehicle or a consumer's motor vehicle that is parked illegally, parked during a time at which such parking is not permitted, or otherwise parked without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. This term shall not include the towing of a motor vehicle that has been abandoned on private property in violation of N.J.S.A.39:4-56.5, provided that the abandoned vehicle is reported to the appropriate law enforcement agency prior to removal and the vehicle is removed in accordance with N.J.S.A.39:4-56.6.

PUBLIC GARAGE

A building, structure, or property designed and used for equipping, adjusting, greasing, washing, polishing, servicing, or storing of motor vehicles, other than at a junk yard, operated for profit and for service to the public. For purposes of this Chapter, a public garage means any general repair garage, specialized repair garage, car wash, auto repair facility, or towing facility.

ONLY

Information

RESPONSE TIME

Not more than thirty (30) minutes from the time of the initial request by the Gloucester County Dispatch Communication Center or the South Harrison Township Police to the tow vehicle's arrival at the site of the incident requiring towing services with all traffic regulations being observed.

STORAGE CHARGES FOR TWENTY-FOUR-HOUR PERIOD

The maximum allowable amount charged by a towing facility for the storage of motor vehicles for any twenty-four-hour period or fraction thereof.

STORAGE AREA

The portion(s) of the towing facility's property utilized for the storing of motor vehicles. The storage area, whether indoor or outdoor, shall be secure, enclosed via fence or walls, and accessible twenty-four (24) hours per day by the South Harrison Township Police Department. If the storage area is outdoors, it shall be fully enclosed by a fence, and shall be lighted from dusk to dawn.

TOWING FACILITY

Any public garage that offers towing services.

TOWING OPERATOR

Any entity that operates a towing business or tow vehicle(s).

TOWING

Shall mean the removal and transportation of a motor vehicle from a highway, street, other public or private road, parking area, storage facility, and from other off-road locations such as fields, lakes, rivers and streams. This includes other services such as roadside assistance. Additionally, towing shall mean the moving or removing of a motor vehicle as a result of an accident or otherwise is disabled; is recovered after being stolen; or is parked illegally or otherwise without authorization; parked during a time at which such parking is not permitted; or otherwise parked without authorization and/or the immobilization of or preparation for moving or removing of such motor vehicle for which a service charge is made, either directly or indirectly.

TOWNSHIP

The Township of South Harrison.

TOWNSHIP CLERK

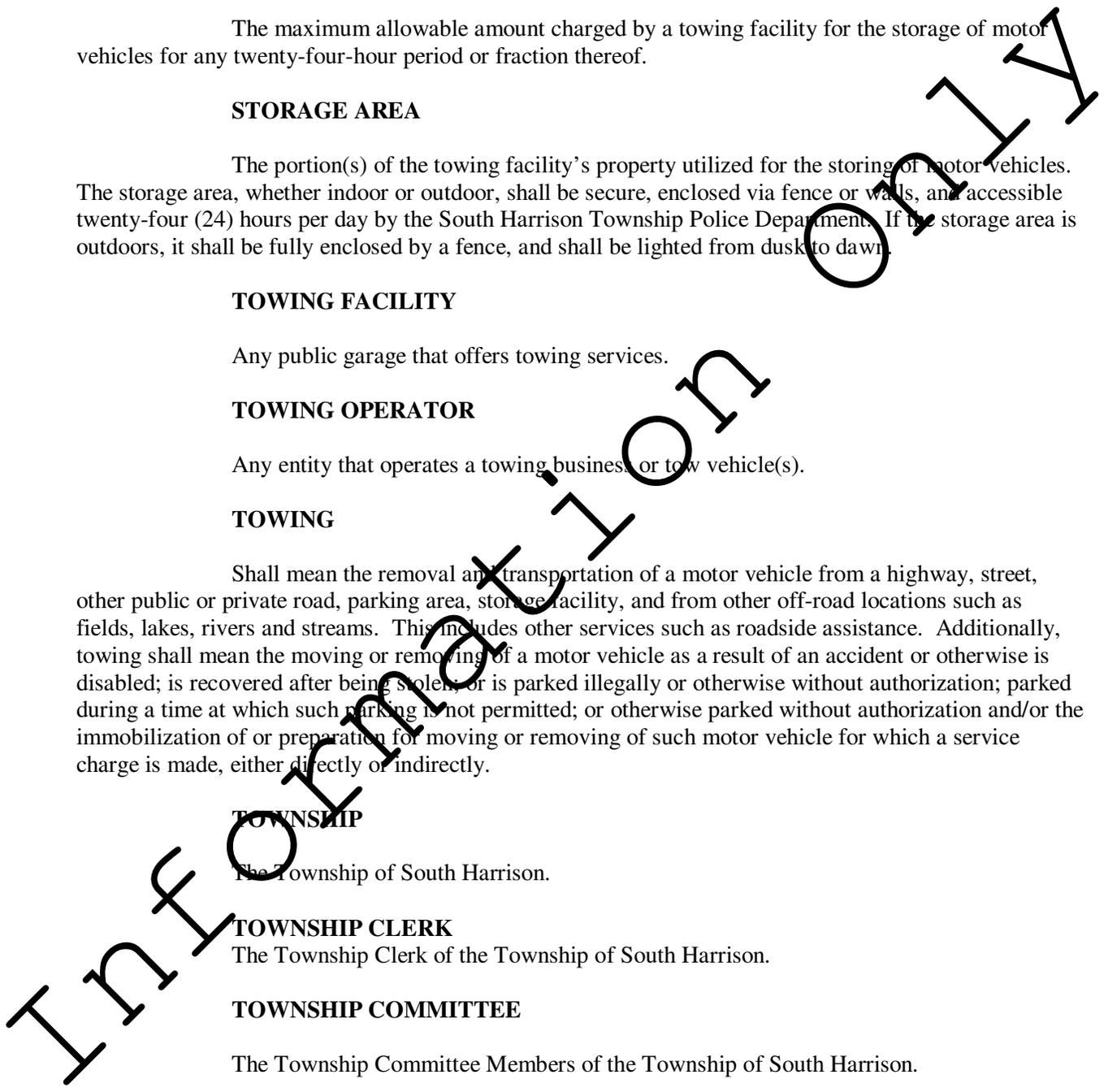
The Township Clerk of the Township of South Harrison.

