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**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1752**

**AN ORDINANCE AMENDING CHAPTER IV ENTITLED GENERAL LICENSING
SECTION 4-2 ENTITLED "TOWING" OF THE REVISED GENERAL ORDINANCES
OF THE TOWNSHIP OF MAHWAH.**

WHEREAS, the purpose of this ordinance is to update the provisions of Chapter IV, Section 4-2 entitled "Towing" of the Revised General ordinances of the Township of Mahwah regarding towing licensing.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah that Chapter IV entitled "General Licensing", Section 4-2, entitled "Towing" is amended to read in its entirety as follows:

Section 1. Section 4-2, entitled "Towing" is amended to include the following:

4-2.1. DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

AUTOMOBILE

A motor vehicle of a private passenger or station wagon type that is owned or leased and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, or delivery sedan, a van or a panel truck or a camper-type vehicle used for recreational purposes, not customarily used in the occupation, profession or business of the owner(s).

BASIC TOWING SERVICE

The removal and transportation of an automobile from a highway, street or other public or private road or a parking area or from a storage facility and other services normally incident thereto, but does not include recovery of an automobile from a position beyond the right-of-way or berm or from being impaled upon any other object within the right-of-way or berm. Basic tow only includes providing access to the

vehicle during normal business hours, 8am till 5pm. Any additional services, including tow outs, will be negotiated with the party requesting same.

CALENDAR YEAR

The period of time between January 1 and December 31 of any given year.

CLASS I VEHICLE

A private passenger vehicle not exceeding a seven-thousand-pound gross vehicle weight rating.

CLASS II VEHICLE

Vehicles with a seven-thousand-pound to fourteen-thousand-nine-hundred-ninety-nine-pound gross vehicle weight rating.

CLASS III VEHICLE

Vehicles with a fifteen-thousand-pound to twenty-five-thousand-nine-hundred-ninety-nine-pound gross vehicle weight rating.

CLASS IV VEHICLE

Vehicles with, or exceeding, a twenty-six-thousand-pound gross vehicle weight rating. This class is inclusive of trailers.

GVWR

Gross vehicle weight rating.

HEAVY-DUTY TOW VEHICLE

A specifically designed vehicle designed to tow, transport or otherwise move motor vehicles, with a gross vehicle weight rating of at least 35,000 pounds and equipped with a boom or booms, winches, slings, tilt beds,

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wheel lifts or under reach equipment, as hereinafter defined.

INSIDE BUILDING

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

LAND ALL TRAILER

Detachable trailer capable of hauling vehicles, machinery and/or equipment, commonly referred to as "low-boy."

MEDIUM DUTY TOW VEHICLE

A specifically designed vehicle designed to tow, transport or otherwise move motor vehicles, with a gross vehicle weight of at least 15,000 pounds.

MOTOR VEHICLE ACCIDENT

An occurrence in which a private passenger automobile comes in contact with any other object for which the private passenger automobile must be towed or removed for placement in a storage facility. This includes all situations which are accidental as to the licensed owner or operator of the motor vehicle even if they were caused by the intentional acts of a perpetrator where the perpetrator was not the licensed owner or operator of the motor vehicle.

OFFICIAL TOWER

A person or company licensed by the Township of Mahwah to tow and/or store vehicles.

OUTSIDE SECURED

An automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six feet high and is installed with a locked gate. The facility is to be lighted at night.

SPECIAL RECOVERY SERVICES

Constitutes any action that is not normally associated with roadside towing, e.g., winching, righting overturned vehicles or other services required when a vehicle will not roll on its own wheels.

TOW VEHICLE

Only those vehicles equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under reach equipment specifically designed by its manufacturer for the removal or transport of motor vehicles.

4-2.2. Licensing and identification of official towers.

A. The governing body of the Township of Mahwah, or its designated agent or officer, may license persons or companies meeting the criteria set forth in this chapter and engaged in the business of or offering the services of motor vehicle towing, wrecking or storage (service), whereby damaged, (or) disabled and/or impounded motor vehicles are towed or otherwise removed from the place where they are damaged, (or) disabled, and/or impounded by use of a tow vehicle, as defined herein. Such person(s) or company shall be known as an "official tower."

