

ORDINANCE

TOWNSHIP OF FRANKLIN ORDINANCE AMENDING CHAPTER 356 - TOWING AND STORAGE SERVICES OF THE TOWNSHIP CODE OF THE TOWNSHIP OF FRANKLIN

O-13-16

WHEREAS, the Township Committee of the Township of Franklin seeks to amend the Township Code, specifically Chapter 356 Towing and Storage Services; and

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Franklin, County of Gloucester, State of New Jersey, that the codified Ordinance of the Township of Franklin shall be amended to state as follows in Chapter 356 Towing and Storage Services:

Chapter 356. Towing and Storage Services

GENERAL REFERENCES

Vehicles and traffic — See Ch. 373.

Unlicensed and unregistered vehicles — See Ch. 377.

Article I. Definitions

§ 356-1. Definitions.

The following words and terms used in this Chapter, 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 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 and/or repaired.

CLEAN-UP AND REMOVAL COSTS

All costs incurred by the Township or its agents 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.

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 Communications Center).

HAZARDOUS SUBSTANCES

The list of hazardous substances adopted by the federal Environmental Protection Agency (EPA) pursuant to Section 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 the NJDEP as environmental hazardous substances pursuant to Section 4 of P.L. 1983, Chapter 315 (N.J.S.A. 34:5A-4), and amendments thereto.

HEAVY DUTY TOW

A tow truck with dual wheels, capable of towing large trucks, and shall meet the following minimum requirements: G.V.W. 30,000 pounds/G.C.W.R. 80,000 pounds/boom rating 50,000 pounds/winch rating 50,000 pounds/cable size and length 5/8 inch and 200 feet.

INSIDE BUILDINGS

Any portion of a towing facility that is completely indoors, having one or more openings in the walls for storage and removal of vehicles, and is secured by a locking device on each opening.

JUNKYARD

Any area, lot, land, parcel, building or structure or part thereof used for the storage, collection, processing, purchase, sale or abandonment of scrap metal or other scrap or discarded goods, materials, machinery, or two or more unregistered/uninspected, inoperable vehicles or other type of junk. For purposes of this Chapter, an auto repair facility or a towing facility shall not be considered a junkyard.

LICENSE

The period of 24 months from April 1 to March 31.

LICENSES AND INSPECTIONS

The State of New Jersey Licenses and Inspections Agency.

MOTOR VEHICLE

All vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

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 5:00 p.m. and 8:00 a.m., Monday through Friday, including weekends and holidays.

OUTSIDE SECURED

Any portion of a towing facility that is not indoors and is secured by a fence, wall or other man-made barrier that is eight feet high or as otherwise required by the Township of Franklin Land Use^[1] and is installed with a passive alarm system (e.g., bell ringer located in the gate area to the enclosed facility) or a similar on-site security measure. Fences which are less than eight feet in height which existed prior to the adoption of this Chapter shall be permitted, however, if such fences are replaced, the new fence shall be eight feet in height or as otherwise required by the Township of Franklin Land Use Ordinance.

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 HOLD VEHICLES

Motor vehicles which are alleged to have been involved in illegal activity, involved in a fatal motor vehicle collision, or any vehicles designated by a Franklin Township police officer.

PUBLIC GARAGE

Any building, structure, or property designed and used for equipping, adjusting, greasing, washing, polishing, servicing, or storing of motor vehicles, other than at a junkyard, 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.

RESPONSE TIME

Not more than 20 minutes from the time of the initial request by the Gloucester County Dispatch Communications Center to the tow vehicle's arrival at the site of the incident requiring tow services, all traffic regulations 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 FACILITY

A place for the storing of motor vehicles.

TOWING FACILITY

Any public garage that offers towing services.

TOWING OPERATOR

Any entity that operates a towing business or tow vehicle.

TOWING SERVICE

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.

TOWNSHIP

The Township of Franklin.

TOWNSHIP CLERK

The Township Clerk of the Township of Franklin.

TOWNSHIP COMMITTEE

The Township Committee members of the Township of Franklin.

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.

ZONING OFFICIAL

An individual, who is duly appointed by the Township Committee, responsible for enforcing codes in the Township of Franklin. It shall be the duty of the Code Enforcement Officer to carry out the provisions of the ordinances listed in (Chapter 24) Code of the Township of Franklin.