TOWNSHIP COMMITTEE

The Township Committee Members of the Township of South Harrison.

TOW VEHICLE

Those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts, or under-reach equipment specifically designed by the vehicle manufacturer for the transport of motor vehicles.



TOW VEHICLE'S BASE OF SERVICE

The tow operator's principal place of business where the tow vehicle is stationed when not in use.

§130-3. Registration and License Required

Prospective tow list operators must have a duly licensed towing facility or auto repair facility meeting the requirements set forth in this Chapter.

§130-4. Application Process for Police Department Tow List

A. License Application Data Required: An Application for a license shall be in writing, upon a License Application Form furnished by the South Harrison Township Police Department, signed by the Applicant. Said Application shall contain the following information:

1. The name, business address, business name and telephone number of the towing operator. If the owner is a corporation, the Application shall contain the name, residence, business address and telephone number of every stockholder owing more than ten percent (10%) of the issued stock.
2. The location(s) of the towing operator's towing and storage area(s).
3. The name of the towing operator's insurance company and insurance policy number. A current and valid Certificate of Insurance must be provided at the time of Application submission as required under the terms and conditions stated in §130-6 herein.
4. A list of the type (manufacturer and year), condition, and design of tow vehicle(s) and equipment available for service.
5. Communication availability, including radio communication, and the location and availability of the dispatch center.
6. The name, address and driver's license number of each driver or operator of the tow vehicle(s).
7. Proof that each vehicle to be licensed is duly registered and inspected by the State of New Jersey Division of Motor Vehicles as a tow vehicle.
8. The Application shall be accompanied by the following supporting documentation:
 - (a) Roster of tow vehicles including the registration and VINs.
9. Certification that the Applicant has, will be able to, and will in the future comply with the qualifications and minimum standards of performance set forth in §130-12.

10. Certification that the Applicant will be able to provide towing services anywhere in the Township so as to permit a response time within thirty (30) minutes.
11. Certification that the Applicant will be available for towing twenty-four (24) hours a day.
12. Certification that the Applicant will abide by the fees contained in or referred to in this Chapter, or any amendment approved by the Township Committee concerning the Fee Schedule.
13. Consent to appointment of the Township Clerk as the Applicant's true and lawful attorney for the purpose of acknowledging service out of any Court of competent jurisdiction to be served against the Applicant.

B. If a corporation or other business entity submits the Application, the Application shall be signed in the name of the corporation by the President and attested by the Secretary or other authorized corporate officer and/or Member.

C. Said Application shall be duly verified by the Applicant before a Notary Public or some other person duly authorized to administer oaths.

D. Each such Application shall be accompanied by the full amount of the license fee in the amount of Two Hundred Fifty Dollars (\$250.00). This is a non-refundable fee which will be utilized to cover the costs of investigation and review, and shall also be considered to be the fee for the balance of the year for which the Application is filed. Thereafter, the annual fee shall be in the amount of One Hundred Dollars (\$100.00).

E. The tow vehicle(s) shall comply with any and all state, federal, and local laws, regulations and ordinances, pertaining to safety, lighting, and towing equipment, and shall be subject to inspection by the Chief of Police or a designee at any time.

F. An Application shall not be deemed complete unless accompanied by:

- (1) Written verification from the South Harrison Township Clerk verifying that the towing operator has:
 - (a) Provided proof of a current and valid driver's license for each driver or operator;
 - (b) Provided a Certificate of Insurance and Hold Harmless Agreement compliant with the requirements set forth in **§130-6** herein;
 - (c) Provided proof of Registration, if required, with the New Jersey Division of Consumer Affairs; and
 - (d) Submitted the License Fee.

