

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

DA 16-0809-32

No. _____

Date of Adoption _____

AUG 09 2016

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY _____

Legislative Research Officer

FREDERIC

PRESENTED BY COUNCIL MEMBER

INMAN

SECONDED BY _____

RESOLUTION APPROVING VIOLATION SETTLEMENT WITH THE NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

WHEREAS, the Department of Labor and Workforce Development, in accordance with the provisions of the Public Employees Occupational Safety and Health Act (OPEOSH) issued an order to comply with several violations in the Municipal Building on June 24, 2014; and

WHEREAS, based on OPEOSH re-inspection, the Township failed to abate violations in the original report within the time period given by the agency; and

WHEREAS, OPEOSH has issued a violation notice that the Township pay a fine of \$60,000.00 for failure to abate violations in original report; and

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON that it hereby agrees to pay the violation fine in the amount of \$60,000.00 to the Public Employees Occupational Safety and Health Act (OPEOSH) for failure to abate violations in OPEOSH's inspection report dated June 24, 2016 herein attached; and

BE IT FURTHER RESOLVED that the violation payment will paid from the Township Municipal budget, Judgment account number 6-01-37-480-000-298, for an amount not to exceed \$60,000.00.

RECORD OF COUNCIL VOTE

X = Indicates Vote

N.V. = No Vote

A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				INMAN	X			
COX	X				JONES, 2ND VICEPRESIDENT	X			
FREDERIC	X				LYONS, PRESIDENT	X			
DR. HUDLEY	X								

PRESIDENT OF COUNCIL

David Lyons

MUNICIPAL CLERK

Sheldene

DATE

AUG 09 2016

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK

Sheldene

DATE

8/9/16

ADMINISTRATOR ☒ ASSESSOR ☐ BLDG ☐ CFO ☒ COLLECTOR ☐ COURT ☒ ENGINEER ☐ FIRE ☒ HEALTH ☐ HOUSING ☐ INIC ☐ JUDGE ☐ LEGAL ☒ LIBR ☐ LICEN ☐ MAYOR ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☒ DIR ☐ PUBLIC WORKS ☐ PURCHASING ☐ SEC ☒ PB/ZBA ☐ TRAFFIC ☐ ZONING ☒ OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): _____

Certification Of Availability of Funds

This is to certify to the of the Township of Irvington that funds for the following resolutions are available.


Resolution Date: 07/15/16
Resolution Number: C6-00217

Vendor: NEWJER57 NJ DEPT. OF LABOR & WORKFORCE
NEW JERSEY STATE DATA CENTER
P.O. BOX 388
TRENTON, NJ 08625

Contract: C6-00217 FAILURE TO ABATE PENALTY

Account Number	Amount	Department Description
6-01-37-480-000-298	60,000.00	
Total	60,000.00	

Only amounts for the 2016 Budget Year have been certified. Amounts for future years are contingent upon sufficient funds being appropriated.



Chief Financial Officer

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health
1 John Fitch Way - 3rd Floor
P.O. Box 386
Trenton, NJ 08625
Phone: (800) 624-1644 Fax: (609) 292-3749

RECEIVED
2015 SEP 13 PM 11:50
IRVINGTON TOWNSHIP
ADMINISTRATION



Notice of Failure to Abate Alleged Violations

To:
Musa Malik, Business Administrator
Township of Irvington
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
UPA Number: 929608
Inspection Date (s): 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
CSHO: C4835
Reason: Penalty
(Failure to Abate)

Inspection Site:
Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

After the original inspection, an Order to Comply was issued to you in accordance with the provisions of the Public Employees Occupational Safety and Health Act (the Act), notifying you of certain violations of the Act and the dates by which they were to be abated. Based upon re-inspection, it is alleged that you have failed to abate the violation(s) listed below within the time prescribed, and the following penalties are proposed. The penalty is computed by multiplying a daily penalty times the number of days the violation(s) remained unabated. You are to notify the Office of Public Employees Occupational Safety and Health (OPEOSH) in writing of the date and nature of the corrective action taken. If you do not abate the violation(s), additional penalties may be proposed and other enforcement action to compel abatement may be taken.

