ORDINANCE NO. 07-02

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD RELATING TO SANITATION AND THE PROMOTION OF PUBLIC HEALTH AND SAFETY BY REGULATING THE COLLECTION, REMOVAL AND DISPOSAL OF GARBAGE, RUBBISH, ASHES AND REFUSE; AUTHORIZING THE BOROUGH COUNCIL TO MAKE RULES AND REGULATIONS RELATING THERETO; REPEALING ALL ORDINANCES OR PARTS THEREOF WHICH ARE INCONSISTENT HEREWITH; AND PRESCRIBING PENALTIES FOR THE VIOLATION HEREOF

It is hereby ENACTED and ORDAINED by the Borough Council of the Borough of Rockwood, Somerset County, Pennsylvania, as follows:

Rockwood Borough does hereby adopt this garbage ordinance pursuant to the general and specific powers granted it by the Borough Code, specifically enacting and ordaining as follows:

SECTION 1. SHORT TITLE:

This Ordinance shall be known, and may be cited as, "The Rockwood Borough Garbage Ordinance."

SECTION 2. DEFINITIONS:

A. Terms defined: As used in this Ordinance, the following terms shall have the meanings indicated:

Ashes - The residue resulting from the burning of wood, coal, coke, or other combustible material.

Borough or Borough of Rockwood - The area within the corporation limits of the Borough of Rockwood.

Collector - Any person who, for compensation, undertakes or makes disposal of any refuse of or for any person, other than his own refuse as may be expressly permitted in this Ordinance, but shall not include a person who undertakes or makes disposal of any refuse as

salvage as defined in this Ordinance.

Disposal - Includes the storage, collection, hauling, disposition, or handling of refuse.

Garbage - All animal and vegetable waste resulting from the handling, preparation, cooking or consumption of foods.

Person - Any natural person, association, partnership, firm, corporation or other entity or organization.

Refuse - All solid wastes, except body wastes, including garbage, ashes and rubbish.

Rubbish - All solid waste (except garbage and other decomposable matter) including, but not limited to bedding, cardboard, cans, crockery, glass, paper, wood, plant growth, yard gleanings, metal, and all other non-putrescible solid waste.

Salvage - Any refuse having intrinsic value or usefulness, and which is in fact converted for such value or applied to such use.

B. Word usage: The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION 3. POWERS OF BOROUGH COUNCIL:

The Council of the Borough of Rockwood is hereby vested with full authority to make all necessary rules and regulations, not contrary to law, and in conformity with this Ordinance, as they shall from time-to-time deem advisable to accomplish the ends and purposes of this Ordinance, to accomplish the orderly collection, removal, and disposal of garbage, rubbish, ashes, and refuse from the Borough of Rockwood.

SECTION 4. REGISTRATION OF COLLECTORS:

A. Any person who collects refuse within the Borough of Rockwood shall register with

the Borough of Rockwood.

B. The fee to register shall be Fifty and 00/100 ($50.00) Dollars per year, which is intended to cover the various administrative costs of the Borough of Rockwood to register and monitor the terms of this Ordinance. The registration fee shall apply to a calendar year, or for any such portion thereof as shall remain after the registration. There shall be no reduction in a registration fee even if paid after the beginning of a calendar year.

C. Every collector so registered must certify in writing to the Borough of Rockwood, and the registration must contain the following:

1. An express agreement to comply with all of the terms and provisions of this Ordinance or any amendments thereof.

2. A certification that collector possesses valid liability insurance and workmen's compensation insurance in compliance with this Ordinance.

3. A statement of the identity and location of the licensed solid waste disposal facility to which the collector will transport the refuse.

4. The identification of the address and phone number of the business office of the registrant.

5. Evidence that the registrant complies with the provisions of that Act known as the Waste Transportation Safety Act (Act 90 of June 29, 2002) and the Solid Waste Management Act (Act 97 of July 7, 1980).

SECTION 5. COLLECTION PRACTICES:

A. The extent and nature of refuse service to be rendered by the Collector to the customer, including the place or places where refuse containers will be collected and received,

the frequency of collection, and the rates and terms of compensation payable to the Collector, shall be governed entirely by agreement to be reached between the customer and the Collector, provided the same shall not violate any of the provisions of this ordinance.