G. The Township of South Harrison shall have the right to verify the accuracy of the

information supplied in the Application by interviewing, investigating and inspecting all personnel, vehicles, equipment and storage areas proposed for utilization by the Applicant, and to determine compliance with all applicable laws, regulations, and standards of performance required by this Chapter.

H. The Chief of Police of the Township, or a designee, upon receipt of a completed Application, shall conduct a background investigation on the proposed towing operator and each driver. This investigation shall include an inspection of the towing facility, the tow vehicle(s) and the towing operation, and an inquiry into all relevant matters, to determine if the towing operator meets the requirements of all applicable laws, regulations, standards of performance and security of vehicles towed or stored as mandated by N.J.S.A.40:48-2.49(b). Every towing operator on the South Harrison Township Tow List shall be responsible for all fees and costs associated to perform criminal and driver's license background checks for each of their employees.

I. The towing operator shall at no time transfer or assign a license or any part thereof, for any purpose whatsoever.

J. No individual shall operate a tow vehicle unless the State of New Jersey fully licensed that individual. Any change in licensure of vehicle operators during the period of the license must be reported to the Police Department within fifteen (15) days of such change. Failure to do so and report such change shall be basis for revocation of the tow list license.

K. No more than one (1) roster slot on the Township of South Harrison's Certified Tow List shall be granted to an applicant. No towing operator shall have an interest, direct or indirect, in any other towing operator on the Township of South Harrison Towing List.

L. The towing operator must meet the requirements of §130-12 herein.

§130-5. Recommendation of Approval or Disapproval

A. Upon completion of the aforesaid investigation, the Chief of Police and Township Clerk shall file a written report as to the findings and compliance with §130-4 herein and issue a recommendation of approval or disapproval with the Township Committee.

B. If the Chief of Police or Township Clerk recommends that the towing operator not be approved, a written report shall be filed with the Township Committee specifying the findings and the reasons for the recommendation of rejection. The Township will furnish a copy of the report to the towing operator by certified mail.

C. Any towing operator who is denied a license based upon the findings and recommendations of the Chief of Police or Township Clerk may, after receipt of notification, file an Appeal within ten (10) days with the Township Committee. The Township Clerk shall then schedule a hearing before the Township Committee.

§130-6. Insurance

A. In order to be included on the Township of South Harrison Police Department's Tow List, a towing operator shall submit a Certificate of Insurance to the South Harrison Township Police Department and Township Clerk each year on or before February 1, evidencing that its towing facility and towing vehicles are insured by a reputable insurance company licensed to do business in the State of New Jersey with a standard general liability insurance policy designed to cover garage operations. Said insurance policy shall provide for minimum monetary limits for any single occurrence, as follows:

- (1) Automobile liability and comprehensive liability insurance in an amount not less than \$1,000,000 for light-medium-and/or heavy-duty trucks.
- (2) Workers Compensation as required by Statute.
- (3) Garage keeper's legal liability in an amount not less than \$100,000 per location.
- (4) Garage liability, including cargo insurance for heavy-duty tow, in the amount of not less than \$250,000 combined single limit. Cargo insurance for light-duty tows to meet the New Jersey minimum insurance requirements.
- (5) A Certificate of Insurance naming the Township of South Harrison as additional insured for a two-year term with a thirty (30) day notice of cancellation.
- (6) The policies required in this Section shall be subject to review by the TRICOJIF or current insurance carrier for the Township of South Harrison, and may be subject to change without the necessity of modifying this Chapter.
- (7) The policies shall be endorsed to provide collision coverage for vehicles in tow.

B. The insurance company must be an approved carrier licensed to do business in the State of New Jersey. The aforesaid insurance policy shall also be written as to include coverage for the property owned by others which is in the care, custody or control of the licensed operator, including the perils of transportation for any motor vehicle in the possession or control of the towing operator. The garage keeper's legal liability shall include comprehensive and collision coverage. Said insurance policy shall provide that the insurance company will pay on behalf of the Township for any and all claims against the Township resulting from the operations of the towing operator including any and all attorney's fees.

C. The insurance coverage shall provide that the insurance policy may not be cancelled or materially changed without thirty (30) days' prior written notice to the South Harrison Township Clerk.

D. The towing operator shall agree in writing to assume the defense of and indemnify and hold harmless the Township, its elected officials, boards, commissions, officers, employees and agents, from all suits, actions, damages or claims to which the Township may be subjected of any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provision of towing, storage and/or emergency services provided by the towing operator pursuant to this Chapter. Tow operators shall enter into a Hold-Harmless Agreement in a form to be approved by the Township Solicitor prior to being included on the Towing List.

§130-7. License and Procedure

A. Upon the receipt and review of a completed Application, and upon the filing by the Chief of Police and Township Clerk of a written report of findings resulting from the investigation of the Applicant and a recommendation of approval, the Application shall thereupon be referred to the Township Committee of the Township of South Harrison for consideration. If the Township Committee has determined to approve the granting of such license, it shall do so by Resolution.