You are further notified that you must pay the PENALTY unless you inform the OPEOSH in writing that you intend to contest this notification within 15 working days (excluding weekends and State holidays) from your receipt of this notification. If you do not contest within 15 working days after receipt, the notification and the penalties will become the final order of the Public Employees Occupational Safety and Health Review Commission and may not be reviewed by any court or agency. Issuance of this notification does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless the notification is affirmed by the Review Commission.

Notification of Corrective Action - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the New Jersey Department of Health, PEOSH Program. This certification must be sent by you within 10 calendar days of the abatement date on the citation. For **Willful** and **Repeat** violations, documents (example: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citation states that abatement documentation is required, documents such as those described above are required

to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. For each citation where you do contest the violation or the abatement date, your obligation to submit abatement certification and any documents is delayed until the contest and the 10-day period after the abatement date have expired. See N.J.A.C. 12:110 Subchapter 4 for more information.

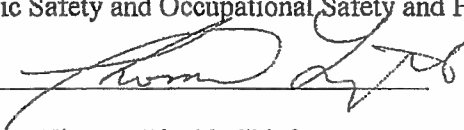
All abatement verification documents must contain the following information: 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to the OPEOSH, also be posted at the location where the violation appeared and the corrective action took place.

Employer Discrimination Unlawful - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint, no later than 180 days after the employee first had knowledge that such discrimination occurred, with the Office of Public Employees' Occupational Safety and Health at the address shown above.

Howard Black, Director
Division of Public Safety and Occupational Safety and Health

BY: _____



Thomas Lipski, Chief
Office of Public Employees Occupational Safety and Health

**New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health
(OPEOSH)**

NOTICE TO EMPLOYEES

An informal conference has been scheduled with OPEOSH to discuss the Notice of Unsafe or Unhealthy Working Conditions (Notice) issued on 09/11/2015. The conference will be held at the OPEOSH office located at: 1 John Fitch Way – 3rd Floor, P.O. Box 386, Trenton, NJ 08625 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Township of Irvington
Inspection Site: Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
Inspection Date: 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
UPA Number: 929608
CSHO: C4835
Reason: Penalty
(Failure To Abate)

A complaint inspection was conducted by the Public Employees Occupational Safety and Health (PEOSH) Program on June 24, 2014 at the Irvington Municipal Court located at 1 Civic Square, Irvington, New Jersey. An employee complaint alleged indoor air quality was compromised due to the presence of mold and water damage. As a result of the inspection, an Order to Comply containing three (3) violations of the Indoor Air Quality Standard along with two (2) violations of the Asbestos Standard and three (3) violations of the Recordkeeping Standard was issued on September 12, 2014.

Since the compliance date of September 30, 2014, had elapsed and the employer had not made a good faith effort to comply, a follow-up monitoring inspection was conducted by the PEOSH Program at the Irvington Municipal Court on March 11, 2015. While meeting with the business administrator, the PEOSH inspector provided another copy of the September 12, 2014, Order to Comply and explained each outstanding item and the documentation that would be required to consider each violation abated. No documentation was available for any of the violations at this time. The business administrator stated his staff will prepare a response to the PEOSH Program's Order to Comply and it would be sent within a week.

On March 31, 2015, PEOSH informed the business administrator via phone call that the violations had not been abated to date and that an Order to Comply imposing per diem monetary fines would be issued if no response is received.

On April 28, 2015, PEOSH informed the business administrator via email that the violations had not been abated to date and that an Order to Comply imposing per diem monetary fines would be issued if no response is received.

On May 18, 2015, PEOSH informed the business administrator via email that the violations had not been abated to date and that an Order to Comply imposing per diem monetary fines would be issued if no response is received.

On June 4, 2015, PEOSH received abatement documentation for Citation 1 Item 1s (Asbestos Survey) and Citation 1 Item 2s (Asbestos Debris).

On June 12, 2015, PEOSH informed the business administrator via email of the remaining violations that have not been abated to date and that an Order to Comply imposing per diem monetary fines would be issued if no response is received.

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health



Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Township of Irvington
Inspection Site: Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
Inspection Date: 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
UPA Number: 929608
CSHO: C4835
Reason: Penalty
(Failure To Abate)

A second follow-up monitoring inspection was conducted by the PEOSH Program at the Irvington Municipal Court on July 14, 2015. During the inspection, abatement documentation was obtained for Citation 2 Item 2o (Water Damaged Materials) and Citation 2 Item 3o (HVAC Records). However, documentation was not available for Citation 2 Item 1o (Written IAQ Program) even though the PEOSH inspector previously provided a generic model program that could be used to abate this violation. Additionally, documentation to abate Citation 2 Item 4o (2011 OSHA 300A Log), Citation 2 Item 5o (2012 OSHA 300A Log) and Citation 2 Item 6o (2013 OSHA 300A Log) was unavailable.