B. It shall be unlawful for any person who has not registered as a collector to collect, remove or make disposal of, or for any person to permit an unregistered collector to collect, remove or make disposal of refuse from any household, institution, commercial enterprise or property within the borough except that:

1. A person may haul and make disposal of his own refuse without registering, provided that he otherwise abides by all the terms and provisions of this Ordinance, and provided that said person registers with the Borough to indicate the sanitary landfill to which said person transports and disposes of his refuse.

2. A person may make disposal of his own salvage, or permit any other person to make disposal of such salvage, without registering, if such other person receives no compensation for such disposal directly or indirectly from the person producing the salvage, and if such disposal does not violate any of the terms or provisions of this Ordinance or of any other Ordinance of this Borough or of any municipality to which the salvage may be transported, and provided that the salvage is transported in an enclosed vehicle and is so disposed of as to not become a nuisance or to be deleterious to the public health or the cleanliness of this Borough.

C. All vehicles used for collection of refuse shall have enclosed cargo space.

D. It shall be unlawful to collect, haul, transport, or convey refuse in open unenclosed vehicles.

E. Pending the collection thereof, every person shall keep or store garbage in watertight containers; and, pending collection thereof, ashes and rubbish must be stored in separate receptacles or containers.

SECTION 6. ACCUMULATION OF REFUSE CONSIDERED A VIOLATION AND A NUISANCE:

Any person who is in control of any premises who permits any garbage, ashes, or rubbish to accumulate on such premises shall be considered to be allowing the existence of a nuisance which is detrimental or deleterious to the public health or the cleanliness of the Borough and shall be guilty of a violation of this Ordinance and is subject to the penalties provided hereafter.

SECTION 7. ACCUMULATION OF REFUSE PROHIBITED:

A. It shall be unlawful, so as to constitute a nuisance, and it shall be a violation of this Ordinance, for any person in control of any premises within the Borough to accumulate or to permit or allow the accumulation of garbage, ashes, or rubbish on private or public property, except for such limited times as shall be reasonably necessary for the disposal of same in compliance with this Ordinance.

B. For the purposes of this Ordinance, it shall not be considered reasonably necessary (and therefore a violation of this Ordinance) for any person to set out refuse for collection for longer than a period of time before dusk of the evening prior to the actual pick-up by the collector.

C. It shall be unlawful for any person in control of any premises to permit any person

other than a collector who has registered pursuant to this Ordinance or the owner of the premises, himself, to collect or remove any garbage, ashes, or rubbish from said premises.

SECTION 8. DUTY OF PROPERTY OWNERS:

Any fees established between such persons and a Collector shall be established between the tenant, lessee or occupant as the case may be, but the ultimate responsibility rests with the property owner. If any tenants, lessees, or occupants fail to comply with the terms of this Ordinance, the owner shall be responsible; and, no agreements between owners and any occupants or any other persons shall relieve the owner of the premises from ultimate liability for the removal of refuse from the owner's property.

SECTION 9. DUTIES AND RESPONSIBILITIES OF COLLECTORS:

A. The Collector shall equip his residence or place of business with a telephone and maintain such telephone in service during all periods in which he offers services to the residents of Rockwood Borough.

B. The Collector shall have sufficient employees at all times in order to render adequate service and the Collector shall keep and maintain all trucks and vehicles in good repair and condition. All such trucks and vehicles shall be maintained and equipped in order to meet all requirements of the Pennsylvania Solid Waste Management Act and the Pennsylvania Waste Transportation Safety Act, and any other laws, and any applicable rules, and regulations adopted in compliance with said laws.

C. All vehicles used for the collection of refuse shall have enclosed cargo space, and it shall be unlawful to collect, haul, transport, or convey refuse in any open or unenclosed vehicle.

D. The Borough maintains the right to contract with any Collector, chosen by Borough

Council, to remove and dispose of any garbage, ashes, rubbish and refuse from property owned or used by the Borough, and said Collector shall likewise remove the carcasses of any animals found on public property.