B. Official towers shall be identified by means of a license, which shall be issued by the Township as hereinafter provided. Each licensed official tower shall also have issued by the Township a decal or insignia for each vehicle used in the towing operation by the official tower and which shall be placed on each vehicle in a prominent portion of such vehicle as required by the Chief of Police or his designee. No vehicle or motorized equipment shall engage in towing vehicles unless such insignia or decal is affixed as set forth and the name of the official tower permanently affixed to the vehicle. ("Permanently affixed" herein shall mean attached to or placed directly on the vehicle in such a manner as such cannot be removed or repositioned.)

4-2.3. Services to be furnished; possession of special equipment.

A. The official tower shall furnish adequate and proper towing, wrecking, storage and emergency repair service to damaged or disabled motor vehicles within the limits of the Township when requested to do so by the Chief of Police or his designee.

The official tower shall be available to render service 24 hours per day, seven days per week.

B. In the event that a disabled vehicle requires special towing equipment (and) the official tower does not possess such equipment, then the Chief of Police or his designee shall select the next official tower in the rotation list who does possess the necessary special equipment to tow such disabled, (or) damaged or impounded vehicle.

No official tower shall subcontract or assign any work that is to be performed by the official tower under the provisions of this chapter.

4-2.4. Application for official tower license.

Application for an official tower license shall be made to the Council of the Township of Mahwah upon a form provided by the Township Clerk and shall contain all of the following information:

- (1) The name, business address, telephone number and federal tax identification number (where applicable). When the official tower is owned and operated by an individual, the name, social security number, residential and business addresses and telephone number(s) of such individual shall be provided. When the official tower is a corporation or partnership, the application shall contain the names, residences, telephone numbers, date of birth and social security number of all persons owning any interest in the official tower.
- (2) In the event that the official tower is conducting business operating under a trade or business name, the applicant shall submit a certificate of such name as proof that such name has been appropriately filed with the County Clerk's Office of Bergen County and/or with the Secretary of State of the State of New Jersey.
- (3) Any such information as may be required by the Council (or designee), concerning the personnel, vehicles, equipment and storage facilities of such applicant, as hereinafter provided, showing that the applicant meets the minimum standards of performance.
- (4) A certificate or certificates of insurance evidencing adequate insurance

coverage as hereinafter provided.

- (5) A fee of \$750 to cover the administrative expenses incurred by the Township in processing the application and an additional fee of \$75 for each vehicle for which an identifying decal is issued.
- (6) The names and addresses of two business references not in the employ of the Township who have known the applicant for at least two years and who can attest to the applicant's experience and performance in the towing, wrecking and storage business.
- (7)(a) All towing vehicles must be listed on the application, including the make and model number, year of vehicle and vehicle identification number (VIN) and any and all other information that the Council may deem necessary.
- (b) No vehicle may be listed on more than one application, nor can there be a transfer of vehicles between towers.
- (8) A complete list, including dates of service, of all other municipalities, state agencies and/or governmental entities that the applicant is, or has been, an official tower of or held a towing permit from. No person applying individually shall be eligible for approval or appointment as an official tower of the Township of Mahwah unless that person shall have been an official municipal tower with a minimum of three years' experience in municipal towing in any municipality of the State of New Jersey including a minimum of two years' experience in municipal towing in any municipality in the County of Bergen, State of New Jersey. No corporation or partnership shall be eligible for approval or appointment as an official tower of the Township of Mahwah unless that business entity shall have been an official municipal tower with a minimum of five years' experience in municipal towing in any municipality of the State of New Jersey including a minimum of two years' experience in municipal towing in any municipality in the County of Bergen, State of New Jersey.
- (9) A complete list of all actions taken against the applicant by a governmental entity for the applicant's alleged violation of any towing ordinance or regulation while towing as a licensed or permitted tower for that governmental entity. If the applicant's towing license or permit has

been revoked, suspended or denied, the applicant shall list each time, what governmental entity was involved and a brief description of the event(s) that led up to the revocation, suspension and/or denial of a towing license or permit.

