

HARDING TOWNSHIP
ORDINANCE NO. 15-11

“AN ORDINANCE AMENDING CHAPTER 250 (MOTOR VEHICLE REGULATIONS,
TRAFFIC AND PARKING) OF THE CODE OF THE TOWNSHIP OF HARDING TO REGULATE
PRIVATE TOWING SERVICES”

WHEREAS, N.J.S.A. 56:13-1 et seq. and N.J.S.A. 39:3-84.8 are new statutes concerning towing amending and repealing various parts of statutory law.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Harding, County of Morris, State of New Jersey that Chapter 250 of the Code of the Township of Harding is hereby amended by adding a new Article V entitled “Regulation of Towing Services” as follows:

Section I.

Article V

“Regulation of Towing Services”

§ 250-27 Purpose.

It is the purpose of this Article to provide non-exclusionary and non-discriminatory regulations governing the removal of motor vehicles from private or public property on a rotating basis and for the subsequent storage of such vehicles following removal, all as provided by NJSA 40A:11-5(1)(u).

It is also the goal to provide the best possible service for motorists traveling the roadways of Harding Township. In keeping with this goal, it is necessary to establish a permitting process to assure that only responsible, professional towing operators are permitted to operate within the Township, and provide safe and efficient service for motorists, whose vehicles are in need of towing and roadside services.

§250-28 Definitions.

Applicant – an individual or a legally formed business entity that seeks to obtain a license from the Township to furnish tow truck or wrecker services within the Township pursuant to this Article.

Basic towing services – means towing as defined in this section and other ancillary services as may be specified by the director by regulation.

Consumer- means a natural person.

Debris Clean up:

- **Standard site clean up** – Refers to the amount of debris removal that should reasonably be anticipated at the scene of a motor vehicle accident or incident. The standard site clean up is usually defined to the point of impact, the final resting point of the vehicle and the associated debris field.
- **Extended site clean up** – Refers to the removal of debris at the point of impact, as well as along the path of pre-impact and or post impact, where vehicle disintegration and or other

property damage occur as a result of the motor vehicle accident or incident.

Decoupling fee – means 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.

Director – means the Director of the Division of Consumer Affairs.

Division – means the Division of Consumer Affairs in the Department of Law and Public Safety.

Fuel Surcharge – means a surcharge applied to a towing bill when cost of fuel is over a pre-determined amount.

Heavy-Duty – means a gross weight of at least 26,000 pounds.

Labor – means the additional work done at the scene by the tow truck operator, which is beyond that required to perform a basic tow or any additional manpower needed to complete a recovery, winching or towing a vehicle. Labor charged for additional manpower shall be based on a per man, per hour basis.

Lease – means the applicant's lease of a vehicle through a leasing company, and showing the applicant on the registration as the owner or lessee. If the registration is such that the lessee is not listed, the applicant will be required to provide lease agreement documents.

Light-Medium Duty – means a gross weight of less than 26,000 pounds.

Motor Vehicle – includes all vehicles propelled other than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles, motorized scooters, motorized wheelchairs and motorized skateboards.

Non-consensual Towing – means the towing of a motor vehicle without the consent of the owner or operator of the vehicle.

Person – means an individual, sole proprietorship, partnership, corporation, limited liability company or any other business entity.

Police – means the Police Department of Harding Township or of any jurisdiction in the subject matter.

Principal Location – means the business office of an applicant, where applicant shall conduct business associated with the towing and storage of vehicles under the authority of the Harding Township Police.

Private Property Owner – means 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 – means the non-consensual towing from private property or from a storage facility by a motor vehicle of 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

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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.

Private Property Towing Company – means a person offering or performing private property towing services.

Road Service – means a service provided at the scene to enable a vehicle to be driven away, including but not limited to, changing of a flat tire, jump-start of a vehicle or the delivery of fuel. There will be a separate charge for the fuel at its face value.

Secure Storage Facility – means a storage facility that is either completely indoors or is surrounded by a fence, wall or other man-made barrier that is at least six feet high and is lighted from dusk to dawn.