E. The Collector shall provide and have available for Collector's use a properly licensed solid waste disposal facility, the same to be properly licensed and approved under the requirements of the Pennsylvania Solid Waste Management Act (or the comparable statute of any other state in the place of disposal), and the Collector shall also at all times comply with the provisions of the Pennsylvania Waste Transportation Safety Act.

F. The Collector shall indemnify and hold harmless the Borough of and from all liability or loss resulting from or arising out of or from the collection, removal, and disposal of refuse and the operation, maintenance, and use of any Collector's disposal area.

G. The Collector shall, at his own expense, obtain and keep in force a policy or policies of insurance insuring himself, his agents, servants, and employees against all liability arising out of the collection, removal and disposal of refuse and the ownership, maintenance or use of any disposal area provided or used by the Collector, with limits approved by the Borough.

H. The Collector shall be deemed an independent contractor and shall comply with the Workmen's Compensation Laws of the Commonwealth of Pennsylvania and will, at his own expense, procure such compensation insurance as shall be necessary and adequate to cover and protect all his employees engaged in the collection, removal, and disposal of refuse.

I. In the event that Collector fails to comply and conform with the terms and conditions of this Ordinance and any rules and regulations made thereunder, Council reserves the right, in addition to any other remedies, to revoke the registration of Collector, or to take any other

procedures or steps deemed necessary and desirable by Council. In such event, Council reserves the right to take whatever steps are necessary to collect the garbage, ashes, and other refuse of customers of the said Collector in such manner as Council may, in its own judgment, deem advisable, and, in such event, to charge of cost of collection against said customers.

SECTION 10. UNLAWFUL TO DISPOSE OF REFUSE CONTRARY TO ORDINANCE:

It is unlawful for any person or collector to dump, burn, bury, destroy, or otherwise dispose of garbage produced or collected in the Borough of Rockwood except in a sanitary landfill operated and approved by the terms of the Pennsylvania Solid Waste Management Act, and it is likewise unlawful for any person or Collector to fail to abide by the terms of the Pennsylvania Waste Transportation Safety Act; and, it is unlawful to throw, leave, or deposit any garbage, ashes, or rubbish on any street, alleyway, thoroughfare, public ground, or in any streams, waters, or watercourses of the Borough of Rockwood; and, it is unlawful for any person to burn in the open air any garbage or rubbish.

SECTION 11. NOT APPLICABLE TO BOROUGH EMPLOYEES PERFORMING DUTIES:

The provisions of this Ordinance shall not apply to any employee of the Borough engaged in the performance of his duties, pursuant to the rules, regulations, and directions of Borough Council.

SECTION 12. REMEDIES:

The disposal of refuse in violation of this Ordinance is declared to be a public nuisance, and deleterious and inimical to the public health and welfare of the Borough of Rockwood and its residents, and the Borough is hereby authorized to seek injunctive relief in equity, or otherwise, in addition to any and all remedies now or hereafter available at law for the enforcement hereof,

and in addition to any criminal penalties provided herein for violation.

SECTION 13. VIOLATIONS AND PENALTIES:

A. Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine not exceeding Six Hundred and 00/100 ($600.00) Dollars, plus costs of prosecution, and in default thereof shall be sentenced to imprisonment in the county jail for a period not exceeding thirty (30) days.

B. Each day's continuance of a violation of this Ordinance shall be considered as a separate offense.

SECTION 14. INTERPRETATION:

If any provision, sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional or otherwise illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared to be the intention of the Borough of Rockwood that this Ordinance would have been adopted had such provision, sentence, clause, section, or part found to be unconstitutional, illegal, or invalid not otherwise have been included herein.

SECTION 15. EFFECT ON OTHER ORDINANCES:

All ordinances or parts of ordinances inconsistent herewith are hereby repealed. Not to restrict the generality of the foregoing, those Ordinances numbered as Ordinance 91-1, 95-1, and 95-2, are repealed by the enactment of this Ordinance.

SECTION 16. EFFECTIVE DATE:

This Ordinance shall be effective on January 1, 2008.

ENACTED and ORDAINED this 20th day of November 2007.

Attest: BOROUGH OF ROCKWOOD

Secretary By Donald Warrick
President of Council

EXAMINED and APPROVED this 20th day of November 2007.

Jeanne Warrick
Mayor