B. In order to approve the Application by the granting of such license, the Township Committee must find that all of the following circumstances exist:

- (1) That the Applicant has met the standards in this Chapter.
- (2) That the Applicant has not knowingly and with the intent to deceive made any false, misleading or fraudulent statements of material fact in the Application or in any other document required pursuant to this Chapter.
- (3) That the Applicant has furnished the required Hold Harmless Agreement and Certificate of Insurance, along with the completed Application and documentation and information required under §130-6.
- (4) That the Application has been reviewed and approved by the Chief of Police.
- (5) Neither the Applicant nor the Applicant's personnel have been convicted of a criminal offense or had their driver's license suspended within the past year.

C. The Chief of Police, or his designee, shall conduct his review and render a report to the Township Committee, recommending either approval or denial of the Application, within twenty-one (21) days of receipt of the Application from the Applicant. The Township Committee shall take action with regard to the Application within thirty-nine (39) days of receipt of the written report from the Chief of Police. The Applicant or its representative shall be given notice of the date on which the Township Committee will consider the Application and shall be permitted to appear and be heard at that time.

D. Written notice of the approval or denial of the Application shall be provided to the Applicant within seven (7) days of the decision of the Township Committee.

E. If the Township Committee fails to take action within sixty (60) days of receipt of a complete Application, the Application shall be deemed to have been denied.

§130-8. License Term

All licenses issued under this Chapter shall be effective for a period of two (2) years. The license shall begin on the first day of February and end on January 31. All licenses shall expire automatically and Applications for Renewal thereof shall be submitted not less than six (6) weeks prior to the date of expiration. The "License" memorializing approval of the Application by the Township Committee for the Tower's License shall be the Resolution adopted and approved by the Township Committee that shall be valid for a period of two (2) years as set forth in this Chapter, which License shall be non-transferrable and shall further be subject to revocation as set forth in §130-9. Official Towers shall be placed on the Official Tower List at the beginning of each two (2) year period in accordance with the procedures as set forth in this Chapter.

§130-9. Revocation or Suspension of License; Hearing

A. Proceedings for the revocation or suspension of a license shall be initiated by the service of a Notice of Charges filed against the licensee. Said Notice shall be served by the Chief of Police, or his designee, either personally or via certified mail, return receipt requested, and shall contain a

date, time and place for a hearing to be held by the Township Committee of the Township of South Harrison. Said hearing shall be conducted no more than thirty (30) days after the Notice of the proposed suspension or revocation. The licensee shall have the right to file an answer and appeal and to appear in person, or be represented by counsel, and give testimony at the time and place fixed for the hearing under §130-9C.

B. A license may be revoked or suspended at any time for just cause, by the Township of South Harrison, for one or more of the following reasons:

- (1) If it is subsequently determined that the Applicant knowingly, and with the intent to deceive, made false, misleading or fraudulent statements of material fact in the Application or in any other document required pursuant to this Chapter.
- (2) Conviction of a crime or disorderly persons offense involving moral turpitude, defined as conduct that is contrary to community standards of justice, honesty and good morals.
- (3) Violation of any federal or state law or municipal Chapter or regulation relating to the operation of a motor vehicle or the provision of towing services.
- (4) Violations of any rules or regulations promulgated by the New Jersey Departments of Insurance and Community Affairs.

C. Once the licensee is notified of the suspension or revocation, the licensee has the opportunity to be heard by the Township Committee after filing a written Appeal within ten (10) days. Such license, when so suspended or revoked, shall not be reinstated except for good and sufficient cause.

§130-10. General Provisions

A. All towing operators, in order to provide services in nonpreference motor vehicle accidents or for the removal of motor vehicles from private or public property, as may be authorized by the Police Department, must be licensed by the Township of South Harrison in accordance with this Chapter. Towing operators must meet the thirty-minute response time to be eligible for inclusion on the Township of South Harrison Police Department Tow List, and be principally located within a five (5) mile radius of the borders of South Harrison Township.

B. The List of Licensed Towing Operators shall be maintained by the Police Department and shall be utilized on a rotation basis. The rotation shall be on a weekly basis, unless otherwise specified by the Police Department or in the event of emergency conditions. The towing and storage services shall be rotated among operators on an equal basis, as determined by the Chief of Police or his designee. There will be a maximum number of licenses issued by the Township consisting of three (3) licenses for regular-duty tow operators and two (2) heavy-duty tow operators permitted to perform work within the Township of South Harrison. Replacement of tow operators on the current list may only occur when there is a vacancy, provided that the replacement tow operators meet all the requirements set forth in §130-4 of this Chapter.

C. The Police Department shall at all times have the right to call more than one operator from the Tow List in the correct rotation order when there is more than one vehicle obstructing traffic.

D. In times of emergencies and/or natural disasters, the Township of South Harrison

reserves the right to contact other towing service operators who may not be on the Tow List.

E. Licensed tow operators shall be subject to the minimum standards of the performance rules and regulations of the South Harrison Township Police Department, including safety, availability, and compliance with the procedures established by this Chapter.

