

ORDINANCE NO. 1-2013

AMENDING THE BOROUGH OF CRESSONA
CODE OF ORDINANCES TO PROVIDE FOR
THE INSERTION OF QUALITY OF LIFE
MAINTENANCE PROVISIONS.

WHEREAS, the Borough of Cressona has experienced a steep increase in quality of life violations of properties which are located within the Borough; and

WHEREAS, in an effort to protect the health, safety and well-being of the residents of the Borough of Cressona, the Borough of Cressona desires to implement an ordinance which provides for the issuance of tickets, citations and other penalties to the owners and individuals occupying said properties to insure code compliance and the maintenance of said properties in a timely manner for quality of life violations; and

NOW, THEREFORE, it is ordained by the Borough as follows:

1. Quality of Life Maintenance Provisions.

A. PURPOSE OF ORDINANCE.

Lack of maintenance of properties, stray animals and

animal waste, littering, lack of or improper storage of trash and rubbish, possessing inoperative/non-registered vehicles, and accumulation of snow and ice are costly problems that contribute to the deterioration of property values and general disorder in a community. These problems degrade the physical appearance of a municipality which reduces business and tax revenue, inhibiting economic development. The quality of life and community pride of the citizens of a municipality are negatively impacted by the occurrences and existence of these activities. Recognizing these are community problems, the purpose of this part is to promote health, safety, and general welfare of the Borough of Cressona by helping to create a clean environment for the residents of the Borough of Cressona.

B. SCOPE.

The provisions of this Ordinance shall apply to both existing properties, as well as properties constructed or acquired in the future, whether said properties are residential or commercial.

C. DEFINITIONS.

The following words, terms and phrases, when used in

this Ordinance, shall be defined as follows, unless the context of said words, terms and phrases clearly indicate otherwise.

ADULT - Any individual who is eighteen (18) years of age or older.

BUILDING - Any structure having a roof supported by columns or walls and which is intended for the shelter, housing or enclosure of persons, animals or chattels, and including covered porches or bay windows and chimneys.

DEBRIS - Any material located upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked or piled in a manner so as not to create a nuisance of becoming either a harboring place or food supply location for rodents or insects.

DUMPING - The term includes, but is not limited to, depositing of litter, depositing of durable goods, (refrigerators, stoves, water heaters, toilets, sinks, washers, dryers, etc.), small appliances, furniture,

floor coverings, tires, vehicles or parts of vehicles and other such municipal waste, hazardous waste, residential waste, construction or demolition debris on public or private property, except as specifically authorized.

DWELLING UNIT - One or more rooms connected together constituting a separate independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

GARBAGE - The animal or vegetable waste which results from the handling, preparation, cooking, and consumption of food, as well as the disposal of food. This shall not include manufactured covered compost containers.

INDOOR FURNITURE - Pieces of furniture which are made for use only inside of a building or dwelling unit which includes, but is not limited to, upholstered

chairs, sofas and bedding which would be damaged if used outdoors.

JUNKED VEHICLES - Includes any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair. The following conditions, if present, are examples of a state or condition of disrepair:

- (1) Rusted and/or jagged metal on or protruding from the body of a vehicle. (With legal state registration and inspection sticker this provision shall not apply.)
- (2) Broken or missing glass or windows on or in the vehicle.
- (3) Leaking of any fluids from the vehicle or deflated, flat or missing tire(s).
- (4) Storage or placement of the vehicle in an unbalanced condition, on concrete blocks or other similar apparatus.

(5) Harboring of rodents, insects or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also "NUISANCE MOTOR VEHICLE".

LANDLORD - Any person who grants a lease, oral or written, or who otherwise permits the use of his real estate or a portion thereof for a consideration, monetary or otherwise.

LITTER - Term includes, but is not limited to, all waste material, trash (i.e. wastepaper, tobacco products, wrappers, food or beverage containers, newspapers, magazine, books, old clothing, rags, etc.), municipal waste, human waste, domestic animal waste, furniture, vehicle parts, shopping carts, construction or demolition material, dirt, mud, yard waste that has been abandoned or improperly discarded, deposited or disposed.

MOTOR VEHICLE - Includes any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported

upon public streets, highways, thoroughfares or waterways, and including trailers or semi-trailers pulled thereby.

NUISANCE MOTOR VEHICLE - A motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or any other glass with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers or grills with sharp edges.
- (3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (4) Protruding sharp objects from the chassis.
- (5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
- (6) One or more open tires or tubes which could permit animal harborage.

