

ORDINANCE 2008 - 4

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD, PENNSYLVANIA
ADOPTING AND AFFIRMING ORDINANCE NO. 80-1 AND MAKING
CERTAIN AMENDMENTS THERETO, DEFINING AND PROHIBITING
NUISANCES, PROVIDING FOR THE ABATEMENT OF NUISANCES
AND PROVIDING PENALTIES FOR VIOLATIONS HEREOF.

WHEREAS, Council of the Borough of Rockwood, pursuant to powers granted it by Section 1202 (5) of that Act known as the Borough Code, had determined that certain situations constitute nuisances and dangerous structures, and serve as a detriment to the health, safety, and welfare of the citizens of Rockwood Borough; and

WHEREAS, Council of the Borough of Rockwood had deemed it advisable to enact Ordinance 80-1 as a means of abating such nuisances; and

WHEREAS, Council of the Borough of Rockwood has determined that it is in the best interest of consistent enforcement and in the best interests of the citizens of Rockwood to make certain amendments and clarifications to the existing Ordinance 80-1; and

WHEREAS, Council of the Borough of Rockwood does hereby adopt and affirm the said Ordinance 80-1 as it was originally enacted, but with amendments contained herein which specifically provide for a short title, increase the penalties, and clarify that summary prosecution under this Ordinance is not the exclusive remedy; and

WHEREAS, Council of the Borough of Rockwood has deemed it advisable to adopt this Ordinance in the fashion which is contained herein.

THEREFORE, be it ORDAINED and ENACTED by the Council of the Borough of Rockwood, and it is hereby ORDAINED and ENACTED by the authority of said Borough Council as follows:

SECTION 1. SHORT TITLE:

This Ordinance may be referred to as the “Rockwood Borough Nuisance and Dangerous Structure Ordinance.”

SECTION 2. STATEMENT OF FINDINGS AND PUBLIC POLICY:

It is hereby found and declared that premises exist within the Borough of Rockwood which are blighted because there exist thereon, blighted buildings or structures either due to faulty design or construction, or to failure to maintain them in a proper state of repair or to improper management, or due to the accumulation thereon, of junk, wood, brick, cement block, or other unsightly debris, refrigerators, furnaces, appliances, tractors, machinery, or parts thereon, structurally unsound fences, and other such items which tend to depreciate property values and to jeopardize or be detrimental to the health, safety, morals or welfare of the people of the Borough.

It is hereby further found and declared that such blighted premises, buildings, or structures, contribute to the development of, or increase in, disease, infant mortality, crime and juvenile delinquency; that conditions existing on such blighted premises are dangerous to the public health, safety, morals and general welfare of the people; that conditions existing on such blighted premises could necessitate excessive and

disproportionate expenditure of public funds for public health, public safety, crime prevention, fire prevention, and other public services; that the conditions existing on such blighted premises cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

It is hereby further found and declared that the elimination of blighted premises and the prevention of occurrence of blighted premises in the future is in the best interests of the citizens of this Borough and that the accomplishment of this end will be fostered and encouraged by the enactment and enforcement of this Ordinance.

Further is hereby declared to be essential to the public interest that this Ordinance be liberally construed to effectuate the purposes heretofore stated.

SECTION 3. DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

A. Dwelling. Dwelling shall mean any building or structure, which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes any appurtenances attached thereto.

B. Dwelling Unit. Dwelling unit shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating of meals.

C. Extermination. Extermination shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or any other approved pest elimination methods.

D. Nuisance. For the purpose of this Ordinance “Nuisance” shall be defined as follows:

1. Any public nuisance known in common law or in equity jurisprudence.

2. Any attractive nuisance which may prove detrimental to children whether in a building or upon an unoccupied lot. This includes, but is not limited to, any abandoned wells, shafts, basements and excavations; or any abandoned refrigerators, furnaces, machinery or parts thereof, structurally unsound fences and structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.

3. Whatever is dangerous to human life or is detrimental to health.

4. Dwelling or non-dwelling structures which tend to

depreciate property values and jeopardize or be detrimental to the health, safety, morals or welfare of the people of the Borough due to faulty design or construction, or to failure to maintain them in a proper state of repair or to improper management.