Towing – means the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer's motor vehicle that is damaged as a result of an accident or otherwise disabled, 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, 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. Dues or other charges of clubs or associations, which provide towing services to club or association members, shall not be considered a service charge for purposes of this definition.

Towing list. – means a rotating list of all individual towers meeting the requirements set forth hereunder. Contractors will remain on the list for a period of three years, provided they continue to meet the requirements set forth in this chapter and in their contracts or until earlier removed from the list as provided hereunder or there under.

Vehicle – means any device in, upon or by which a person or property is or may be transported upon a highway.

Waiting Time – means the time a towing operator has equipment and personnel waiting at a scene to perform a towing operation.

Winching – means the process of moving a vehicle by the use of the wire rope of the tow truck, from a position that is not accessible for direct hookup by a conventional means for loading onto a tow vehicle. Winching shall not mean pulling a vehicle onto a flatbed or carrier or lifting of a vehicle with a conventional tow truck.

Yard Charge – means the relocation of a vehicle from the towing operator's storage facility to a public roadway for the removal by another towing company. It shall not apply to vehicles that are capable of being driven from the storage facility to the roadway.

§250-29 Application process.

- A. All applications to be placed on the towing list shall be submitted to the Chief of the Harding Township Police Department on the application form developed by the Police Department.

- B. Minimum Standards of Operator Performance. All applicants must be able to meet the following minimum standards of performance:
1. Applicants must be appropriately licensed by the State of New Jersey.
 2. Applicants must be able to reach the scene of a vehicle to be towed within twenty (20) minutes. (Day or Night, weekends and Holidays).
 3. Applicants must be equipped to provide service during their scheduled type of duty as defined by §250-32, for all requests given, there will be no assigning of calls, or sub-contracting of calls by towing vendor.
 4. Applicants and all of its drivers/operators must submit to a criminal background check by the Township Police Department. No applicant, or any of its drivers, or agents, (including office personnel/dispatchers), performing services for the Township of Harding Police Department shall not have received any type of criminal conviction within the last 7 years. Any applicant found in violation of this section, may be cause for immediate removal of the wrecker service list.
 5. Employees of the towing vendor shall carry with them a photo I.D, which identifies them as employees of the vendor, and shall produce said photo I.D. upon the request of the operators, or owners of vehicles upon which services are to be performed.
 6. Each Light Duty Driver must obtain a certification from a nationally recognized organization. Proof of certification is to be submitted at time of initial wrecker service application, or when hired by towing service.
 7. Each Heavy Duty driver must obtain a certification from a nationally recognized organization. Proof of certification is to be submitted at time of initial wrecker service application, or when hired by towing service.
 8. The nationally recognized organizations that are recognized by the Harding Township Police Department are:

WreckMaster – (1-800-267-2266)

Towing & Recovery Association of America – (1-800-728-0136)
 9. With respect to the storage of towed vehicle, the applicant shall:
 - a. Demonstrate sufficient storage capacity for a minimum of five vehicles. Storage area shall be at the applicant's place of business. Storage area shall be fenced, secured and lighted at night, and meet the minimum criteria as defined in definitions sections under secured storage facility.
 - b. Accept responsibility for the safe storage of towed vehicles;
 - c. Have access to a storage facility twenty-four (24) hours a day, three

hundred sixty-five (365) days per year and shall provide access to the public to such facility during normal business hours.

