

ORDINANCE NO. 2025 - 3

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD REGULATING OUTSIDE
BURNING WITHIN THE BOROUGH; TYPE OF MATERIAL TO BE BURNED, AND
CONDITIONS UNDER WHICH BURNING MAY BE PERMITTED

BE IT ORDAINED and Enacted by Council of the Borough of Rockwood as follows:

SECTION 1: TITLE

This ordinance shall be known as the "Rockwood Borough Burning Ordinance."

SECTION 2: DEFINITIONS

"Burning": As used within this Ordinance "burning shall have the following meaning. "The igniting of any material to cause flame, smoke, embers, hot ash or residue, in combination or individually."

"Non-Burnable Materials": the following is a partial list of those materials that are classified as "non-Burnable " under the guidelines of this Ordinance.

Plastic; rubber; oils; asbestos; composition boards; shingles; felt paper; canvas; fiber glass; vinyl; tires; or any similar materials; or any combination of the above with any other materials. Human or animal waste; sanitary napkins; diapers; food solids; oil filters; or any other materials individually or in combination, that emit smoke, or acrid, obnoxious or toxic odors. The above is a partial list of those items and materials prohibited under the guidelines of this Ordinance. Any other materials that do not otherwise comply fully with the intent of this Ordinance, with regard to the smoke which burning such materials produces, or otherwise create a nuisance to people or animals are

strictly prohibited.

SECTION 3: PROHIBITIONS

No person or corporation shall cause to be burned any of the above NonBurnable Materials, or any like or similar materials not in compliance, or inconsistent with this Ordinance. Further, it shall be illegal to burn any materials that give off any acrid, obnoxious or toxic odors, or emit heavy smoke, regardless of their composition.

SECTION 4: FIRES TO BE ATTENDED

Burning, in compliance with this Ordinance, shall be attended at all times by an individual fourteen (14) years or older until such time as the flame has subsided completely. Unattended burning shall be in direct violation of this Ordinance, and all persons or corporations causing and allowing such unattended burning shall be prosecuted under the guidelines of this Ordinance.

SECTION 5: LAW OF COMMONWEALTH TO STILL APPLY

Nothing in this Ordinance should be construed to supersede, alter, or relax the general laws, regulations, or rules of the Commonwealth of Pennsylvania with regard to burning and/or attendance of fires, to include but not to be limited to the criminal law of the Commonwealth of Pennsylvania with regard to reckless burning, risking a catastrophe, or any other criminal statute applicable to burning and/or attendance of fires; nor is it

intended that this Ordinance should supersede any civil law or remedies with regard to negligence, nuisance, or any other applicable law, regulation, or rule. It is specifically intended that the law of the Commonwealth of Pennsylvania is incorporated, in addition to those more specific provisions as contained in this statute, and may be enforced through the enforcement and remedies contained within, and/or created by, this Ordinance.

SECTION 6. 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 7, 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 7. 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 8. 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 9. 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 10. EFFECTIVE DATE:

This Ordinance shall be effective upon enactment.

Attest:

ROCKWOOD BOROUGH COUNCIL

Carolyn Ronesky
Secretary

By Mike Hukison
Acting Chairperson, President

APPROVED this 15 day of July 2024.5

BAC

Melissa Corrado
Mayor