

ORDINANCE NO. 2025 - 1

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD
SOMERSET COUNTY, COMMONWEALTH OF PENNSYLVANIA,
TO PROTECT THE PUBLIC FROM CERTAIN
GARBAGE, REFUSE, RUBISSE, AND JUNK RELATED NUISANCES
AND DEFINING AND PROHIBITING THE SAME

WHEREAS, the Borough Code of the Commonwealth of Pennsylvania authorizes
Boroughs to adopt ordinances to protect the public health, safety and welfare; and

WHEREAS it has been deemed by Rockwood Borough (“the Borough”) that to declare
certain accumulations of material or materials to be public nuisances and to prohibit the
same, to prevent unreasonable inconvenience, annoyance, and injury to others in the
public in their legitimate enjoyment of their own rights of person and property; shall
serve to present a risk or hazard to the public health, welfare, and safety to the residents
of the Borough and structures within the Borough;

NOW, 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 Council as follows:

SECTION 1. SHORT TITLE:

This Ordinance may be referred to as the “Rockwood Borough Garbage Nuisance
Ordinance.”

SECTION 2. DEFINITIONS:

(A) When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word "shall" is always mandatory and not merely directory.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicated or requires a different meaning.

BOROUGH. The Borough of Rockwood, in Somerset County, Pennsylvania.

GARBAGE. Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce; also to include all table refuse, animal and vegetable matter, offal, meat, fish, fowl, or carcasses, decaying plant matter, and other articles and materials ordinarily used for food or potentially used for food but which have become or are unfit for such use or which are for any reason discarded.

JUNK. All forms of junk materials, including but not limited to, unused or abandoned machinery, equipment or appliances, and all forms of waste and refuse of any type of materials, including scrap metal whether iron, tin, brass, copper, lead, zinc and all other metals and alloys; any rubbish or reclaimable material; bones, glass, bottles, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used vehicles, machinery, tools, appliances, furniture, plumbing, heating, electrical and other fixtures or parts thereof; pipe and pipe fittings; flammable materials or debris; whether or not stored or used in conjunction with dismantling, processing, salvage, storage, bailing, disposal or other use or disposition; lumber, boxes, crates, pallets, used tires, wheels, rims, hubcaps; any worn out or discarded material in general that may be turned to some use or that can be used for other purposes; anything fit to be discarded; trash, debris, odds and ends of any kind; any other item which has outlived its usefulness in its original form and all articles discarded or no longer used as a manufacturer article composed of any one or more of the materials herein mentioned; and any other item fit to be discarded.

NUISANCE. The unreasonable, unwarrantable, or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person or resident in the legitimate enjoyment of his reasonable rights of a person or property.

OWNER. A person owning, leasing, occupying, or having charge of any premises within the Borough.

PERSON. Any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

REFUSE/RUBBISH. The terms "refuse" or "rubbish" may be used interchangeably, and include, but are not limited to, combustible trash, including paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; noncombustible trash, including metals, tin cans, metal furniture, glass, crockery, other mineral waste; contents of letter receptacles. Provided, refuse shall not include earth and wastes from building operations, nor shall it include leaves, cornstalks, stubble, or other vegetable material generated in the course of harvesting agricultural crops.

SECTION 3. CERTAIN NUISANCES PROHIBITED:

The following nuisances related to garbage, junk, refuse, rubbish, and vegetation are hereby prohibited:

A. *Garbage:* It shall be unlawful to place or permit to remain anywhere in the Borough any garbage or other material subject to decay other than leaves or grass, excepting in a tightly covered container; excepting that a mulch heap is permitted, which is properly maintained for gardening purposes and does not materially disturb or annoy persons of ordinary sensibilities in the neighborhood. It shall be unlawful to any individual, firm, or corporation to store more than seven days of

garbage as defined by this ordinance, which may pose a potential health and safety problem to the community.

B. *Junk*: It shall be unlawful to place or permit to remain anywhere in the Borough junk which can be seen from any public highway, road, street, avenue, lane or alley which is maintained by the Borough, or by the Commonwealth of Pennsylvania, from street level.