E. Occupant. Occupant shall mean any person living, sleeping, or eating, or having actual possession of a dwelling, dwelling unit or rooming unit.

F. Operator. Operator shall mean any person who has charge, care or control of a building or part thereof in which dwelling or rooming units are let.

G. Owner. Owner shall mean any person who alone or jointly or severally with others shall be the legally recorded holder of the title with or without actual possession thereof, or who has charge, care or control of any dwelling or dwelling unit as agent or owner, or as executor, administrator, trustee or guardian, of the estate of the owner. The term “owner” under this ordinance shall also include the legally recorded holder of a land contract vendee interest.

H. Person. Person shall mean and include any individual, firm, corporation, partnership, or association.

I. Premises. Premises shall mean any lot, plot or parcel of land either occupied or unoccupied by any dwelling or non-dwelling structure.

SECTION 4. RESPONSIBILITY OF OCCUPANTS:

The responsibilities of the occupants are as follows:

A. To keep the exterior of the dwelling and non-dwelling structures and premises which the occupant controls and occupies in a clean and sanitary condition.

B. To dispose of rubbish and garbage in a clean and sanitary manner.

C. To comply with the requirements and intent of Section 5, Subsection D of this Ordinance.

D. To exterminate in the following cases:

1. The occupant of a single dwelling is responsible for extermination of any insects, rodents, or other pests therein or on premises.

2. The occupant of a dwelling unit in a multiple unit structure is responsible for extermination of any insects, rodents, or other pests if his unit is the only unit infested.

3. Notwithstanding the foregoing provisions of this Ordinance, whenever infestation is caused by the failure of

the owner to maintain the dwelling in a rat-proof or reasonably insect-proof condition, the occupant is not responsible for extermination of any insects, rodents, or other pests therein, the same being the responsibility of the owner.

SECTION 5. RESPONSIBILITY OF OWNERS:

A. To exterminate in the following cases:

1. When infestation exists in two or more units of a multiple-unit structure.
2. When infestation exists in shared or public areas of a multiple-unit structure.
3. When infestation exists in a single-unit of a multiple-unit structure or in a single-unit structure when infestation is due to failure of the owner to maintain the dwelling in a rat-proof and reasonably insect-proof condition.

B. To perform the responsibilities of the occupant when the premises are vacant.

C. In addition to the above, no owner shall permit any premises to exist or any dwelling or non-dwelling structure or fence to exist on any premises which does not comply with the following requirements:

1. Maintenance of Structures. Every foundation,

exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every dwelling or non-dwelling structure shall be so maintained as to prevent the structure from becoming a harborage for rats and shall be kept in a reasonably good state of maintenance and repair.

2. Protection of Exterior Wood Surfaces. All exterior wood surfaces of all dwelling or non-dwelling structures shall be properly protected from the elements and against decay by paint or other approved protective coating applied in a workmanlike manner.

3. Maintenance of Fences. Every fence shall be kept in a reasonably good state of maintenance and repair or shall be removed.

4. Pest Control. Every premises shall be so maintained as to prevent the premises from becoming a harborage for rats and insect pests. Whenever infestation with rodents or pests exists in any premises upon which no structure or non-dwelling structures are located, extermination thereof shall be the responsibility of the owner.

D. General Cleanliness. The accumulation or storage of junk, brick,

cement block or other unsightly debris, automobile parts, tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, such as may tend to depreciate property values in the area or create a nuisance or hazard shall not be allowed on any lot or parcel of land within the corporate limits of the Borough of Rockwood, except when such materials are properly housed and out of public view.

SECTION 6. ENFORCEMENT OFFICER:

This Ordinance shall be enforced by officers of the Rockwood Borough Police Department. And, if there are no such officers, it shall be enforced by an enforcement officer properly designated and appointed by resolution of Borough Council.

