

ORDINANCE NO. 2025 - 4

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD
SOMERSET COUNTY, COMMONWEALTH OF PENNSYLVANIA,
IN REGARD TO CUTTING OF GRASS, WEEDS, OR OTHER VEGETATION

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”) to provide for said public health, safety, and welfare of the residents of the Borough to eliminate certain public nuisances in the form of growth of grass, weeds, and vegetation under the conditions as set

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 Mowing Ordinance.”

SECTION 2. PROHIBITED CONDUCT:

(A) Any person, firm, corporation, or other entity owning, having control over, or being responsible for any property within the Borough shall trim or cut all grass, weeds, or

other vegetation upon their property such as to exceed a height of the same in excess of six (6) inches in height. The Borough expressly hereby provides that grass, weeds, or vegetation in excess of this height represents a nuisance and is detrimental to the health, safety, cleanliness, and comfort of the inhabitants of the Borough.

(B) For purposes of this prohibition, grass, weeds, or other vegetation shall mean and refer to all growths of plant or fungus other than trees, shrubs, cultivated ornamental plants (such as flowers), or plants grown for agricultural or gardening purposes.

(C) No vegetation or growths of any kind are permitted which emit a noxious odor; or which serve to conceal any violation of any other Ordinance of the Borough (for example, but not limited to, with respect to garbage, rubbish, or ashes).

SECTION 3. NOTICE OF VIOLATION

(A) 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 7 days, unless further extension is agreed upon between the owners or other person and the Township, in one of the following manners:

(1) By making personal delivery of the notice to the owners;

- (2) 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;
- (3) By fixing a copy of the notice to the door at the entrance of the premises in violation;
- (4) By mailing a copy of the notice to the last known address of the owner by certificate of mailing; or
- (5) By publishing one (1) copy of the notice in a local newspaper of general circulation within Somerset County, Pennsylvania.

(B) In the event that the Borough has provided notice, pursuant to this subsection, and the Borough subsequently elects to exercise the remedy, under this Ordinance (as further described below) to enter upon the property and to trim or cut the grass, weeds, or other vegetation to create conformity with this Ordinance; then, in the event that the grass, weeds, or other vegetation regrows to such a height as to again be in non-conformity to this Ordinance, without action by the owner of the property and/or the person or persons permitting this said nuisance, the Borough shall not be required to again provide subsequent Notice under this section to enter upon the property to trim or cut the grass, or to proceed to exercise the remedy (below) of seeking a municipal lien for costs born by the Borough. However, after a violation of this Ordinance, should any owner of the property and/or person or persons permitting such a nuisance begin to trim or cut their grass, in conformity with this Ordinance, and subsequently violate the ordinance, then the Borough shall provide notice again, under this Section.

SECTION 4. 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 5. ENFORCEMENT: BY ENTRY ONTO THE PROPERTY

In the event of a violation of this Ordinance, and the first Notice (under Section 3, above) to the owner of the property and/or the person or persons causing or permitting the said nuisance as described in this Ordinance, the Borough may elect to enter upon the exterior property area of the owner or other relevant person (as referenced), and trim or cut the grass, weeds, or other vegetation such as to bring it in conformity with this Ordinance.

In the event that the Borough elects to exercise this remedy, the Borough shall track the man-hours of the employees or agents of the Borough engaged in trimming or cutting the grass in this manner, and may assess against the owner of the property a fee commiserate with the value of the time of the employees or agents of the Borough at a rate which may

be set, from time to time, by Motion of Borough Council; plus interest or other penalty, as further describe in the section below with respect to Remedies. Further, this assessment of damages for time expended in this manner by Borough employees or agents may be the subject of civil damages, as per the civil remedies as described below; or may constitute the basis of a municipal lien, as described below. As with other remedies in this Ordinance, the Borough electing to utilize this remedy shall not be construed as a waiver of any other available remedy or remedies. Further, the use of this remedy by the Borough on any given occasion with respect to any given property shall explicitly neither obligate the Borough to exercise this remedy again with regard to the same property; nor shall it obligate the Borough to exercise this remedy on any given occasion with regard to any other property in violation of this Ordinance (or otherwise).

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.

This remedy is to be construed in conjunction with the Section on Right of Entry, above.

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

Caryn Romesberg
Borough Secretary

By Mike Holsman *Mike Holsman*
President of Council *Acting Chairperson*

APPROVED this 15 day of July, 2024.5

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Melissa Conner-Cramer
Mayor