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PART 1

ELECTED OFFICERS

§1-101. Salary of Mayor.

1. The Mayor of the Borough of Cressona, in accordance with the provisions of Section 1001 of Article X(a) of the Borough Code, Act of February 1, 1996 (1965 P.L. 1656, No. 581, as amended), ordains that the compensation of the Mayor of the Borough of Cressona shall be \$156.25 per month for a total of \$1,875 per year.
2. The above salary rate is hereby made retroactive to July, 2004, since Borough Council's compensation increase was effective as of that date.
3. The Mayor shall not receive compensation for any month in which he or she fails to attend one regularly scheduled meeting or one special meeting of the Borough Council. Provided, however, that in the event that the Mayor is hospitalized during any given month on the date of any regularly scheduled meeting so as to be prevented from attending at least one regularly scheduled meeting and/or one special meeting of Council, and presents proof of said hospitalization, he or she shall receive his or her ordained compensation for said month.

(Ord. 1/4/1954, §1; as amended by Ord. 180, 12/4/1972, §§1 & 2; by Ord. 208, 4/3/1978, §§1 & 2; by Ord. 268, 1/3/1989, §2; and by Ord. 3-2005, 7/5/2005)

§1-102. Salary of Council.

1. The compensation of each of the councilmen of the Borough of Cressona, effective June 7, 2004, is hereby fixed at \$156.25 per month, payable monthly, and shall remain at said sum until modified by ordinance pursuant to Article X, §1001 of the Borough Code. (Ord. 5-2004)
2. The councilmen shall not receive compensation for any month in which he or she fails to attend one regularly scheduled meeting or one special meeting of the Borough Council during any given month; provided, however, that in the event that a councilman is hospitalized during any given month on the dates of regularly scheduled meeting and special meetings so as to be prevented from attending at least one regularly scheduled meeting and/or one special meeting of Council, and presents proof of said hospitalization, he or she shall receive his or her ordained compensation for said month.

(Ord. 5/10/1948, §2; as amended by Ord. 133, 5/8/1967, §1; by Ord. 181, 12/4/1972, §§1 & 2; by Ord. 207, 4/3/1978, §§1 & 2; by Ord. 267, 1/3/1989, §2; by Ord. 1-2002, 1/7/2002, §1; and by Ord. 5-2004, 6/7/2004)

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§1-103. Compensation of Tax Collector.

The compensation of the Borough Tax Collector for the collection of taxes shall be \$780 per year.

(Ord. 111, 3/8/1965, §1; as amended by Ord. 323, 7/6/1998)

PART 2

APPOINTED OFFICERS

§1-201. Office of Appointed Auditor Established.

The Borough of Cressona shall appoint an auditor who shall be a certified public accountant, a firm of certified public accountants, a competent independent public accountant, or a firm of independent public accountants.

(Ord. 108, 9/7/1964, §1)

§1-202. Annual Appointment of Auditor; Duties.

Such auditor shall be appointed annually by resolution before the commencement of the fiscal year, to audit the accounts and other evidences of financial transactions of the Borough and Borough officers for the fiscal year then closing, and shall submit such audit report to Council.

(Ord. 108, 9/7/1964, §2)

§1-203. Abolition of Office of Elected Auditor.

The office of elected Borough Auditor is abolished.

(Ord. 108, 9/7/1964, §3)

§1-204. Compensation of Appointed Auditor.

The compensation of the certified public accountant or the competent independent public accountant shall be fixed by Council at the instance of employment and paid out of the Borough funds.

(Ord. 108, 9/7/1964, §4)

§1-205. Offices of Secretary and Treasurer May be Held by Same Person.

The offices of Secretary and Treasurer of the Borough of Cressona may be held by the same person, and said offices are hereby declared not to be incompatible.

(Ord. 3/6/1961, §1)

PART 3

MUNICIPAL AUTHORITY

§1-301. Intention and Desire to Organize Cressona Borough Authority.

The Council of this Borough signifies its intention and desire to organize an Authority under the provisions of the Act of May 2, 1945, P.L. 382, known as the Municipality Authorities Act of 1945, as amended and supplemented (the Authorities Act), for the purpose of exercising any and all powers conferred by the Authorities Act.

(Ord. 7/2/1962, §1)

§1-302. Articles of Incorporation of Cressona Borough Authority.

The Mayor, President or Vice President of Council and Secretary or Assistant Secretary, respectively, of this Borough are authorized and directed to execute, in behalf of this Borough, Articles of Incorporation for such Authority in substantially the following form:

Articles of Incorporation

To the Secretary of the
Commonwealth of Pennsylvania:

In compliance with requirements of the Act of May 2, 1945, P.L. 382, known as the Municipality Authorities Act of 1945, as amended and supplemented, and pursuant to an ordinance enacted by the municipal authorities of the Borough of Cressona, Schuylkill County, Pennsylvania, expressing the intention and desire of the municipal authorities of said municipality to organize a municipality authority under said Act, the incorporating municipality does certify:

- A. The name of the Authority is Cressona Borough Authority.
- B. The Authority is formed under provisions of the Act of May 2, 1945, P.L. 382, known as the Municipality Authorities Act of 1945, as amended and supplemented.
- C. No other Authority has been organized under said Municipality Authorities Act of 1945, as amended and supplemented, or under the Act of June 28, 1935, P.L. 463, as amended and supplemented, and is in existence in or for the incorporating municipality.
- D. The name of the incorporating municipality is: Borough of Cressona, Schuylkill County, Pennsylvania.

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- E. The names and addresses of the municipal authorities of said incorporating municipality are: [Here followed the names and addresses of the Mayor and members of Council].
- F. The names, addresses and terms of office of the first members of the Board of the Authority, each of whom is a resident and citizen of said incorporating municipality, are as follows: [Here followed the names and addresses and terms of office of the first members of the Board of the Authority].
- G. The term of existence of Cressona Borough Authority shall end on July 15, 2042. [Res. 4-92]

(Ord. 7/2/1962, §2; as amended by Res. 4-92, 7/6/1992, §2)

§1-303. First Appointments to Board of Cressona Borough Authority.

The following named persons shall be and they are appointed as the first members of the Board of the Authority for the following terms of office:

[Here followed the names and addresses and terms of office of the first members of the Board of the Authority].

(Ord. 7/2/1962, §5)

§1-304. Necessity for Enactment.

The enactment of this Part is deemed necessary for the benefit of and preservation of the public health, peace, comfort and general welfare of, and will increase the prosperity of, the citizens of this Borough.

(Ord. 7/2/1962, §6)

PART 4

BOARDS AND COMMISSIONS

A. Planning Commission.

§1-401. Creation of Commission.

A Borough Planning Commission, to be composed of five members, appointed as provided by law 53 P.S. §10202, is hereby created in and for the Borough of Cressona. The Planning Commission shall perform all duties and may exercise all powers conferred by law upon Borough planning agencies; provided, the Planning Commission previously created in and for the said Borough of Cressona shall constitute the tenure of any of the members thereof, but any and all vacancies in the said Commission, hereafter occurring, shall be filled in the manner and for the term provided in the law governing Borough planning commissions in effect at the time of the happening of the said vacancy.

(Ord. 117, 12/6/1965; as revised by Ord. 323, 7/6/1998)

B. Recreation Board.

§1-421. Recreation Board Established.

A Recreation Board is hereby established in and for the Borough of Cressona in accordance with the provisions of Article XXVII, §§2709 et seq. of the Borough Code (1966 P.L. No. 581).

(Ord. 116, 12/6/1965, §1; as amended by Ord. 137, 5/8/1967, §1)

§1-422. Membership; Service Without Compensation.

The Board shall consist of seven members, who shall be adult residents of the Borough of Cressona, and two members of which may be members of the Board of the Blue Mountain School District. Members of the Board shall serve without pay.

(Ord. 116, 12/6/1965, §2; as amended by Ord. 137, 5/8/1967, §2)

§1-423. Tenure; Vacancies.

The members of the Board shall serve for a term of five years or until their successors are appointed, except that members of the Board first appointed shall be for such terms that the term of at least one member shall expire annually thereafter. Vacancies in the Board occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

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(Ord. 116, 12/6/1965, §3)

§1-424. First Appointments; Terms of Office.

The Council hereby appoints the following persons to the Recreation Board for the terms commencing January 1, 1966, as follows:

[Here followed the names and terms of office of the original members.]

(Ord. 116, 12/6/1965, §4)

§1-425. Meetings; Officers; Rules and Regulations.

The Board shall meet monthly and shall elect their own chairman and secretary to serve for one year term. The Board shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.

(Ord. 116, 12/6/1965, §5)

§1-426. Authority of the Board.

The Board shall have the authority to supervise, operate, equip and maintain places and may employ play leaders, recreation directors, supervisors, superintendents or any other officers or employees as the Board shall deem proper.

(Ord. 116, 12/6/1965, §6)

§1-427. Necessity for Enactment.

The enactment of this Part is deemed necessary for the benefit of and preservation of the public health, peace, comfort and general welfare of the Borough.

(Ord. 116, 12/6/1965, §7)

C. Cemetery Commission.

§1-431. Cemetery Commission Established; Rules and Regulations.

Be it enacted and ordained by the Borough of Cressona, that pursuant to the Borough Code 53 P.S. §47801 a Cemetery Commission of three citizens shall be appointed by the Borough Council to take care of, manage and operate the burial grounds formerly of the Cressona Cemetery Association, now owned by the said Borough of Cressona, and in or-

der so to do, the said Commission, when appointed, is authorized to adopt such rules and regulations as it deems necessary and proper.

(Ord. 321, 12/15/1997, §1; as amended by Ord. 323, 7/6/1998)

§1-432. Membership; Service Without Compensation.

The Cemetery Commissioners shall be appointed annually by the Borough Council for a term of three years at the organization meeting of Council, or as shortly thereafter as practical; provided, however, that only one Commissioner is to be appointed each year and in order to initiate a plan of annual election, the Borough Council is to designate the Commissioner to be appointed for one year, the Commissioner to be appointed for two years and the Commissioner to be appointed for three years, after which each Commissioner will be appointed annually for three years as his term of office expires. In the event of a vacancy by reason of death, resignation, removal from the Borough or any other cause, the Borough Council shall appoint a citizen of the Borough to fill the expired term. All Commissioners shall serve without pay or other compensation.

(Ord. 321, 12/15/1997, §2)

§1-433. Authority of Cemetery Commission.

Said Commission shall exercise all of the powers and privileges formerly of the Cressona Cemetery Association including, but not limited to, the right to create a fund for perpetual care of all burial lots and to appoint depositories and agents and to fix their compensation. The Commission shall also have the right to hire employees and to fix their compensation, which shall be fair and reasonable for the work/services provided by them.

(Ord. 321, 12/15/1997, §3)

§1-434. Offices of Cemetery Commission; Deeds to Lots; Perpetual Care; Bank Deposits.