SECTION 7. ENFORCEMENT:

The appropriate enforcement officer shall enforce this Ordinance by giving notice of the alleged violation to the person or persons responsible therefore as follows:

- A. The notice shall be in writing.
- B. The notice shall include a statement of the reasons why the notice is issued.
- C. The notice shall allow reasonable time for the performance of the act it requires, which time shall be consistent with the nature and duration of the violation.
- D. The notice shall be served upon the owner or its agent, or the

occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such owner or agent, or upon such occupant, if a copy thereof is served upon him or her personally, or if a copy thereof is sent by certified mail to his or her last known address, or if a copy thereof is posted in a conspicuous place in or about the premises affected by the notice, or if he is served with such notice by any other method authorized or required under the laws of this Commonwealth.

E. The notice shall contain an outline of the remedial action necessary to correct the violation.

SECTION 8. PENALTIES:

Any person who is found guilty of any of the provisions of this Ordinance shall, after summary conviction, be sentenced to pay the cost of prosecution and a fine of not less than One Hundred and 00/100 (\$100.00) Dollars or more than One Thousand and 00/100 (\$1,000.00) Dollars; and, in default of payment of said costs and fines, the violator may be sentenced to imprisonment in the discretion of the magisterial district judge. Each day the violation continues shall be considered a separate offense, for which separate enforcement action may be taken. Once notice has been given for a violation, the notice continues to support each separate offense and citation until the violation is corrected; it is intended that a fresh notice need not be given before each citation in cases of a continuing violation.

SECTION 9. PROSECUTION NOT EXCLUSIVE REMEDY:

The filing of a summary prosecution under this Ordinance shall not be the exclusive remedy of Rockwood Borough. The Borough may take appropriate action against a person violating this Ordinance as allowed by law, to include the remedy of filing appropriate actions for injunctive relief in the Court of Common Pleas of Somerset County, the remedy of removing the nuisance or dangerous structure and to collect the costs thereof from the person so responsible, along with a penalty of ten (10%) percent of such costs, as allowed by law, and any other remedy provided by law or ordinance, to include filing of a municipal claim and judgment.

SECTION 10. STATEMENT OF INTENT IN REGARD TO NUISANCE:

It is the specific intent of Rockwood Borough Council to enact this Ordinance under the provisions of Section 1202 (5) of that statute known as the Borough Code [53 P.S. §46202 (5)] as a measure for the protection of the health, safety, and welfare of the citizens of Rockwood Borough to protect them from the dangerous effects of nuisances and dangerous structures. This Ordinance is intended to provide a remedy entirely separate and apart from any enforcement activities or remedies available under that statute known as the Pennsylvania Construction Code Act (35 P.S. §7210.101 et seq.), as the within Ordinance intends to protect citizens from the harm recited herein caused by nuisances and dangerous conditions and is not necessarily intended to address issues of of construction or repair of the structures or building, themselves.

SECTION 11. SEVERABILITY AND REPEALER:

If any provision or portion of this Ordinance, for any reason, is found to be unconstitutional, illegal, or invalid by a Court of appropriate jurisdiction, such decision shall not impair the validity of any of the remaining portions or parts of this Ordinance. It is hereby declared that the intent of Rockwood Borough is that this Ordinance would have been adopted even if such provisions or parts found to be unconstitutional, illegal, or invalid had not been included in the original Ordinance. Any and all Ordinances inconsistent herewith are hereby repealed; however, it is the specific intent of this Ordinance that Ordinance No. 80-1 is reenacted except as otherwise amended and/or clarified by any changes found in this Ordinance No. 2008-4.

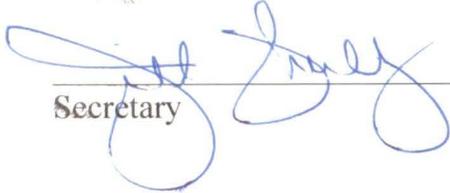
SECTION 12. EFFECTIVE DATE:

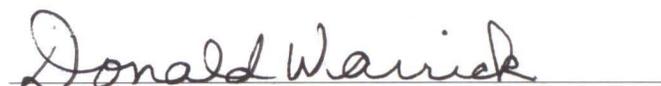
This Ordinance shall be effective immediately upon the date of enactment.

ADOPTED this 15th day of April 2008.

Attest:

ROCKWOOD BOROUGH:


Secretary


President of Council

APPROVED this 15th day of April 2008.


Mayor