

AN ORDINANCE AMENDING CHAPTER 231, ARTICLES V AND VI OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 231 Property Maintenance, Article V Registration of Vacant and Foreclosing Properties of the revised general ordinances of the Borough of Wharton are hereby amended as follows:

Chapter 231. Property Maintenance

Article V. Registration of Vacant or Foreclosing Properties

§ 231-33. Purpose.

The provisions of this chapter protect and preserve the public health, safety and welfare and security and quiet enjoyment of residents and neighborhoods by requiring all property owners, including lenders, trustees and service companies to properly maintain vacant and/or foreclosing properties, and regulate the maintenance of vacant and/or foreclosing properties in order to prevent blighted and unsecured properties.

§ 231-34. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

BOROUGH — The Borough of Wharton.

CREDITOR — The creditor having a right of foreclosure, including but not limited to the holder of a mortgage on a property, and any agent, servant or employee of the creditor, a loan servicing company, or any successor in interest and/or assignee of the creditor's rights, interests or obligations under the document granting foreclosure rights.

DAYS — Consecutive calendar days.

FORECLOSING — The legal process by which the creditor of a title holder of a parcel of property, which has been placed as collateral or security for a financial obligation, seeks to divest the title holder of his rights to the property and have the property sold at a sheriff's sale to satisfy the debt after the title holder defaults on the aforesaid financial obligation.

NONRESIDENTIAL PROPERTY — Any commercial, industrial and mixed-use real estate, or portion thereof, located in the Borough of Wharton, including improvements thereon, and shall include but not be limited to storefront commercial property.

NUISANCE —

- A. Any nuisance known at common law or inequity jurisprudence or as provided by the statutes of the State of New Jersey or the ordinances of the Borough.
- B. Any attractive nuisance which may prove detrimental to the health or safety of children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes,

but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, boats, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation, such as poison ivy, oak or sumac, which may prove to be a hazard for inquisitive minors.

- C. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
- D. Insufficient ventilation or illumination in violation of this Code.
- E. Inadequate or unsanitary sewage or plumbing facilities in violation of this Code.
- F. Unsanitary conditions or anything offensive to the senses or dangerous to health in violation of this Code.
- G. Fire hazards.

~~OWNER — Any person who, alone or jointly with several others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or who shall have charge, care or control of any property unit as owner or agent of the owner, including but not limited to a lessee, executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a foreclosing mortgagee or mortgagee in possession, regardless of how that possession was obtained. Any person who is a lessee subletting or assigning any part of any property or property unit shall be deemed to be co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.~~

OWNER — Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, § 17, as amended by P.L. 2009, c. 296), or any other entity determined by the Borough of Wharton to have authority to act with respect to the property.

~~PROPERTY — Any real estate, including residential, commercial, industrial and mixed use, or portion thereof, located in the Borough of Wharton, including any improvements thereon.~~

PROPERTY — Any portion of improved or unimproved real estate located within the Borough of Wharton which includes the buildings or structures or portions thereof located on it, regardless of condition.

RESIDENTIAL PROPERTY — Any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

SECURITY — Measures taken to ensure that the property is inaccessible to unauthorized persons.

VACANT ~~OR AND~~ ABANDONED — A property shall be considered vacant ~~or and~~ abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- A. Overgrown or neglected vegetation;
- B. The accumulation of newspapers, circulars, flyers, or mail on the property;
- C. Disconnected gas, electric, or water utility services to the property;
- D. The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- E. The accumulation of junk, litter, trash, or debris on the property;

- F. The absence of window treatments such as blinds, curtains or shutters;
- G. The absence of furnishings and personal items;
- H. Statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- I. Windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken and unrepaired;
- J. Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- K. A risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- L. An uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- M. The mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- N. A written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- O. Any other reasonable indicia of abandonment.

VACANT STOREFRONT, COMMERCIAL OR NONRESIDENTIAL PROPERTY — Any area within a building or structure that may be individually leased or rented for any purpose other than residential use which is not present legally occupied or at which all lawful business or construction operations or other occupancy have substantially ceased for a period of six months.

§ 231-35. Registration of vacant ~~or~~ and abandoned residential, and mixed use properties; designation of responsible individual.