The Cemetery Commission shall elect a President and Secretary/Treasurer from among its own members and shall provide which of said officers, together with the Borough Secretary, shall execute perpetual care certificates for the burial lots. All cemetery burial lots shall remain the property of the Borough, title not being passed to the deceased or their families. The fund created for perpetual care and all bank deposits shall be in the name of the Borough of Cressona and be under the control of the Borough Secretary/Treasurer and be countersigned by the Commission President or, in his absence, the Commission Treasurer. No accounts setup for cemetery purposes or for perpetual care purposes shall be used by the Borough for any other purpose. The use of the funds shall be strictly limited to the care and maintenance of the cemetery and direct costs associated with the operation of the cemetery.

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(Ord. 321, 12/15/1997, §4)

§1-435. Financial Report.

The Borough Secretary/Treasurer shall make a written report to the Cemetery Commission on a monthly basis as to the account status of all Borough managed funds.

(Ord. 321, 12/15/1997, §5)

§1-436. Management and Operation Report.

The Cemetery Commission shall make a written report to Borough Council at least one time annually as to its management and operation.

(Ord. 321, 12/15/1997, §6)

§1-437. Bond.

The Commission President and Commission Secretary/Treasurer shall be bonded in such amount(s) as the Borough deems appropriate.

(Ord. 321, 12/15/1997, §7)

PART 5

FIRE DEPARTMENT

A. Firemen's Relief Association.

§1-501. Recognition of Firemen's Relief Association.

1. The following association(s) is hereby recognized as actively engaged in providing fire protection and/or emergency services in the Borough of Cressona:

Cressona Firemen's Relief Association.

The above named association(s) have been formed for the benefit of its members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.

2. The above named association(s) of the Borough of Cressona is designated the proper association(s) to receive such funds as are due and payable to the Borough of Cressona Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(Res. 11/10/1930, as revised by Ord. 323, 7/6/1998)

§1-502. Certification to Auditor General.

The Borough Council shall annually certify to the Auditor General of the Commonwealth, the name(s) of the active associations and the percentage of service they contribute to the protection of the Borough of Cressona. Such certification shall be on forms prescribed by the Auditor General.

(Res. 11/10/1930, as revised by Ord. 323, 7/6/1998)

§1-503. Annual Appropriation.

There is annually appropriated from the Borough of Cressona Treasury all such sums of money that may hereafter be paid into the Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of the Act of December 18, 1984, No. 205, 701 et seq. as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Borough of Cressona Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

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(Res. 11/10/1930, as revised by Ord. 323, 7/6/1998)

B. Good Will Hose Company and Fire Company No. 1.

§1-511. Fire Companies Recognized.

The Good Will Hose company and Fire Company No. 1, organized and existing in the Borough of Cressona, Schuylkill County, Pennsylvania, are hereby designated as the officially recognized fire companies for the Borough.

(Ord. 300, 5/17/1993, §I)

§1-512. Authorized Activities of These Fire Companies.

1. The fire companies recognized by the Borough are hereby authorized to provide such services to the Borough as may be necessary for the protection of property and persons situate therein, which include, by way of example and not of limitation, the extinguishment and prevention of loss of life and property from fire, automobile accidents, medical emergencies, hazardous materials incidents and other dangerous situations.
2. The fire companies may also provide nonemergency and public services functions, such as, again by way of example and not of limitation, removing water from property after storms, and assisting in the removal, abatement and prevention of damage or injury to persons or property, whether through natural causes or manmade situations.
3. The fire companies may also conduct and participate in such training activities and drills, either within or outside of the Borough, as may be deemed necessary by the officers of the fire companies to maintain proficiency in providing service.
4. The fire companies may also respond to calls and provide services to municipalities outside of the Borough.

(Ord. 300, 5/17/1993, §II)

§1-513. Authorized Activities of Members of the Fire Companies.

1. In addition to actually participating in the activities of the fire companies as authorized above, or in going to or returning from any activity, the members for the fire companies recognized by the Borough are also authorized to do the following things:
 - A. Engage in any type of drill, training, ceremony, practice, test or parade why duly called for or authorized by an officer or officers of the fire companies.

- B. Engage in fund-raising activities for the fire companies, when authorized by an officer or officers of the fire companies.
- C. Engage in the performance of any other duty or activity authorized by any officer of the recognized fire companies.

(Ord. 300, 5/17/1993, §III)

§1-514. Purpose.

The purpose of this Part is to recognize the Good Will Hose Company and Fire Company No. 1 as the official fire companies of the Borough, and to state additional authorized activities for firefighters for workmen's compensation purposes.

(Ord. 300, 5/17/1993, §IV)

C. Fire Department.

§1-521. Creation of Department.

The two volunteer fire companies now in service in the Borough of Cressona, namely Goodwill Hose Company and Cressona Fire Company No. 1, shall together form the Fire Department of the Borough of Cressona, hereinafter designated as the Fire Department.

(Ord. 6-99, 9/7/1999, §1)

§1-522. Authority of the Borough Fire Chief and Assistant Fire Chief.

The Fire Department shall be under the supervision of an officer to be known as the Borough Fire Chief and in the absence of the Borough Fire Chief his duties shall be performed by the Assistant Fire Chief.

(Ord. 6-99, 9/7/1999, §2)

§1-523. Election of the Borough Fire Chief and the Assistant Fire Chief; Rotation System.

1. The Borough Fire Chief shall be elected every four years in the following manner: for the balance of the year 1999, and for the years 2000 through 2003, by the members of the Cressona Fire Company No. 1, and for the years 2004 and 2007 from Goodwill Hose Company; and thereafter in the same order every four years.

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2. The Assistant Fire Chief shall be elected every four years in the following manner: for the balance of the year 1999 and for the years 2000 through 2003, by the members of the Goodwill Hose Company and for the years 2004 and 2007 from Cressona Fire Company No. 1; and thereafter in the same order every four years.
3. The elections for the Borough Fire Chief and for the Assistant Fire Chief shall be conducted in accordance with the bylaws of each volunteer fire company.
4. In the event a volunteer fire company is unable to elect a Borough Fire Chief and/or an Assistant Fire Chief meeting the qualifications outlined in §516 of this Part, that company will forfeit its right to choose such Chief or Assistant Chief for a four year period. This process shall continue until the company is able to elect a Borough Fire Chief or Assistant Fire Chief meeting the qualifications outlined in §1-516 of this Part.

(Ord. 6-99, 9/7/1999, §3)

§1-524. Selection of Borough Fire Chief and Assistant Fire Chief.

1. The volunteer fire company which is entitled to select the Borough Fire Chief and the volunteer fire company entitled to select the Assistant Fire Chief shall have the sole right to make the election from the membership of said volunteer fire company.
2. The Borough Fire Chief and the Assistant Fire Chief chosen by the volunteer fire company shall be subject to the approval of the Cressona Borough Council.

(Ord. 6-99, 9/7/1999, §4)

§1-525. Rejection of Borough Fire Chief or Assistant Fire Chief; Replacement Procedure.

In the event Borough Council of Cressona rejects the person selected for the position of Borough Fire Chief or Assistant Fire Chief, then the same fire company shall elect another member for said position, and submit the name of said individual to the Borough Council for their approval.

(Ord. 6-99, 9/7/1999, §5)

§1-526. Qualifications for Borough Fire Chief and Assistant Fire Chief.

1. The qualifications that are required for an individual to be elected by volunteer fire companies to be the Borough Fire Chief are as follows:
 - A. Resident of Borough of Cressona.

- B. Five years service in the Cressona Fire Department.
 - C. Completion and certificate for basic firefighting training.
 - D. Completion and certificate for advanced firefighting training.
 - E. Completion and certificate of hazardous material training.
2. The qualifications that are required for an individual to be elected by volunteer fire companies to be Assistant Fire Chief are as follows:
 - A. Resident of Borough of Cressona.
 - B. Three years service in the Cressona Fire Departments.
 - C. Completion and certificate required above for the Borough Fire Chief.
 3. Both local level or State provided training is, sufficient to meet the above course requirements. Written certification of training courses must be furnished by the respective fire companies at the time an individual selected by election of the fire companies is submitted to Borough Council for its approval.

(Ord. 6-99, 9/7/1999, §6)

§1-527. Death, Resignation or Removal From Office; Replacement Procedures.

1. In the event of the death, resignation or removal of the Borough Fire Chief or Assistant Fire Chief the volunteer fire company who lost the officer in question through death, resignation or removal from office shall elect a new officer to fill the vacancy created for the balance of the four year period.
2. In the event that the aforesaid volunteer fire company is unable to elect an individual to fill the vacancy created because of the inability to find an individual meeting the qualifications set forth in §1-516 of this Part, the other volunteer fire company would do so pursuant to §1-513(4) of this Part.

(Ord. 6-99, 9/7/1999, §7)

§1-528. Oath Required Before Assuming Office.

Before assuming office as such, the Borough Fire Chief and/or Assistant Fire Chief shall take an oath to be administered by the Mayor to faithfully perform the duties of their respective offices.

(Ord. 6-99, 9/7/1999, §8)

§1-529. Authority of Borough Council to Remove Borough Fire Chief and Assistant Fire Chief.

Borough Council shall have the authority to remove the Borough Fire Chief and/or Assistant Fire Chief for neglect of duty or for any other cause touching upon or relating to the duties and powers of such officer and his relations to the Fire Department.

(Ord. 6-99, 9/7/1999, §9)

§1-530. Salary of Borough Fire Chief and Assistant Fire Chief.

The Borough Council shall establish the salary of the Borough Fire Chief and the Assistant Fire Chief.

(Ord. 6-99, 9/7/1999, §10)

§1-531. Duties of The Borough Fire Chief.

The Borough Fire Chief shall have the following duties and responsibilities:

- A. He or she shall have complete charge of the handling of all firefighters and equipment in the fighting of fires. He or she shall also have supervision over firefighters and firefighting equipment with the approval of the Mayor, during parades in and out of the Borough.
- B. He or she shall make careful inspection of all buildings and other property in the Borough and report all violations of all State laws and Borough ordinances relating to fire hazards.
- C. He or she shall furnish an annual itemized inventory before November 1 every four years to the Borough Council of all Borough owned and company owned firefighting equipment.
- D. He or she shall submit a monthly report to Borough Council of all fires and fire losses. The report shall include a list of all firefighting equipment destroyed, damaged, lost or stolen.
- E. He or she shall conduct periodic fire drills or tests in accordance with the rules and regulations established from time to time by the Borough Council or the Mayor or as required by State or local laws.
- F. The Borough Fire Chief shall not permit any Borough firefighting equipment to attend out of town parades, fires or other purposes or functions without his approval.

- G. He or she shall be responsible for providing Cressona Borough a list of any expenses that need to be recouped for the fire companies in regard to hazardous clean up or chemicals.
- H. The Borough Fire Chief shall assume all functions of the Borough Fire Marshall which position was abolished by Borough Council by resolution on June 7, 1999, and which existed by virtue of the ordinances of the Borough of Cressona or by custom.

