

O-18-25

**ORDINANCE OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY AUTHORIZING THE ACQUISITION BY PURCHASE OR EMINENT DOMAIN OF CERTAIN PROPERTY IDENTIFIED AS BLOCK 1606, LOT 3 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF WHARTON AND LOCATED AT KNOWN AS 52 SOUTH MAIN STREET**

**WHEREAS**, N.J.S.A. 40A:12-5 and N.J.S.A. 20:3-1 *et seq.* authorize public entities to acquire real property, or an interest in real property, by purchase, gift, devise, lease, exchange, condemnation, or installment purchase agreement; and

**WHEREAS**, the Borough Council of the Borough of Wharton (the “Borough”) has deemed it necessary to acquire certain property identified as Block 1606, Lot 3 on the official Tax Map of the Borough and located at 52 South Main Street (the “Property”) for purposes of providing public parking for its downtown district; and

**WHEREAS**, the Borough Council finds and declares that acquisition of the Property would be in the best interests of the Borough and its residents; and

**WHEREAS**, the Borough Council has further determined that the public interest will be served by the acquisition of the Property for public use; and

**WHEREAS**, the Borough Council will authorize the acquisition of the Property by purchase, condemnation, if necessary, or in any other manner authorized by N.J.S.A. 40A:12-1, in order to acquire title to the Property.

**NOW THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Wharton, in the County of Morris, and State of New Jersey, as follows:

**SECTION 1.** The above recitals are hereby incorporated as if set forth at length herein.

**SECTION 2.** The Mayor and Borough Council find that it is in the best interest of the Borough and its residents to acquire for public use, property identified as Block 1606, Lot 3 on the official Tax Map of the Borough of Wharton, and located at 52 South Main Street (the “Property”).

**SECTION 3.** The Mayor and Borough Council hereby authorize any and all necessary and appropriate actions by Borough officials including the Mayor, Borough Clerk, Borough Attorney and Special Counsel, for the taking and obtaining of the Property as set forth herein through negotiation, purchase, or condemnation/ eminent domain, including, but not limited to, the hiring of any experts, engaging the services of land surveyors, title insurance companies, appraisers, and any other

professional whose services are necessary or appropriate to implement the purposes of this Ordinance, the making of any offer by the Borough to the Property owner in the full amount of the appraised value of the property interest that the Borough seeks to acquire, and to negotiate in good faith with the record owner of the Property for its voluntary acquisition in accordance with N.J.S.A. 20:3-6, and in the event that the negotiations for the voluntary acquisition of the property interest are unsuccessful for any reason to commence a condemnation action by the filing of a Verified Complaint and Declaration of Taking, depositing the estimated just compensation with the Clerk of the Superior Court, filing a Notice of *Lis Pendens*, and taking any and all other actions of any administrative or other nature necessary to complete the process contemplated by this Ordinance.

**SECTION 4.** Any funding that may be required for this acquisition will be subject to the appropriation and availability of funds for same. The Mayor and Borough Clerk, and other Borough officials, consultants, agents, employees, and professionals as may be necessary and appropriate shall be, and are hereby authorized to and directed to execute any and all documents necessary for the acquisition of the Property; however, no settlement figure, purchase price or stipulation to purchase shall be binding on the Borough or its agents until the Borough Council approves such figure or price by resolution.

**SECTION 5.** In conjunction with said acquisition, the Borough reserves and shall reserve any rights it may have had or may recover in any subsequent or pending action or by any administrative means, all costs of remediation and/or clean-up of condemnation and/or removal of solid waste and/or sanitary land fill closures that have been incurred or may be incurred in the future by reason of conditions that were in existence as of or prior to the date of vesting of title and possession of the Property in the name of the Borough.

**SECTION 6.** In conjunction with said acquisition, the Borough reserves and shall reserve the right to seek in its sole discretion any and all available legal, administrative, and equitable remedies to compel the record owners and/or responsible parties to remediate and/or clean up the Property in accordance with applicable state and federal statutory and regulatory provisions or to remove solid waste or carry out closure of a sanitary landfill if located on the Property. The Borough is not and shall not be liable for the clean-up and removal costs of any discharge that occurred or began prior to the Borough's ownership of the Property.

**SECTION 7.** The Mayor, Borough Council and such other Borough officials, consultants, agents, employees, experts and professionals as may

be necessary and appropriate are hereby authorized and directed to take any and all actions necessary to effectuate the purposes of this Ordinance.

**SECTION 8.** All ordinances or parts thereof that are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**SECTION 9.** If any section, paragraph, subsection, clause, provision or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such adjudication shall apply only to the section, paragraph, subsection, clause, provision or phrase held to be unconstitutional or invalid, and the remainder of the Ordinance shall remain in full force and effect and shall be deemed valid and enforceable.

**SECTION 10.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

**First Reading: November 17, 2025**  
**Second Reading: December 8, 2025**

**BOROUGH OF WHARTON**

**ATTEST:**

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**WILLIAM J. CHEGWIDDEN,**  
**MAYOR**

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**Cheryl Muzzillo,**  
**Deputy Borough Clerk**