[1] *Editor's Note: See Ch. 253, Land Development.*

Article II. Licensing of Tow Vehicle Operators for the Police Department Tow List

§ 356-2. List of tow operators established; license required.

A. The Township Committee of the Township of Franklin shall establish a list of tow operators by April 1 of every year to be called by the Franklin Township Police Department when towing services are required. Towers who wish to be included to the tow list shall provide completed applications and any other requisite information to the Franklin Township Police Department between the period of January 17 and February 17 of every each year. If any applicant fails to submit an application during this period or submits a deficient application, the applicant will not be considered for the upcoming license period. The Township Committee shall establish a list of 10 certified towing operators. The order of this list will be comprised of the date and time the application was initially submitted for review. Successful applicants shall be called for towing within the Township by the Franklin Township Police Department.

B. Prospective tow list operators must obtain a license in compliance with this Chapter before acting as an official tow service for the Township of Franklin upon any street within the Township.

C. No individual shall operate a tow vehicle unless the State of New Jersey duly licenses that individual. Any change in licensure of vehicle operators during the period of the license must be reported to the Police Department within 15 days of such change. Failure to do so shall be basis for revocation of license.

§ 356-3. Application process.

A. License application data required: An application for license shall be in writing, upon a license application form furnished by the Township of Franklin, signed by the applicant and filed with the Department of Licenses and Inspections. Said application shall contain the following information:

- (1) The name, business address, business name and telephone number of the towing operator.
- (2) The location of the towing operator's towing facility.
- (3) The name of the towing operator's insurance company and insurance policy number. Proof of insurance must be provided as required under the terms and conditions stated in Article **II**, § **356-9**, herein.
- (4) The type, condition, and design of tow vehicle(s) and equipment available for service.
- (5) Communication availability, including cell phone and radio communications, 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) and a current driver's abstract indicating that each driver or operator of the tow vehicles possesses a New Jersey driver's license which is currently valid and in good standing.
- (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) A certification granting permission to the Franklin Township Police Department to conduct inspection of the applicant vehicle, equipment and storage facility for the purpose of determining compliance with this Chapter.
- (9) Documentation evidencing that a criminal background check was conducted of each driver or operator of the tow vehicles, which background check shall have been performed not more than twelve (12) months preceding with documentation of criminal background checks being supplied of said drivers or operators in not more than twelve-month intervals.
- (10) A plot plan of the tow operators' premises. A plot plan shall consist of the following:
 - (a) be drawn neatly and to scale;
 - (b) indicate the entire lot for which the application is being made;
 - (c) contain a symbol indicating the direction north;
 - (d) indicate the name of all streets and ways upon which the lot is located, street addresses and the location and type of existing and proposed street fixtures such as utility poles, street lights, traffic signs and signals;
 - (e) indicate the name of the nearest intersecting street and the distance from the facility to the intersecting street;
 - (f) indicate, with dimensions, all parking and storage areas with measurements of distance from buildings and property lines, as well as indicating where fencing is located for the security and safety of stored vehicles;
 - (g) indication of all driveways, curb cuts and any easements on the property;
 - (h) indicate the lot and block number of the subject property and all adjacent properties and
 - (i) contain a key map of the area.
 - (j) If there are any modifications intended to be made to the plot plan, said modification and change must be submitted, and to the extent required by New Jersey Municipal Land Use Law, approved through the appropriate action of the Franklin Township Planning Board or Zoning Board of Adjustment.

B. If a corporation applies, the application shall be signed in the name of the corporation by the president and attested by the secretary.

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 hereafter prescribed.

E. The Township of Franklin 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.

F. The Chief of Police of the Township, or a designee, upon receipt of a completed application, shall conduct an evaluation of the towing operator. This evaluation shall include an inspection of the towing facility, the tow vehicle(s) and the towing operation, and inquiry into all relevant matters, including, but not limited to the items enumerated under §356-3A, in order 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(1)(b).

G. The Police Department may request and obtain additional information from the Chamber of Commerce, and the Department of Weights and Measures and Consumer Protection of the applicable county, and from any other appropriate sources.