- A. All owners of vacant residential and mixed use property must register such vacant properties with the Borough of Wharton Housing and Zoning Officer within 10 days of such property becoming vacant. The registration must be renewed annually as set forth below for as long as the property remains vacant.
- B. Owners of vacant residential and mixed use properties shall designate an individual or property management company responsible for the security and maintenance of the property. The individual or property management company responsible for the security and maintenance of the property shall have an office located in New Jersey within twenty-five miles of the property.
- C. The registration required by this section must contain the following information:
 - (1) The owner's name, telephone number, and mailing address. The mailing address may not be a post office box.
 - (2) The street address and tax map designation (lot and block) of the property.

- (3) Whether the property is residential, ~~nonresidential, commercial~~ or mixed-use.
 - (4) The name, telephone number, e-mail address and mailing address of an individual or property management company located in the State of New Jersey which is responsible for the security and maintenance of the property. The mailing address may not be a post office box.
 - (5) A statement from the owner certifying that the property was inspected as required by this chapter.
 - (6) Proof of utility (gas, electric, water) connections or disconnections.
 - (7) Proof of insurance meeting the requirements of Section 7(c) of this Ordinance.
- D. The owner shall have a continuing duty to notify the Borough of any changes to the information contained in the registration between registration cycles.
 - E. The Borough of Wharton Housing and Zoning Officer may promulgate forms on which the information in the registration must be provided.
 - F. The owner must notify the Borough of Wharton Housing and Zoning Officer if, at any time subsequent to registration as a vacant property, the property is no longer vacant, and provide proof that the property is no longer vacant.
 - G. Upon the effective date of this chapter, the owner of any currently vacant property and a creditor pursuing a pending foreclosure shall have 30 days within which to comply with the provisions of this chapter. (See also § 231-43A.)

§ 231-36. Registration fees for vacant ~~or~~ and abandoned residential and mixed use properties.

- A. The initial registration fee for a vacant ~~or~~ and abandoned residential ~~or~~ mixed use property shall be \$500 and must accompany the registration form. The initial registration shall be valid for the remainder of the calendar year in which the property is registered. Renewals for subsequent calendar years shall run from January 1 to December 31, and payment of the renewal registration fee shall be due by January 15 of the relevant year. Registration fees and renewal fees will not be prorated or refunded. Each annual renewal shall be \$500. An additional \$2,000 per property annually shall be required if the property becomes vacant ~~or~~ and abandoned, as per the definition of same in this chapter, at the time of or at any time subsequent to the filing of a summons and complaint in an action to foreclose.
- B. No governmental agency shall be required to pay the initial or renewal registration fee.

§ 231-~~36~~37 Registration of vacant storefront, commercial or nonresidential properties and designation of responsible individual.

The owner of any vacant storefront, commercial or nonresidential property shall register such vacant properties with the Borough of Wharton Housing and Zoning Officer within 30 calendar days after assuming ownership of such property, or within 30 calendar days of such property becoming vacant. The registration forms will be provided by the Borough. The registration must be renewed annually as set forth below for as long as the property remains vacant. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately, and only one statement is required for a property that meets both the definition of vacant storefront, commercial or nonresidential property.
- A. The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person 21 years or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number, and e-mail address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Borough in writing of a change of authorized agent or until the owner files a new annual registration statement.
- B. An owner who meets the requirements of this chapter with respect to his/her residence or workplace in the State of New Jersey may designate themselves as the agent or as the individual responsible for maintaining the property.
- C. The registration shall remain valid for one year from the date of registration. ~~except for the initial registration time, which shall be prorated through December 31.~~ The owner shall be required to renew the registration annually as long as the building remains a vacant property or a portion thereof remains a vacant storefront and shall pay a registration or renewal fee in the amount prescribed in §230-37 of this chapter for each vacant property registered or vacant storefront. ~~The owner shall be required to renew the registration annually as long as the building remains a vacant property or vacant storefront and shall pay a registration or renewal fee in the amount prescribed in §230-40 of this chapter for each vacant property or vacant storefront registered.~~
- D. The annual renewal registration shall be completed by January 1st 15th of each year. ~~The initial registration fee shall be prorated for registration statements received less than 10 months prior to that date.~~
- E. The owner shall notify the Housing and Zoning Officer within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Borough for such purpose.
- F. Any owner who fails to register a vacant storefront, commercial or nonresidential property under the provisions of this chapter shall further be deemed to consent to receive, by posting on the building, in plain view, and by service of notice at the last known address of the owner of the property on record within the Borough of Wharton by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.
- G. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the

Borough against the owner or owners of the property.