- d. All towing services shall be capable of providing reasonable roadside services to disabled vehicles such as, but not limited to, jump starting, the changing of flat tires, and providing motor fuel. Such services will only be performed if they can be done so safely, as determined by the police officer on scene.
 - e. Applicant must have their Principal Location (as defined in definitions), as well as storage facility located within eight, (8), "driving" miles, of the Harding Township Police Department located at 21 Blue Mill Road, New Vernon.
 - f. Applicant must be able to provide inside secure storage when requested by the Harding Township Police Department. Inside Storage shall be of sufficient size to accommodate two (2) private passenger vehicles, or Box type truck, or Tractor.
 - g. Storage lot must display a Certificate of Occupancy for automotive related use from resident community, where applicable, issued to vendor or applicant.
- 10. Applicants must agree that, in addition to towing services, they will provide limited site cleanup of glass, debris, etc., at the site such that the roadway will be safe to travel and no unsightly material will be left on the roadside.
 - 11. Applicants must provide proof of adequate insurance as provided in this Article.
 - 12. The towing service owner, or its authorized representative, shall sign the registration application form indicating that the full requirements set forth in this section have been met by the towing service applicant.
 - 13. An application for tow truck registration shall contain the following information:
 - a. The name and address of the towing company's principal owner or owners;
 - b. The address of the principal business office of the towing company;
 - c. The location of any garage, parking lot, or other storage area, where motor vehicles or other objects moved by the towing company may be stored or placed;
 - 14. A valid certificate of insurance and a schedule of insured vehicles that are to be utilized by the towing company from an insurer authorized to do business in New Jersey, as set forth in §250-30.
 - 15. Each piece of equipment must meet the minimum standards set forth herein. Equipment that cannot meet these standards shall not be used to service towing requests by the Harding Township Police Department. The towing vendor is solely responsible for the safety, maintenance, and operation of

equipment utilized. The vendor shall provide two (2) light duty vehicles, one of which must be four (4) wheel drive, three (3) roll back/flatbed vehicles, one (1) heavy duty wrecker, one (1) extra heavy duty wrecker, one (1) semi-tractor with 5th wheel, one (1) low boy/landall type equipment hauling trailer, and one (1) specialized recovery vehicle.

- a. *Light Duty Wrecker* – A light duty wrecker should have a minimum chassis rating of 15,000lbs., and be equipped with a hydraulic boom rated for 4 tons, 3,000 lb. minimum wheel-lift capacity, and with dual hydraulic winches each with an 8,000 lb. capacity.
 - b. *Roll Back Truck* – A roll back/flatbed tow truck shall have a minimum G.V.W. rating of 25,500 lbs., equipped with a hydraulic wheel-lift with a minimum 3,000lb. capacity, and capable of safely transporting two (2) vehicles at once.
 - c. *Heavy Duty Wrecker* – A heavy duty wrecker shall have a minimum chassis rating of 53,000 lbs., and be equipped with a hydraulic boom rated a 25 tons, dual hydraulic winches, and a hydraulic under-reach with a minimum 45,000 lb. lift capacity, and have tandem rear axels (2 rear axels).
 - d. *Extra Heavy Duty Wrecker* – An extra heavy duty wrecker should have a minimum rating of 66,000 lbs. and have a hydraulic boom capacity of 50 tons, dual hydraulic winches, and a hydraulic under-reach with a minimum lift capacity of 55,000 lbs., and tandem rear axels (2 rear axels).
 - e. *Semi-Tractor* – This tractor shall have a minimum G.V.W. rating of 80,000lbs., a fifth wheel plate, and tandem rear axels, (2 rear axels).
 - f. *Lowboy/LandAll Type Trailer* – The trailer should be an equipment-hauling trailer with a minimum hauling capacity of 70,000 lbs.
 - g. *Specialized Recovery Vehicle* – Equipped with a hydraulic 360 degree rotating boom/crane which can vertically lift and recover a minimum of 17,000 lbs retracted at 9 feet, and vertically lift and recover a minimum of 4,000 lbs. at the extension of the hydraulic boom/crane of 34 feet. Vehicle should be equipped with any necessary straps, chains safety equipment and lighting.
16. Documentation of the manufacturer's gross vehicle weight rating for each tow truck shall be made available to the Harding Township Police Department, upon request.
 17. No equipment shall be sub-contracted by applicant/vendor.
 18. All tow trucks shall be equipped with brooms and shovels, speedy dry/absorbent, all necessary chains & straps, snatch blocks, safety chains or safety straps, two way radio or cell phone, jumper cables, fire extinguisher, first aid kit, gas can, lock out tools, lug wrench and jack, road flares or

triangles, assortment of tools, flood lights/work lights to the rear of the wrecker, assortment of wood blocks and boards, amber emergency lights--with proper Amber Light Permit from State of New Jersey (copy of, to be submitted with application).