H. An application shall not be deemed complete unless accompanied by:

- (1) A letter of good conduct from the Franklin Township Chief of Police verifying that the towing operator has:
 - (a) Provided proof of a current and valid driver's license for each driver or operator.
 - (b) A letter of compliance from the Zoning Official for the facilities of the tow operator's base of service, dispatch and/or storage area that such facilities are not in violation of applicable land use ordinances. This also applies to any tow facility not within the Township of Franklin.
 - (c) A letter of compliance from the Zoning Official or such other official as applicable representing the municipality having jurisdiction over the property of the tow operator that such property is not in violation of applicable property maintenance and health codes. This compliance letter shall include the dispatch facility and storage facility if not one and the same.
 - (d) All municipal taxes paid in full.

I. Upon receipt of a completed application form, the Department of Licenses and Inspections or a designee shall furnish a copy of the application to the Chief of Police.

§ 356-4. Fees for application and renewal.

A nonrefundable fee of \$250 shall be submitted simultaneously with an original application and all renewal applications. The fee shall be paid to Franklin Township in the form of cashier's check, certified check or money order.

§ 356-5. Recommendation of approval or disapproval.

A. Upon completion of the aforesaid investigation, the Chief of Police shall file a written report as to the findings and issue a recommendation of approval or disapproval with the Director of the Department of Licenses and Inspections.

B. If the Chief of Police recommends that the towing operator not be approved, a written report shall be filed with the Director of the Department of Licenses and Inspections 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 may, after receipt of notification, file an appeal within 10 days with the Township Clerk. The Township Clerk shall then schedule a hearing before the Township Administrator. After the hearing, the Township Administrator 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.

§ 356-6. Licensing procedure.

A. Upon the receipt and review by the Department of Licenses and Inspections of a completed application, and upon the filing by the Chief of Police 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 Franklin for consideration, and when the Township Committee has determined to approve the granting of such license, it shall do so by resolution. Upon the adoption of such resolution, the Department of Licenses and Inspections shall issue a license certificate, which shall state the purpose for which the license is granted, the name, business name and the base of service address of the licensee, the number of the license and the date of its expiration, which license certificate shall be signed by the Director of the Department of Licenses and Inspections.

B. All licenses issued under this Chapter shall be displayed immediately and at all times on the operators tow trucks and that the operator's place of business.

C. All licenses issued under this Chapter shall not be transferable.

§ 356-7. License term.

All licenses issued under this Chapter shall be effective for a period of two years. The license shall begin on the first day of April and end March 31 two years later. All licenses shall expire automatically; applications for renewal thereof shall be submitted not less than six weeks prior to date of expiration.

§ 356-8. Revocation of license; violations and penalties.

A. A license issued under this Chapter may be revoked or suspended at any time for just cause by the Township of Franklin, for violations of any provisions of this Chapter or for violations of New Jersey state law.

B. The Chief of Police may institute a suspension or revocation proceeding to revoke any license certificates issued under this section, if it is determined that the applicant used inaccurate information, charged fees in excess of those permitted by §356-14, or if any changed circumstances occurred which would have caused disapproval of the application at the time the application was made. The suspension or revocation proceeding is to be commenced by the Chief of Police providing the Township Clerk with a written report of the deficiencies. The Township Clerk shall then serve written notice upon the licensee setting forth the deficiencies under this Ordinance. The licensee shall have ten (10) days to cure said deficiency before the suspension or revocation is imposed. A final notice of suspension or revocation will then issue if the deficiency is not cured within the ten (10) day period as determined by the Chief of Police.

C. Any applicant or licensee whose license certificate is revoked under this section may appeal within 10 days from receiving notice of such revocation or suspension. The applicant or licensee has the opportunity to be heard by the Township Administrator after filing a written appeal with the ten day period. The Township will set a date of such appeal, with notice served upon the

applicant or license at least seven days prior to the hearing. Such license, when so suspended or revoked, shall not be reinstated except for good and sufficient cause.

§ 356-9. Insurance.

A. In order to be included on the Township of Franklin Police Department's Tow List, a towing operator shall submit proof of insurance to the Director of the Department of Licenses and Inspections and a copy thereof to the Franklin Township Police Department each year on or before April 1 that its towing facility is 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 in an amount not less than \$750,000 for light and medium tow trucks and \$1,000,000 for heavy-duty trucks.
- (2) Workers' compensation as required by statute.
- (3) Garage keepers' legal liability in an amount not less than \$100,000 per location.
- (4) Garage liability, including cargo insurance, in an amount not less than \$250,000 combined single limit.
- (5) A certificate of insurance naming the Township of Franklin as a certified holder for a one-year term with a thirty-day notice of cancellation.