(7) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public property, owners, visitors, or residents of the property on which said vehicle is found.

(8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.

(9) Disassembled body or chassis parts stored in, on, or about the vehicle.

(10) Vehicles that do not display a current valid inspection and registration.

(11) Such other defects which the Borough's Fire Chief or Borough's Assistant Chief determines to be a danger to the general public or property.

(12) Motor vehicles parked or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

OCCUPANT - Any person who lives in or has possession

of, or holds an occupancy interest in a dwelling unit; or any person residing in or frequenting the premises of the dwelling unit with the actual or implied permission of the landlord or lessee.

PUBLIC OFFICER - Any authorized inspector or Mayor or designated Borough official, this shall not include a member of Borough Council, designated by Cressona Borough Council to enforce this Ordinance.

PUBLIC NUISANCE - Any condition or premises which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - The total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECYCLABLE MATERIAL - Includes material which would otherwise become municipal waste, which can be collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products. Such materials may include, but not be

limited to, aluminum cans, ferrous and bi-metal cans, glass containers, plastic bottles and containers, and paper.

TENANT - That person or persons who have the use of real estate of a landlord and is responsible for the giving of any type of consideration therefore, but excluding those who are occupants for a period of less than thirty (30) days.

WASTE - Any garbage, refuse, industrial, lunchroom, or office waste, and other material including solid, liquid, semisolid, or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments or from community activities and which is not classified as a residual waste or hazardous waste as defined herein. The term does not include source separated recyclable materials.

2. Enumerated Quality of Life Violations.

A. The accumulation of rubbish, garbage, junk or

litter.

(1) All exterior buildings, dwelling units and premises and the interior thereof, shall be kept free from any unreasonable accumulation of waste, trash, rubbish, debris or garbage.

(2) It is prohibited to store or place any appliances or furniture, including but not limited to, ranges, refrigerators, air conditioners, ovens, washers, dryers, microwave ovens, televisions, radios, computers or electronic components, dishwashers, mattresses, recliners, sofas, interior chairs or interior tables, on the exterior of any property for the purpose of sale, or for any other reason, except for removal on a temporary basis to maintain or repair the building or dwelling unit.

(3) Refrigerators, washers, dryers, dishwashers, ranges and similar equipment shall not be discarded, stored or abandoned on any premises without first removing the doors.

B. Storing of Hazardous Material. It shall be unlawful for any person, business, or entity to store combustible, flammable, explosive, or other hazardous materials, including but not limited to, paints, volatile oils and cleaning fluids or combustible rubbish, including but not limited to, wastepaper, boxes or rags, unless the storage of said materials is in compliance with the applicable fire and/or building codes, and at least ten (10') feet away from the public right-of-way.

C. Storing of Recyclables. Storage of recyclables is only permitted in containers which must be kept clean and sanitary at all times.

D. Storage Containers for Waste or Trash.

(1) All containers that store waste or trash shall be durable, water tight, and made of metal or plastic, and must be kept clean and odor free at all times.

(2) All containers must be stored so said containers are not visible from the public right-of-way.

(3) Waste/trash containers may only be placed in front of any property within twenty-four (24) hours of the day of the scheduled pick up and all containers must be returned to their storage area within twenty-four (24) hours following pick up.

E. Littering, Scattering Rubbish or Dumping.

(1) No person shall throw, dump, place, sweep, or dispose of any litter, waste, trash, garbage, tobacco product, or rubbish upon any public sidewalk, alley, street, bridge, public passageway, public parking area, or on any public property.

(2) The improper disposal of rubbish or garbage or dumping or disposing of rubbish or garbage on vacant, unoccupied, or other property is prohibited.

F. Motor Vehicles.

(1) It shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, junked, or nuisance motor vehicle on any premises not

designated for that use. (This restriction shall not apply to classic or antique cars, as the terms are defined by the Pennsylvania Motor Vehicle Code.)

(2) Painting of vehicles is prohibited unless conducted inside an approved spray booth.

G. Placement or Littering by Private Advertising Matter.

(1) No person shall throw, place, sweep, or dispose of litter or private advertising matter upon any public sidewalk, alleyway, street, bridge, public passageway, public parking area or any public property.

(2) No person, group, organization, or entity will hang, place, or advertise on any public property including both light and telephone poles in any matter. (This shall not apply to municipal or civic associations.)

(3) No person, group, organization, or entity will hang, place, or advertise on any property that

they do not have any ownership rights without written approval of said owner. (This shall not apply to municipal or civil associations.)