F. If the Chief of Police determines at any time that a towing operator is unable or unwilling to fulfill the requirements of this Chapter or the Statutes and Regulations of the State of New Jersey, the Chief of Police shall file a written report with the Township Clerk. The Township Clerk shall then notify the towing operator that the Chief of Police has recommended its removal from the Police Department Towing List. The tow operator has ten (10) days to file a written Appeal if in disagreement with recommendation of removal by the Chief of Police. The Township Clerk shall schedule a hearing before the Township Committee. After the hearing, upon the recommendation of the Township Committee, the Township Clerk may then remove the towing operator from the Police Department Towing List if it is determined that the performance of the towing operator is unreliable and/or inadequate.

G. The tow operator shall cease towing of vehicles on behalf of the Township of South Harrison upon notification by the Township Clerk that the tow operator is to be removed from the list, as recommended by the Township Committee. During this interim period between notification and the decision of the Township Committee, the tow operator shall be suspended from list eligibility.

H. All towing operators licensed by the Township of South Harrison shall comply with the Predatory Towing Prevention Act, 2007, c 193(N.J.S.A 56:13-7, et seq.) as such Statute may be amended from time to time.

§130-11. Services to be Performed by Licensed Towing Operators

A. Licensed towing operators agree to provide the following services on a twenty-four hour basis:

- (1) Removal and transport of motor vehicles involved in a motor vehicle accident where the owner or operator of the motor vehicle, when appropriate, has not made a preference for the towing of the vehicle.
- (2) Removal and transport of a motor vehicle from private or public property as may be authorized by the Police Department or Code Enforcement Official of the Township of South Harrison.
- (3) Removal and disposal from the Township or private property motor vehicles which, pursuant to state law and regulations, would be subject to the jurisdiction of the South Harrison Township Police Department. Such vehicles shall be moved to such location as specified by the South Harrison Township Police Department.
- (4) The storage of a motor vehicle removed and transported from the scene of a motor vehicle accident.

B. A towing operator responding to a tow shall be responsible for all site clean-up related to a motor vehicle accident, including the pickup and removal of all debris from the scene of the accident and containment of any hazardous fluids from the vehicle prior to tow, in accordance with the laws of the State of New Jersey, and all services as defined by state regulations and this Chapter.

- (1) It is understood that the responsibility of the tow operator as established

above in no way relieves the vehicle owner of their responsibility for the clean-up and removal of any debris or spilled fluids coming from their vehicle.

C. The towing operator shall ensure the proper utilization and deployment of safety devices.

D. If a licensed towing operator is unable to handle a particular situation for whatever reason, the Township shall have the right to use whatever means necessary to accomplish the removal, transporting and storage of motor vehicles.

E. No towing operator shall employ or subcontract any work to be performed pursuant to this Chapter without having first obtained prior written approval from the Township of South Harrison Police Department. Subcontractors must be licensed by the Township of South Harrison, and on the current Tow List. Any towing operator to whom approval to subcontract work has been given shall be responsible for the services performed by and the acts and omissions of the subcontractor and shall remain liable for any violation of this Chapter by the subcontractor.

§130-12. Requirements for Towing Operators

A. The towing operator shall provide a towing facility of sufficient exterior storage size to accommodate not less than ten (10) passenger vehicles, and not less than 400 square feet of inside storage facilities to hold and protect "police hold" vehicles. At no time shall any automobile towed by a towing operator be stored at any location other than the tow operator's facility, except where a vehicle is towed at the request of the owner to a specific location.

B. The towing facility shall be staffed (by an employee or owner at the facility) during normal business hours of 8:00 a.m. to 6:00 p.m., Monday through Friday, and include twenty-four-hour telephone service, seven days per week, during the week in which the licensed facility is on call.

C. The towing operator shall provide tow vehicles capable of handling the transporting of motor vehicles as defined in this Chapter, and equipped to provide regular towing service as follows: up to 9,000 pounds gross vehicular weight is considered light towing service; 9,000 pounds gross vehicular weight, and heavier is considered medium and/or heavy towing service; carry weight shall not be less than 4,000 pounds or less than that needed to carry the transported vehicle safely.

D. Each tow vehicle or flat bed vehicle shall be equipped with towing and safety equipment, warning devices such as lights, flares and flags to warn other automobile operators of the presence of a disabled automobile, and mechanic's tools to perform complete emergency work, including, but not limited to, the following:

- (1) All tow operators shall be required to wear a reflective jacket or vest when towing vehicles on the roadway and at all times shall exercise extreme caution and due safety.
- (2) At least one amber rotating beacon or strobe light mounted on the highest practical location of the vehicle, which when in use shall be visible from 360° at a distance of not less than 500 feet during daylight hours.
- (3) One snatch block per winch.
- (4) Safety tow lights or magnetic tow lights for towing vehicles at night. Safety tow lights, red in color, shall be mounted in the rear of the vehicle being towed.