C. *Refuse/Rubbish*: It shall be unlawful to place or permit anywhere in the Borough refuse or rubbish, except in a covered container or containers.

D. *Depositing on Streets or Cartways*: It shall be unlawful for any person to push, place, or otherwise deposit junk, garbage, refuse, or rubbish of any public highway, road or street which is maintained by the Borough or by the Commonwealth of Pennsylvania, and allowing same to remain thereon, or the right-of-way thereof, unless expressly given authorization by action of the Borough Council for legitimate circumstances concerning the same.

E. *Noxious Odors*. It shall be unlawful for any person to place or permit anywhere in the Borough, junk, garbage, refuse, or rubbish which has, causes or creates a noxious or offensive odor which can be detected upon properties other than the property on which it is place, permitted, or deposited. This provision shall not apply to agricultural uses of fertilizer or animal waste.

SECTION 4. NOTICE OF VIOLATION

Whenever a condition constituting a nuisance under this Ordinance is permitted or maintained in the Borough in violation of this Ordinance, an agent of the Borough designated for the enforcement of this Ordinance shall cause written notice to be served upon the owner of the property and/or the person or persons causing or permitting the said nuisance, which notice shall require the owner or other person to eliminate the nuisance within 10 days, unless further extension is agreed upon between the owners or other person and the Borough, in one of the following manners:

- (A) By making personal delivery of the notice to the owners;
- (B) By handing a copy of the notice at the residence of the owner to an adult member of the family with which he resides, but if no adult member of the family is found, then to an adult person in charge of such residence;
- (C) By fixing a copy of the notice to the door at the entrance of the premises in violation;
- (D) By mailing a copy of the notice to the last known address of the owner by certificate of mailing; or
- (E) By publishing one (1) copy of the notice in a local newspaper of general circulation within Somerset County, Pennsylvania.

SECTION 5. ENFORCEMENT: AUTHORITY

(A) This Ordinance shall be enforced by officers of the Borough Police Department, and/or by an enforcement officer appointed by proper resolution of Borough Council. It is the specific intention of Borough Council that enforcement may be conducted both by the Borough Police Department and by a duly appointed enforcement officer, in the discretion of Council.

(B) Enforcement may be by citation and action before a magisterial district judge, as referenced in Section 6, Penalties and Remedies, below; or may be by filing of a civil claim in the magisterial district court or the Court of Common Pleas; or by issuance of a civil penalty ticket; or by municipal lien.

(C) The designated agent of the Borough for enforcement of this ordinance shall have a right of reasonable entry upon and into the property of any property owner subject to this Ordinance, in order to safeguard the safety, health, and welfare of the public, to include any exterior of the premises or property area, at a reasonable time; and shall have a right to inspect the interior of property to safeguard compliance with this Ordinance subject to order of court as described below:

(1) In the event that the Borough opts, through its designated agent, to pursue enforcement under this Ordinance as a filing of a citation and action before a magisterial district judge as a summary offense, prior to the filing of any such action, if the designated agent of the Borough has the requisite probable cause to do so, said designated enforcing agent of the Borough may apply before a court of competent jurisdiction for a search warrant for the purposes of seeking and/or gathering evidence pertinent to a violation of this Ordinance and the pursuit of any such citation.

(2) In the event that the Borough opts to pursue enforcement under this Ordinance by filing a civil claim, the Borough may explicitly file such a claim in law and in equity for purposes of seeking a preliminary injunction, pre-complaint discovery,

or other such civil or equitable relief permitted by any relevant civil procedural rules, regulations, or caselaw, for the purposes of enjoining further violation of this Ordinance, or for purposes of seeking and/or gathering evidence pertinent to pursuit of a civil claim for violation of this Ordinance.

SECTION 6. ENFORCEMENT: PENALTIES AND REMEDIES

A. Summary Offense: The Borough may, in its discretion, pursue enforcement against any person who fails to comply with this Ordinance, as aforesaid, shall be by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The fine shall be in an amount of One Thousand and 00/100 (\$1,000.00) Dollars for each violation. Additionally, imprisonment may be imposed to the extent allowed by law for the punishment of summary offenses. Any person or entity found guilty of violating this Ordinance may be assessed court costs and reasonable attorney fees incurred by the Borough in any enforcement proceedings. Any penalty imposed in a summary prosecution shall be in addition to any costs or payment made for enforcement charges or administrative charges. Each day the violation of this Ordinance occurs, continues, or is permitted to continue, will constitute a separate offense for which a separate fine and related penalties as referenced above may be imposed.

