

BOROUGH OF JESSUP
ORDINANCE NO. 9-2018

AN ORDINANCE ADOPTING A STANDARD OF QUALITY OF LIFE, REGULATIONS THEREOF AND THEREFORE AND VIOLATIONS AND PENALTY PROCESS IN AND FOR THE BOROUGH OF JESSUP

WHEREAS, the Borough of Jessup (hereinafter Borough) maintains control, supervision, administration, management and protection of various aspects of life, property use, property maintenance, property control, and the general use and enjoyment of properties located within said Borough; and,

WHEREAS, the affairs of the Borough are maintained, controlled, supervised, administered, and managed by the duly elected Jessup Borough Council (hereinafter Council); and

WHEREAS, in the aforesaid capacity, Council has enacted certain and various ordinances and regulations, including legislation promulgated to protect property owners, the residents and structures located within the Borough; and,

WHEREAS, various residents and property owners of properties located within the Borough have called upon Council to update, enhance, improve, strengthen and modernize the Borough's regulations pertaining to structures, properties and general property maintenance within the Borough; and,

WHEREAS, Council believes that it is in the best interest and welfare of its citizenry, residents, property owners, merchants and visitors to enact an ordinance protecting and preserving Quality of Life within the Borough of Jessup; and,

WHEREAS, it is appropriate and fitting for Council to enact an Ordinance consistent herewith.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and the same is enacted and ordained by the Borough Council of Jessup Borough, Lackawanna County, Pennsylvania, as follows:

Section 1 – Purpose

1.1 Lack of maintenance of properties, improper storage of trash and rubbish, storage of inoperable/non-registered vehicles, and accumulation of snow and ice are costly problems that contribute to the deterioration of property values and general disorder in the Borough. These problems degrade the physical appearance of the Borough, which reduces business and tax revenue thereby inhibiting economic development. The Quality of Life and community pride of

the citizens of the Borough are negatively impacted by the occurrences and existence of these activities and/or lack thereof.

1.2 Recognizing these are community problems, the purpose of this Ordinance is to promote the health, safety and general welfare of the Borough by helping to create a clean, enjoyable, safe, people-friendly environment for the residents and property owners of the Borough.

Section 2 – Definitions

The following words, terms and phrases used herein shall be defined as follows, unless context clearly indicates otherwise:

GARBAGE – The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HAZARDOUS WASTE – Any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating illness
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE (HHW) – Waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection (DEP), and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive or corrosive. HHW consists of numerous products that are common to the average household such as: pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE – Any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, mattresses, box springs, appliances, tables and similar household items.

JUNKED VEHICLES – Any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or conditions 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 the vehicle.

- (2) Broken glass or windows on or in the vehicle.
- (3) Leaking of any fluids from the vehicle or deflated or flat tire(s).
- (4) Unsecured and/or unlocked doors, hood, or trunk.
- (5) Storage or placement of the vehicle in an unbalanced condition, on concrete blocks, or other similar apparatus.
- (6) Harboring 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 the definition of "Motor vehicle nuisance."

LITTER – Includes, but is not limited to, all waste material, garbage, trash, i.e., waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

LOCAL RESPONSIBLE AGENT – Any person residing or working within the Borough designated to accept service on behalf of a legal owner or operator of a rental dwelling unit.

MOBILE VENDOR – A vendor or seller of food and/or goods from a vehicle or other conveyance upon the public streets or alleys of the Borough that does not typically remain stationary for more than approximately 10 minutes each hour.

MOTOR VEHICLE – 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 or highways, and including trailers or semitrailers pulled thereby.

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

- (1) Broken windshields, mirrors, or other glass with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (3) Any body parts truck, firewall or floorboard 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 the 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 license and registration .
- (11) Such other defects which the Jessup Borough Fire Department determines to be a danger to the general public or property.
- (12) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

MUNICIPAL 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 residual waste or hazardous waste as defined herein. The term does not include source separated recyclable materials or organic waste.