- (5) Ample chains and cables for pulling or securing a towed vehicle. The working limit of cable shall be noted to include a minimum pulling capacity of 2,500 pounds, three-eighths-inch cable.
- (6) At least one broom, shovel, crowbar or prybar, jumper cables, flashlight, fire extinguisher or dry chemical type having capacity of not less than two pounds, one dozen flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, not less than ten (10) pounds of dry sand or a drying compound for gasoline and oil spilled onto the roadway, and tools sufficient to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.
- (7) Back-up alarms on all tow trucks.

E. All tow trucks must be in compliance with all safety equipment requirements as set forth in N.J.S.A.39:3-1 et seq., and 49 CFR 393.

F. Each tow vehicle shall display the two stickers issued by the Department of Licenses and Inspections, State of New Jersey Motor Vehicle Commission, on the upper left and right side of the driver's door and passenger's door panel and shall have the name and number of the licensed tow operator displayed on the vehicle in such manner and of such lettering as to conform to the provisions of N.J.S.A.39:4-46.

G. Towing operators and their employees shall provide all services required by this Chapter at all times and shall be subject to the following requirements:

- (1) Possess sufficient knowledge, skill and ability to provide minimum road services for disabled vehicles and to adequately remove a vehicle from an accident scene without causing additional damage to the vehicle.
- (2) Not be mentally or physically impaired.
- (3) Obey all traffic laws, statutes, regulations and ordinances promulgated by the State of New Jersey and the Township of South Harrison.
- (4) Be subject to inspection by the Chief of Police or a designee and be approved by the Chief of Police prior to rendering any services pursuant to this Chapter.
- (5) Be a member of the Towing Recovery Association of America (TRAA) or similar national towing association.

H. The tow vehicles provided by the towing operator shall be of such type and design to properly and safely perform all towing services required by this Chapter and shall at all times comply with New Jersey statutes and regulations and be subject to inspection by the Chief of Police or designee.

I. All drivers of tow vehicles shall possess at all times a valid New Jersey driver's license and a commercial driver's license where applicable, which shall be subject to inspection by the Chief of Police.

J. The tow vehicles provided by the towing operator shall be geographically located

so as to permit a response time within thirty (30) minutes.

K. The towing fees and storage fees established by the towing operator shall be conspicuously posted at the towing facility owned or operated by the towing operator, which fees shall not exceed the fees set forth in this Chapter.

L. At all times the towing operator shall maintain the towing facility in a clean and Orderly fashion. Reasonable measures shall be taken by the towing operator to prevent vandalism, theft or damage to automobiles stored therein.

M. In the event that automobiles which are towed and stored by the towing operator are abandoned or unclaimed by the owners thereof, the towing operator shall make no claim against the Township, its agents or employees. Only those vehicles towed from private property or public right-of-way under authorization of either the Code Enforcement Official or the Police Department, not including accident vehicles, shall be disposed of by the Township pursuant to N.J.S.A.39:10A-1 or other appropriate state statutes or state regulations.

N. The towing operator operating pursuant to this Chapter is an independent Contractor and in no sense an agent, servant or employee of the Township. Said operator shall at all times maintain direct supervision, management and control over all of its employees and personnel engaged in the operation or services performed pursuant to this Chapter.

O. The Township shall not be responsible for the acts of the towing operator in performing the services contemplated by this Chapter. The towing operator agrees to save and hold harmless the Township from all manner of liability as a result of its actions or omission, whether of a negligent or intentional nature.

P. Towing operators approved for tow list eligibility shall be required to fulfill tow requests of the Code Official and/or the Police Department of the Township of South Harrison. Failure or refusal to remove a vehicle pursuant to directive of the Township of South Harrison shall be cause for removal from the approved tow list.

Q. The tow operator shall be responsible for ensuring the proper, safe and secure storage of all vehicles towed. The tow operator shall be liable for any and all damage incurred by such vehicles while in transit to or while stored in or at the facilities of the operator.

R. Response time determination is to be initiated when the Police call requesting towing is completed.

§130-13. Towing Facilities

A. Every tow operator on the Police Department Tow List shall maintain an inside building and outside secured storage area meeting the following requirements:

- (1) The outside secured storage area shall be capable of storing not less than ten (10) passenger vehicles. The inside storage area shall have not less than 400 square feet to hold and protect "police hold" vehicles.
- (2) The storage area shall be located either within the limits of the Township or at no more than a five (5) mile radius outside of the Township borders so as to facilitate reasonable towing distances.
- (3) Outside storage areas shall be fully enclosed by a fence of sufficient security to prevent trespassing, with at least one lockable gate for ingress

and egress, and shall be lighted from dusk to dawn. (If the storage facility includes more than one access point, then all access points must be secured with appropriate gate and lock.)