- (10) If the applicant is an official tower's in any other jurisdiction the applicant must submit the rotational list from these jurisdictions. As an official tower for the Township of Mahwah the Township shall receive priority treatment when in capacity of the on-call tower for the Township.
- B. No license shall be granted to a tower unless and until the tower seeking the license has appointed the Township Clerk as the applicant's true and lawful attorney for the purpose of acknowledging service out of any court of competent jurisdiction to be served against the applicant.
- C. Suspension or revocation of a license, and/or the prior denial of an application affecting the applicant, from this municipality or any county or state agency granting such license may be cause for denial of a license under this chapter.
- D. At the expense of the applicant, the applicant shall also cause each of its drivers to have a background check performed at a State-approved facility prior to that driver performing any towing services in the Township. Copies of the results of the background check shall be submitted to the Chief of Police on an annual basis of each calendar year
- E. Upon receipt of a completed application, the Township Clerk shall forward a copy to the Chief of Police or his designee for his review and recommendation. The review by the Chief of Police or his designee shall consist of the following: An inspection of the personnel, vehicles, equipment and storage areas proposed to be utilized by the applicant to verify the accuracy of the information contained in the application and to determine compliance with applicable laws and regulations and the standards of performance required by this chapter.
- F. An applicant may be included on the official towers list by an official action of the Mayor and Council, by resolution adopted at a regular public meeting, when, from a consideration of the application and from such

other information as may be obtained, the Mayor and Council find that all of the following circumstances exist:

- (1) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statements of material fact in the application or in any other document required pursuant to this chapter.
- (2) The applicant has met the standards in this chapter and has furnished the required hold harmless agreement and certificate(s) of insurance.
- (3) The application has been reviewed and the Chief of Police or his designee has submitted a favorable report.
- (4) Neither the applicant nor the applicant's personnel have been convicted of a criminal act or have had their driver's license suspended within the past two years.

G. The Chief of Police or his designee shall conduct his or her review and render a report to the Council recommending either the approval or denial of the application within 28 days of receipt of the application from the Township Clerk. The Council shall take action with regard to the report of the Chief of Police within 30 days or at the next public meeting of the Council, whichever is later. The applicant or its representative shall be given notice of the date on which the Council will consider the application and shall be permitted to appear and be heard at that time.

H. Written notice of the approval or denial of the application shall be provided to the applicant within seven days of the decision of the Council.

4-2.5. Issuance of License.

A. Upon approval of the application as herein provided, the Township Clerk of Mahwah shall issue for the applicant an official tower's license for each tow vehicle or flatbed vehicle to be utilized in providing services pursuant to this chapter by submitting such to the Chief of Police or designee for issuance to the official tower(s).

- B. Said licenses and identifying decal is to be affixed by the Chief of Police or his designee at police headquarters, which shall be in a form so approved by the Mayor and Council, and shall be displayed on the tow vehicle or flatbed vehicle at all times.
- C. Expiration; renewal; revocation.
- (1) Each official tower's license shall expire on June 30 of each calendar year and the license shall run for July 1 to June 30 of each year. Each applicant for an official tower's license or renewal shall apply for such license on or before May 1 of any calendar year for the next succeeding calendar year, and the license shall not be transferable or assigned and may be subject to revocation by the Council for any of the following reasons:
 - (a) If it is subsequently determined that the applicant knowingly and with intent to deceive made false misleading or fraudulent statements of material fact in the application or in any other document required pursuant to this chapter.
 - (b) Violation of any federal or state law or municipal ordinance or regulation relating to the operation of a motor vehicle or the provision of towing services.
 - (c) Violation of any rule or regulation promulgated by the New Jersey Department of Insurance.
 - (d) Violation of any of the provisions of this chapter.
 - (2) No license shall be issued for less than a full calendar year nor should a license be issued at any other time than the period set forth above.
- D. Upon the expiration of an official tower's license, the applicant, prior to performing any service thereafter, shall re-file completely for such official tower's license, setting forth all the information required in the form provided by the Municipal Clerk and complying with the provisions of this chapter.

4-2.6. Minimum Standards of Performance.

To qualify for inclusion on the list of official towers, applicants must meet the following minimum standards:

A. Minimum vehicle requirements.

(1) Every official tower shall maintain and have available to render services required by this chapter a minimum of two regular tow vehicles with wheel lift, two flatbed vehicles, one Medium-duty towing vehicle of at least 15,000 pounds gross vehicle weight and one Heavy-duty towing vehicle of at least 35,000 pounds gross vehicle weight. In lieu of a medium-duty towing vehicle, the tower may substitute an additional heavy-duty towing vehicle in its place. Registration documents shall be shown to the Township certifying registration is the same or better than the gross vehicle weight (GVW) of the vehicle, as plated on the vehicle. No vehicle shall be listed on more than one application for a towing license.

(2) Vehicle classes.