NOTICE OF VIOLATION – A written document issued to a person in violation of a Borough ordinance which specifies the violation and contains a directive to take corrective action within a specified time frame or face further legal action.

NUISANCE – Any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of the citizens of the Borough, or causes a blighting effect in Borough neighborhoods. See also the definition of “Public Nuisance.”

OWNER – A person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property including the principals of a limited liability company or officer, director, or shareholder of a corporation if that individual is responsible for the management and control of the property; including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON – Every natural person, firm, corporation, partnership, association, or institution.

PRIVATE PROPERTY – Any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER – Any authorized inspector, Code Enforcement Officer, Jessup Police Officer or public official designated by the Borough Council to enforce the Borough ordinances.

PUBLIC NUISANCE – Any conditions 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.

RESIDUAL WASTE – Any discarded material or other waste including solid, semisolid, or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations, excluding municipal water and sewer operations.

RUBBISH – Combustible and non combustible waste materials, except garbage; the term shall include residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SIDEWALK AREA – The public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE – Any waste including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous materials.

VEGETATION – Any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET – A form issued by a police officer or public officer to a person who violates a provision of this Part. The violation ticket is an offer by the Borough extended to a person to settle a violation by paying a fine in lieu of a citation being issued against the violator.

WEEDS – Shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria:

- (1) Exceed eight (8) inches in height.

- (2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush.
- (3) May conceal filthy deposits or serve as a breeding place for mosquitoes, other insects, or vermin.
- (4) May cause a public nuisance.
- (5) Includes unmaintained, overgrown shrubs.

Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

YARD – An open space on the same lot with a structure.

Section 3 – Quality of Life Violations

A person, owner, or responsible person as described herein commits a violation under the terms of this Ordinance by committing and/or failing to do any of the following. Each such requirement and/or the failure to perform the same shall constitute a Quality of Life Violation under the terms of this Ordinance:

3.1 Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure shall be free from excessive accumulation of waste, trash, rubbish, or garbage.

3.2 Animal Maintenance and Waste/Feces Clean-Up. People owning, harboring, or keeping an animal within the Borough shall not permit any waste matter/feces from the animal to collect and remain on the property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. No person shall cause or allow any animal to defecate upon any property within the Borough without immediately removing said feces and depositing it in approved containers.

3.3 High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight (8) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, vegetation and unmaintained, unreasonably overgrown shrubs. Cultivated flowers, gardens, trees, and shrubs shall not be included as a violation of this Ordinance.

3.4 Motor Vehicles. It shall be unlawful to store, park, or place any unregistered, uninspected inoperative, unlicensed, or nuisance motor vehicle in view of the public for a period of time in excess of seventy-two (72) continuous hours on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. The prohibition of painting set forth in this subsection excludes touch-up painting.

3.5 Outside Placement of Indoor Appliances/Furniture. It is prohibited to store or place any/all appliances or furniture including, but not limited to, ranges, refrigerators, air conditions, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except for the temporary purpose to perform maintenance on said property.

3.6 Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person (collectively, the responsible person) who is responsible for any property within the Borough shall do the following: snow and ice shall be removed from all sidewalks within the Borough on the same day of the cessation of any fall of snow, sleet, or freezing rain (storm event) or within the first four (4) hours of daylight after the cessation of any such storm event, whichever period is longer. Furthermore, the responsible person must create a path, free from any snow or ice, of thirty (30) inches on said sidewalk. Snow and ice shall be removed from the sidewalks in all business districts within two (2) business hours after the cessation of any storm event or by the beginning of business hours of the next business day following such storm event, whichever period is shorter.

3.7 Storage Containers for Waste or Trash. The owner of every premises shall supply approved containers for waste/trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable and water tight. Containers must have tight fitting covers, and must be kept claim and odor free at all times. All containers must be stored in a location on the owner's property not within the public-right-of-way. Municipal waste containers with lids in place and secured bundles shall for the purpose of collection, be placed at ground level along, but not within, the adjoining public street no sooner than twenty-four (24) hours prior to the day of scheduled collection. All emptied containers shall be removed no later than twenty-four (24) hours following the collection time.