(Ord. 6-99, 9/7/1999, §11)

§1-532. Duties of the Assistant Fire Chief.

The Assistant Fire Chief shall have the following duties and responsibilities:

- A. He or she shall assist the Borough Fire Chief as his subordinate when called upon by the Borough Fire Chief.
- B. In the absence of the Borough Fire Chief he shall assume the duties and responsibilities of the Borough Fire Chief until the Borough Fire Chief arrives at the scene.

(Ord. 6-99, 9/7/1999, §12)

§1-533. Additional Regulations Authorized.

1. The Cressona Borough Council, with the approval of the Mayor, by resolution or ordinance may from time to time make further rules and regulations and provisions relating to the Borough Fire Chief and Assistant Fire Chief, and the Borough fire department in general.
2. The Borough may by resolution decertify either fire company and prevent the said fire company from responding to fires and/or other emergencies, for cause.

(Ord. 6-99, 9/7/1999, §13)

PART 6

POLICE PENSIONS

§1-601. Amended Plan Adopted.

The Borough of Cressona hereby adopts the attached amendment¹ and restatement of the Cressona Borough Police Pension referred to as the “Cressona Borough Police Pension Plan” originally effective September 5, 1967, as amended and restated effective January 1, 2008.

(Ord. 4-2008, 12/1/2008, §1)

§1-602. Revisions.

The Borough hereby reserves the right from time to time to adopt modifications of, supplements to, or amendments of its ordinance, including this provision.

(Ord. 4-2008, 12/1/2008, §3)

§1-603. Effective Date.

This Part shall become effective five days after the date of adoption.

(Ord. 4-2008, 12/1/2008, §5)

§1-604. Amendments to Police Pension Plan.

1. Repeal of Service-Connected Death Benefit and Survivor Benefit.

A. Currently §4.2(a) of the Cressona Borough Police Pension Plan provides:

- (a) Service-Connected Death Benefit. If an active participant dies while performing police services for the employer, the participant’s surviving spouse (if any) shall receive a benefit equal to 50% of the average monthly compensation of the active participant on the date of death.

Payment shall be in the form of a pension (without actuarial adjustment with respect to the age of the beneficiary) and shall commence as of the first day of the month following the date of death. Payment to the

¹Editor’s Note. The amendment and restatement of the Cressona Borough Police Pension is on file at the Borough Office.

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surviving spouse shall cease upon the death or remarriage of the surviving spouse.

If there is no surviving spouse or if the surviving spouse dies or remarries (thereby ceasing to be the widow or widower of the participant), then the benefit shall be payable to any child (or children) of the participant who is under the age of eighteen. In the case of multiple eligible children, the benefit payable shall be divided equally among the children. Payment shall cease upon the earlier of death or the attainment of age 18. Child shall include adopted child of the participant.

The participant's spouse cannot waive receipt of this benefit. In the case of an unmarried participant who has no children under the age of 18, no death benefit shall be payable under this §4.2, but a death benefit may be payable under §4.1. The death benefit payable shall not be less than the benefit payable under §4.1. In the event that there is no spouse or child eligible to receive the death benefit payable under this §4.2, the death benefit provided under §4.1 shall be paid as described therein. The distribution shall comply with the Distribution Requirements of §7.2(d)(2).

If there is an acceptable domestic relations order in force with respect to the participant, the alternate payee shall receive a portion of the death benefit otherwise payable with respect to any actual surviving spouse or eligible child to the extent provided in the order, but only if the alternate payee has not died. However, no order shall be accepted if it provides that the alternate payee shall be the surviving spouse creating a right to a death benefit under this §4.2 as the death benefit payable hereunder is only payable with respect to a widow or widower or an eligible child.

The above section is repealed in its entirety and is replaced with the following provision:

4.2 Service-Connected Death Benefit and Survivor Benefit.

- (a) Service-Connected Death Benefit. Effective with respect to death occurring on or after October 9, 2009, the service-connected death benefit shall no longer be payable under or pursuant to the terms of this plan or by the employer.
- B. Authority to Execute Plan Amendment. The authorized agent of the Borough (employer) is hereby directed to execute the attached amendment² to the Plan.
- C. Effective Date. The amendment to the Cressona Borough Police Pension Plan is hereby made effective as of October 9, 2009.

²Editor's Note. The amendment to the Police Pension Plan is on file at the Borough Office.

- D. Remaining Plan Provisions. All of the other provisions of the Cressona Borough Police Pension Plan are hereby ratified and restated.

[Ord. 1-2010]

2. 2011 Heart Compliance Amendment.

- A. Authority to Execute Plan Amendment. Sandra Brennan, as agent of the employer, is authorized and directed by the Council of the Borough to execute the attached amendment of the plan.³
- B. Effective Date. The amendment to the Cressona Borough Police Pension Plan is hereby made effective as of November 12, 2011.
- C. Remaining Plan Provisions. All of the other provisions of the Cressona Borough Police Pension Plan are hereby ratified and restated.

[Ord. 2-2011]

(Ord. 1-2010, 1/4/2010, §§1-4; as amended by Ord. 2-2011, 11/7/2011)

³Editor's Note: See Exhibit 1-604.2, "2011 Heart Compliance Amendment to the Cressona Borough Police Pension Plan," following.

EXHIBIT 1-604.2
2011 HEART COMPLIANCE AMENDMENT
TO THE
CRESSONA BOROUGH POLICE PENSION PLAN

As authorized by Section 9.2 of the Cressona Borough Police Pension Plan ("Plan") as amended and restated effective January 1, 2008, the employer, Cressona Borough, hereby amends the Plan to comply with the law and regulatory changes effective as of or prior to the 2011 plan year and now required to be incorporated into the Plan. This amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment. The employer hereby amends the Plan in the following manner:

FIRST: USERRA Break In Service

Section 1.10 is amended to comply with the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART) with respect to deaths occurring on or after January 1, 2007. As amended, Section 1.10(e) shall contain a final paragraph that shall read as follows:

Effective with respect to deaths occurring on or after January 1, 2007, in the case of a participant who dies while performing qualified military service, the beneficiary(ies) of the participant shall be entitled to any benefits payable under Sections 4.1 and 4.2 (b) and (c) that would have been payable had the participant resumed and then terminated employment on account of death. Years of vesting service shall be credited under this provision for purposes of determining the amount of any death benefit payable.

SECOND: IRC Section 402(f) Notice Period

Effective for notices issued on or after January 1, 2007, Section 6.2(d)(2) is amended to comply with the Pension Protection Act of 2006 by reflecting that a participant's written notice of his eligible rollover distribution rights as required under IRC section 402(f) may be given as much as 180 days before the annuity starting date. As amended, the first paragraph of Section 6.2(d)(2) shall read as follows:

Effective for distributions made on or after January 1, 1993, for any distribution in excess of \$200 that may be paid in the form of a lump sum, the plan administrator shall give the participant written notice of his eligible rollover distribution rights as required under IRC section 402(f) no less than 30 days and no more than 180 days (90 days for notices issued before January 1, 2007) before the annuity starting date with respect to the distribution. Effective for distributions made on or after January 1, 1994, such distribution may commence less than 30 days after the notice is given, provided that:

* * *

THIRD: Definitions (IRC Section 415 Limitations) – Compensation

Effective for limitation years beginning on or after July 1, 2007, Section 7.1(e)(3) is amended to comply with the final regulations issued under IRC section 415 with respect to the treatment of severance compensation following a termination of employment. Effective for limitation years beginning on or after January 1, 2009, Section 7.1(e)(3) is amended to comply with IRC section 414(u)(12) as added by the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) regarding differential wage payments. As amended, Section 7.1(e)(3) shall contain the following additional paragraphs that shall read as follows:

In order to be taken into account for a limitation year, compensation must be paid or treated as paid prior to severance from employment with the employer. Effective for limitation years beginning on or after July 1, 2007, an includable payment shall be treated as paid prior to severance from employment if it is paid by the later of 2½ months after severance or the last day of the calendar year that includes the severance date. For this purpose, includable payments are those that absent the severance would have been paid and are regular compensation for services during regular working hours or outside working hours (such as

overtime or shift differentials), commissions, bonuses, or other similar compensation. Includable payments shall also include accrued sick, vacation, or other leave if such payments would have been included in compensation as defined in Section 1.3 if they were paid prior to the employee's severance from employment.

For limitation years beginning after December 31, 2008, compensation for a limitation year shall include amounts paid as differential wages to a participant on qualified military service leave of more than 30 days and otherwise meeting the requirements of IRC section 3401(h)(2).

FOURTH: Effective Date of Amendment

These amendments are effective as provided herein.

FIFTH: All other provisions of the Plan remain in full force and effect.

Executed this 7th day of NOVEMBER, 2011 by the duly authorized agent of Cressona Borough.

Sandra Brennan
Title: Agent

PART 7

NONUNIFORMED EMPLOYEE PENSION

§1-701. Change in Member Benefits Pursuant to the Pennsylvania Municipal Retirement Law.

Cressona Borough, being a member municipality of the Pennsylvania Municipal Retirement System, hereby elects to change its member benefits in that System as authorized by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended, and does hereby agree to be bound by all the requirements and provisions of said Law, and to assume all obligations, financial and otherwise, placed upon member municipalities. All references hereafter shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV of the Pennsylvania Municipal Retirement Law.

(Ord. 8-2004, 8/2/2004)

§1-702. Membership.

Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all permanent, municipal employees of the Borough. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis.

(Ord. 8-2004, 8/2/2004)

§1-703. Credit for Service.

Credited prior service for original members is granted for each year or partial year thereof that the member was employed by the Borough from the member's date of enrollment into the System. Benefits provided to members in the agreement dated August 2, 2004, shall accrue based on all credit service granted and earned in accordance with this section.

(Ord. 8-2004, 8/2/2004)

§1-704. Payments into Fund.

Payment for any obligation established by the adoption of this Part and the agreement between the System and Cressona Borough shall be made by the Borough in accordance with the Pennsylvania Municipal Retirement Law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act.

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(Ord. 8-2004, 8/2/2004)

§1-705. Agreement to Provide Benefits.

As part of this Part, the Borough agrees that the System shall provide the benefits set forth in the agreement between the Board and Cressona Borough, dated August 2, 2004. The passage and adoption of this Part by Cressona Borough is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. Cressona Borough hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-referenced agreement.

(Ord. 8-2004, 8/2/2004)

§1-706. Effective Date of Plan.

Cressona Borough intends this Part to be the complete authorization of the Borough plan and it shall become effective and specifically repeals Ordinance Number 261 either immediately or on January 1, 2005, which is the effective date of the amended agreement dated August 2, 2004, between the Pennsylvania Municipal Retirement System and Cressona Borough, whichever is later.

(Ord. 8-2004, 8/2/2004)

§1-707. Filing of Certified Copy.