(a) Heavy-duty tow vehicles of 35,000 pounds gross vehicle weight or more must be equipped with a boom with a 20 ton minimum boom rating or winch assembly mounted on the chassis, a tow sling or tow bar and a wheel lift assembly or underreach. The winch assembly must have 100 feet of at least five-eighths-inch steel cable attached to a motor-driven winch.

(b) Flatbed vehicles must be equipped with a winch or hydraulically operated bed which slides or tilts to accommodate the transporting of vehicles.

B. Each applicant shall submit, along with its application, proof of ownership or lease of the vehicles, which will be utilized to provide services pursuant to this chapter. The provisions of Section IV A.7 of the ordinance shall apply.

C. Minimum equipment and reporting requirements.

- (1) Every tow vehicle or flatbed vehicle shall have two-way radio or cellular phone capability with a dispatching center on a twenty-four-hour basis.
- (2) Every tow vehicle or flatbed vehicle shall be equipped with the following:
 - (a) At least one amber rotating beacon or strobe light mounted on the highest practical location on the vehicles, visible from 360° when in use and visible at a minimum distance of 500 feet during daylight hours. An amber light permit, as required by the state, must be filed in the office of the Chief of Police and Township Clerk.
 - (b) Safety tow lights or magnetic tow lights for towing vehicles at night, amber or red colored.
 - (c) Extra chains and cable for pulling or securing a towed vehicle.
 - (d) At least one heavy-duty broom, a shovel, a crowbar or pry bar, a set of jumper cables, a flashlight, one two-pound or larger fire extinguisher of dry chemical type, one dozen flares or similar warning devices for placement at the scene of an accident or behind a disabled vehicle, at least 10 pounds of dry sand or a drying compound for gasoline and oil spilled on the roadway and containers for removal thereof and a sufficient quantity and types of tools to enable the tow vehicle operator to perform proper and adequate emergency repair services for the tow.
- (3) Every tow vehicle or flatbed vehicle shall comply with any and all state, federal and local laws, regulations and ordinances pertaining to safety, lighting and towing equipment requirements and shall be subject to inspection by the Chief of Police or his designee at any time. Where applicable, all permits required by other agencies than the Township shall be provided to the Township upon request of the Township.

- (4) Every tow vehicle or flatbed vehicle shall display the official tower's decal and shall have the name of the official tower, by a permanently affixed or painted sign prominently displayed on the vehicle in such manner so as to conform to the provisions of N.J.S.A. 39:4-46. Such demarcations shall be placed on the outside door panels of the vehicle. The sign shall be at least three inches in height and diameter, be visible to the naked eye and the names must be the same on both panels.
- (5) Within five calendar days of the expiration of each rotation period, the official tower shall submit to the Chief of Police or his designee, a copy of all of the invoices for services rendered to any owner or operator of a damaged or disabled vehicle on a form of invoice provided by the Township. In the absence of a Township form, the official tower will submit the bills which state: the name and address of the person towed; the make and model of the vehicle towed; plate number; and, the in date of the tow and the out date of the tow. Only fees applicable in this chapter shall appear on said invoice, and there shall be only one invoice per vehicle towed.

D. Minimum personnel requirements. Official towers shall have available, at all times, a minimum of two drivers to provide the services required by this chapter. All drivers employed by official towers to provide the services required by this chapter shall meet the following requirements and be subject to the following regulations. They shall:

- (1) Be competent and able to provide minimum road services for disabled vehicles.
- (2) All drivers of vehicles over 26,000 pounds are required to have a commercial driver's license (CDL) by the State of New Jersey and/or federal regulations are required to furnish such license for the purpose of this chapter.
- (3) Obey all traffic laws and regulations.
- (4) Not have been convicted of 1st, 2nd, or 3rd degree crime in the State.

of New Jersey or the equivalent felony of any other state within the past two (2) years.

- (5) All drivers who do not possess a CDL must submit to random drug testing two times each year at the expense of the applicant or driver at the discretion of the Chief of Police.
- (6) Each licensee shall have a recovery specialist with Level 3 certification from the Towing and Recovery Association of America (TRAA), or equivalent certification from Wreckmaster or other nationally recognized training organization. This certificate is to be included with the initial application. This recovery specialist shall be on-scene for any heavy duty recovery.