§231-40-38. Registration fees for vacant storefront, commercial or nonresidential properties.

The initial registration fee for each vacant building or portion thereof shall be \$2,000. The fee for the first renewal is \$3,000, and the fee for the second renewal is \$4,000. The fee for any subsequent renewal beyond the second renewal is \$5,000. In the event that a property meets the definition of a vacant storefront, commercial or nonresidential property and it contains the same block and lot number as designated in official records of the municipality, there shall only be one registration fee applied.

§231-41 39. Access to vacant storefronts, commercial or nonresidential properties.

The owner of any vacant storefront, commercial or nonresidential property registered under this chapter shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property owner or the designated agent. Such inspections shall be carried out on weekdays during the hours of 8:30 a.m. to 4:30 p.m., or such other time as may be mutually agreed upon between the owner and the Borough.

§231-43 40 Requirements of owners of vacant storefronts, commercial or nonresidential properties.

- A. The owner of any storefront, commercial or nonresidential property that has become vacant and any person maintaining or operating or collecting rent for any such building that has become vacant shall immediately, within 30 days thereof:
- (1) Enclose and secure the building and/or storefront, commercial or nonresidential property against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in the rules and regulations supplementing those codes; and
 - (2) Post a sign affixed to the property indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to this chapter), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than eight inches by 10 inches; and
 - (3) Secure the property from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the property is complete; and
 - (4) Ensure that the exterior grounds of the property, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter,

and grass and weed growth; and

(5) Continue to maintain the property in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the property is again occupied or demolished, or until repair and/or rehabilitation of the property is complete; and

(6) Continue to maintain the property consistent with the requirements of the Borough Code, including but not limited to Chapter 231, entitled "Property Maintenance."

B. All areas of vacant storefronts, commercial and nonresidential visible to the public from the public street or sidewalk must be maintained in clean condition and free of litter and debris.

§231-44-41. Waiver of fees.

A waiver of the registration fee set forth herein may be granted, upon application, by the Borough Administrator or his/her designee for the current year if the following conditions are met:

A. All local municipal fees are paid in full; and

B. A consistent good faith effort is shown to market, rent, sell, or lease the vacant storefront, commercial or nonresidential property. Good faith efforts include but are not limited to contracts with a real estate licensee, newspaper, electronic advertisements or other methods, provided that the effort is actually likely to generate interest in the property and the owner is actually willing to rent, sell or lease, and the pricing is consistent with other similar properties or portions thereof as attested by a real estate licensee as licensed by the New Jersey Real Estate Commission. The mere placement of a "for sale" or "for rent or lease" sign on or in the building in and of itself does not meet the requirements of this subsection; and

C. The vacant storefront, commercial or nonresidential property is in compliance with all Borough of Wharton codes and ordinances.

§231-45 42. Vacant Storefront, Commercial or Nonresidential Property Violations and Penalties.

A. Any person who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than \$100 and not more than \$2,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

B. For purposes of this section, failure to file a registration statement within 30 calendar days after a building or portion thereof becomes vacant property or within 30 calendar days after assuming ownership of a vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, and failure to provide correct information on the registration statement, or failure to comply with the provisions of such provisions contained herein shall be deemed to be violations of this chapter.

C. The Zoning Officer of the Borough of Wharton shall be the enforcement agent of the within chapter. Violations of the within sections of the Code shall be heard in Municipal Court.

§ 231-~~37~~-43. Registration of all foreclosing properties; designation of responsible individual.