19. All Applicants/Vendors shall verify a minimum of five (5) years of towing for hire experience, as well as emergency response municipal towing and recovery, as either an owner or principal. Verification will be done by the Chief of Police, or designee.

IS250-30 Insurance Requirements.

- A. A towing company shall carry insurance of the following types with the minimum policy limits noted for each type:
 1. In the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000.00 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit.
 2. Worker's compensation in the minimum amounts required by law. Coverage limits of at least \$100,000.00 each accident, \$100,000.00 each employee for disease and \$500,000.00 policy limit for disease.
 3. Garage keepers' liability insurance of at least seventy-five thousand dollars (\$75,000.00) per location.
 4. Garage liability insurance in an amount of seventy-five thousand dollars (\$75,000.00) combined single limit coverage.
 5. Excess or Umbrella for a limit of \$5,000,000.00 each occurrence and aggregate, giving protection in excess of the \$1,000,000.00 Auto and Garage Liability Coverage.
 6. Policies shall be endorsed to provide for collision coverage for vehicles in tow.
 7. The Township of Harding shall be named as an additional insured on all policies
 8. Proof of coverage shall be provided to the Township and the policies shall provide that the Township be notified in the event of the wrecker service's failure to pay premiums or in the event of cancellation, termination or revision of the policies or amounts of coverage.
 9. In the event the Township deems, in its discretion, that appropriate coverage is not in place, the contractor shall be so advised and shall be removed from the towing list until such time as appropriate coverage is restored.

§250-31 Indemnification.

The contractor shall agree to indemnify and hold the Township, its officers, appointees, employees, representatives or agents, whether paid or unpaid (including, without limitation, members of the Township Police Department) harmless against any and all liability or claims of liability for damage or injury to persons or property resulting from the towing services provided by the contractor pursuant hereto, with the exception of damage or injury to persons or property resulting solely from the willful or negligent acts or omissions of such officers, appointees, employees, representatives or agents.

§250-32 Operations of towing list.

- A. The Police Department shall compile and maintain four (4) lists of all licensees as provided within this section designated as follows:
1. *Light duty motor vehicle accident:* vehicles having a gross vehicle weight of 8000 pounds or less towed as a result of a motor vehicle accident.
 2. *Light Duty miscellaneous:* vehicles having a gross vehicle weight of 8000 pounds or less towed for impounds, disabled road service, vehicle fires or other reasons.
 3. *Heavy duty motor vehicle accident:* vehicles having a gross weight of greater than 8000 pounds towed as a result of a motor vehicle accident.
 4. *Heavy duty miscellaneous:* vehicles having a gross weight of greater than 8000 pounds towed for impounds, disabled road service, vehicle fire or other reasons.
- B. Towing vendors will be called from each list on a rotating basis.
- C. In the event a towing vendor cannot be reached by telephone or radio and/or fails to respond to a request for towing services on two consecutive occasions, or five times within a six-month period, the contractor will be removed from the list and will be required to reapply.

§250-33 Consent required for towing from privately owned property.

- A. No person shall tow any motor vehicle parked for an unauthorized purpose or during a time at which such parking is not permitted from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless:
1. The person shall have entered into a contract for private property towing with the owner of the property;
 2. There is posted in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, a sign no larger than six (6) square feet stating:

- a. The purpose or purposes for which parking is authorized and the times during which such parking is permitted;
 - b. That unauthorized parking is prohibited and unauthorized;
 - c. motor vehicles will be towed at the owner's expense;
 - d. The name, address, and telephone number of the towing company that will perform the towing;
 - e. The charges for the towing and storage of towed motor vehicles;
 - f. The street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed; and
 - g. Such contact information for the Division of Consumer Affairs as may be required by regulation;
3. The property owner has authorized the person to remove the particular motor vehicle; and
 4. The person tows the motor vehicle to a secure storage facility that is located within a reasonable distance of the property from which the vehicle was towed.
- B. No private property owner shall authorize the towing of any motor vehicle parked for an authorized purpose or during a time at which such parking is not permitted from the private property owner's property without the consent of the motor vehicle owner or operator, unless:
1. The private property owner has contracted with a private property towing company for removal of vehicles parked on the property without authorization; and
 2. A sign that conforms to the requirements of paragraph (2) of subsection A. of this section is posted on the property.
- C. This section shall not apply to a motor vehicle parked on a lot or parcel on which is situated a single-family unit or an owner occupied multi-unit structure of not more than six units or in front of any driveway or garage entrance where the motor vehicle is blocking access to that driveway or garage entrance.
- D. The requirements of paragraph (2.) of subsection A of this section shall not apply to a residential community in which parking spaces are specifically assigned to community residents, provided that:
1. The assigned spaces are clearly marked as such;
 2. There is specific documented approval by the property owner authorizing the removal of the particular vehicle; and