A duly certified copy of this Part and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees of Cressona Borough in the Pennsylvania Municipal Retirement System shall be effective the first day of January, 1988, with the revised plan structure reflected in the agreement dated August 2, 2004, effective the first date of January, 2005.

(Ord. 8-2004, 8/2/2004)

PART 8

FIRE INSURANCE PROCEEDS ESCROW

§1-801. Appointment of Code Enforcement Officer.

The Code Enforcement Officer or such official's designee is hereby appointed as the designated officer who is authorized to carry out all responsibilities and duties stated herein.

(Ord. 4-2003, 7/7/2003, §I)

§1-802. Payment of Claim.

No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insure for fire damage to a structure located within the Borough of Cressona where the amount recoupage for the fire loss to the structure under all policies exceeds \$7,500, unless the Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992, as amended, and the provisions of this Part.

(Ord. 4-2003, 7/7/2003, §II)

§1-803. Procedures for Paying Fire Insurance Claim.

Where pursuant to Section 508(B)(1)(I) of Act 98 of 1992, as amended, the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property and no costs incurred by the municipality for the removal, repair or securing of a building or other structure on the real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss agreed upon by the named insured and the Insuring Agent equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- A. The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Borough in the aggregate of \$2,000 for each \$15,000 of a claim and for each fraction of that amount of a claim, this Section to be applied such that if the claim is \$15,000 or less, the amount transferred to the Borough shall be \$2,000.
- B. If at the time of a loss report agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other

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structure, the Insuring Agent shall transfer to the Borough from the insurance proceeds the amount specified in the estimate.

- C. The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.
- D. After the transfer, the named insured may submit a Contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Borough in excess of the estimate to the named insured, if the Borough has not commenced to remove, repair or secure the building or other structure.
- E. Upon receipt of proceeds under this Section, the Borough shall do the following:
 - (1) The Designated Officer shall place the proceeds in a separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Borough. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Borough in connection with such removal, repair or securing of the building or any proceedings related thereto.
 - (2) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Borough with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed.
 - (3) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Borough and the required proof of such completion received by the designated officer, and if the Borough has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Borough has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Borough shall transfer the remaining funds to he named insured.
 - (4) To the extent that interest is earned on proceeds held by the Borough pursuant to this Section, and not returned to the named insured, such interest shall belong the Borough. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

- F. Nothing in this Section shall be construed to limit the ability of the Borough to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.
- G. The written request for the certificate to the Borough Treasurer shall include: the tax description of the property, the name and address of the insurance company, association or exchange and the date agreed upon by the insurance company and insured as to the date of the receipt of a loss report.

(Ord. 4-2003, 7/7/2003, §III)

§1-804. Establishment of Fees.

The Borough Council of the Borough of Cressona may by resolution adopt procedures and regulations to implement Act 98 of 1992, as amended, and this Part and may by resolution fix reasonable fees to be charged for Borough activities or services provided pursuant to Act 98 of 1992, as amended, and this Part; including, but not limited to, issuance of certificates and bills, performance of inspections and opening separate fund accounts.

(Ord. 4-2003, 7/7/2003, §IV)

§1-805. Penalty.

Any owner of property, any named insured or any Insuring Agent who violates this Part shall be subject to a penalty of up to \$1,000 per violation.

(Ord. 4-2003, 7/7/2003, §V)

PART 9

PERSONNEL POLICY

A. Employment-Wage Policies.

§1-901. Introduction.

The Borough of Cressona hereby adopts this written resolution adopting a proposed benefit package and establishing certain employment-wage policies for the Borough's nonuniformed employees; which was approved by a vote of Council on February 17, 2003.

(Res. 2-2003, 3/3/2003, Art. I)

§1-902. Probation Period.

Any new employee will be placed on a 90 day calendar probation period, to determine their suitability as a Borough employee. During the said probation period the Borough employee shall not be entitled to any benefits provided to the Borough nonuniformed employees.

(Res. 2-2003, 3/3/2003, Art. II)

§1-903. Personal Days.

1. Each employee shall be entitled to seven personal days. The personal days are in lieu of any form of sick days or bereavement period, which the Borough utilized previously.
2. An employee shall be permitted to carry over and accumulate up to a total of 45 personal days.
3. An employee may use 1/2 days in utilizing personal days, but no shorter units of time.
4. An employee must notify the following individual(s) prior to the use of personal day(s), and as much advance notice as possible will be appreciated by the Borough, but no less than 24 hours notice (except in cases of an employee's sickness or death of a relative):
 - A. Chairman of Personnel, and if not available then;
 - B. President of Council, and if not available then;

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- C. Vice President of Council, and if not available then;
 - D. Any available member of Council.
5. An employee upon his or her retirement or leaving, the employee of the Borough shall have the option either to utilize his/her accumulated personal days, or to cash out and be paid for said accumulated personal days.

(Res. 2-2003, 3/3/2003, Art. III)

§1-904. Vacation.

1. Vacation time will be awarded to employees based upon the anniversary date of hire. The following schedule shall apply as to earned vacation days:
 - A. During the first year of the date of hire an employee shall receive a prorated vacation schedule for the remainder of the year using date of hire as commencement date for said year and shall receive one day for every 10 weeks of employment during that time period.
 - B. After completion of 1st year from anniversary date of hire-5 days.
 - C. After completion of 2nd year from anniversary date of hire-10 days.
 - D. After completion of 6th year from anniversary date of hire-12 days.
 - E. After completion of 10th year from anniversary date of hire-15 days.
 - F. After completion of 15th year from anniversary date of hire-17 days.
 - G. After completion of 20th year from anniversary date of hire-20 days.
2. An employee may use 1/2 days in utilizing vacation days, but no shorter unit of time.
3. Vacation periods must be scheduled with the Chairman of the Personnel Committee at least 15 days prior to the employees anticipating vacation. No unscheduled periods of vacation shall be granted.
4. An employee shall not be permitted to carry over any vacation time into the next year-calculated upon date of hire at the start point for beginning of said year. If vacation days are not used in said year they are earned, they will be bought back by the Borough at the end of the said year.
5. Upon termination of employment of an employee, vacation days taken during the said year but not earned will be deducted from the employee's final pay period.

(Res. 2-2003, 3/3/2003, Art. IV)

§1-905. Paid Holidays.

1. The Borough employees shall be entitled to the following observed, paid holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.
2. If any of the above paid holidays shall fall on a Saturday, Friday shall be observed as the holiday. If any of the above paid holidays shall fall on Sunday, Monday shall be observed as the holiday.

(Res. 2-2003, 3/3/2003, Art. V)

§1-906. Nonuniformed Employee Retirement.

1. As a benefit of employment the Borough maintains a nonuniformed employee retirement plan for its nonuniformed employees.
2. The employee's contribution to said employment plan shall equal 3%, the Borough shall contribute 3.55% of the employees' respective salaries to said plan.

(Res. 2-2003, 3/3/2003, Art. VI)

§1-907. Health Care Coverage.

1. Employees shall be provided health care coverage upon request to the Borough.
2. The Borough reserves the right to select, from time to time, the health care carrier, the type and scope of coverage, as well as to select the applicable deductible and co-pay.

(Res. 2-2003, 3/3/2003, Art. VII)

§1-908. Life Insurance Coverage.

The Borough in its sole discretion shall provide or not provide term life insurance coverage for the benefit of its employees in such coverage amounts, and upon such terms as it from time to time deems appropriate.

(Res. 2-2003, 3/3/2003, Art. VIII)

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§1-909. Rates of Pay; Hours of Employment; Employees.

1. For calendar year 2003, and until further modified by Council, the Borough Secretary and Treasurer shall receive an hourly rate of compensation of \$12.90 per hour.
 - A. The aforesaid employee shall also maintain a 40 hour work week Monday through Friday. Secretaries normal working hours shall be from 8:00 a.m. to 4:30 p.m., with lunch from 12:30 p.m. to 1:00 p.m. Employee will be paid overtime rate for attendance at Council meetings/workshops.
2. For calendar year 2003, and until further modified by Council, the Borough Street Supervisor shall receive an hourly rate of \$14 per hour.
 - A. The Street Supervisor shall maintain a 40 hour work week. The daily hours of employment, of necessity, will be adjusted seasonally from June 1, 2003 until September 1, 2003. The hours shall be 6:00 a.m. to 2:30 p.m. or at such other hours as Council directs. The Street Supervisor shall also be entitled to a 1/2 hour lunch period.
 - B. The Street Supervisor shall provide the office and personnel chairperson with a weekly summary of the next week's schedule of work.
3. For calendar year 2003, and until further modified by Council, the Borough Street Laborer(s) shall receive an hourly rate of compensation of \$10.42 per hour.
 - A. The hours of employment and lunch provisions shall be the same as the Street Supervisor.
4. Any of the above Borough employees who work for a period of time in excess of 40 hours per week shall receive compensation of 1 1/2 of their normal hourly wage rate. All overtime work must first receive approval by the appropriate member of Council (as specified in §903(4) herein).
5. One Borough employee (in addition to the Borough Secretary/Treasurer) shall attend one Council meeting per month and shall be paid one hour of time at established hourly rate.
6. All of the above-described Borough employees must utilize the Borough time clock to log or account for their hours. Hours not logged by means of the Borough time clock will not be credited to the employee. Each employee must log in and out their own time card. Logging for another employee shall be grounds for immediate dismissal of the employee(s) involved.

(Res. 2-2003, 3/3/2003, Art. IX)

B. Policy and Procedures Manual.

§1-921. Statement of Purpose.

1. The Cressona Borough Council is the legally constituted authority for all administrative, fiscal and personnel policies of the Borough.
2. This personnel policy is established to provide for the fair and consistent treatment of all Borough nonuniformed employees in order to encourage a responsive, competent and efficient work force.
3. The rules and procedures included in this policy are intended to provide employees with the information on which they can rely in dealing with matters affecting their work related conduct, responsibilities, rights and benefits. The policy does not constitute a contract with any employee or group of employees, and if items in this policy are found to be in conflict with any law, the law will prevail. The Borough Council may authorize exceptions, additions or changes to this policy whenever necessary to meet the intent of fair treatment of employees and reasonable and efficient service to residents of the Borough.
4. The Borough Council will be responsible for the administration of this policy, for assuring that all nonuniformed employees are aware of this policy and for implementing changes as necessary to maintain efficiency and comply with applicable laws. The Borough Council shall hear and resolve all grievances, investigate offenses and take disciplinary action, meet with employees on offenses and take disciplinary action; meet with employees or their representatives to discuss terms and conditions of employment and to select and hire employees, subject to specific limitations as the Borough Council may impose.
5. The Borough Council shall have the final responsibility for resolving any ambiguities or disputes arising out of any interpretation of the policies and procedures enumerated hereafter.

(Res. 1-98, 8/17/1998, §I)

§1-922. Nondiscrimination.

