

ORDINANCE NO. 2019 - 02

AN ORDINANCE OF THE BOROUGH OF ROCKWOOD
REGULATING THE USE AND POSSESSION OF FIREWORKS

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 the use, and therefore possession, of fireworks, as herein defined, presents 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 Fireworks 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.”

“APA 87-1” shall mean: the American Pyrotechnics Association Standard 87-1:

Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition or successor publication.

“CONSUMER FIREWORKS” shall mean: (1) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, and is labeled as a consumer firework by the Consumer Products Safety Commission in 16 CFR, or any successor regulation, or by the American Pyrotechnics Association Standard 87-1 (APA 87-1), or any successor standard, to specifically include, by way of inclusion and example, but to not exclude any example otherwise meeting this definition which is not listed, firecrackers, Roman Candles, bottle rockets, mortars, cakes, and similar such fireworks containing up to a maximum of 50 milligrams of explosive materials. (2) This term shall explicitly not include devices referenced or known in the APA 87-1, or any successor standard, as “ground and hand-held sparkling devices,” “novelties,” or “toy caps.”

“DISPLAY FIREWORKS” shall mean: Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, to specifically include, but not to be limited to: (1) salutes that contain more than two grains or 130 milligrams of explosive material; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) other display pieces which exceed the limits of explosive

materials for classification as “consumer fireworks” by APA 87-1 or 49 CFR 172.101, or any relevant successor standard or regulation/s.

“FIREWORKS LAW” shall mean: the statute or statutes of the Commonwealth of Pennsylvania governing the use, sale, and/or possession of fireworks, which at the time of the enactment of this ordinance is at 35 P.S. 1271 et seq. (Title 35, Chapter 13A).

SECTION 3. PROHIBITED ACTS IN REGARD TO FIREWORKS

A. The sale, possession, use, discharge, and/or distribution of Consumer Fireworks within the Borough of Rockwood is hereby prohibited, except as may be permitted by further action by Ordinance of Council. All restrictions on the use of Consumer Fireworks as may apply under the law of the Commonwealth of Pennsylvania shall also continue to apply, and are further incorporated into this Ordinance by reference.

B. The sale, possession, use, discharge, and/or distribution of Display Fireworks within the Borough of Rockwood is hereby prohibited, except as may be permitted by further action by Ordinance of Council. All restrictions on the use of Consumer Fireworks as may apply under the law of the Commonwealth of Pennsylvania shall also continue to apply, and are further incorporated into this Ordinance by reference.

C. Explosive or pyrotechnic novelty devices referenced or known in the APA 87-1, or any successor standard, as “ground and hand-held sparkling devices,” “novelties,” or “toy caps,” which, as defined above, do not fall within the definition of Consumer

Fireworks or Display Fireworks shall not be discharged or used after 11:00 pm or before 6:00 am.

SECTION 4. ENFORCEMENT

A. 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.

B. Any person so authorized to enforce this Ordinance may seize, take, remove, or cause to be removed at the expense of the owner, all stocks of fireworks offered, exposed for sale, stored, held, or possessed, in violation of this Ordinance, or of the Fireworks Law of the Commonwealth, without any prior notice to the person or persons acting in violation of this Ordinance of the law of the Commonwealth.

SECTION 5. PENALTIES:

A. Enforcement against any person, firm, partnership, corporation, or other entity, who or which 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 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.

B. 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.

SECTION 6. 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 7. SEVERABILITY AND REPEALER:

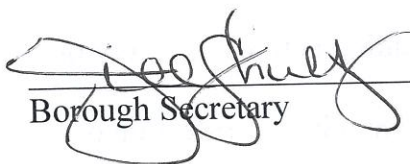
If any parts or sections of this Ordinance are adjudicated to be unconstitutional, illegal, or invalid by a court of appropriate jurisdiction, then each and every other part and element shall remain in full force and effect, it being the intention of Rockwood Borough Council to have enacted this Ordinance 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. Any Ordinance of the Borough of Rockwood which should be found to conflict with the terms of this Ordinance shall be considered to be subordinate to this Ordinance to the extent of any such conflict.

SECTION 8. EFFECTIVE DATE:

This Ordinance shall be effective immediately upon enactment.

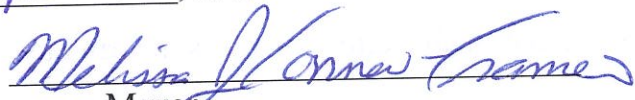
Attest:

ROCKWOOD BOROUGH COUNCIL


Borough Secretary

By 
President of Council

APPROVED this 17th day of September, 2019.


Mayor