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage or other lien against any property in this Borough, including but not limited to residential property, **or mixed use property, nonresidential or commercial property including storefronts,** shall, within 10 days of serving the summons and complaint, file a registration with the Borough of Wharton Housing and Zoning Officer and, within 30 days, a listing of all commercial properties for which the creditor has foreclosure actions pending. The registration must be renewed as set forth below until title to the property has been transferred to a new owner or the foreclosure action is dismissed. A creditor who takes title to a vacant property shall then be required to register as an owner of such vacant property and to renew such registration for as long as the property remains vacant.
- B. If the property is vacant or the creditor is located outside the State of New Jersey, the creditor must designate an individual or property management company responsible for the security and maintenance of the property. The individual or property management company responsible for the security and maintenance of the property shall have an office in New Jersey located within twenty-five miles of the property.
- C. The registration shall contain the following information:
- (1) The creditor's name, telephone number, e-mail address and mailing address. The mailing address may not be a post office box.
 - (2) The street address and tax map designation (lot and block) of the property for which foreclosure has been sought.
 - (3) Whether the property is residential, nonresidential, commercial or mixed-use.
 - (4) The name, telephone number, e-mail address and mailing address of a designated representative of the creditor who is located in the State of New Jersey and is responsible for receiving complaints of property maintenance and code violations for that property. The mailing address may not be a post office box.
 - (5) If the property is vacant, the name, telephone number, and mailing address of an individual or property management company located in the State of New Jersey which is responsible for the care, maintenance, security and upkeep of the property. The mailing address may not be a post office box.
 - (6) If the property is vacant, a statement from the creditor certifying that the property was inspected as required by this chapter.
 - (7) If the property is vacant, proof of utility (gas, electric, water) connections or disconnections.
- D. The creditor shall have a continuing duty to notify the Borough of any changes to the information contained in the registration between registration cycles.

- E. The Borough of Wharton Housing and Zoning Officer may promulgate forms on which the information in the registration must be provided.
- F. Pursuant to N.J.S.A. 40:48-2.12s.c.(1), an out-of-state creditor's failure to appoint an in-state representative or agent for residential properties is subject to fines set forth in Section 10b of this Ordinance.
- G. Once the foreclosure action has terminated, either through dismissal or transfer of title, the creditor must provide proof of such termination, sale, transfer or occupancy to **the Housing and Zoning Officer enforcement authority** within 30 days of sale, exchange or transfer.

§ 231-~~38~~ 44. Registration fees for all foreclosing properties.

- A. The initial registration fee shall be \$500 and must accompany the registration form. The initial registration shall be valid for the remainder of the calendar year in which the property is registered. Renewals for subsequent calendar years shall run from January 1 to December 31, and payment of the renewal registration fee shall be due by January 15 of the relevant year. Registration fees and renewal fees will not be prorated or refunded. Each annual renewal shall be \$500. An additional \$2,000 per property annually shall be required if the property becomes vacant **or and** abandoned, as per the definition of same in this chapter, at any time subsequent to the filing of a complaint in an action to foreclose.
- B. No governmental agency shall be required to pay the initial or renewal registration fee.

§ 231-~~46~~ 45. Maintenance requirements.

- A. Properties subject to the requirements of this chapter must be maintained in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. The owner, creditor, local individual or local property management company, as appropriate, must inspect the property twice a month for the duration of the vacancy or foreclosure as appropriate.
- B. In addition to, and not in lieu of, meeting all other applicable federal, state, and local laws, ordinances, rules and regulations, owners, creditors, local individuals or local property management companies must maintain property that is subject to this chapter as follows:
 - (1) Property shall be kept free of accumulated snow and ice, weeds, dry brush, dead vegetation, trash, junk, debris, building materials, unregistered vehicles, any accumulation of newspapers, circulars, flyers, notices (except those required by law), and discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items giving the appearance that the property is vacant.
 - (2) Property shall be kept free of graffiti, tagging, or similar markings. In the event that any graffiti, tagging, or similar markings are placed on the property, it/they shall either be removed or painted over with an exterior-grade paint matching the color of the portion of the structure where the graffiti, tagging, or similar marking was placed.
 - (3) Front yards, rear yards, and side yards of properties subject to the requirements of this chapter shall be landscaped and maintained to neighborhood standards. Landscaping and

maintenance shall include, but are not limited to, care of grass, mulch, decorative rock, artificial turf/sod specifically designed for residential or commercial installation, or other ground cover, bushes, shrubs, hedges, trees, or similar plantings, removal or repair of gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material, in addition to regular watering, irrigation, cutting, pruning and mowing of required vegetation and removal of all trimmings.

