

ORDINANCE NO. 2015 - 2

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD  
REGULATING ACCESSORY BUILDINGS  
AND IMPOSING PENALTIES FOR VIOLATIONS OF SUCH REGULATION

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 proliferation of certain accessory buildings has impacted, or will impact the health, safety, and welfare of the residents of the Borough; and WHEREAS the Borough desires to establish regulations controlling such accessory buildings, and such regulations are necessary for the preservation of public health, welfare, and safety;

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 Accessory Building Ordinance.”

SECTION 2. DEFINITIONS:

For all purposes in this ordinance, the singular shall include the plural, and the plural shall include the singular. The present tense shall include the future tense. The word “used” shall include the words “arranged,” “designed,” or “intended to be used.”

The word “building” shall include the word “structure.”

(1) “Accessory building” means a building subordinate to the main or principal building or buildings on a lot or parcel and which is used for purposes customarily incidental or associated with the use of the main or principal building or buildings.

“Accessory building” includes but is not limited to: arbors, barns, boxes, cabanas, cottages, crates, garages, gazeboes, greenhouses, guest houses, houses for habitation by animals, lean-tos, outbuildings, outhouses, pergolas, playhouses, pool buildings, sheds, trellises, workshops and so on. Actual use of an accessory building as a dwelling shall not exclude any structure from classification as an accessory building under this definition.

(2) “Enclosed” as applies to a structure means that the structure has a floor, roof, and walls on all sides without gaps such that there are no openings of the structure to the outside other than doors, windows, or other such means of ingress and egress, which said doors, windows, or other such means of ingress and egress must be capable of being completely closed or sealed by a latching or locking mechanism.

(3) “Good condition” means a condition which a reasonable person would consider to be intact and undamaged, and which expressly includes but is not limited to a condition which is free from rust, peeling paint, corrosion, or other forms of visible deterioration, and which is rodent, vermin, and insect-free.

(4) “Storage” means use of a structure to gather, keep, or shelter, any type of personal property items, goods, and/or materials, for any period or length of time.

(5) “Structure” means any man-made object having an ascertainable stationary

location on or in land or water, regardless of whether or not it is affixed to the land or to another structure.

### SECTION 3. PROHIBITED ACTS IN REGARD TO ACCESSORY BUILDINGS

1. No person shall erect, install, or replace an accessory building without obtaining a permit from the Borough of Rockwood. Application for permit shall include the date of intended placement, the intended location of the placement, and the purpose of the intended accessory building.

2. All accessory buildings shall be maintained in good condition.

3. No person shall use an accessory building for storage unless said accessory building is enclosed.

4. No person shall remove any personal property items, goods, and/or materials from any accessory building used for storage in violation of this ordinance to any other accessory building which is in violation of this ordinance.

### SECTION 4. INVESTIGATION OF PREMISES:

The enforcement officer, upon routine inspection or upon receipt of a complaint, may enter upon private property to investigate a suspected violation of this Ordinance, and may photograph and/or create other record/s for the purpose of enforcement of this Ordinance.

SECTION 5. NOTICE TO REMOVE:

When an enforcement officer finds or is notified that an accessory building has been installed or maintained in violation of this Ordinance, the enforcement officer shall provide notice to the owner of record or the person having physical possession and control of the structure. Notice shall be in writing and be delivered by personal delivery or by certified mail to the owner or person having control. Such notice shall provide at least as follows:

1. The nature of the complaint.
2. A description of the location of the structure in question.
3. A statement that the same shall be removed from the premises no later than ten (10) days from the date of notification.
4. A statement that if removal of the structure is made within ten (10) days from the notice, that notification shall be given to the enforcement officer.
5. A statement of the penalties allowed for in this Ordinance for noncompliance.

SECTION 6. ENFORCEMENT OFFICER:

This Ordinance shall be enforced by officers of the Rockwood 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 Rockwood Borough Police Department and by a duly appointed enforcement officer, in the discretion of Council.

## SECTION 7. PENALTIES:

Enforcement against any person, firm, partnership, corporation, or other entity, who or which fails to comply with the notice given, or otherwise fails to comply with the 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 not less than Three Hundred and 00/100 (\$300.00) Dollars and not more than 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 continues after notice has been given shall be considered a separate offense allowing the filing of a separate citation, for the purpose of assessing fines and penalties. Once notice has been properly given for a violation, the notice continues to support each separate offense and citation until the violation is corrected; it is intended that a fresh notice need not be given before each citation in cases of a continuing violation.

## SECTION 8. PROSECUTION NOT EXCLUSIVE REMEDY:

The choice by the Borough of Rockwood to initiate summary proceedings against

any person, firm, partnership, corporation, or other entity, who or which fails to comply with the terms of this Ordinance shall not serve as the exclusive remedy, and the Borough retains all rights provided by law to pursue other remedies including actions in equity or otherwise in the Court of Common Pleas, which actions would include the collection of all costs of Rockwood Borough for actually enforcing this Ordinance, to include all court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings.

SECTION 9. 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 Rockwood Borough Council to have enacted this Ordinance even without the inclusion of any such parts or provisions held to be unconstitutional, illegal or invalid. It is furthermore the specific intention of Rockwood Borough Council in enacting this Ordinance that this Ordinance should be interpreted to be consistent with all Ordinances of the Borough of Rockwood currently in force at the time of the enactment of this Ordinance.

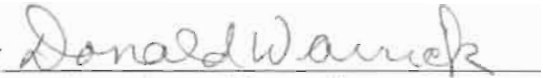
SECTION 10. EFFECTIVE DATE:

This Ordinance shall be effective immediately upon enactment.

Attest:

ROCKWOOD BOROUGH COUNCIL

  
Borough Secretary

By   
President of Council

APPROVED this 21<sup>st</sup> day of April, 2015.

  
Mayor