- (4) The storage facility shall be available to the South Harrison Township Police Department twenty-four (24) hours a day, 365 days per year, and shall be open to the public on weekdays during normal business hours and for limited but reasonable hours on Saturday. The operator shall specify the hours on which the facility will be open to the public on weekends. The storage facility shall release a stored vehicle to the owner thereof on such date as shall have been requested by said owner during normal business hours, after receiving the tow release from the South Harrison Township Police Department; storage charges shall not accrue beyond the requested date of release.
- (5) The tow operator shall have an employee or owner on duty during all hours in which the storage area is open.
- (6) The tow operator shall not charge a release fee or other charge for releasing vehicles to their owners after normal business hours or on weekends.
- (7) No vehicles shall be stored or placed outside of the storage area.

B. The Township of South Harrison shall not be responsible for processing of licensure and other documents required by the State of New Jersey with regard to vehicles left abandoned at a repair facility. Vehicles left abandoned at a repair facility, including those involved in accidents, are the responsibility of the repair facility, pursuant to N.J.S.A.39:10A-8.

§103-14. Towing fees.

A. When performing services under the Police tow list to tow and/or store a motor Vehicle, the towing charge and storage charge(s) shall not exceed those charges set forth on the Township's Towing Fee Schedule.

B. The fees for towing, storage and related charges and costs shall be established and adopted by the Township Committee in January of each year. The current fee schedule will be filed with the Township Clerk and the South Harrison Township Police Department.

- (1) The fees set forth on the schedules for towing rates are the maximum charges that shall apply to a motor vehicle for basic towing services.
- (2) The towing rates shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return, by way of the shortest available route. Fractions shall be rounded up to the nearest whole mile.
- (3) Tow vehicles transporting multiple motor vehicles at one time may charge the applicable fee for each such vehicle transported.
- (4) When towing services are required, the day rate shall apply when the vehicle is transported (pickup and delivery) entirely between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, except recognized New Jersey state holidays. The night, weekend and holiday rate shall

Otherwise apply.

- (5) The Chief of Police shall post fees in the police station so the same are available to the public during normal business hours, along with a copy of this Chapter and the fee schedules of the licensed towing operators.
- (6) The towing operator must accept all forms of payment, such as a debit card, charge card or credit card, for payment in lieu of cash for towing or storage services if the operator ordinarily accepts such payment at his place of business.

§130-15. Miscellaneous

A. The Township of South Harrison Police Department may authorize the towing and storage of motor vehicles located on public streets or public property which are unregistered, abandoned, illegally parked, or which are permitted to be towed and stored pursuant to state statute or state regulations. Abandoned or unlicensed motor vehicles that are in Violation of the Township Code shall be subject to enforcement procedures as established in the aforesaid Chapter.

B. A tow operator shall not tow motor vehicles located in the public right-of-way or on private property unless authorized to do so by the owner of the vehicle, the Police Department or the Township Code Official. This Chapter, however, does not preclude a towing operator licensed by the Township or State from towing motor vehicles located on private property in accordance with state licensure privileges.

C. Motor vehicles which remain unclaimed by the owner or other person having legal right thereto shall be disposed of pursuant to the applicable provisions of Title 39 of the New Jersey Statutes. The last known owner of an abandoned vehicle, or the owner of the property from which an abandoned vehicle is removed, shall be responsible for all towing fees or charges, storage fees or charges, road service fees or charges, and any other fees permitted by law.

D. The Township shall make periodic inspections of facilities, equipment and service and, upon request, shall be provided full access to equipment or property. Such inspections shall be made quarterly, semi-annually, or annually, as determined by the applicable Township Official, but in no case shall such inspections be made less than annually.

E. The South Harrison Township Police Department, responsible for enforcement of this Chapter, shall establish a procedure to process complaints received by the Police Department regarding any licensed towing operator including, without limitation, charging of fees in excess of those permitted hereunder, or damage to vehicles, and to notify a vehicle owner of the location of the motor vehicle towed. The Police Department will investigate any complaints. Any fee not specifically covered in this Chapter shall have a "reasonableness test" applied for the purpose of investigating the complaint.

F. The Police Department shall have the right to store at its own facilities motor Vehicles towed at its discretion or confiscated in suspected crimes. All licensed towing operators shall extend storage to the Township of South Harrison Police Department at no cost and, if so requested, shall provide separate storage space for exclusive use of the Police Department also at no cost. Abandoned vehicles or vehicles confiscated by the Police Department are to be stored as authorized by the Police Department to ensure protection of the vehicle and to provide security of said vehicle until appropriately disposed of by the Police Department.

G. All tow company owners will be permitted to apply for junk and abandoned titles for vehicles that are unclaimed after thirty (30) days of storage or as permitted by State Statute. The tow company owner will be responsible for completing all the required paperwork and any and all fees

associated with this process as defined under the provisions of N.J.S.A.39:10A-1. The Township will send to the New Jersey Division of Motor Vehicles all completed paperwork after it has been verified. All titles approved by the New Jersey Division of Motor Vehicles will be then turned over to the tow company owner who applied.

H. Towing operators shall not pile vehicles or park towed vehicles on public streets or sidewalks or outside of the storage area.

I. All towing operators shall maintain a record of each motor vehicle towed, stored and released, and of all services rendered. Such records shall be maintained at one central location and retained for a period of not less than three (3) years.