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health



Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Township of Irvington
Inspection Site: Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
Inspection Date: 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
UPA Number: 929608
CSHO: C4835
Reason: Penalty
(Failure To Abate)

Citation 2 Item 1

Violation: Other than Serious

N.J.A.C. 12:100-13.3(a)(8): The employer did not have a written plan describing how it will achieve compliance with the minimum elements required of N.J.A.C. 12:100-13.

LOC: Facility Wide

A written plan was not available for review at the time of the inspection.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

Immediately

Per Diem Penalty Accrued:

30 days x \$1,000.00 = \$30,000.00

The failure to abate violations below have been grouped because they involve similar record keeping offenses.

Citation 2 Item 4

Violation: Other than Serious

29 CFR 1904.29(a): A Log of all Work-Related Injuries and Illnesses (NJOSH Form 300), and/or the Summary of Work Related Injuries and Illnesses, (NJOSH Form 300-A), and/or the Injury and Illness Incident Report (NJOSH Form 301) or equivalent forms were not kept by the establishment.

LOC: Facility Wide

The PEOSH Form 300-A for calendar year 2013 was not provided when requested for the inspection by the PEOSH Inspector.

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health



Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Township of Irvington
Inspection Site: Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
Inspection Date: 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
UPA Number: 929608
CSHO: C4835
Reason: Penalty
(Failure To Abate)

Citation 2 Item 5

Violation: Other than Serious

29 CFR 1904.29(a): A Log of all Work-Related Injuries and Illnesses (NJOSH Form 300), and/or the Summary of Work Related Injuries and Illnesses, (NJOSH Form 300-A), and/or the Injury and Illness Incident Report (NJOSH Form 301) or equivalent forms were not kept by the establishment.

LOC: Facility Wide

The PEOSH Form 300-A for calendar year 2012 was not provided when requested for the inspection by the PEOSH Inspector.

Citation 2 Item 6

Violation: Other than Serious

29 CFR 1904.29(a): A Log of all Work-Related Injuries and Illnesses (NJOSH Form 300), and/or the Summary of Work Related Injuries and Illnesses, (NJOSH Form 300-A), and/or the Injury and Illness Incident Report (NJOSH Form 301) or equivalent forms were not kept by the establishment.

LOC: Facility Wide

The PEOSH Form 300-A for calendar year 2011 was not provided when requested for the inspection by the PEOSH Inspector.

ABATEMENT DOCUMENTATION REQUIRED

Date By Which Violation Must be Abated:

Immediately

Per Diem Penalty Accrued:

30 days x \$1,000.00 = \$30,000.00

New Jersey Department of Labor and Workforce Development
Office of Public Employees' Occupational Safety and Health



Notice of Unsafe or Unhealthful Working Conditions

Employer Name: Township of Irvington
Inspection Site: Irvington Municipal Court
1 Civic Square
Irvington NJ 07111

Inspection Number: 1015975
Inspection Date: 06/24/2014, 03/11/2015 &
07/14/2015
Issuance Date: 09/11/2015
UPA Number: 929608
CSHO: C4835
Reason: Penalty
(Failure To Abate)

Signed on 09/11/2015 pursuant to the authority vested by law
in the New Jersey Department of Labor and Workforce Development.

Howard Black, Director
Division of Public Safety and Occupational Safety and Health

BY: _____

Thomas Lipski, Chief

Office of Public Employees Occupational Safety and Health

DISCRIMINATORY ACTS AGAINST EMPLOYEES ARE UNLAWFUL – N.J.S.A. 34:6A-45 – No person shall discharge, or otherwise discipline, or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this section. Any employee who believes that he has been discharged, disciplined, or otherwise discriminated against by any person in violation of this section, may within 180 days after the employee first has knowledge such violation did occur, file a complaint with the Commissioner of Labor and Workforce Development alleging that discrimination.

c: Complainant
Howard Black, Director
Employee Representative(s)