3. A sign, which can easily be seen by the public, is posted in a conspicuous place at all vehicular entrances to the residential community property, stating that unauthorized parking in an assigned space is prohibited and unauthorized motor vehicles will be towed at the owner's expense, and providing information or a telephone number enabling the vehicle owner or operator to immediately obtain information as to the location of the towed vehicle.

The exemption in this subsection shall not apply to any private parking lot or parcel owned or assigned to a commercial or other nonresidential entity located in such residential communities.

§250-34 Rates and Fee Schedule.

- A. Base fees and rates for towing of motor vehicles shall not exceed the following:
 1. Light duty rate (8:00 a.m. to 5:00 p.m.): \$85.00 to 125.00 per towing vehicle dispatched, plus any fees for additional services performed, plus mileage (4.00 per mile) from the scene.
 2. Light duty night rate (5:00 p.m. to 8:00 a.m.): \$100.00 to 175.00, plus any fees for additional services performed, plus mileage (4.50 per mile) from the scene. The night rate shall apply on Sundays and legal holidays in the State of New Jersey.
 3. Medium towing for motor vehicles with gross weight between 10,000 pounds and 32,000 pounds: \$175.00 to 250.00 per hour with a minimum of one hour per towing vehicle dispatched regardless of the time of day, plus \$5.00 per mile from the scene.
 4. Heavy duty towing for motor vehicles with a gross weight over 32,000 pounds, which can be moved with a conventional wrecker: \$350.00 to 500.00 per hour plus \$6.00 per mile from scene per towing vehicle dispatched regardless of the time of day.
 5. Heavy duty towing for motor vehicles with a gross weight over 32,000 pounds where under reach towing is required: \$450.00 to 600.00 per hour plus \$6.00 per mile from the scene. Minimum one hour per towing vehicle dispatched regardless of the time of day.
- B. Road Service Rates shall not exceed the following:
 1. Motor vehicles with a gross weight of less than 10,000 pounds: \$75.00 to 125.00 per hour day rate, \$125.00 to 150.00 per hour night rate, with one-hour minimum charge, plus costs of any materials used, including but not limited to motor fuel.
 2. Motor vehicles with a gross weight greater than 10,000 pounds: \$100.00 to 125.00 per hour day rate, \$125.00 to 175.00 per hour night rate, with a one-hour minimum charge, plus costs of any materials used including but not limited to motor fuel.

- C. Storage Rates shall not exceed the following:
1. Storage rates shall not exceed \$40.00 per day for outside storage for motor vehicles under 22 feet in length or \$100.00 per day or any part thereof per unit for all other motor vehicles.
 2. Vehicles stored at the Harding Township Police Impound area for investigative purposes will not incur a fee during the time said investigation is active. Upon notification that the investigation has been completed, owner or secured party will be charged a fee of \$40.00 per day beginning seventy-two (72) hours after notification has been made.
 3. \$65.00 to 75.00 for extra help if needed per hour and any additional equipment necessary to clear roadway debris is an extra charge.
 4. All rates are subject to weather conditions. Winching and recovery charges are subject to conditions pertaining to accident scene and weather conditions. Winching and recovery services will be charged at industry standard prevailing rates.

§250-35 Unreasonable fees.

