

ORDINANCE NO. 92-3

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD PROVIDING FOR THE PREVENTION AND CONTROL OF AIR POLLUTION IN THE BOROUGH OF ROCKWOOD BY PREVENTING OUTDOOR BURNING AND PROVIDING CERTAIN EXCEPTIONS THERETO WHEREBY BURNING MAY BE PERMITTED.

BE IT ORDAINED AND ENACTED by the Borough of Rockwood and IT IS HEREBY ORDAINED AND ENACTED by the authority of the same as follows:

Section 1. Title. This Ordinance may be known and cited as the "Rockwood Borough Outdoor Burning Ordinance of 1992."

Section 2. Public Purposes. Pursuant to the power granted by the Borough Code of the Commonwealth of Pennsylvania, the Council of the Borough of Rockwood has determined that air pollution from an open fire is detrimental to the health, comfort, living conditions, welfare and safety of the citizens of Rockwood Borough, and it has hereby declared that it is the policy of the Rockwood Borough to safeguard the citizens of Rockwood Borough from such air pollution, but also to permit certain outdoor burning of a limited or controlled nature.

Section 3. Definitions. The following words, terms and phrases, when used in this Ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

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1. Person: Any individual, partnership, association, syndicate, company, firm trust, corporation, department, bureau, agency or any other entity recognized by laws as the subject of rights and duties.

2. Council: Rockwood Borough Council.

3. Garbage: Any and all animal and vegetable matter which results from the handling, preparation, cooking and consumption of food.

4. Rubbish: Solids not considered to be generally flammable or explosive, and including but not necessarily limited to such items as rags, old clothes, leather, rubber, carpets, wood, excelsior, ashes, wood trimmings, furniture, tin cans, glass, crockery, masonry and similar materials.

5. Trade Waste: All solid or liquid materials or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials, provided however that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

6. Refuse: Garbage, rubbish and trade waste.

7. Salvage Operation: Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or materials, including, but not limited to, metals, chemicals, shipping containers or drums.

8. Open Fire: A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

9. Furnace: Any enclosed devise specifically designed for the burning of any material for the production of heat.

10. Incinerator: Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.

Section 4. Enforcement. This Ordinance shall be enforced by the Rockwood Borough Police Department or any such other enforcement officer who shall be from time to time appointed by resolution of Borough Council.

Section 5. Prohibited Activities. No person shall:

1. Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside of any building or

2. Cause, suffer, allow or permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any property under his control outside of any building.

Section 6. Exceptions. Anything above to the contrary, the following may be permitted:

1. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for (a) The prevention of a fire hazard which cannot be abated by other means and (b) The protection of public health.

2. Open fires may be set with the approval of the authorized enforcement agent as follows:

a. Items such as rags, old clothes, wood, paper, ashes, cardboard, tree limbs and similar yard cuttings, may be burned between sunrise and sunset provided that there is no hazardous or objectionable condition which will be created by such burning and provided that a permit is obtained from the enforcement officer, which permit shall be for a one time, only, burning, and for which a fee must be paid to Rockwood Borough, said fee to be determined by resolution of Borough Council. And, a permit under this subsection may be granted only once in every three (3) month period.

b. Leaves and garden refuse may be burned between sunrise and sunset, provided that a permit is obtained from the enforcement officer, which permit shall be for a one (1) time only burning, and for which a fee must be paid to Rockwood Borough said fee to be determined by resolution of Borough Council.

c. In the event of any permitted burnings as stated in Subparagraph 2.a. and 2.b. above, the burning must be accomplished at least fifteen (15) feet from any structure, and if such minimum distance cannot be maintained, then the items to be burned must be contained in a barrel or other suitable container with screen over the opening, and the fires as so set must be manageable by the person so burning, and not left unattended; a ready water supply must be available in order to extinguish a fire if necessary.

d. Despite the allowance of permits for limited and controlled burning, as stated above, a permit may be denied should conditions warrant such as drought conditions, water supply, weather or any other similar factors which in the discretion of the enforcement officer would create a hazardous or dangerous condition if a permit were granted.

Section 7. Penalties. Any person violating the provisions of the Ordinance to include supplying false information on a permit application, shall be prosecuted for commission of a summary offense and upon conviction of a summary offense thereof by the appropriate District Magistrate, be sentenced to pay a fine of not less than One Hundred and 00/100 (\$100.00) Dollars nor more than Three Hundred and 00/100 (\$300.00) Dollars, together with costs, for the first violation; and fine of not less than Two Hundred and 00/100 (\$200.00) Dollars nor more than One Thousand and 00/100 (\$1,000.00) Dollars, together with costs for the second and subsequent violations. Each day or event in which a violation takes place shall be considered as a separate and distinct offense. In default of the payment of any fine, appropriate incarceration shall be made as determined by the appropriate District Magistrate.

Section 8. Severability. Each of the provisions of this Ordinance are considered to be severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining section, clauses, sentences, parts or provisions of this ordinance. It is hereby declared to be the intent of the Council that this ordinance would not have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 9. Repealer. Any and all other Ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed, to specifically include Ordinance 89-2 as adopted November 25, 1989.

Section 10. Effective Date. This Ordinance will become effective immediately upon enactment.

ADOPTED this 18th day of August, 1992.

Attest:

John Bowler
President of Council

APPROVED this 18th day of August, 1992.

Jeanette Parrick Mayor
Mayor

Pursuant to the provisions of the Borough Code, 53 P.S. Section 46006, a brief summary of the Ordinance was published along with the notice of intention to adopt the Ordinance, in the Somerset Daily American on July 30, 1992; and, also on July 30, 1992, a copy of the full text was recorded in the Office of Recorder of Deeds of Somerset County

August 18, 1992
Date

Tamara Brengle
Tamara Brengle
Borough Secretary

William R. Carroll
William R. Carroll, Esq.
Borough Solicitor