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 towing operator, including the perils of transportation for any motor vehicle in the possession or control of the towing operator. The garage keepers' 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 fees.

C. The insurance coverage shall provide that the insurance policy may not be canceled or materially changed without 30 days' prior written notice to the Department of Licenses and Inspections and the Chief of Police of the Franklin Township Police Department.

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.

Article III. Police Department Tow List

§ 356-10. 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 Franklin in accordance with this Chapter.

- (1) Towing operators must meet the twenty-minute response time to be eligible for inclusion on the Township of Franklin Police Department Tow List.

B. The list of licensed towing operators shall be maintained by the Police Department and shall be utilized on a rotation basis. Any newly approved operators will be added to the bottom of the rotation list and adjustments to the rotation schedule are to be made on January 1st of the following year.

C. The rotation of the tow list shall be from the list of all licensed operators for the next succeeding license term and having submitted in each category an application in accordance within this Chapter.

(1) There will be a maximum number of regular-duty tow operators of 10, and maximum number of two for heavy-duty tow operators permitted to perform work within the Township of Franklin (as defined in this Chapter). 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 within the application process of this Chapter.

D. Calls to operators shall be made in succession of tow operators found on the tow list. The next name of the tower found on the list shall be called even if another tow operator on the list is closer to a vehicle. If the tow operator called on the list fails to comply within the required twenty-minute response time, the Police Department may call the towing operator who is next in line of succession on the list. The Police Department shall at all times have the right to call more than one tow operator from the towing list in succession order when more than one vehicle is impairing or immobilizing traffic or in the event of emergency conditions.

E. If for any reason, the tower fails to answer a call for a tow, said tower will forfeit the remainder of his towing week's schedule.

F. Calls to operator on the rotating list shall be made on a nondiscriminatory basis, routinely succeeding to the next to operator listed.

G. 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 10 days to file a written appeal if in disagreement with recommendation of removal by the Chief of Police. The Township Clerk shall then schedule a hearing before the Township Administrator. After the hearing, the Township Administrator 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.

H. The tow operator shall cease towing of vehicles on behalf of the Township of Franklin Police Department upon notification by the Township Clerk that the tow operator is to be removed from the list as recommended by the Chief of Police. During this interim period between notification and the decision of the Township Administrator, the tow operator shall be suspended from list eligibility.

§ 356-11. 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 transporting 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 transporting 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 Franklin.

(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 Franklin Township Police Department. Such vehicles shall be moved to such location as specified by the Franklin 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 cleanup 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 Article **I** herein. It is

understood that the responsibility of the tow operator as established above in no way relieves the vehicle owner of his responsibility for the cleanup and removal of any debris or spilled fluids coming from his vehicle.

C. A towing operator shall provide either one boom tow truck with a wheel lift or winch rollback or one boom tow truck with a wheel lift capable of transporting the vehicle to be removed without additional damage. The transported vehicle shall not exceed the carry weight or capacity of the carrying vehicle.

D. The towing operator shall ensure the proper utilization and deployment of safety devices as more particularly defined in Article **III**, § **356-12** herein.

E. 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.

F. No towing operator shall subcontract any work to be performed pursuant to this Chapter without having first obtained prior written approval from the Township of Franklin Police Department. Subcontractors must be licensed 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.

§ 356-12. Responsibility of towing operators.

A. The towing operator shall provide a towing facility of sufficient size to accommodate not less than 25 passenger vehicles and one tractor and trailer, and not less than 800 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 other location, except where a vehicle is towed at the request of the owner to a specific location.

B. The towing facility shall be staffed by the licensed towing operator during normal business hours of 8:00 a.m. to 5:00 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 Article **I** of this Chapter, and equipped to provide regular towing service; 14,000 pounds to 15,000 gross vehicular weight is regular towing service; 15,000 pounds gross vehicular weight and above is 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 flatbed 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 mechanics tools to perform complete emergency work, including but not limited to the following. 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.

- (1) 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.
- (2) One snatch block per winch.
- (3) 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.
- (4) 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).
- (5) At least one broom, shovel, crowbar or pry bar, 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 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.
(6) Backup alarms on all tow trucks.

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

F. No changes may be made to tow vehicles or equipment without prior written approval of the Township of Franklin Police Department.

G. Each tow vehicle shall display two stickers issued by the Department of Licenses and Inspections on the upper left and right side of the driver'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.