- (4) Any pool, spa, or other standing body of water shall either be kept in working order so the water remains clear and free of growth, pollutants, and debris, and does not become a harborage for vermin or insects or drained and kept dry. In either case, properties with pools or spas must comply with the security fencing requirements of the Borough.
- C. The owner of any vacant property shall acquire and maintain liability insurance covering injury or damage to any person or any property in not less than \$300,000 for residential buildings, and \$1,000,000 for nonresidential buildings or property.
- D. The owner shall be responsible for property maintenance. However, if the owner of a property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a property is or becomes vacant at the time of or at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable state or local code, the **Housing and Zoning Officer enforcement authority** shall notify the creditor, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by state law or Borough ordinance. The **Housing and Zoning Officer enforcement authority** shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of 30 days (or 10 days if the violation presents an imminent threat to public health and safety) from the creditor's receipt of the notice for the creditor to remedy the violation. The issuance of a notice of violation pursuant to this section shall constitute proof that a property is "vacant and abandoned" for the purposes of N.J.S.A. 2A:50-73. If the creditor fails to remedy the violation within that time period, the Borough may impose the penalties allowed for the violation of municipal ordinances pursuant to Section 10 of this Ordinance against the creditor to the same extent as they could be imposed against the owner of the property.
- E. Adherence to this chapter does not relieve the owner or creditor of obligations set forth in any other statute, regulation, ordinance, or other source of authority or obligation.

§ 231-46. Inspections.

The **Borough Housing and Zoning Official enforcement authority** shall have the authority to inspect the properties subject to this chapter for compliance and to issue summonses for any violations.

§ 231-47. Borough's authority to abate and impose lien.

Nothing contained herein shall prevent the Borough from taking action to abate a nuisance or correct a violation where the owner or creditor, as applicable, has failed to abate the nuisance or correct the violation on a vacant property or a property in foreclosure after notice and the opportunity to abate or correct. In such situations, the Borough may impose a lien against the property for costs to correct the violation or abate the nuisance. Such lien shall hereafter form part

of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as such taxes to be collected and enforced by the same officers and in the same manner as such taxes.

§ 231-48. Governmental entities exempt.

No governmental entity shall be required to register under this chapter. However, nothing contained herein shall be construed as granting exemption to the governmental entity from property maintenance or other obligations imposed by any other statute, regulation, or ordinance.

§ 231-49. Severability.

If any provision or portion of a provision of this chapter is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

§ 231-50. Repealer.

- A. All ordinances or parts of ordinances which are inconsistent with any provisions of this chapter are hereby repealed as to the extent of such inconsistencies.
- B. If any section, subsection, sentence, clause, phrase, or a portion of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Article VI. Enforcement

§ 231-51. Notices and orders.

- A. Notice to person responsible. Whenever the Housing Officer determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this chapter to the person responsible for the violation as specified in this chapter. Notices for condemnation procedures shall also comply with this chapter.
- B. Forms. ~~Such notice prescribed in § 231-46A shall be in accordance with all of the following:~~ Shall be:
 - (1) Be in writing.
 - (2) Include a description of the real estate sufficient for identification.
 - (3) Include a statement of the violation or violations and why the notice is being issued.
 - (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this chapter.
 - (5) Inform the property owner of the right to appeal.

- (6) Include a statement of the right to file a lien in accordance with § 231-47C.
- C. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:
- (1) Delivered personally;
 - (2) Sent by certified or first-class mail addressed to the last known address; or
 - (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- ~~D. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in § 231-47D.~~
- D. Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Housing Officer and shall furnish to the Housing Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.
- E. Other enforcement procedure. Notwithstanding any provisions of this chapter, the Housing Officer is authorized to issue a summons and complaint in the Municipal Court for any violation of this chapter without first giving prior notice of such violation to the person or persons responsible for such violation(s).

§ 231-52. Violations.