H. Animal Maintenance and Waste/Feces Clean Up.

People owning, harboring, keeping, or responsible for an animal within the Borough of Cressona:

(1) Shall not permit them to run at large or make unreasonable noise. For purposes of this section, unreasonable noise is hereby defined as continuous barking for at least ten (10) minutes, provided the animal is not being provoked.

(2) Shall not allow waste matter/feces from the animal to collect or remain on their property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition and shall clean it up on a daily basis.

(3) Shall clean up waste matter/feces from the animal deposited anywhere else in the Borough of Cressona immediately.

I. Insects or Vermin. Infestation of insects and/or vermin shall not be permitted. The owner, tenant or occupant of any building or dwelling unit shall report such infestation to the public officer.

J. High Weeds, Grass, Plant Growth or Standing Water. All properties in the Borough and the exterior of all buildings and dwelling units shall be maintained free from high grass and weeds, and water shall not be allowed to stand or accumulate in such a manner that would attract insects or vermin. No grass or weeds shall be permitted to reach a height of six (6") inches in height.

K. Snow and Ice Removal from Sidewalks.

(1) Every owner, tenant, occupant, or other person who is responsible for any property within the Borough of Cressona, is required to remove snow and/or ice from the sidewalks within the first twenty-four (24) hours after every fall of snow, sleet or the formation of ice upon the sidewalks. The sidewalks shall be cleared of snow, sleet and ice within a passage at least eighteen (18") inches in width.

(2) No person shall cast, throw, shovel or place snow, slush or ice onto the traveled portion of any street or alley within the Borough.

L. Swimming Pools. All swimming pools, regardless of size or type, shall be maintained in good order and repair. All swimming pools shall also be kept clean, safe, sanitary and covered when not in use.

M. Registration of All Tenants.

(1) It is unlawful for a landlord to allow adult tenants or occupant(s) to reside in the Borough of Cressona without registering them with the Borough Secretary.

(2) It shall be unlawful for an adult to reside in a leased dwelling unit without being registered with the Borough of Cressona.

3. Authority for the Issuance of Violation Tickets and Citations for Quality of Life Violations.

Upon the finding of a quality of life violation, any

public officer of the Borough of Cressona as hereinabove defined or appointed from time to time by the Borough Council of Cressona, may issue quality of life violation tickets and/or citations to the owner, tenant, occupant or individual of the property at issue, or to an individual known to have violated the provisions of this Ordinance.

4. Service of Tickets and Citations.

A. Violation tickets may be served by the Public Officer upon a violator by handing it to the violator or his/her agent by:

(1) handing it to an adult member of the household or other person in charge of the residence by leaving or affixing the notice of violation ticket to the property where the violation exists;

(2) by handing it at any office or usual place of business of the violator, or to the person for the time being in charge thereof; and

(3) or by mailing the violation ticket to the

violator's address of record.

B. Citation(s) shall be served as required by the Pennsylvania Rules of Civil Procedure.

C. Upon service, an affidavit of service by the Public Officer shall be submitted to the Borough Secretary evidencing the type, time and place of service.

5. Separate Offense.

Each day that a violation continues or is permitted to exist shall constitute a separate offense for which a separate violation ticket or citation, as the case may be, shall be issued.

6. Regulations.

The Borough Council of the Borough of Cressona, and/or the Mayor, is authorized to promulgate rules and regulations to implement or supplement the provisions of this Ordinance.

7. Abatement of Violations.

A. Any individual or business who violates this

Ordinance is hereby directed to satisfy the Mayor or Public Officer, upon issuance of a quality of life ticket/citation by immediately taking action to correct the violation in question. The named public officers are authorized and empowered to cause any violation to be corrected.

B. The Borough of Cressona reserves the absolute right to perform any necessary work to abate any violation once fifteen (15) consecutive days have elapsed from the date of the issuance of the quality of life ticket. However, in the event the violation at the discretion of the appropriate officer(s) presents an imminent danger to individuals or to the community and/or poses a health hazard and/or risk, the Borough reserves the right to perform the abatement of the violation immediately. The work will be performed by the Borough employees at the rate of Sixty (\$60.00) Dollars per person per hour and for the cost of any materials, supplies or goods necessary to abate the violation. The Borough reserves the right to charge an additional ten (10%) percent on any materials purchased to cover the Borough's administrative expenses and wear and tear on Borough equipment and vehicles.