In the administration of this policy, the Borough does not discriminate against any person in recruiting, selection for employment, training, promotion, retention, discipline, benefits, conditions of work or any other aspect of personnel administration because of political or religious opinions or affiliations, or because of race, age, sex or national origin. In addition, the Borough does not discriminate because of physical disability unless physical abilities constitute genuine job requirements. The Borough will attempt to make reasonable accommodations to enable otherwise qualified employees and applicants with disabilities to be employed. All other qualifications being equal, employment preference shall always be given to residents of the Borough of Cressona.

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(Res. 1-98, 8/17/1998, §II)

§1-923. Sexual Harassment.

1. Statement of Policy.
 - A. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, sex, age or national origin. The Equal Employment Opportunity Commission (EEOC) issued guidelines affirming its position that sex-related harassment in the workplace is sex discrimination and, as such, is prohibited by Title VII of the 1964 Civil Rights Act.
 - B. Sexual harassment, according to the EEOC, consists of unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual or sex based nature:
 - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
 - (2) An employment decision is based on an individual's acceptance or rejection of such conduct.
 - (3) Such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.
 - C. It is also unlawful to retaliate or take reprisal in any way against anyone who has articulated any concern about sexual harassment or discrimination, whether that concern relates to harassment of or discrimination against the individual raising the concern or against another individual. Examples of conduct that would be considered sexual harassment or related retaliation are set forth in subsection (2), below. These examples are provided to illustrate the kind of conduct prescribed by this policy; the list is not exhaustive.
 - D. For the purpose of this policy, "employees" shall mean any nonuniformed employees, elected and appointed officials and volunteers of Cressona Borough.
 - E. Sexual harassment is unlawful, and such prohibited conduct exposes not only Cressona Borough as an employer, but also individuals involved in such conduct, to significant liability under the law. Employees shall at all times treat other employees respectfully and with dignity in a manner so as not to offend the sensibilities of a coworker. Accordingly, Cressona Borough is committed to vigorously enforcing its sexual harassment policy at all levels within all Borough departments.

2. Statement of Prohibited Conduct. Cressona Borough considers the following conduct to represent some of the types of acts which violate the sexual harassment policy:
 - A. Physical assaults of a sexual nature, such as:
 - (1) Rape, sexual battery, molestation or attempts to commit these assaults.
 - (2) Intentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.
 - B. Unwanted sexual advances, propositions or other sexual comments such as:
 - (1) A pattern of sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his or her presence is unwelcome.
 - (2) Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
 - (3) Subjecting or threats of subjecting an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.
 - C. Sexual or discriminatory displays or publications in the workplace, such as:
 - (1) Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials or other materials that are sexually suggestive, sexually demeaning or pornographic.
 - (2) Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace other than restrooms and similar semiprivate lockers/changing rooms.
 - D. Retaliation for sexual harassment complaints, such as:
 - (1) Disciplining, changing work assignments of, providing inaccurate work information to or refusing to cooperate or discuss work related matters with any employee because that employee has complained about or resisted harassment, discrimination or retaliation.

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- (2) Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover up conduct such as described in subsection (D)(1), above.
 - E. Other Acts.
 - (1) The foregoing is not to be construed as an all inclusive list of prohibited acts under this policy.
 - (2) Sexual harassment is unlawful and hurts other employees. Any of the prohibited conduct described here is sexual harassment of any one at whom it is directed or who is otherwise subjected to it. Each incident of harassment, moreover, contributes to a general atmosphere in which all persons who share the victim's sex suffer the consequences. Sexually oriented acts or sex based conduct have no legitimate business purpose; accordingly, the employee who engages in such conduct should be and will be made to bear the full responsibility for such unlawful conduct.
3. Penalties for Misconduct.
 - A. Any employee's commission of acts of sexual harassment or retaliation against a sexual harassment complaint will result in appropriate sanctions, up to and including dismissal, against the offending employee, depending upon the nature and severity of the misconduct.
 - B. A written record of each action taken pursuant to this policy will be placed in the offending employee's personnel file. The record will reflect the conduct, or alleged conduct, and the warning given or other discipline imposed.
4. Procedure for Reporting, Investigating and Resolving Sexual Harassment and Retaliation Complaints.
 - A. Reporting Complaints.
 - (1) An employee who perceives the comments, gestures or actions of another employee to be sexually harassing should communicate to that person that such behavior is unwelcome, offensive and highly inappropriate. Failure to express unwelcomeness, however, does not prevent the employee from filing a complaint nor does it in any way exonerate the harasser.
 - (2) All complaints will be in writing using the form provided by the Borough. All information pertinent to the charges will be included. Complaints of acts of sexual harassment and retaliation that are in violation of the sexual harassment policy will be taken seriously and investigated. A complaint need not be limited to someone who was the target of harassment or retaliation. Anyone who has observed sexual

harassment or retaliation should report it to their immediate supervisor. In the event that it would be inappropriate to report such concerns to one's immediate supervisor or with the Chairman of the Personnel Committee if the employee's immediate supervisor is involved in alleged sexual harassment. In the event that a female employee would prefer to report a concern about sexual harassment or discrimination to another female, the report may be made to a female member of the Borough Council, if one exists.

- (3) In the event there are no female members on the Borough Council, another female employee of the Borough may be designated as the proper person to receive such communications.
- (4) Only those who have an immediate need to know, including the person to whom a report was made, the alleged target of harassment or retaliation, the alleged harasser or retaliator and any witnesses will or may find out the identity of the complainant. All parties contacted in the course of an investigation will be advised that all parties involved charge are entitled to respect and that any retaliation or harassment or retaliation, who has provided evidence in connection with a complaint, is a separate actionable offense and subject to discipline under this policy.

B. Cooperation. An effective sexual harassment policy requires the support and example of personnel in positions of authority. Cressona Borough agents of employees who engage in sexual harassment or retaliation or who fail to cooperate with Borough sponsored investigations of sexual harassment or retaliation may be severely sanctioned by suspension or dismissal. By the same token, officials who refuse to implement remedial measures, obstruct the remedial efforts of other Borough employees and/or retaliate against sexual harassment complaints or witnesses may be immediately censured.

C. Process.

- (1) A special committee appointed by the Borough Council will take testimony of the accuser and any witnesses offered in support of the charge; the accuser and the accused will be provided an opportunity to review and respond to the charges for accuracy and/or clarification. The investigation will then proceed to validate or dismiss the allegations. In either case, both accuser and accused will have the right of appeal, if requested, in writing, within 10 days of the determination, and forwarded to the special committee.
- (2) Upon completion of their hearing and factual review, they may recall witnesses or take other steps as they determine.

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- (3) The special committee will communicate its determination, in writing, to the parties with a copy to the Borough Council. The Council will then consider the issue closed.
 - (4) All complaints, investigations, hearing, appeals, etc., associated with sexual harassment charges will be forwarded to the Borough solicitor for review and recommendations on an ongoing basis.
5. False Allegations. Any Borough employee who makes an allegation of sexual harassment, knowing the allegation to be false, shall be subject to appropriate sanctions up to and including dismissal.

(Res. 1-98, 8/17/1998, §III)

§1-924. Conditions of Employment.

All employees, upon appointment to positions with the Borough, will be required to abide by these conditions:

- A. Political Activity. Employees will not participate in any political activity during the hours when they are on duty at their Borough positions. Employees will not use the authority of their positions to influence any other person's political actions. Nothing herein contained shall affect the right of employees to hold membership in and support a political party, to vote as they choose, to express publicly or privately their opinions on all political subjects and candidates, to maintain political neutrality and to actively participate in political meetings as private citizens after work hours and off Borough premises.
- B. Outside Employment. Employees shall not engage in outside employment which might in any way hinder the impartial performance of their public duties, embarrass the Borough Council, impair their efficiency or present a potential conflict of interest. Outside work shall not be performed during hours when an employee is on duty at his position.
- C. Acceptance of Gifts. Employees shall not accept gifts which may be given under circumstances indicating the hope or expectation of receiving a favor or better treatment than that accorded the public generally. Employees shall not solicit favors or gifts from anyone who has business with the Borough.
- D. Financial Interest. No employees shall have economic interest in any business supplying goods or services to the Borough in excess of \$500 per year, unless such goods or services have been produced by the Borough through public competitive bid process.

- E. On the Job Conduct. Employees are expected to work diligently while on duty, to show respect and concern for the public, to abide by established work rules and not to take any action which would subject the Borough Council to ridicule or embarrassment. Employees are expected to perform all duties assigned by their designated supervisors except where there is reasonable cause to believe that such assignments are in violation of the law or that assignments would place the employee or the others in avoidable physical danger.
- F. Work Rules. Department heads may establish work rules, operating procedures and standards of conduct as are necessary for the proper operations of their department.
- G. Serious Misbehavior. It should be obvious to any Borough employee that as a public employee he/she must adhere to the highest principles of honesty and ethics. Clearly, any violation of standards to be expected of a public employee must be viewed with great alarm and appropriate corrective action will be taken. The following actions are considered so serious by the Borough that, if the action is proved, the offending employee may be discharged even if no prior reprimand or other disciplinary actions for similar offenses have occurred. Evidence that the employee was shown this list shall be considered sufficient warning:
 - (1) Dishonesty.
 - (2) Theft.
 - (3) Consumption of alcoholic beverages while on duty or reporting for work under the influence of alcohol.
 - (4) The use or possession of any controlled drug or narcotic which has not been prescribed by a physician for a medical condition.
 - (5) Failure to submit to a blood and/or urine test when there is reason to suspect that an employee may be under the influence of drugs or alcohol at work.
 - (6) Recklessness resulting in an accident.
 - (7) Willful abuse of Borough equipment.
 - (8) Unprovoked assault on another person.
 - (9) Use of unprovoked profanity toward any Borough resident.
 - (10) Gross negligence in the performance of assigned work.

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- (11) Failure to promptly and/or accurately account for any funds collected for or advanced by the Borough.
 - (12) Abusing the authority delegated to an employee, especially by nonobjective treatment of residents.
- H. License. If operating a motor vehicle is part of an employee's job, the maintenance of a valid Pennsylvania operator's license for the class of vehicle operated shall be a necessary condition of employment. Operating any vehicle without the required license shall be considered gross negligence and subject to immediate dismissal.

(Res. 1-98, 8/17/1998, §IV)

§1-925. Safety.

The Borough requires all employees to consider safety as the highest priority in any task they perform. Specific safety rules shall be established for each department. As a minimum, all employees are required to follow the following rules regardless of the job:

- A. Use the safety equipment provided in performing assigned work. Follow manufacturers instructions in operating any equipment or machinery.
- B. Wear the prescribed clothing or uniform for the job to be performed. While not to be construed as a dress code, loose clothing, cut-off jeans, loose scarves, etc., shall not be permitted when working around machinery. Because of employees visibility to the public, inappropriate clothing shall not be worn; long pants/jeans and shirts/tee-shirts are considered appropriate.
- C. Do not operate equipment on which the employee does not feel confident in operating.
- D. Warn coworkers or anyone who might be in danger of any unsafe conditions or practices you observe.
- E. Report defective equipment to your supervisor without delay.
- F. Report unsafe conditions that the employee observes anywhere in the Borough, regardless of whether the condition is the employee's responsibility.
- G. Report all injuries and accidents regardless of severity.