E. Minimum storage requirements.

- (1) Every official tower shall maintain an inside building and/or outside secured storage area meeting the following requirements:
 - (a) All official towers must have sufficient storage area on their own premises to store towed vehicles at the licensed site. This area must be over and above the requirement that is in effect for requirement of parking for that site. No vertical stacking of vehicles is permitted. The storage area must be contiguous to the applicant's principal place of business. Each tow vehicle must be stored at the official tower's licensed site. Official towers located within the Township cannot store vehicles on the thoroughfares of the Township, whether under the auspices of the Township, County of Bergen or State of New Jersey without Township approval. Storage of vehicles on the thoroughfares of other municipalities wherein Township towers are located is subject to the requirements of those municipalities.
 - (b) The location of the storage area shall be located within the limits of the Township or must be within 3 miles from the border of the Township. Vehicles cannot be stored in New York State.

- (c) The storage area shall be fenced with fencing at a minimum of six feet in height. The fenced area shall be no less than 5,000 square feet in area. The storage area shall have a suitable gate and be installed with a locking device or a similar on-site security measure. The facility is to be lighted at night.
 - (d) The storage area shall be in an area legally zoned for or legally nonconforming for such use; the certificate of occupancy for towing and storage is to be furnished with the application.
 - (e) The storage facility shall be available from at least 8:00 a.m. until 6:00 p.m. Monday through Friday and from at least 8:00 a.m. to 1:00 p.m. on Saturday. The applicant shall prominently display the hours during which the facility will be open on weekends. The storage area must have a building wherein a permanently installed telephone is located. The building shall be within sight distance and/or within 500 feet of the entrance of the storage area. On the application for a towing license, the applicant shall list all business hours required pursuant to the subsection for the calendar year of the license in question, which shall not be changed during the calendar year.
 - (f) The official tower shall not charge any additional fee or other charge for releasing vehicles to their owners after normal business hours or on weekends or for moving a vehicle from one location to another in the storage area.
 - (g) The applicant shall, with its application, submit proof of ownership or lease of the storage area.
 - (h) The official tower shall be responsible for ensuring the proper and safe storage of all vehicles towed pursuant to this chapter. The official tower shall be liable for any damage incurred by such vehicles while in transit to or while stored in the storage areas.
- (2) To ensure the timely release of a vehicle, the tower shall release a

vehicle to the owner/occupier of the vehicle no later than one hour from the vehicle's arrival at the tower's facility or within one hour of being contacted by the owner/occupier of the vehicle that he/she wishes to take possession of said vehicle during regular business hours.

- F. Credit cards. All official towers must have the ability to receive credit card payment and will accept same for payment without additional charge, of all towing and storage services included, specifically or by reference, in this chapter.

4-2.7. Utilization of list of official towers.

- A. Official towers shall be placed on the list in the order in which their application is approved and license issued. Once the initial list has been established, new official towers, when their applications have been approved, will be added to the end of that list.
- B. The Township shall request wrecking, towing and storage services from each official tower in rotation. The rotation period shall for a period of one week commencing at Sunday at 12:01 a.m. and ending the following Saturday at 12:00 midnight. When called, the tower shall advise the dispatcher if a vehicle is available and the estimated time of arrival. The tower called shall not be permitted to subcontract any wrecking, towing or storage services being requested. If no tower vehicle is available or if the response time will exceed 20 minutes, the next official tower on the list shall be called. If none of the official towers are available or able to provide such services as are requested by the Township, the Township may request such services from any other available source. All requests shall be made by the Chief of Police or his designee.
- C. The Township shall request service only from official towers; provided, however, that if no emergency or road hazard exists, the Chief of Police or his designee shall request such service from such other person as the owner of the motor vehicle in need of such services may request, provided that the request is responded to within 30 minutes.
- D. During adverse weather conditions, heavy traffic conditions or emergency conditions, official towers shall give priority to requests from the

Township over any other requests which may be received by the official towers.

4-2.8. Hold harmless agreement.

Applicants 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 subject to any kind and nature whatsoever resulting from, caused by, arising out of or as a consequence of the provision of towing, wrecking, storage and/or emergency services provided at the request of this Township pursuant to this chapter. Official towers shall enter into a hold harmless agreement in a form to be prepared by the Attorney for the Township prior to being included on the official towers list.

4-2.9. Insurance.