B. Civil Claim: The Borough may, in its discretion, pursue enforcement against any person who fails to comply with this Ordinance, by filing a civil action for either

legal or equitable relief, including any form of damages collectible at law or in equity, before a magisterial district court or in the Court of Common Pleas or any other court of competent jurisdiction, to include recover of costs and expenses as otherwise noted in this Ordinance.–

C. Civil Penalty: . In addition to any remedies available to the Borough under any other section or subsection of this Ordinance, the Borough shall be entitled to collect a civil penalty from any person not complying with this Ordinance at the rate of Twenty-Five (\$25.00) Dollars per day for each day after notice has been given of any violation of this Ordinance for which any person subject to this Ordinance remains noncompliant. This civil penalty may be enforced against by any agent of the Borough having enforcement authority pertinent to this Ordinance, by the delivery to the person violating the Ordinance of a ticket indicating the amount of the civil penalty. In the event that the Borough pursues a civil claim to enforce this ordinance against any person receiving any such ticketed civil penalty, the amount recoverable shall be at least the total value of all pertinent civil penalty tickets issued for violation of the Ordinance, along with any other applicable penalties or costs associated with the violation or violations, under this Ordinance.

D. Municipal Lien: If a property owner permits or causes said property to be maintained in violation of this Ordinance, the Borough may, after providing the owner with written notice under this Ordinance, correct the matter giving rise to the violation at borough expense and may thereafter collect all costs and expenses, to include man-hours

used by the Borough for such corrective action, plus 10% incurred in connection with correcting the violation. If a violator of the Ordinance does not take action upon notice, under this Ordinance, and it is necessary for the protection of the public health, safety, and/or welfare for the Borough to proceed to take said action to eliminate any threat to the public health, safety, and/or welfare, upon real property in violation of this Ordinance, the Borough may, in addition to or exclusive of any legal or equitable action to recover the costs and expenses to the Borough for any such action by the Borough, place a municipal lien on such real property associated with a violation.

E. No Remedy Shall be Exclusive: The choice by the Borough to initiate any summary proceedings against any person, firm, partnership, corporation, or other entity, who or which fails to comply with the terms of this Ordinance, nor the initiation of any other form of enforcement of this ordinance, to include civil claim, civil penalty, or municipal lien, shall not serve as the exclusive remedy or means of enforcement of this Ordinance, and the Borough retains all rights provided by law to pursue other remedies including actions in equity or otherwise in the Magisterial District Court, Court of Common Pleas, or any other court of competent jurisdiction.

F. Costs and Fees Assessable: In the event that legal proceedings are necessary to enforce this Ordinance, the Borough shall be allowed to recover, reasonable counsel fees, in addition to all other legal costs and expenses associated with enforcement which may be legally collectible.

SECTION 7. SEVERABILITY AND REPEALER:

If any parts or sections of this Ordinance are adjudicated to be unconstitutional, illegal, or invalid by a court of appropriate jurisdiction, then each and every other part and element shall remain in full force and effect, it being the intention of the Borough to have enacted this Ordinance even without the inclusion of any such parts or provisions held to be unconstitutional, illegal or invalid. Any parts of any Ordinances which are specifically inconsistent with the terms of any prior Ordinance concerning the same subject matter are hereby superseded, only to the extent that they contradict any term of this Ordinance.

SECTION 8. HEADINGS:

Section headings set forth in this Ordinance are merely for convenience purposes, and they shall not be taken to govern or limit the scope of sections set forth in this Ordinance.

SECTION 9. EFFECTIVE DATE:

This Ordinance shall be effective upon enactment.

Attest:

ROCKWOOD BOROUGH COUNCIL

Careyde Romasberg
Borough Secretary

By  Mike Hutchison
Acting Chairperson
President of Council

APPROVED this 15 day of July, 2025.

Melissa Conner-Spencer
Mayor