J. Pursuant to the Spill Compensation and Control Act, including N.J.S.A.58:10-23 et seq., any person in anyway responsible for a discharge of petroleum or hazardous substances shall be strictly liable, jointly and severally, without regard to fault, for all costs of cleanup and removal of the discharge from the public right-of-way and private property within the area of the spill. The tow operator and/or facility owner shall be responsible for the clean-up and removal of any spill or discharge of petroleum or hazardous substances at its storage facility. The facility owner may choose to take action against the vehicle owner for the cost of such clean-up and removal. The responsible party shall contact the NJDEP Action Line to report any spills or leaks as required by N.J.S.A.58:10-23.11(e).

- (1) Whenever any petroleum or hazardous substances are discharged on public property or within the public right-of-way, the Health Department may, in its discretion, act to remove or arrange for the removal of such discharge, or may direct the responsible party to remove or arrange for the removal of such discharge. The County Environmental Health Department shall monitor compliance with any clean-up directives. Pursuant to N.J.S.A.58:10-23.11(f), any person who fails to comply with a clean-up directive shall be liable to the Township in an amount equal to three times the cost of such removal.

K. Any motor vehicle towed or transported to the towing facility shall be stored and secured in the storage area.

L. If the towing facility's storage area is full or not capable of storing any motor Vehicles, then in that event the towing operator shall be temporarily suspended from the South Harrison Township Tow List until such time the towing operator's storage area is capable of accepting motor vehicles for storage.

M. An individual whose motor vehicle has been towed and/or stored has the right to retrieve any of his or her personal possessions therefrom, even when said motor vehicle is within the possession of the towing operator. Personal property shall be defined to mean anything that is not permanently attached to the motor vehicle so as to be an integral part thereof. An individual seeking the retrieval of any personal items shall arrange with the towing operator to obtain said items and shall be required to execute a receipt therefore. The towing operator shall maintain copies of all said receipts.

N. The towing operator shall at all times be responsible for the conduct of its employees and shall be liable to the Township of South Harrison and the owners of any motor vehicles towed or stored by the towing operator for any injuries, damages or costs incurred as a result of the conduct of said employees.

O. All towing operators shall comply with all State and Federal Laws and Regulations concerning the hiring of employees, their wages, hours and terms of employment.

P. The Township of South Harrison is not liable for any of the services performed by the towing operator unless those services are performed for Township vehicles. The towing operator shall proceed directly against the individual owner of the motor vehicle for all fees and charges incurred.

Q. Each towing operator shall maintain a record of all vehicles towed, including the date towed, where the vehicle was towed, when the vehicle was released and the fees charged, together with any and all other services rendered. Said records shall be maintained at the principal place of business of the towing operator as set forth on the Application, and all records shall be maintained for a minimum of three (3) years.

§103-16. Copies of Contract and Fee Schedule on File

Copies of the Contract and Fee Schedule on file are available from the Township Clerk's Office during regular business hours, Monday through Thursday, shall make available upon a request a copy of this Chapter, Contract and Fee Schedule pertaining to all approved private towing contractors.

§103-17. Violations and Penalties

A. Any person who shall violate any of the provisions of this Chapter shall, upon conviction be punished by a fine not to exceed two thousand dollars (\$2,000.00); up to ninety (90) days in jail; and up to ninety (90) days community service, or any combination of the above. Each violation of any of the provisions of this Chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense, in addition to the remedies recited within §130-9.

B. In addition to the fine prescribed above a violation of any of the provisions of this Chapter shall be cause for revocation of the official Tower's License.

BE IT FURTHER ORDAINED, as follows:

1. **Effective Date:** This Ordinance shall take effect immediately upon final passage and publication in accordance with New Jersey Law.

2. **Repealer:** All Ordinances or parts of Ordinances inconsistent with this Chapter are hereby repealed to the extent of such inconsistency.

3. **Saved from Repeal:** All Ordinances or parts of Ordinances not inconsistent with the terms and provisions of this Ordinance are hereby saved from repeal.

4. **Severability:** Should any Section, clause, sentence, phrase or provision of this Chapter be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Chapter.

TOWNSHIP OF SOUTH HARRISON

By: _____
JAMES McCALL, MAYOR

ATTEST:

NANCY E. KEARNS, RMC
TOWNSHIP CLERK

Only

NOTICE

The foregoing Ordinance was introduced at a Meeting of the Mayor and Township Committee of the Township of South Harrison conducted on the 13th day of November 2013, and will be considered for final hearing and adoption at a meeting to be held on the 4th day of December 2013, at 7:30 p.m., at which time any objections hereto may be heard.

NANCY E. KEARNS, RMC
TOWNSHIP CLERK

NOTICE

Notice is hereby given that the foregoing Ordinance O-13-12 was finally adopted at the Meeting of the South Harrison Township Committee held on the 4th day of December 2013, at 7:30 p.m., in the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, New Jersey.

NANCY E. KEARNS, RMC,
TOWNSHIP CLERK

Information