(Res. 1-98, 8/17/1998, §V)

§1-926. Smoking.

1. Smoking is prohibited for both employees and the general public in the following areas:
 - A. Borough buildings.
 - B. Any Borough vehicle or equipment when shared with another employee, except with the consent of the other employee.
 - C. Any area where smoking is prohibited for safety reasons.
2. Employees who observe anyone failing to comply with the smoking policy should inform them of the policy politely. If anyone persists in failing to comply with the policy, the Borough Council should be notified.
3. Employees who refuse to comply with the smoking may face disciplinary action as described elsewhere in the personnel policy.

(Res. 1-98, 8/17/1998, §VI)

§1-927. Job Descriptions.

1. Written job descriptions shall be prepared for all Borough employees. Job descriptions are intended to clarify duties, responsibilities, reporting relationships and limits of authority. They shall be used to improve communications between employees and their supervisors by letting employees know what is expected of them. Job descriptions are expected to change as Borough needs and procedures change.
2. Job descriptions shall also be used as a basis for determining the necessary qualifications when new employees are to be hired.

(Res. 1-98, 8/17/1998, §VII)

§1-928. Pay Rates.

The Borough Council shall set the compensation for each employee on an annual basis. The salaries/wages of each of the employees shall be communicated to them prior to the commencement of each budget year, if possible.

(Res. 1-98, 8/17/1998, §VIII)

§1-929. Selection Process for Employment.

1. Except where a job is to be filled by transferring or promoting a current Borough employee, all regular jobs to be filled shall first be advertised by whatever means are necessary and practical to assure public knowledge in the Borough of vacancy and to attract a sufficient number of qualified candidates.
2. Each application for announced vacancies shall be subject to examination by the Borough Council to determine whether the applicant meets the minimum requirements for the job to be filled. The examination may consist of oral, written or performance test or evaluation of the applicant's experience and training compared to requirements of the job or any combination thereof. This evaluation may include review of a written application form, resumes, oral interviews and reference checks. Any deliberate misstatement of material omission on resumes, whenever discovered, shall entitle the Borough to terminate employment with immediate effect.
3. The Borough Secretary shall prepare a list of all applicants who meet minimum qualifications for the job. The list shall be forwarded to the personnel committee who shall recommend from the list a qualified individual for employment. The selection decision shall be subject to approval by the Borough Council.
4. The Borough may fill a position by transferring or promoting a current Borough employee, if the employee possesses the qualifications for the position to be filled, and if the promotion is in accordance with any other policies and procedures the Borough may develop.
5. All newly hired and promoted employees shall serve a probationary period of six months during which the employee shall be required to demonstrate fitness for the position. The probationary period may be increased for up to an additional six months at the discretion of the Borough Council.
 - A. A newly hired probationary employee may be removed from his position at any time by the Borough Council.
 - B. A promoted probationary employee may be returned to his previous position at any time by Borough Council.
 - C. At the end of the probationary period, an employee shall either be retained, dismissed or returned to his previous position. This decision shall be made by the Borough Council based upon a written recommendation from the personnel committee.
6. Employees hired for temporary or seasonal work which is expected to last less than one year shall no be considered a regular employee.

(Res. 1-98, 8/17/1998, §IX)

§1-930. Performance Evaluation.

1. New Employees. A newly appointed employee shall serve a probationary period during which he will be required to demonstrate his fitness for his position.
 - A. Length of Probationary Period. The length of the probationary period shall be six months and may be extended for up to an additional six months at the discretion of the Borough Council.
 - B. Performance Evaluation During Probationary Period. The department head shall periodically evaluate the quality of the new employee's work during the probationary period and inform the employee, in writing, of his evaluation. The department head shall also inform the personnel committee of each employee evaluation.
 - C. Removal of Probationary Employee. A probationary employee may be removed from his/her position at any time during the probationary period by the Borough Council.
 - D. Completion of Probationary Period. A probationary employee will be considered to have successfully completed the probationary period upon the favorable written recommendation to the personnel committee.
2. All Employees. It is the responsibility of all department heads to continuously evaluate the performance of the employees they supervise.
 - A. The department heads are to inform their employees directly any time performance falls below acceptable levels. This notification may be informal, but should include specific information as to why performance is unsatisfactory and what the employee must do to bring performance up to an acceptable level.
 - B. The employee will be given a copy of this notification and a copy will be kept in the employee's personnel file.

(Res. 1-98, 8/17/1998, §X)

§1-931. Problem Assistance.

1. The Borough recognizes that an employee's work performance might be affected by problems that are not job related. Such situations may include, but are not limited to, family problems, emotional problems, legal problems, financial difficulties or the use of alcohol and drugs.
2. It is not within the Borough's ability and is not Borough's policy to attempt to diagnose or treat any of these problems. The existence of such problems cannot be

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accepted as an excuse for unsatisfactory work performance or a reason not to take disciplinary action for misbehavior.

(Res. 1-98, 8/17/1998, §XI)

§1-932. Training.

1. It is the intent of the Borough, so far as possible, to hire employees who are fully qualified to perform the work for which they are hired.
2. However, recognizing that some jobs may require specialized knowledge or skills that cannot be found among applicants, and that job requirements change over time so that additional knowledge and skill must be acquired, the Borough shall provide reasonable opportunities for employees to receive training that may be necessary to properly perform their duties.
3. Employees are responsible for informing their supervisors of any duties they are required to perform for which they feel they do not have sufficient training or for which they feel additional training would improve their performance.
4. Any training that the Borough determines to be mandatory shall be paid for by the Borough and time spent at such training shall be considered work time.

(Res. 1-98, 8/17/1998, §XII)

§1-933. Grievances.

1. It is the intent of the Borough to settle any employee grievances fairly, quickly and at the lowest level possible. This is possible only when all parties to the grievances attempt to understand each other's interests. Persons responsible for answering grievances at each step are expected to know rules and policies and to know their own authority and use it to his full extent in answering grievances.
2. The employee shall present the grievance, in writing, to the appropriate supervisor, on forms provided by the Borough, as soon as possible after the condition or events giving rise to the grievance are known.
3. If the employee is not satisfied with the appropriate supervisor's response, or if no response is received within one week of the presentation of the grievance, the employee may present the grievance, in writing, to the Borough Council, and request a hearing on the grievance. The Borough Council shall schedule a hearing and deliberation on the grievance no later than the next regular meeting of the Borough Council following receipt of the grievance and shall present a written response to the employee no later than seven days following the hearing. The employee may exercise the option of holding a grievance hearing earlier than their regularly

scheduled meeting date. All grievance hearings will be private, unless a public hearing is requested by the employee.

(Res. 1-98, 8/17/1998, §XIII)

§1-934. Employee Discipline.

All work performed on behalf of the Borough shall be conducted in a harmonious, friendly and efficient manner. All residents and visitors to the Borough offices are to be treated with courtesy and understanding. Recognizing that conflicts may arise, the following procedures are hereby established:

- A. In the event of conflict either between employees or between employees and an outside party, the Borough Council will, at the complaining party's behalf, convene an informal hearing within seven days of such complaint. A written summary of the record of such hearing will be prepared by the Borough Council and a written decision issued by the Borough Council. The Borough Council's decision will be communicated, in writing, to each party. The decision of the Borough Council is final and may not be appealed.
- B. If, either as a result of conflict resolution or for any other serious reason such as carelessness, inefficiency, insubordination, violation of ethical principal, etc., it should become necessary to invoke disciplinary action on an employee, the following steps will be taken by the Borough Council.
 - (1) A first time offense will result in oral warning, with the fact of the warning placed in the employees personnel file.
 - (2) A second offense will result in a written warning, outlining specifics of the offense. A copy of the warning shall be placed in the employee's personnel file.
 - (3) A third offense will result in dismissal by the Borough Council.
- C. Unless it becomes necessary to separate any employee for an ethics violation, termination will follow two weeks notice, in writing, clearly stating the cause or causes of such termination. Termination may be effective immediately when in the option of the Borough Council, such termination is in the best interest of the Borough.
- D. A violation of ethic guideline, if proven by the Borough council, will result in immediate discharge.
- E. All disciplinary hearings of the Borough Council will be held in executive session unless the employee requests that such hearing be held in public session.

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(Res. 1-98, 8/17/1998, §XIV)

§1-935. Time off From Work.

1. Employees shall adhere to established work hours and be at their place of duty and available for work as scheduled. Employees shall be granted time off for specific periods and reasons.
2. Part-time and temporary employees are not eligible for paid leave of any type.
3. Regular full-time employees shall be granted leave, subject to the following limits:
 - A. Civil Leave. Any employee called for a nonvoluntary jury duty in a court case in which they are not a party shall be granted civil leave at their regular pay rate.
 - B. Firefighter Leave. Employees who volunteer for a fire company responsible for providing fire protection to the Borough shall be paid while performing firefighting duties within the fire response district during normal work hours.
 - C. Military Leave. Employees who are members of the military reserve or National Guard will be granted unpaid leave, up to 15 days in any calendar year, for required training or duty upon presentation of a copy of official orders.
 - D. Other Leaves. When it is determined by the Borough Council to be in the best interest of the Borough, or when required by law, other paid or unpaid leaves shall be granted upon written request submitted far enough in advance to permit consideration. All compassionate leaves or leaves of absence, with or without pay, are subject to prior written approval of the Borough Council.

(Res. 1-98, 8/17/1998, §XV)

§1-936. Conflict with Provisions of Annual Borough Nonuniform Benefit Package.

The provision of the annual Borough nonuniform employees benefit package shall have priority over the provisions herein. To the extent that a conflict arises, the annual adopted nonuniform benefit package resolution shall have priority.

(Res. 1-98, 8/17/1998, §XVI)

PART 10

ORGANIZATION OF COUNCIL MEETINGS

§1-1001. Regular Meeting Schedule.

A regular meeting schedule shall be established at the annual organization meeting. The regular meeting schedule shall be published in a local newspaper generally circulating in the Borough, and a copy of the schedule of regular meetings shall be posted on the Borough bulletin board. All meetings shall be held in the Borough of Cressona Municipal Building, unless a specifically published newspaper advertisement shall specify otherwise.

(Res. 7-96, -/-/1996, §1; as amended by Ord. 323, 7/6/1998).

§1-1002. Special Meetings.

Any desired special meeting may be called by passage of a motion in a regular meeting, or by a written request of two members/or the President of Borough Council conveyed to the Borough Secretary. The motion or request shall state the purpose of the special meeting as well as the proposed date and time of the proposed meeting. The Secretary shall immediately notify each member of the time and purpose of the meeting and shall have notice thereof published in a local newspaper generally circulated in the Borough as required by the Borough Code.

