

**BOROUGH OF CLARKS SUMMIT
COUNTY OF LACKAWANNA
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 2017-05**

**AN ORDINANCE ADOPTING THE QUALITY OF LIFE AND
VIOLATIONS TICKET PROCESS IN THE BOROUGH OF CLARKS SUMMIT**

WHEREAS, after discussion Borough Council determined it is necessary to adopt this Ordinance to ensure the health, safety and welfare of residents and visitors to the Borough,

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Borough Council of the Borough of the Borough of Clarks Summit, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

Section 1. Purpose.

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 a community. These problems degrade the physical appearance of the Borough, which reduces business and tax revenue inhibiting economic development. The quality of life and community pride of the citizens of Clarks Summit are negatively impacted by the occurrences and existence of these activities. 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 environment for the citizens of Clarks Summit.

Section 2. Definitions.

The following words, terms, and phrases, when used in this Part, 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, 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, etc.

JUNKED VEHICLE – 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 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 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 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 of Clarks Summit 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 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 license and registration.
- (11) Such other defects which the 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 or 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 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, Borough Manager, Code Enforcement Officer, Police Officer or public official designated by the Borough Council to enforce the Borough ordinances, and for purposes of this definition includes a police officer.

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 noncombustible waste materials, except garbage; the term shall include residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, 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 of Clarks Summit 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 ten (10) 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 breeding places 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 commits a quality of life violation by any of the following:

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.
2. **Animal Maintenance and Waste/Feces Clean-Up.** People owning, harboring, or keeping an animal within the Borough of Clarks Summit 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. ~~All waste from animals must be cleaned up on a daily basis.~~ No person shall cause or allow any animal to defecate upon any property within the Borough of Clarks Summit without immediately removing said feces and depositing in approved containers of said person.
3. **High Weeds, Grass or Plant Growth.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches (254mm). 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 Part.
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 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.
5. **Outside Placement of Indoor Appliances/Furniture.** It is prohibited to store or place any/all appliances or furniture including, but not limited to, non-operational ranges, non-operational refrigerators, air conditioners, non-operational ovens, washers, dryers, non-operational 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.
6. **Snow and Ice Removal from Sidewalks.** Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Borough of Clarks Summit, is required: Snow and ice shall be removed from all sidewalks within the Borough of Clarks Summit on the same day of the cessation of any fall of snow, sleet, or freezing rain or within the first 4 hours of daylight after the cessation of any such fall, whichever period is longer. Furthermore, they must create a path, free from any snow or ice, of thirty (30) inches on said sidewalk. Snow and ice shall be removed from sidewalks in all business districts within 2 business hours after the cessation of any fall of snow, sleet, or

freezing rain or by the beginning of business hours of the next business day following such fall, whichever period is shorter.

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 clean 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.

Upon finding a quality of life violation, any Public Officer authorized by the Borough of Clarks Summit, 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 this Part.

Section 5. Enforcement.

1. The provisions of this part shall be enforced by the Code Official, Borough Manager, Police Officers, or any other public officer authorized to enforce ordinances.
2. Any violation of the provisions of this Part may be cause for a citation, a violation ticket, and/or a notice of violation to be issued to the violator.

Section 6. Service.

- i. 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.

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.

A. For the first of a violation of this part within a 12-month period, violation tickets shall be issued in the amounts of \$25.00, as set forth on the chart below.

B. For the second offense of a violation of this Part within a 12-month period, violation tickets shall be issued in the amounts of \$50.00, as set forth on the chart below.

C. For the third offense of a violation of this Part within a 12-month period, violation tickets shall be issued in the amounts of \$100.00, as set forth on the chart below.

Violation	Description	Fine 1	Fine 2	Fine 3+
QOL-001	Accumulation of rubbish or garbage	\$25.00	\$50.00	\$100.00
QOL-002	Animal maintenance and waste/feces clean-up	\$25.00	\$50.00	\$100.00
QOL-003	High weeds, grass, or plant growth	\$25.00	\$50.00	\$100.00
QOL-004	Motor vehicles	\$25.00	\$50.00	\$100.00
QOL-005	Outside placement of indoor appliances/furniture	\$25.00	\$50.00	\$100.00
QOL-006	Snow and ice removal from sidewalks	\$25.00	\$50.00	\$100.00
QOL-007	No containers for waste or trash	\$25.00	\$50.00	\$100.00

D. 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.

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

F. 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.

G. 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.

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

I. 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 Tax Liens as permitted by law.

J. In addition to assessment penalties and liens, under subsection A to I 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 (\$300.00) dollars

nor more than one thousand (\$1000) 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.

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

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

Violation Ticket Penalties.

A. 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.

B. 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.

C. 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.

D. 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.

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

Section 11. Citation Fines.

Any person, firm, or 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 (\$100.00) dollars, and not more than one thousand (\$1,000.00) dollars 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 12. Restitution.

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 attorney's fees shall be at the rate of one hundred and twenty-five (\$125) dollars per hour. Said sum may be amended by Resolution of the Borough, from time to time.

Section 13. Collections.

At the discretion of the Borough of Clarks Summit, 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 of Clarks Summit for 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 receipt.

Section 14. Liens.

At the discretion of the Borough of Clarks Summit, 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 of Clarks Summit for abatement of a violation and not paid within forty-five (45) days of billing.

Section 15. Nonexclusive Remedies.

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 of Clarks Summit as may be deemed appropriate for carrying out the purposes of this Part. The remedies and 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 of Clarks Summit 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 Part.

Section 16. Severability.

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

Section 17. All relevant ordinances, regulations, and policies of the Borough of Clarks Summit, Pennsylvania not amended shall remain in full force and effect.

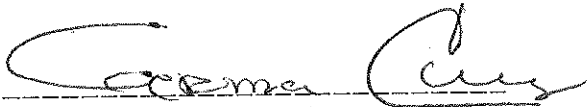
Section 18. If any section subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

Section 19. Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict subject to Section 15 hereof.

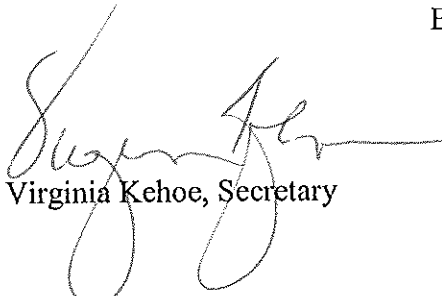
Section 20. This Ordinance shall be effective immediately upon passage and approved in the manner prescribed by law.

ORDAINED AND ENACTED into an Ordinance this 6th day of December, 2017.

Borough Council of the Borough of Clarks Summit

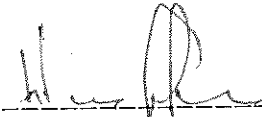
BY: 

Germaine Carey, President

ATTEST: 

Virginia Kehoe, Secretary

APPROVED by the Mayor this 6th day of December, 2017.

BY: 

Herman Johnson, Mayor