H. 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 Franklin.
- (4) Be subject to inspection by the Chief of Police or a designee and shall be approved by the Chief of Police prior to rendering any services pursuant to this article.

I. 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.

J. 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. Said operator shall obey all traffic laws and shall comply with all statutes and regulations of the State of New Jersey and of the Township of Franklin.

K. The tow vehicles provided by the towing operator shall be geographically located so as to permit a response time within 20 minutes.

L. 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.

M. 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.

N. 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 pursuant to N.J.S.A. 39:10A-1 or other appropriate state statutes or state regulations.

O. 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.

P. 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 and fully comply with the procedures set forth under N.J.S.A. 39:10A-1 *et seq.*

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

R. 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.

§ 356-13. 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 storage area shall be capable of storing not less than 25 passenger vehicles and one tractor and trailer. The area shall have not less than 800 square feet of inside storage facilities to hold and protect "police hold" vehicles.

(2) The storage area shall be located either within the limits of the Township or at such location outside of the Township as to facilitate a response time of not more than 20 minutes.

(3) Outside storage areas shall be fully enclosed by a fence of sufficient security (as determined by the Chief of Police or his/her designee) to prevent trespassing, having a height of eight feet or as otherwise required by the Township of Franklin Land Use Ordinance, with at least one lockable gate for ingress and egress, and shall be lighted from dusk to dawn. (If the storage facility included more than one access point, then all access points must be secured with appropriate gate and lock.) Fences that existed prior to adoption of this Chapter shall be permitted; however, if such fences are replaced, the new fence shall be eight feet in height or as otherwise required by the Township of Franklin Land Use Ordinance.

(4) The storage facility shall be available to the Franklin Township Police Department 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 Franklin Township Police Department; storage charges shall not accrue beyond the requested date of release.

(5) The tow operator shall have an employee on duty during all hours in which the storage facility 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.

B. The Township of Franklin 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, per N.J.S.A. 39:10A-8.

§ 356-14. Fees for services.

A. When performing services under the Police Tow List to tow and/or store a motor vehicle, the towing charge and storage charge shall not exceed those charges as set forth in this Chapter. These are maximum fees that may be charged.

B. The fee schedule effective at the time of adoption of this Chapter is as follows:

(1) Towing.

(a) Days:

[1] First mile or less: regular duty, \$95; heavy duty, \$450 (per hour) (payable in fifteen-minute increments).

[2] Each additional mile: \$5.

(b) Nights, weekends and New Jersey state holidays:

[1] First mile or less: regular duty, \$95; heavy duty, \$450 (per hour).

[2] Each additional mile: \$5.

(2) Storage.

(a) Inside building.

[1] Per vehicle/per day: regular; \$45/heavy duty; \$100.

(b) Outside secured.

[1] Per vehicle/per day: regular; \$30/heavy duty; \$75.

(3) Additional fees.

(a) Cleanup: \$40 (per hour).

(b) Oil dry: \$15 (per bag).

(c) Administrative fee: \$35.

(d) Winching fee: basic, \$75.

(e) Heavy-duty laborer: \$75 (per man per hour).

(f) Heavy-duty support vehicle: \$130 (per hour).

C. 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.

D. 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.

E. Tow vehicles transporting multiple motor vehicles at one time may charge the applicable fee for each such vehicle transported.

F. When towing services are otherwise 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 New Jersey state holidays. The night, weekend and holiday rate shall otherwise apply.

G. The Chief of Police shall post fees, available to the public, during normal business hours along with a copy of this Chapter and the fee schedules of licensed towing operators.

H. Payment from the public shall include credit cards.

§ 356-15. Disposal of Unclaimed Motor Vehicles.

A. Each tow company shall be deemed to have taken possession of motor vehicles towed in accordance with this Chapter, other than abandoned motor vehicles towed at the request of the Chief of Police or his designee, under the provisions of N.J.S.A. 39:10A-1 and N.J.S.A. 39:4-56.5.

B. It shall be the responsibility of the towing company to notify the registered owner, or any other person having a legal interest therein, within 10 days of having towed said vehicle or rendered any other service thereto, of the location of the vehicle, the service rendered by the wrecker, the charge for such service and the time within which the motor vehicle must be collected, said period for collection not to exceed 10 days.