(Res. 7-96, -/-/1996, §2; as amended by Ord. 323, 7/6/1998)

§1-1003. Quorum.

Any Borough business may be transacted at meetings only when a majority of the membership of the Council is present at the meeting.

(Res. 7-96, -/-/1996, §3; as amended by Ord. 323, 7/6/1998)

§1-1004. Adjourned Meetings.

If a majority of those members present vote in the affirmative, the meeting may be adjourned from time to time to another specific date and hour. If no date and time are specified, the meeting shall be considered adjourned to the date and time of the next regularly scheduled meeting.

(Res. 7-96, -/-/1996, §4)

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§1-1005. Agenda.

The Secretary shall prepare an agenda of the matter(s) and business to be addressed by the Board at its meeting. Meeting business shall be conducted in the order shown by the agenda as presented by the Secretary with revisions approved by a majority of the Council. The normal agenda will be as follows: [Ord. 323]

- A. Call to order.
- B. Roll call.
- C. Reading and approval of minutes.
- D. Treasurer's report.
- E. Reports of Council, council persons and committees. [Ord. 323]
- F. Citizen(s) input, on agenda (if arranged with the Secretary, 12 hours before the date of the meeting). The input shall be limited to three minutes each, and a total of 1/2 hour. In the event that an organized group attends a Borough meeting, they shall select a single member as their spokesman and the single member shall be given 10 minutes to present the position of the group. The times may be modified at any time by a majority of the members. [Ord. 323]
- G. Correspondence.
- H. Unfinished business.
- I. New business.
- J. Public participation (which shall not include citizen(s) who already spoke because they were placed on the agenda. The input shall be limited to three minutes each and a total of 15 minutes. In the event that an organized group attends a Borough meeting, they shall select a single member as their spokesman and the single member shall be given 10 minutes to present the position of the group. The times may be modified at any time by a majority of the members). [Ord. 323]
- K. Adjournment.

(Res. 7-96, -/1996, §5; as amended by Ord. 323, 7/6/1998)

§1-1006. Observers.

All residents, voters and the general public are encouraged to attend all public meetings of the Borough. Observers shall not participate in the debate, deliberation nor decision

making process at the meetings. They may be heard at the appropriate places on the agenda.

(Res. 7-96, -/-/1996, §6; as amended by Ord. 323, 7/6/1998)

§1-1007. Photographs and Video.

No person shall take any photographs during the meeting or shall take images through the use of a video camera during the course of the meeting without the specific prior approval of the President.

(Res. 7-96, -/-/1996, §7; as amended by Ord. 323, 7/6/1998)

§1-1008. Press and Media.

The Borough Secretary, Solicitor, Solicitor of the Zoning Hearing Board, or Engineer(s) shall make no response to the press or media concerning any matter arising out of the business of the Borough, without the prior approval of the majority of the Borough Council.

(Res. 7-96, -/-/1996, §8; as amended by Ord. 323, 7/6/1998)

§1-1009. Secretary.

The Secretary shall utilize a tape recording device at each meeting. The tapes produced are not a matter of public record, but merely for the purpose of assisting the Secretary to prepare the written minutes of each meeting. After the minutes of a meeting have been approved the tape may be erased by the Secretary.

(Res. 7-96, -/-/1996, §9)

§1-1010. Decorum and Rules of Order.

1. The President shall preserve order and decorum, decide all questions of order, and conduct the meeting. The President may invoke and apply such portions of Robert's Rules of Order as needed to dispense with all business fairly and expeditiously. In the absence of the President, and if there is a proper quorum, the Vice President shall act as President. [Ord. 323]
2. All persons shall abide by the customary rules of order and conduct of meetings, and conduct themselves in a quiet and polite manner. The Chairman or a majority of the members shall take whatever legal action is necessary to maintain order.

(Res. 7-96, -/-/1996, §10; as amended by Ord. 323, 7/6/1998)

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§1-1011. Posting of Resolution.

This resolution and any amendments to it shall be posted conspicuously upon the Borough bulletin board.

(Res. 7-96, -/-/1996, §11; as amended by Ord. 323, 7/6/1998)

PART 11

SMOKING OF TOBACCO PRODUCTS

§1-1101. Smoking of Tobacco Products Prohibited.

Commencing immediately, no individual shall, at any time, smoke tobacco products within the interior confines of any building or motor vehicle owned by the Borough of Cressona or leased by said Borough.

(Ord. 320, 8/4/1997, §I)

§1-1102. Locations Where Smoking Permitted.

Smoking of tobacco products will be permitted outside a Borough building or in any Borough building which is not fully enclosed, except as otherwise prohibited by Federal or State laws and regulations.

(Ord. 320, 8/4/1997, §II)

§1-1103. Signs.

Immediately upon passage of this Part, "No Smoking" signs shall be placed in clearly visible and conspicuous locations in the Borough owned or leased buildings and motor vehicles.

(Ord. 320, 8/4/1997, §III)

§1-1104. Penalty.

Any person who violates any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$50 and, in default of payment, shall be imprisoned for a term not to exceed five days.

(Ord. 320, 8/4/1997, §IV)

PART 12

BOROUGH OPEN RECORDS POLICY

§1-1201. Applicable Definitions.

The following terms when used herein shall have the meanings set forth in this Section unless the context clearly indicates otherwise.

ACT—the Pennsylvania Open Records Law, Act 100 of 2002, as amended by the Act of February 14, 2008, P.L. 6, No. 3.

BOROUGH—the Borough of Cressona.

BOROUGH COUNCIL—the Borough Council of the Borough of Cressona.

BUSINESS HOURS—Monday through Friday each week between the hours of 8:00 a.m. and 4:30 p.m., prevailing time, except for lunch from 12:30 p.m. until 1:00 p.m. with the exception of holidays or other days when the Borough is not open for business to the public.

FINANCIAL RECORD—(1) any account, voucher, or contact dealing with the receipt or disbursement of funds by the Borough or the Borough's acquisition, use or disposal of services, supplies, materials, equipment, or property; (2) the salary or other payment or expenses paid to an officer or employee of the Borough, including the name and the title of the officer or the employee; and (3) the financial audit report of the Borough (however, this term does not include work papers which underlie an audit).

PRIVILEGE—the attorney, work product doctrine, the doctor-patient privilege, the speech and debate privilege, or any other privilege recognized by a court interpreting the laws of the Commonwealth.

PUBLIC RECORD—a record, including a financial record, of the Borough that is not (1) exempt pursuant to §708 of the Act; or (2) exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) protected by privilege.

RECORD—information regardless of physical form or characteristic that documents a transaction or activity of the Borough, and that is created, received, or retained pursuant to law in connection with the transaction, business, or activity, of the aforesaid Borough. The term shall include a document, paper, letter, map, book, tape, photograph, film, or sound recording, information stored or maintained electronically in a data-processed, or image-processed document.

REQUESTOR—a person that is a legal resident of the United States of America and requests a record pursuant to the Act.

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RESPONSE—access to a record or the Borough’s written notice to a requestor granting/denying or partially granting and partially denying access to a record.

(Res 2-2009, 1/19/2009, §1)

§1-1202. Creation of and Duties of Open Records Officer and Alternate Open Records Officer.

1. Pursuant to the terms of the Act the Borough shall designate a person to serve as the Borough’s Open Records Officer.
2. In the absence of the Borough’s Open Records Officer the duly appointed alternate Open Records Officer shall fulfill the position of the Borough’s Open Records Officer until the Borough’s Open Records Officer is able to resume his or her duties as set forth herein.
3. The duties of the Open Records Officer shall consist of the following:
 - A. The Open Records Officer shall receive requests submitted to the Borough pursuant to the Act, and shall direct requests to other appropriate persons within and without the Borough, and shall track and monitor the Borough’s progress in responding to the requests. The Open Records Officer shall also issue interim and final responses to the requesting person(s) as required by the Act.
 - B. The Open Records Officer shall upon receiving a request for a public or financial record do all of the following as required by the Act:
 - (1) Note the date of receipt of the written request.
 - (2) Compute the date on which the five-day period in which the Borough must, respond to the request and make a written notation of that date on the written request.
 - (3) Retain either an electronic or a paper copy of the written request, which shall include all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until such time as a final determination is issued or the appeal is deemed to be denied.

(Res 2-2009, 1/19/2009, §2)

§1-1203. Procedure for Requesting Public Records or Financial Records.

1. Requests for copies of records may be in verbal or written form by the requestor. However, for a person to avail themselves of the provisions of the Act, the requester must place their request in written form.

2. All of the above requests shall be made to the Borough's Open Records Officer.
3. Written requests may be made as follows:
 - A. In person.
 - B. By mail.
 - C. By facsimile.
 - D. By electronic means.

The written request shall state the date of the request, the name and address of the requestor and a clear description of the record(s) sought by the requestor.

4. A public or financial record will be accessible to a lawful resident of the United States of America who requests the record pursuant to this policy and the Act at reasonable times during normal business hours for inspection and/or duplication in the medium requested, if the medium exists, otherwise the public record will be provided in the medium in which it exists.
5. The Borough will not compile, maintain, format, or organize a public or financial record in a format in which it does not already exist.
6. In the event that any written request under the Act is directed or given to an employee of the Borough who is not the Open Records Officer, said employee shall immediately deliver the request to the Open Records Officer.

(Res 2-2009, 1/19/2009, §3)

§1-1204. Borough Response to Requests Pursuant to the Act.

The Borough shall make a good faith effort to provide the requested public or financial records to the requestor as promptly as possible. Pursuant to the provisions of the Act, the Borough must respond to the request within five business days from receipt of the request in accord with the following:

- A. Borough can grant the request(s) and provide the requested copies of the records.
- B. Borough can issue a denial of the request, which shall be provided to the requestor in writing which shall include a description of the record requested, provide a specific reason for the Borough's denial (which shall include a citation to the Borough's supporting legal authority for the denial). The Borough shall also provide the typed or printed name, title, business address and business telephone number and signature of the Open Records Officer on whose authority the denial was issued as well as the date the response and procedure to appeal the denial of access under the Act.

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C. In the event that the Borough claims an exception to the time requirements imposed by the Act, it must issue a response within five business days and explain that the request is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided, and an estimate of the fees owed when the record becomes available. If the expected date of the Borough's response is to be more than 35 days from the date of the request, then the request for access shall be deemed to be denied, unless the requestor shall agree in writing to an extension of time. This response is only permitted when:

- (1) The request for access shall require a redaction of record in accordance with §706 of the Act.
- (2) The request for access requires the retrieval of a record stored in a remote location.
- (3) A timely response to the request for access cannot be accomplished due to a bona fide and specified staffing limitation.
- (4) A legal review is necessary to determine whether the record is a record that is subject to access under the Act.
- (5) Requestor has not complied with the Borough's policies regarding access to the records.
- (6) Requestor refuses to pay the applicable fees authorized by the Act.
- (7) The nature or extent of the request precluded a response within the required time period.