An official tower shall maintain, during the life of its license, insurance policies of the type and with the minimum limits indicated below and in a form satisfactory to the Township. An official tower shall provide a certified copy of the policies and/or certificates of insurance satisfactory to the Township with initial application. All policies and/or certificates shall be submitted to the Township risk management consultant for review and approval.

- a. Garage liability insurance. Limit of liability shall not be less than \$1,000,000 combined single limit (bodily injury and property damage) per occurrence including premises operations and products/completed operations.
- b. Automobile liability insurance; general property damage and liability insurance.
 1. Automobile liability insurance. Limit of liability shall not be less than \$1,000,000 combined single limit (bodily injury and property damage) per occurrence.
 2. General property damage and liability insurance. Limit of liability shall not be less than \$1,000,000 combined single units.
- c. Garagekeeper's insurance. Physical damage insurance policies shall be specifically endorsed to provide direct primary insurance, where

applicable, for vehicles in tow, possession of, or storage on property owned or controlled by the tower. Limit of said coverage shall be not less than \$100,000.

- d. Excess umbrella insurance. Limit of liability shall be not less than \$1,000,000 providing protection in excess of the \$1,000,000 garage, auto liability coverage and general property damage and liability coverage.
- e. On all liability policies, the Township shall be added as an additional insured, and insurance policies and/or certificates shall indicate such coverage as primary coverage notwithstanding any insurance carried by the Township.
- f. Workers' compensation insurance: New Jersey statutory coverage, including employer's liability coverage.
- g. An official tower shall indemnify the Township and the public against any loss due to injuries, accident or damages of any character whatsoever where any such damage is the result of an act or omission of the official tower, its agents or employees in or due to the execution of the work called for under the contract.
- h. Certified copies of all insurance policies provided above or certificates thereof satisfactory to the Township of Mahwah shall be provided with the application. Each such policy or certificate shall contain a provision that it is not subject to material change, cancellation or nonrenewal unless 30 days' prior written notice via certified mail/return receipt shall have been given to the Township of Mahwah by the tower's insurer. All insurance policies or certificates must be received 30 days prior to commencement of any work.
- i. The providing of any insurance required herein does not relieve an official tower of any of the responsibilities or obligations assumed by the official tower for which the tower may be liable by law or otherwise.
- j. If any policies contain deductible or co-payments, it shall be the responsibility of the official tower to pay such sums at the same time a claim is settled by the official tower's insurance company.

- k. If any policies contain limits of liability with an aggregate limit, the official tower or official tower's insurance company shall provide the Township quarterly during the policy period a statement evidencing the limits of liability required under the contract to be in force.
- l. Policies of insurance required by this section shall be maintained in full force and effect at all times. In the event that any coverage is cancelled, terminated or coverage decreased in amount, same shall constitute a material breach of the license and the tower shall be immediately removed from the official towers list until such time as required coverage is reinstated.
- m. All policies shall be written by either a company licensed to do business in the State of New Jersey or a New Jersey eligible Surplus Lines Company, with a minimum Best rating A-VII (A minus seven). Same shall be written on an ISO (Insurance Services Office) form or better.

4-2.10. Towing and storage fee schedule.

- A. All charges shall be limited to those included in this chapter.
- B. There will be no charge for towing any Mahwah Township Vehicles.
- C. Fees for towing and storage of Class I vehicles damaged in an accident or recovered after being stolen may not exceed the fees established by the New Jersey Department of Insurance pursuant to N.J.S.A. 40:48-2.55. Those towing and storage fees which are set forth in N.J.A.C. 11:3-38.1, as amended and supplemented, are incorporated herein by reference. Pursuant to law, the fee schedules shall be reviewed by the New Jersey State Commissioner of Insurance on an annual basis and may be revised if necessary. In the event that the schedules are revised by the New Jersey State Commissioner of Insurance, the revised fees shall be the maximum fees that may be charged by official towers, and this chapter shall be deemed amended accordingly.
 - (1) The following is the fee schedule for towing services not covered by N.J.S.A. 40:48-2.55 and N.J.A.C. 11:3-38.1:
 - (a) In addition to the fees set forth herein, each vehicle towed

shall be charged an administrative fee of \$25. The administrative fee shall be collected by the tower and remitted to the Township of Mahwah within 30 days. Any resident of the Township of Mahwah may request a refund of the administrative fee by application available from the Township Clerk.