C. The Borough also reserves the right to direct a contractor to perform an abatement of a violation once fifteen (15) consecutive days have elapsed from the date of the issuance

of a quality of life ticket/citation. In the event a violation at the discretion of the appropriate officers(s) presents an imminent danger and/or poses a health hazard and/or risk, the Borough of Cressona reserves the right to direct the contractor to perform the abatement of the violation immediately. The contractor shall submit an invoice for its work to the Borough of Cressona and the Borough of Cressona will forward these costs to the violator. The Borough of Cressona reserves the right to add a ten (10%) percent administration fee in addition to the cost of the contractor. In addition, the Borough shall be reimbursed for all non-Borough issued permits.

D. In the event of non-payment of any or all sums specified in this article 7, the Borough may cause a municipal lien to be filed against the violator which will include solicitor fees for his time and collection efforts. This remedy shall not be the exclusive remedy, but only one of the remedies available by law to the Borough of Cressona.

8. Fines and Penalties for Violation.

Any individual who violates this Ordinance shall pay a fine as set forth herein for each offense plus all direct and indirect costs incurred by the Borough of Cressona for the enforcement, clean up and/or abatement of the violation:

A. Violation Ticket Fines. For a first violation of this Ordinance, the fine shall be in the amount of Twenty-five (\$25.00) Dollars.

B. Violation Ticket Penalties. If the person in receipt of a violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person shall be subject to a Ten (\$10.00) Dollar penalty for days 16-30.

C. A hearing shall be held by Borough Council at the conclusion of its regularly scheduled meeting.

D. Failure to Respond. If an individual fails to either make payment or request a hearing within thirty (30) days of a violation ticket, said individual shall be subject to a citation for failure to pay.

E. Repeated Violations. Once four (4) tickets have been issued for the same violation, a citation shall be issued by the public officer for the fifth and subsequent offenses.

F. Continuous or Egregious Violations. If violations are continuous in nature or are egregious, a public officer has the right to issue a citation without first issuing a ticket provided notice has been given. Any previously issued violation

tickets shall be considered notice given.

G. Citation Fines. Any individual who shall fail, neglect or refuse to comply with any of the terms of this Ordinance, or of any regulation or requirement pursuant thereto and authorized hereby shall, upon conviction, be ordered to pay a fine of not less than Three Hundred (\$300.00) Dollars nor more than One Thousand (\$1,000.00) Dollars on each offense or imprisonment for no more than ninety (90) days, or both.

9. Appeal.

A. A person in receipt of a violation ticket may appeal to the Borough of Cressona's Office by filing their appeal request in writing on a form to be provided within fifteen (15) calendar days of date of the violation ticket, stating their reasons for appeal, and accompanied by the appropriate fine amount.

B. If abatement or other costs were associated with the violation, these shall be required to be posted with the Borough, c/o the Borough Secretary, along with the appeal form.

C. The violator may request an opportunity to meet in person with the Borough Council of the Borough of Cressona

concerning their appeal, and the request shall be granted by Borough Council, who may also deem it appropriate to consult with the public officer(s) involved in the matter or any other concerned parties.

D. Within thirty (30) days of the appeal date, the Borough of Cressona may decide to uphold the appeal, deny the appeal, or may modify the violation ticket and/or any associated costs, fines, or penalty amounts as it deems appropriate and will issue written notice of the decision along with any refunds applicable.

10. Non-Exclusive Remedies.

The penalty and collection provisions of this Ordinance shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Borough of Cressona as may be deemed appropriate for carrying out the purposes of this part. The remedies and procedures provided in this Ordinance for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Borough in the case of a violation of any other Borough Code or Codified Ordinances, whether or not such other code or ordinance is referenced in this Ordinance and whether or not an ongoing violation of such other code or ordinance is cited as the

underlying ground for a finding of a violation of this Ordinance.

11. Severability Clause.

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

12. Conflict of Ordinances; Effect of Partial Invalidity.

A. In any case where a provision of this Ordinance is found to be in conflict with any other provision in the Borough Code of Ordinances on the effective date of this Ordinance, the provisions which establish the higher standard for the promotion and protection of the health and safety of the community shall prevail.

B. In any case where a portion of this Ordinance is held by any court having jurisdiction to be invalid or unenforceable, the remainder of this Ordinance shall remain in force and effect.

13. Effective Date.

This Ordinance shall be effective five (5) days after enactment.

ENACTED the 15th day of APRIL, 2013, by
Borough Council in lawful session.

BOROUGH OF CRESSONA

By: Robert H. Bane
Council President

Attest: Sandra Brennan
Borough Secretary

This Ordinance is reviewed and approved this 15th day of
APRIL, 2013.

Gail Kravitz
Borough Mayor