- A. A fee for private property towing or other non-consensual towing services, and storage services, shall be presumed unreasonable if it is:
1. More than 25 percent higher than the fee charged by the towing company or storage facility for the same services when provided with the consent of the owner or operator of the motor vehicle; or
 2. More than 50 percent higher than the fee charged for such other non-consensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed.
- B. Notwithstanding (A.) above, a fee will be presumed unreasonable if it exceeds the maximum amount that may be charged for the service according to the schedule of fees set forth in fee schedule.

§250-36 Requirements for storage facility used by towing company.

- A. No person shall tow a motor vehicle to a storage facility or store such vehicle at a storage facility unless the storage facility:
1. Has a business office open to the public between 8:00 a.m. and 5:00 p.m. at least five (5) days a week; excluding holidays.
 2. Is secured.
 3. Is less than eight (8) driving miles from Harding Township Police Department, located at 21 Blue Mill Road, New Vernon.

- B. If the storage site is closed, the company shall provide release of stored motor vehicles on the next business day.

§250-37 Unlawful practices for towing company.

- A. It shall be an unlawful practice for any private property towing company or for any other towing company that provides non-consensual towing services:
1. To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with private property towing of motor vehicles parked without authorization or during a time at which such parking is not permitted.
 2. To fail, when so requested by the owner or operator of a vehicle subject to non-consensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle an unreasonable or excessive decoupling fee. Such a fee shall be presumptively unreasonable and excessive if it exceeds by more than 25 percent, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged by the towing company for a vehicle subject to consensual towing, or if it exceeds by more than 50%, or a different percentage established by the director by regulation, the usual and customary decoupling fee charged for vehicles subject to non-consensual towing by other private property towing companies operating in the municipality in which the vehicle was subjected to non-consensual towing;
 3. To charge a fee for a private property or other non-consensual towing or related storage service not listed on the schedule of services for which a fee may be charged as established by the director except as may be permitted by the director by regulation;
 4. To charge an unreasonable or excessive fee;
 5. To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place of business, unless such refusal is authorized in accordance with N.J.S.A. 56:13-4.
 6. To monitor, patrol, or otherwise survey a private property for the purposes of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property.

§250-38 Availability of records.

Every towing company that performs private property or other non-consensual towing shall retain and make available for inspection by the division for a period of three years, invoices,

job orders, logs, claims for reimbursement from insurance companies and other documentation relating to all consensual and non-consensual towing services performed and rates charged for the services.

§250-39 Miscellaneous rules.

- A. The Township Chief of Police shall be responsible for enforcing the provisions of this chapter and shall decide whether or not an applicant's qualifications are sufficient to be placed on the towing list. Any aggrieved party shall be afforded the opportunity of appealing any adverse decision of the Chief of Police to the Township Committee.
- B. The regulations set forth in this chapter shall be made available to the public at the Township Municipal Building during normal business hours.
- C. Employees of the contractor are not to be deemed to represent nor be employed by the Township and the contractor shall accept responsibility for the conduct of its employees.
- D. Complaints concerning the services provided or fees charged by the contractor shall be investigated by the chief of police who will prepare a written report to be presented to the Township Committee for such further action as it deems fit.
- E. Contractors shall disclose the rate of fees charged by, at a minimum, posting the rates in a conspicuous place at the storage area.
- F. The Township of Harding shall assume no liability for any services performed by the contractor unless those services are performed for municipal vehicles.
- G. It is the responsibility of the towing vendor to recover all charges for vehicle towing and recovery operations from the vehicle owner or the vehicle owner's insurance carrier. Harding Township shall not be responsible for collecting any fees that are owed to the towing vendor.
- H. No tow company shall be directly involved with another tow company that is on towing list. Example of direct involvement include the sharing of a business license, tow trucks or equipment, vehicle storage area, storage space, and employees.
- I. In the event a towing vendor cannot respond to a request for service by the Harding Township Police Department, it will immediately notify the Harding Township Police Department, in which the Harding Township will notify the next qualified towing vendor on the Harding Township wrecker schedule. Towing vendor shall not assign calls, or sublet calls what so ever. Any vendor found subletting any calls or assigning calls to any other vendors, shall be found in breach of this agreement, and cause for immediate removal of the wrecker schedule.
- J. Applicant/Vendor shall submit to an inspection of storage facility and towing equipment, as directed by the Police Chief.
- K. Vendor shall be available 24 hours a day, seven days a week, including holidays.
- L. Towing vendor shall not use answering machines, beepers or pagers, or answering

services to receive calls from the Harding Township Police Department.