Section 4 – Authority for Issuance of Violation Ticket

4.1 Upon finding a Quality of Life Violation or nay other violation under this Ordinance, any Police Officer and/or Public Officer authorized by the Borough, may issue Quality of Life Violation tickets to the owner and/or occupant of the property at issue or to the individual(s) known to have violated any part of this Ordinance.

Section 5 – Enforcement

5.1 The provisions of this part shall be enforced by the Code Official, Police Officers, or any other public official authorized to enforce ordinances.

5.2 Any violation of this provision of this Part may be cause for a citation, a violation ticket, and/or notice of violation to be issued to the violator.

Section 6 – Service

6.1 A violation ticket shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or violation ticket to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice to the violator's address of record.

Section 7 – Separate Offense

7.1 Each day a violation continues or is permitted to continue may constitute a separate offense for which a separate fine may be imposed.

Section 8 – Fines and Penalties

8.1 For the first of a violation of this part within a 12 month period, violation tickets shall be issued in the amount of \$25.00.

8.2. For the second offense of a violation of this part within a 12 month period, violation tickets shall be issued in the amount of \$50.00.

8.3. For the third offense of a violation of this part within a 12 month period, violation tickets shall be issued in the amount of \$100.00.

8.4. For each offense subsequent to three offenses of this part within a 12 month period, amounts of violation tickets shall increase in the amount of \$100.00, accumulative for each subsequent offense.

8.5 Any persons who receive a violation ticket for any violation of this part may, within fifteen days (15) days, admit the violation, waive a hearing, and pay the fine in full satisfaction.

8.6 Any person who violates this part shall pay a fine as set forth herein for each offense, plus all direct and indirect costs incurred by the Borough for the cleanup and abatement of the violation.

8.7 Failure of the person to make payment within fifteen (15) days of the date of a violation ticket shall result in the filing of a citation for failure to pay with the Magisterial District Judge.

8.8 If violations are continuous or egregious, any police officer, enforcement officer and/or Code Officials shall have the right to issue citations without first issuing tickets, provided notice has been given.

8.9 In addition to all of the remedies, the Borough is authorized to exercise and reserves all rights of enforcement and remedies for Municipal Claims and Municipal Liens as permitted by law.

8.10 In addition to assessment penalties and liens under Subsection 8.1 to 8.9 or otherwise in this Ordinance, any person who violates or permits a violation of this Ordinance, upon being found liable therefore in a civil enforcement proceeding before a district justice or magisterial district judge shall pay a fine and/or penalty of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) per violation, plus all court costs, including reasonable attorney's fees incurred by the Borough in the enforcement of this Ordinance. Each day the violation exists, shall constitute a separate offense. In any case where a penalty for a violation has not been timely paid, and the person against whom the penalty was imposed is found to have been liable therefore in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for attorney's fees incurred by the Borough in the enforcement proceedings. If the violator neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure.

8.11 In addition to or in lieu of a civil action before a magisterial district judge, or Court, the Borough may enforce this Ordinance in equity. The appropriate officers or agents, including Borough Council or Code Officer of the Borough are hereby authorized to seek equitable relief, including injunctions, to enforce compliance herewith.

8.12 The Borough shall be exempt from the payment of costs in any civil case brought to enforce this ordinance.

Section 9 – Violation Ticket Penalties

9.1 If the person in receipt of a \$25.00 violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person will be subject to a \$10.00 penalty for days 16 through 30.

9.2 If the person in receipt of a \$50.00 violation ticket does not pay the fine or request a hearing within fifteen (15) days, the person will be subject to a \$25.00 penalty for days 16 through 30.

9.3 If the person in receipt of a \$100.00 or higher violation ticket does not pay the fine or request a hearing within ten (10) days, the person will be subject to a \$50.00 penalty for days 16 through 30.

9.4 Failure of the person to make payment or request a hearing within thirty (30) days of a violation ticket shall make the person subject to a citation for failure to pay.