(b) The following is the fee schedule for towing services:

Day tow (Monday to Friday 7:00 a.m. – 5:00 p.m. exclusive of weekends and New Jersey State holidays)	\$150.00
Night Tow (Monday – (Friday 5:01 p.m. to 6:59 a.m. weekends and New Jersey State holidays)	\$150.00
Police impound (towing of car to police impound facilities)	\$100.00
Road service charge	\$60.00
Special recovery services (Class I)	\$100.00 per hour

(2) The following is the fee schedule for storage services:

Storage Facility Capacity	Towing Fee Per 24-hour period
Inside and/or outside building (secured)	\$40.00

There shall be no storage charge for the first 24-hour period following towing of any vehicle to the tower's storage premises.

D. The above portion of Section X(B) above does not regulate towing or storage of Class II, III and IV vehicles. Such services shall be provided and referred by the official tower(s) at the following rates:

- (1) Class II vehicle: \$135. Said charge covers all actions necessary and related to towing Class II vehicles

- (2) Class III vehicle: \$175. Said charge covers all actions necessary and related to towing Class III vehicles.
- (3) Class IV vehicle: \$325.00. Said charge covers all actions necessary and related to towing Class IV vehicles and shall be inclusive of the use of heavy-duty under reach equipment.
- (4) Road service for Class II vehicles: \$60.00
- (5) Road service for Class III vehicles: \$75.00
- (6) Road service for Class IV vehicles: \$95.00
- (7) Storage of Class II, III and IV vehicles is subject to the same requirements as set forth in Section X(B) above with the exception of a change in the rate for storage. Storage of Class II, III and IV vehicles shall be charged at the respective rates below.
 - (a) Class II: \$40 per day.
 - (b) Class III: \$50 per day.
 - (c) Class IV: \$85 per day.
 - (d) Truck and trailer \$115 per day.
- (8) Special recovery services of Class II, III and IV vehicles shall be charged at the respective rates below. This charge shall only be used in situations deemed necessary, and a notation of fact should be noted on the official tower's bill. Said charge shall not apply to winching a vehicle onto a flatbed vehicle.
 - (a) Class II: \$ 150 per hour.
 - (b) Class III: \$200 per hour.
 - (c) Class IV: \$300 per hour.
- (9) Special recovery services.
 - (a) Special recovery services of all vehicles shall be charged at the respective rates set. This charge shall only be used in situations deemed necessary, and a notation of fact should be noted on the official tower's bill. Said charge shall not

apply to winching a vehicle on to a flatbed vehicle when the vehicle rolls freely.

(b) For special recovery services that require additional and/or larger equipment, that equipment shall be billed at the equipment's rate.

(c) Additional personnel for special recovery services shall be billed at \$75 per hour per person. Written requirements justifying the necessity of the additional personnel shall be listed on the invoice.

E. The fees set forth on the schedules for towing rates are the maximum charges that shall apply to a Class I vehicle for basic towing services. There shall be no additional charges other than those provided herein in Subsections B and/or C above.

F. Calculation of rates and fees.

(1) Tow vehicles transporting multiple passenger cars at one time shall receive the applicable fees for each vehicle transported.

G. No storage of any disabled or damaged vehicle shall be located on any public street or sidewalk in the Township.

H. The fees set forth on the schedules set forth in this section contained for storage fees are the maximum storage charges per twenty-four-hour period that shall apply to all vehicles stored by an official tower.

I. Motorcycles and all other on/off-road vehicles shall be considered private passenger vehicles for purposes of determining fees which are allowed under this section. Any other objects not covered herein, which are towed by an official tower at the request of the Township, shall be subject to fees as determined by the Chief of Police or his designee.

J. The use of Speedy-Dri shall be charged the rate of \$15 per fifty-pound bag after the first bag. The first bag is included in the initial towing cost.

K. Fees for towing and storage of private passenger vehicles damaged in an

accident or recovered after being stolen may not exceed the fees established by the New Jersey Department of Insurance pursuant to N.J.S.A. 40:48-2.55. Those towing and storage fees, which are set forth in N.J.A.C. 11:3-38.1, are incorporated herein by reference.