- M. Vendor shall accept at least two (2) major credit cards and shall not charge patron additionally for its use.
- N. When a patron does not have funds available for payment, vendor shall tow the patron's vehicle to vendor's storage lot until payment arrangements have been made.
- O. Towing operator shall not remove any vehicle from Harding Township roadways without authorization from Harding Township Police Department, or vehicle owner.
- P. All drivers and towing operators shall wear ANSI Class 2 Safety vests at any scene.
- Q. The Chief of Police reserves the right to disqualify any applicant from consideration to be placed on the Harding Township call out list, if he has determined the vendor's previous performance has been determined to be unsatisfactory for any reason.
- R. The Chief of Police reserves the right to waive any minor irregularities, or discrepancies in any towing vendor application.

§250-40 Employees of Towing Contractors.

The contractor shall employ a sufficient number of employees to comply with the minimum operational requirements.

- 1. All drivers of the contractor shall be over the age of Twenty-One (21) years and must have a valid, current New Jersey state driver's license and shall be in good health and of high moral character.
- 2. The service, equipment and personnel are subject to periodic inspections and approval by the Township of Harding.

§250-41 Dealing with the Public.

- A. In all of its dealings with the public, the towing vendor is expected always to act in a professional manner and at all times to be courteous and respectful toward members of the public as well as representatives of the Township of Harding. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the tower, the towing vendor is expected to exercise restraint and act courteously. Reports of discourteous behavior by the towing vendor or his employees may be considered by the Township as sufficient cause for removal from the towing list.
- B. Upon completion of the background check of the applicant and it's employee's, the finding of a conviction for any felony will be considered ample reason to disqualify any applicant, unless waived by the Township upon application and for good cause.

- C. In the event that the contractor has been summoned by the Township for the purpose of towing a vehicle, and the owner of the vehicle arrives on the scene prior to the removal of the vehicle by the contractor, the owner may be charged by the tower the "loading and show-up charge."
- D. The towing vendor will take all vehicles involved in motor vehicle accidents. No wrecker or client relationships will be honored at crash or recovery scenes.
- E. If a vehicle is disabled and is not an accident, crash or recovery scene, a vehicle owner/operator shall have the right to utilize a towing service other than that of the towing vendor, provided that the tow can be made expeditiously, without creating a hazard.
- F. The towing vendor shall remove, and tow to the Harding Township storage facility all vehicles as directed by the Harding Township Police Department.

§250-42 Standby Service.

- A. In addition to the service and equipment herein outlined, the towing vendor will be required to furnish extra towing equipment and service during snow storms, period of emergencies, traffic emergencies, disasters, acts of God, and for any other reason so designated by the Chief of Police, or his duly authorized representative.
- B. Standby service will begin when the Chief of Police or his authorized designee calls the towing vendor initially and will end when he terminates the standby status by calling the towing vendor.
- C. The Chief of Police reserves the right to call for additional towing services, in the event of extreme emergencies, snow storms, traffic emergencies, disasters, acts of God, call the next qualified wrecker service on the wrecker schedule, or by pass the wrecker call out schedule, when so determined by the Chief of Police.

§250-42 Violations; Notice of Violations; Violations and Appeals.

- A. If any of the provisions of this Article are alleged to have been violated or if an application is denied, the licensee or applicant shall be notified of any noncompliance or denial by certified and regular mail.
- B. The notice shall state the specific provision(s) of this section which it is alleged has been violated or the reasons for denial of any application.
- C. In the event of a violation notice, the notice shall further state that, upon request, if made by the licensee within fifteen (15) days of the receipt of said notice, the official issuing the notice of violation shall meet with the licensee to discuss the basis for the determination that a violation exists and any proposed means of eliminating any violations. That meeting shall take place within thirty (30) days of said request. Following any such meeting, the official issuing the notice of violation may rescind the notice if it is determined that there was no violation or in the event the alleged violation is otherwise eliminated. The official may also grant time for the correction of any violation upon request.