- A. Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this chapter.
- ~~B.~~ Notice of violation. Whenever the Housing Officer determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred, then the enforcing agency may issue and cause to be served upon the owner of the building, structure or premises, or person or persons responsible therefor, a written notice requiring the owner or said persons to terminate or cause to be terminated the violations. The written notice shall state the nature of the violations and a reasonable specified time within which the violations shall be corrected. The written notice shall also require the owner or said persons to take or cause to be taken any affirmative action necessary to correct the violations. The written notice shall also advise the owner or persons responsible that they have a right to file an appeal as set forth under § 231-11 of the chapter. ~~However, the provisions in § 231-46F XXXX shall also be in effect.~~
- C. ~~Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with this chapter shall be deemed to be guilty of a disorderly persons offense, and the violation shall be deemed a strict liability offense.~~ If the notice of violation is not complied with, the Housing and Zoning Officer may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the

removal or termination of the unlawful occupancy of the structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- D. Violations and penalties. Any person who shall violate a provision of this chapter or fail to comply therewith or with any of the requirements thereof shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Any person found to be guilty of any violation of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty.
- E. Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the Housing Officer from instituting appropriate action to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or utilization of the building, structure or premises.
- F. Any tenant of a structure located within the Borough of Wharton who receives a notice of eviction pursuant to N.J.S.A. 2A:18-61.2 that results from zoning or code enforcement activity for an illegal occupancy, N.J.S.A. 2A:18-61.1, shall be considered a displaced person and shall be entitled to relocation assistance in an amount up to but not greater than six times the monthly rental paid by the displaced person. The owner-landlord of the structure shall be liable for the payment of relocation assistance pursuant to this section.
- G. The Borough may pay relocation assistance to any displaced person who has not received the required payment from the owner-landlord of the structure at the time of eviction pursuant to the above Subsection F from a revolving relocation assistance fund established pursuant to N.J.S.A. 20:4-4.1a. All relocation assistance costs incurred by the Borough pursuant to this section shall be repaid by the owner-landlord of the structure to the Borough in the same manner as relocation costs are billed and collected under N.J.S.A. 20:4-4.1 and 20:4-4.2. These repayments shall be deposited into the Borough's revolving relocation assistance fund.
- H. In addition to requiring reimbursement from the owner-landlord of the structure for relocation assistance paid to the displaced tenant, the Municipal Court shall impose an additional fine for zoning or housing code violations for an illegal occupancy, up to an amount equal to six times the monthly rental paid by the displaced person, to be paid to the Borough by the owner-landlord of the structure.
- I. In addition to the penalty set forth in ~~§ 231-47D46D~~, the Borough, after affording the owner-landlord an opportunity for a hearing on the matter, may impose upon the owner-landlord for a second or subsequent violation for an illegal occupancy a fine equal to the annual tuition cost of any resident of the illegally occupied unit attending a public school, which fine shall be recovered in a civil action by a summary proceedings in the name of the Borough pursuant to the penalty enforcement law, N.J.S.A. 2A:58-10 et seq. The tuition cost shall be determined in the manner prescribed for nonresident pupils pursuant to N.J.S.A. 18A:38-19, and the payment of the fine shall be remitted to the appropriate school district
- J. The Borough of Wharton hereby establishes a revolving relocation assistance fund into which shall be deposited the following sums, less any money required to be repaid to the State of New Jersey. Any relocation costs and interest thereon paid by an owner of real property who

has been held liable for a civil or criminal penalty in the case of any displacement of persons by housing or construction code enforcement pursuant to N.J.S.A. 20:4-4.1 and any sums realized by the Borough relating to any relocation cost and interest thereon upon enforcement or liquidation of any property acquired by virtue of enforcement and collected pursuant to N.J.S.A. 20:4-4.2. Moneys appropriated from the fund shall be used by the Borough to provide relocation assistance pursuant to N.J.S.A. 20:4-1 et seq.

First Reading: January 8, 2026

Second Reading: January 26, 2026

ATTEST:

BOROUGH OF WHARTON

Cheryl Muzzillo,
Borough Clerk

WILLIAM J. CHEGWIDDEN,
MAYOR