- L. The fees set forth in Subsections B and C of this section do not apply to vehicles owned and/or operated by the Township of Mahwah or any of its agencies. The towing of and special recovery services provided to any of the Township's vehicles shall be provided free of charge by the official tower.
- M. There shall be no charge for towing, storage, or impoundment if it is determined by the Chief of Police that such vehicles have been towed, stored, or impounded due to an error by the towing operator or the police. The determination shall be in the sole discretion of the Police Chief and is binding upon the licensee, who shall make no claims against the Township or owner of the vehicle.
- N. If the owner of an unattended vehicle appears on the scene and the vehicle does not need to be towed or impounded, the licensee shall not charge for the service call unless the vehicle has been hooked up to the tow truck in which event 50 percent of the authorized towing charge may be assessed against the owner or driver of the vehicle.
- O. Waiting time fees may be charged at the rate of fifty (50%) percent of the recovery rate for waiting at scene for investigation or other reasons. The first 30 minutes shall be at no charge with \$25.00 per 15 minutes thereafter.

4-2.11. Miscellaneous provisions.

- A. Copies of this chapter and the schedule of fees that may be charged by official towers shall be made available to the public during normal business hours at the Township Hall. Copies shall also be made available to the public at each official tower's place of business.
- B. All official towers shall post, in a prominent place at each storage area clearly visible to the public, a schedule of fees that may be charged for all services, provided that the same is pursuant to this chapter.

- C. The Township reserves the right to make periodic unannounced inspections of the personnel, vehicles, equipment and storage areas of all official towers.
- D. The relationship between an official tower and the Township is one of an independent contractor. Neither party shall be construed in any manner whatsoever to be an employee of the other, nor shall any employee or agent furnished by any party be construed to be an employee or agent of the other party. Inclusion on the official towers list shall not be construed or considered as a joint venture, partnership, association, contract of employment or profit-sharing agreement.
- E. The Township shall not be liable or responsible for compensating the official towers for any of the services performed under this chapter unless those services are performed for Township vehicles. Compensation shall be the responsibility of the owner of the towed motor vehicle and the official tower shall proceed directly against the owner.
- F. The official tower shall, at all times, be solely responsible for the conduct of its employees.
- G. Each official tower shall keep and maintain adequate and complete records showing all vehicles towed, stored and released, all services rendered and all fees charged and collected. All records shall be available for inspection by the Township at any time during normal business hours. Records shall be kept and maintained by the official tower at one central location and shall be retained for a period of seven years. Records may be written, printed or computerized as long as the requirements of this subsection are met.

4-2.12. Enforcement agency; suspension or revocation of license.

- A. The Mahwah Police Department shall be the Enforcement Agency. The enforcement agency shall have the authority to hear complaints against any official tower whether brought by Township representatives, the public and/or other official towers.

- B. The Enforcement Agency shall have the power to issue subpoenas to compel attendance at the hearing.
- C. In the event that a complaint (of a noncriminal nature) is received by the Township, involving the improper or unsatisfactory performance of services by an official tower, excessive charges or damage to a motor vehicle while in the custody of the tower, the Enforcement Agency shall give written notice of said complaint, by certified mail, return receipt requested to the official tower against whom the complaint is made. The official tower shall make a written response to such complaint within five calendar days from receipt of the written notice.
- D. The Enforcement Agency after hearing the matter shall have the authority to immediately suspend the official tower's license until the next rotation. Any contestation of such action by the Enforcement Agency shall be made by way of appeal to the Council within 14 calendar days of the notice of said suspension. The Council shall then conduct a hearing regarding the appeal of the suspension at the next public Council meeting or within 30 calendar days of the tower's notice of appeal.
- E. If, after considering the matter and the findings by the Enforcement Agency, the Council shall determine that there is good and sufficient cause for revocation of the official tower's license, the tower shall surrender said license to the Township Clerk within one calendar day.
- F. Failure to surrender the license upon revocation shall constitute a violation of this chapter, subject to all legal action available to the Township, including permanent removal from the official towers list.
- G. Nothing contained herein shall prevent or limit the right of any person to commence or maintain an action for damages or any other relief directly against an official tower in a court of competent jurisdiction.

4-2.13. VIOLATIONS AND PENALTIES.

- A. Any person who shall violate any of the provisions of this section shall, upon conviction, be punished by a fine not to exceed one thousand (\$1,000.00) dollars; and each violation of any of the provisions of this

section and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

- B. In addition to the fine provided above, a violation of any of the provisions of this section shall be cause for revocation of the official towers' license.

Section 2. If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 3. All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

ATTEST:

Kathrine Coviello, Clerk

William C. Laforet, Mayor