- D. If, within thirty (30) days after mailing the notice of violation, or within thirty (30) days after the aforesaid meeting, in the event a meeting is requested and does not resolve the dispute in a mutually acceptable manner, the licensee has failed to correct the violation or reason for noncompliance, the licensee shall be penalized in accordance with this §250-43
- E. A licensee or applicant may appeal from a decision to impose a penalty or a decision not to grant a license within fifteen (15) days of the date of receipt of a penalty notice or a notice that a license has not been granted. The licensee or applicant shall file a letter of appeal from the decision and request a hearing before the Township Committee. Upon receipt of such letter of appeal, the Township Committee shall, by resolution, appoint a hearing officer to hear and determine the appeal and set a date for a hearing. The hearing officer shall schedule a hearing not less than ten (10) nor more than thirty (30) days from the date of service of the complaint.

§250-43 Violations and Penalties.

- A. Township Rotating Call List
 - 1. For a violation of any provision of this section, licensees listed on the Town Rotating Call List shall be subject to the following penalties:
 - a. First violation in any given calendar year will result in a warning letter.
 - b. Second violation in any given calendar year may result in a suspension not greater than fifteen (15) days from the Police Tow List.
 - c. Third violation in any given calendar year may result in a suspension from the Police Tow List not greater than for a period for the remainder of the calendar year or for ninety (90) days, whichever is greater.
 - d. For violation of any of the provisions under this section, the maximum penalty shall, upon conviction of a violation, be a fine not to exceed two thousand (\$2,000.00) dollars or imprisonment for a period not to exceed ninety (90) days, or both.
 - 2. For a violation of the tow truck response time limits, Police Tow List tow truck licensees shall be subject to the following penalties.
 - a. First violation in any given calendar year may result in a warning letter.
 - b. Second violation in any given calendar year may result in a suspension not greater than seven (7) days from the Police Tow List.
 - c. Third violation in any given calendar year may result in a suspension not greater than twenty-eight (28) days from the Police Tow List.

- d. Fourth violation in any given calendar year may result in a suspension from the Police Tow List not greater than for a period for the remainder of the year or for fifty-six (56) days, whichever is greater.

B. Private Trespass Tow and Wrecker Operators.

For violation of any of the provisions under this section, the maximum penalty shall, upon conviction of a violation, be a fine not to exceed two thousand (\$2,000.00) dollars or imprisonment for a period not to exceed ninety (90) days, or both.

§250-44 Enforcement.

The municipal officers and/or agencies designated to enforce the provisions of this section in accordance with due process of law are the Harding Township Police Chief and/or his designee.

§250-45 Cancellation of License.

As previously stated herein, the termination or expiration of any of the insurance coverages which are required herein shall be cause for the immediate suspension of a tow truck's or wrecker's license unless renewal or replacement of such coverage is timely made in compliance with the applicable requirements as are set forth hereinabove.

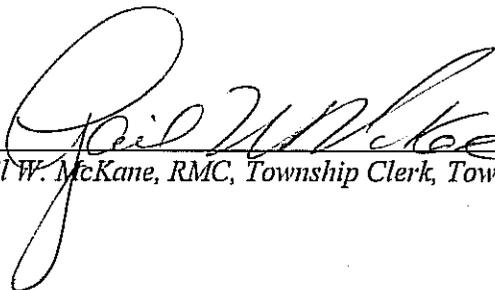
SECTION 2: If any section, subsection, paragraph, sentence or any part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

SECTION 3: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4: This ordinance shall take effect after final passage and publication as prescribed by law.

I, Gail W. McKane Township Clerk of the Township of Harding, do hereby certify this document to be a true copy of the original ordinance as adopted at the meeting of the Township Committee on November 16, 2011.

Date: November 18, 2011.



Gail W. McKane, RMC, Township Clerk, Township of Harding