9.5 If violations are continuous or egregious, Code Officials have the right to issue citation without first issuing tickets, provide notice has been given. Upon issuance of four (4) tickets for the same violations, right is reserved for the Code Officials to issue citations for the fifth and subsequent offenses.

Section 10 – Citation Fines

10.1 Any person, firm, corporation who shall fail, neglect, or refuse to comply with any of the terms or provisions of this Part, or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction before the Magisterial District Judge, be ordered to pay a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) on each offense, the costs of prosecution including restitution of the fees of the Code Official or imprisoned no more than ninety (90) days, or both subject to Pa.R.Crim.P. 456(c) and 42 Pa.C.S. 9730(b). A separate offense under this Ordinance shall be deemed to occur for each day for which a violation occurs. Nothing herein is intended to impede or restrict the prosecution of any criminal offense for any person continuing to violate the terms of this ordinance or any order to stop or desist from any illegal conduct or from being charged with any separate offense under the criminal codes or otherwise.

Section 11 – Restitution

11.1 The Magisterial District Judge may order the violator to make restitution against a real or personal property owner where appropriate, to pay the Borough's costs of collection/citation proceedings/prosecution, reports, engineering or Code Official fees and to pay the Borough's costs, fees, and reasonable attorneys' fees associated with the prosecution of the same. The reasonable attorneys' fees shall be at the rate of not more than Two Hundred Dollars (\$200.00) per hour. Said sum may be amended by resolution of the Borough from time to time.

Section 12 – Collections

12.1 At the discretion of the Borough, all tickets for which payment is not received within forty-five (45) days of issuance of a ticket for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the Borough or abatement of a violation not paid within forty-five (45) days of billing, may be turned over by the Borough to a collection agency for collection of any obligations owed and due to the Borough.

Section 13 – Liens

At the discretion of the Borough, liens may be placed upon a property against which tickets were issued for which payment is not received within forty-five (45) days of issuance of a ticket for which an appeal is not taken, and forty-five (45) days from denial of appeal and monies paid by the Borough for abatement of a violation and not paid within forty-five (45) days of billing.

Section 14 – Nonexclusive Remedies

14.1 The penalty lien and collection provisions of this Section shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Borough as may be deemed appropriate for carrying out the purposes of this Part. The remedies of procedures

provided in this Part 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 Part, 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.

Section 15 – Severability

15.1 If any provision, paragraph, word, section or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, section or subsections shall not be affected and shall remain in full force and effect.

15.2 All relevant ordinances, regulations, and policies of the Borough not amended hereby shall remain in full force and effect.

15.3 Any ordinance or part of an ordinance conflicting with the provisions of this ordinance shall be and the same is hereby repealed and/or amended to the extent of such conflict subject to the provisions of this ordinance.

15.4 In the event that any provisions of the instant ordinance may duplicate any provisions of any other ordinances enacted by the Borough, including the Property Maintenance Ordinance provisions, the more stringent provisions and penalties of any duplicate or similar terms shall prevail.

Section 16 – Repeal Provisions

16.1 Any ordinance or parts thereof inconsistent herewith are hereby repealed and/or amended as the case may be.

Section 17 – Effective Date

17.1 This ordinance shall become effective five (5) days after the adoption thereof.

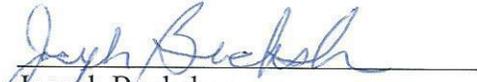
ENACTED AND ORDAINED on this 1 day of October, 2018 at a duly advertised public hearing of Jessup Borough Council.

Jessup Borough Council

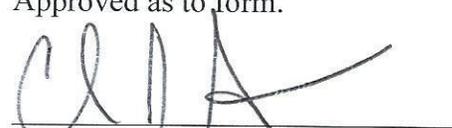
By: *Serald M. Crund*
President

Sharon Mauck
Attest: Secretary

Examined and Approved this 1 day of October, 2018


Joseph Buckshon
Mayor of Jessup

Approved as to form.


Christopher J. Szewczyk, Esq.
Borough Solicitor