(Res 2-2009, 1/19/2009, §4)

§1-1205. Record Redaction.

If the Borough determines that a public record contains information that is subject to access and also contains information that is not subject to access the Borough's response shall grant access to the information which is subject to access and shall deny access to information which is not subject to access. In the event that the information which is not subject to access is an integral part of the public or financial record and cannot be separated from said record, the Borough shall redact from the record the information which is not subject to access, and shall grant access to the information which is subject to access. The Borough shall not deny access to the record if the information which is not subject to access is capable of being redacted. Information which the Borough redacts pursuant to this Section shall be deemed a denial to that information and may be treated as such by the requestor.

(Res 2-2009, 1/19/2009, §5)

§1-1206. Appeal of Borough's Right to Know Officer's Decision.

If a written request for access to a public or financial record is denied or deemed denied by the Borough, requestor may file an appeal with the Commonwealth's Office of Open Records within 15 business days of the mailing date of the Borough's response, or 15 business days of a deemed denial. The appeal must state the grounds upon which the requestor asserts the record is a public record or a financial record and shall address any grounds stated by the Borough for delaying or denying the request. Appeals shall be directed to the Executive Director, Office of Open Records in Harrisburg, Pennsylvania.

(Res 2-2009, 1/19/2009, §6)

§1-1207. Appealing Commonwealth's Open Record Officer's Decision.

Within 30 days of the mailing date of the final determination of the appeal officer relating to a decision of the Borough or the date access is deemed denied, a requestor or the Borough may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Schuylkill County. It should be noted that a petition for review under this Section shall stay the release of requested documents until the court reaches a decision in the matter.

(Res 2-2009, 1/19/2009, §7)

§1-1208. Fees to Obtain Public Records or Financial Records.

The Act requires the Commonwealth Office of Open Records to establish a fee structure for local agencies which the Borough hereby adopts as follows:

- A. Paper copies shall cost \$.25 per page per side.
- B. Certification of record shall cost \$1 per document.
- C. Those specialized documents (for example blueprints, color copies, and non-standard size documents) shall cost the actual cost of duplication, provided that duplication is possible by the Borough.
- D. Facsimile/microfiche/or other media shall cost the actual cost of duplication that the Borough must expend to duplicate the requested record.
- E. There shall be no fee for redaction of documents by the Borough.
- F. In the event a record is only maintained electronically or in other non-paper media, the duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requestor specifically requests the record to be duplicated in the more expensive media.

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- G. Postage shall not exceed the actual cost of mailing.
- H. In the event requestor wishes to inspect rather than to receive a copy of record and the record contains both public and non-public information, the Borough may not charge the requestor for the redaction which may be involved. However, the Borough may charge requestor for copies it must make of the redacted material in order for the requestor to view the public record. The fee structure outlined above shall apply. If after inspecting the records requestor chooses to obtain the copies, no additional fee may be charged by the Borough.
- I. Except as otherwise provided by the statute, the Act states that no other fee may be imposed unless the Borough necessarily incurs costs for complying with requests, and such fees must be reasonable. No fee may be imposed for the Borough's review of a record to determine whether the record is a public record or a financial record subject to access in accordance with the Act. No fee may be charged for searching for or retrieval of documents by the Borough. The Borough may not charge staff time or salary for complying with the right-to-know request.
- J. The Borough may require the requestor to prepay estimated fees for duplication when the estimate of fees exceed \$100.
- K. The Borough may waive the fee for duplication of a public or financial record, including, but not limited to, when: (1) the requestor duplicates the public record or financial record; or (2) the Borough deems it to be in the public interest to do so.

(Res 2-2009, 1/19/2009, §8)

§1-1209. Access to Borough Computers.

Nothing in the Act shall be construed to require access to any computer of the Borough, or that of an individual or employee of the Borough.

(Res 2-2009, 1/19/2009, §9)

§1-1210. Posting.

The Borough shall post and update the following information in a conspicuous location in the municipal building and on the Borough's web page should the Borough create one:

- A. Contact information for the Open Records Officer.
- B. Contact information for the Pennsylvania Office of Public Records or other applicable appeals officer.

C. Contact information for the Schuylkill County District Attorney's office.

D. A form which is to be used to file a request.

E. A copy of this Part.

(Res 2-2009, 1/19/2009, §10)

PART 13

ATTORNEY FEES

§1-1301. Schedule of Attorney Fees.

The Borough Council hereby adopts the following schedule of attorney fees to be charged to the accounts of all individuals who require the Borough to take legal action to collect delinquent Borough accounts, including municipal claims, municipal liens, taxes, tax claims and tax liens:

- A. Minimum collection administrative fee if any delinquent Borough account, including municipal claims, municipal liens, taxes, tax claims and tax liens of \$50 plus any direct cost incurred by the attorney in an effort to collect the same, including but not limited to filing fees, notary fees, title search charges and certified mail and/or constable costs. The above minimum collection charge includes formation of a collection file, preparation of any demand letter, and bookkeeping for any payments received and for the preparation and filing of a lien and notifying the individual that the lien has been filed.
- B. In the event the collection of the delinquent Borough account, including municipal claims, municipal liens, taxes, tax claims and tax liens involves legal research or litigation of the claim, attorney fees of \$115 per hour shall be charged or such sum as is equal to the hourly rate of the Borough Solicitor approved by the Borough Council on an annual basis.

(Ord. 2-2008, 3/17/2008, §1)

PART 14

THIRD PARTY INSURANCE BILLING

§1-1401. Recognized Volunteer Fire Companies.

The Borough of Cressona has recognized both Cressona Fire Company No. 1 and Goodwill Fire Company as official Borough volunteer fire companies with the duty and obligation of fighting both structural and motor vehicle fires within the Borough of Cressona.

(Ord. 3-2008, 9/15/2008, §1)

§1-1402. Costs and Expenses Reimbursement.

The Borough desires to provide for reimbursement to Cressona Fire Company No. 1 and/or Goodwill Fire Company for any costs and/or expenses incurred by said fire companies which may be obtainable by the fire companies by the submitting of claims only to the property owner's and/or motor vehicle owner's respective insurance carriers.

(Ord. 3-2008, 9/15/2008, §2)

§1-1403. Insurance Coverage Maintained.

It is the finding of the Borough Council that property owners and/or motor vehicle owners may maintain insurance coverage within their own casualty insurance policies, homeowner's policies, motor vehicle policies and/or other applicable policies that may provide reimbursement to the Cressona Fire Company No. 1 and/or Goodwill Fire Company for firefighting and other fire services rendered to the property and/or motor vehicle owners in response to emergency service requests.

(Ord. 3-2008, 9/15/2008, §3)

§1-1404. Fire Companies Authorized to Bill for Services.

Cressona Fire Company No. 1 and/or Goodwill Fire Company is hereby authorized and directed by and through its officers and authorized representatives to execute billing services agreement(s) with Pennsylvania Fire Recovery Service, its successors and/or assigns or such other third party billing and collection company and to have said company ascertain what insurance coverage may be applicable and available under any given circumstances, and to take all necessary and affirmative action to apply for and receive reimbursement from any insurance carrier where a property and/or motor vehicle owner is/or may be insured to reimburse Cressona Fire Company No. 1 and/or Goodwill Fire Company for any cost and/or expense incurred for services and/or

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equipment used for or provided to the property and/or motor vehicle owner by said fire companies.

(Ord. 3-2008, 9/15/2008, §4)

§1-1405. Direct Billing.

Under no circumstances shall the property and/or motor vehicle owners ever receive a direct billing from either fire company or its billing and recovery agent for fire protection or such other services provided by the fire companies except in cases of false alarms and fires or destruction caused by the property and/or motor vehicle owner.

(Ord. 3-2008, 9/15/2008, §5)

§1-1406. Compensation.

This Part shall be construed liberally to accomplish its purpose to compensate and/or reimburse the aforesaid Cressona Fire Company No. 1 and/or Goodwill Fire Company from the insurance proceeds for costs and/or expenses incurred while providing services in fighting fires or similar hazards.

(Ord. 3-2008, 9/15/2008, §6)

§1-1407. Litigation to Collect Reimbursement.

Nothing herein shall require the Borough of Cressona to take part in any litigation to collect the reimbursement costs or expenses for either of the Borough volunteer fire companies, or to receive funds for distribution to either volunteer fire company.

(Ord. 3-2008, 9/15/2008, §8)

PART 15

USE OF BOROUGH PROPERTY

§1-1501. Guidelines/Standards.

1. All requests for the usage of Borough property for any non-municipal purpose shall be submitted in writing to the Borough at least 1 month prior to the planned event on the attached application made available by the Borough.
2. Once the Borough has received the written request, Council will consider the proposed use and shall notify the applicant in writing of its decision.
3. The applicant shall submit proof of insurance to the Borough naming the Borough as an insured on said insurance. The liability coverage shall be in an amount of no less than \$1,000,000 per occurrence.
4. No alcohol shall be permitted upon Borough property at any time.
5. No drugs shall be permitted upon Borough property at any time.
6. No gambling shall be permitted upon Borough property at any time.
7. Any minors (individuals less than 18 years of age) shall be under the direct supervision of adults.
8. Signage for approved activities shall be informative and of a professional nature.
9. The applicant shall be responsible to see that all rubbish and debris is removed from the Borough property at the completion of the scheduled event/usage.
10. Borough Council shall have the right to amend this Part at any time.
11. The Borough Council shall have a right to deny future permission to use Borough property if Council finds that an applicant has previously violated the provisions of this Part.

(Res. 7-2010, 11/15/2010)

BOROUGH OF CRESSONA
APPLICATION FOR USE OF BOROUGH OWNED PROPERTY

APPLICANT INFORMATION:

NAME: _____

ADDRESS: _____

PHONE #: _____

LOCATION OF BOROUGH PROPERTY:

DATE OF USE:

Note: Request for use must be submitted to the Borough at least one (1) month prior to the planned event.

PROPOSED ACTIVITY/PURPOSE OF PROPERTY USE:

Note: Please be as descriptive as possible.

SIGNATURE:

DATE:

NOTES:

- Once the Borough has received this completed application, Council will consider the proposed use and shall notify the applicant in writing of its decision.
- If approved, the applicant shall submit proof of insurance to the Borough naming the Borough as an insured on said insurance. The liability coverage shall be in an amount of no less than One Million (\$1,000,000.00) Dollars per occurrence. **THE APPLICANT, ITS SUCCESSOR AND/OR ASIGNS SHALL ASSUME ALL RESPONSIBILITY AND RISK OF SAID EVENT AND HOLD HARMLESS THE BOROUGH OF CRESSONA.**
- No alcohol, drugs or gambling shall be permitted upon Borough property at any time.
- Any minors (individuals less than 18 years of age) shall be under the direct supervision of adults.
- Signage for approved activities shall be informative and of a professional nature.
- The Borough Council shall have a right to deny future permission to use Borough property if Council finds that an applicant has previously violated the provisions of this application.