C. Upon the expiration of 30 days after the time to collect the motor vehicle as set forth in Subsection B has expired, the towing company must either offer the vehicle for sale at public

auction or cause a junk title certificate to be issued for the motor vehicle in accordance with the laws of the State of New Jersey, specifically N.J.S.A. 39:10A-8 et seq., a copy of said title to be kept by the applicant.

D. Any notification required in this Chapter shall be in writing, sent by certified or registered mail, return receipt requested, to the last known address of the person to whom the notice is to be given.

E. The towing company shall be responsible to perform all searches with the New Jersey Motor Vehicle Commission or out of state motor vehicle commission to determine ownership and the last known address of the title owner to the vehicle in question. That information and proof of searches with appropriate state agencies must be provided to the Chief of Police.

F. At any time prior to the sale of the motor vehicle or the issuance of a junk title certificate therefor, the owner of the motor vehicle may reclaim possession of the motor vehicle from the towing company upon payment of the towing services as set forth herein and the expense of storage of the motor vehicle.

G. Upon the expiration of the time periods provided in this section, the towing company shall be subject to a fine in the amount of \$25 per day per car unless the towing company has initiated application for junk title or sold said vehicle and has submitted proof of the same to the Chief of Police of Franklin Township.

H. Should the Township conduct an auction of unclaimed vehicles pursuant to N.J.S.A. 39:10A-1, the tow operator's charges for towing and storage shall be paid from the proceeds of such auction. Each vehicle auctioned off shall be a separate item for purposes of this section. The Township shall not be liable for fees in excess of the bid price of the vehicle. The cost of title fees which the Township must pay to the State of New Jersey for title certificates and the auction fees shall be passed onto the purchaser at the time of the auction even if the contractor is the purchasing party and shall be in addition to the bid price of each vehicle.

§ 356-16. Miscellaneous.

A. The Zoning Official shall be responsible for the enforcement of the provisions of this Chapter pertaining only to storage facilities.

B. The Township of Franklin 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's Property Maintenance Code (Ordinance Chapters 295 and 377) shall be subject to enforcement procedures as established in the aforesaid code.

C. 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 or by the Police Department or Department of Zoning. 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.

D. 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 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.

E. 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, semiannually, or annually, as determined by the applicable Township official, but in no case shall such inspections be made less than annually.

F. The Police Department shall have the right to store at its own facilities motor vehicles towed at its direction or confiscated in suspected crimes. All licensed towing operators shall extend storage to the Township of Franklin 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 assure 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 for a minimum of 30 days. 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 Clerk will send to the New Jersey Division of Motor Vehicles all completed paperwork after it has been certified to as to accuracy by the tow company. All titles approved by the New Jersey Division of Motor Vehicles will be then turned over to the tow company owner who applied.

H. All towing operators shall provide adequate public posting of charges at their primary place of business and storage facility.

I. Towing operators shall not pile vehicles or park towed vehicles on public streets or sidewalks.

J. 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 five years.

K. Pursuant to the Spill Compensation and Control Act, including N.J.S.A. 58:10-23.11(g)c, any person in any way 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 cleanup 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 cleanup 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 cleanup directives. Pursuant to N.J.S.A. 58:10-23.11(f), any person who fails to comply with a cleanup directive shall be liable to the Township in an amount equal to three times the cost of such removal.

BE IT FURTHER ORDAINED, that if any section, sentence, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of the competent jurisdiction, such holding shall not effect or impair any other section, sentence, clause, provision or portion of this Ordinance.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon its final passage, adoption and publication provided by law.

The foregoing ordinance was introduced on first reading at a meeting of the Township Committee of the Township of Franklin, County of Gloucester, State of New Jersey, held on, September 7, 2016 and will be read and considered for final passage at a meeting to be held by the Franklin Township Committee at the Municipal Building, 1571 Delsea Drive, Franklinville, New Jersey 08322 at 7:00 p.m. on November 2, 2016 at which time and place any and all interested persons will be given an opportunity to be heard.

Attest:

Township of Franklin

Barbara Freijomil, Clerk

Sheryl Neely, Mayor

Introduced September 7, 2016:

Name	Yes	No	Abstain	Absent
Mr. Leopardi	x			
Mr. Gonzalez				x
Ms. Vassallo	x			
Mr. Krevetski	x			
Mayor Neely	x			

Adopted November 2, 2016:

Name	Yes	No	Abstain	Absent
Vacant				
Mr. Gonzalez				
Ms. Vassallo				
Mr. Krevetski				
Mayor Neely				