

Explanation: This Ordinance enacts guidelines for members of the public who choose to videotape any portion of a public meeting of the municipality's governing body.

Ordinance #4-07

**SETTING GUIDELINES FOR VIDEOTAPING ANY PORTION OF THE
PUBLIC MEETING OF THE MUNICIPALITY'S GOVERNING BODY**

WHEREAS, the New Jersey Constitution's free speech guarantee includes a right of access to public proceedings that protects both the free discussion of governmental affairs and the corresponding right to receive information, and New Jersey case law has consistently upheld the importance of open government and recognized the right of citizens to document what they see and hear at public meetings; and

WHEREAS, the Appellate Division, in Maurice River Township Board of Education v. Maurice River Township Teachers Ass'n, 187 N.J. Super. 566 (Ch. Div. 1982), *aff'd*. 193 N.J. Super. 488 (App. Div. 1984), placed municipalities on notice that citizens have a right to videotape public proceedings subject to reasonable guidelines administered by the governing body; and

WHEREAS, the New Jersey Supreme Court, in its recent decision in Robert Wayne Tarus v. Borough of Pine Hill, et al., ___ N.J. ___ (2007) affirmed the principle that "subject to reasonable restrictions, members of the public have a common law right to videotape municipal proceedings in New Jersey"; and

WHEREAS, the Tarus decision affirmed the common law right of members of the public to videotape open public meetings, which includes public meetings by a municipality's governing body, further affirming, however, that the common law right to videotape is "neither absolute nor unqualified," that the "exercise of such a right was not absolute, but subject to reasonable governmental regulation and control," and that members of the public wishing to videotape the proceeding may not, through videotaping, interfere with the governing body's business or other citizens' access to the proceedings; and

WHEREAS, the members of the governing body recognize that governing bodies are under no obligation to create guidelines limiting the right to videotape, but are permitted to do so to ensure that the right of the public to videotape public meetings does not otherwise interfere with the business of the governing body; and

WHEREAS, the members of the Borough Council of the Borough of Rocky Hill, Somerset County, New Jersey, desire to establish guidelines for videotaping of meetings of the governing body;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Rocky Hill, that:

Section 1. The following guidelines for the videotaping of open public meetings by members of the public shall be established:

A. Purpose.

Members of the public have the right to videotape portions or all of an open public meeting of the governing body – excluding closed or executive session discussions. These guidelines are intended to ensure that the right of the public to videotape public meetings of the governing body does not interfere with the business of the governing body or other citizens' right of access to the proceedings.

B. Guidelines.

To minimize the possibility of disrupting the public meeting of the governing body, any member of the public ("citizen") who wishes to videotape portions or all of the public meeting must do so in accordance with the following guidelines:

1. The citizen must provide the Borough Clerk no less than thirty (30) minutes verbal notice prior to the public meeting of his intention to videotape the governing body meeting. Written notice may also be provided twenty-four (24) hours prior to the meeting via electronic mail to the Clerk at: clerk@rockyhill-nj.gov.
2. The citizen must have completed setup of his videotape recorder and any related equipment by no less than fifteen (15) minutes prior to the advertised start time of the public meeting.
3. The video recorder and any associated equipment utilized by the citizen must be compact, quiet, and unobtrusive. No more than one videotape recorder, and no added lighting may be used by any citizen. Any stationary videotape recorder and/or equipment may only be set up by the citizen in the southeast corner of the Borough Council Chamber diagonal from the Mayor's seat, not to exceed an area of four (4') feet by three (3') feet, and not to intrude upon existing exit door, such area to be specifically identified to the citizen by the Clerk. No citizen is permitted to use any videotape recorder or associated equipment that makes any beeping sounds or other noises. Should beeping sounds or any other noise emanate from the videotape recorder or associated equipment at any time during the public meeting, the citizen shall be required to cease videotaping immediately.
4. The citizen may not disrupt the public meeting with his recording equipment. The citizen may not set up or use the videotape recorder or equipment in such a way as to block or obstruct the view of other members of the public of the governing body proceedings. The videotaping by the citizen must be orderly and unobtrusive. The citizen may not continually exit and re-enter the meeting room, or continuously move around within the meeting room, during the public meeting. The citizen must remain with the videotape recorder and equipment at all times, except for any period of time during which the citizen is making a comment in his turn during any public comment portion of the public meeting. The citizen may not "narrate" the proceeding, or speak into any videotape recorder or microphone. The citizen may not engage in any verbal conversation, discourse or comment whatsoever, unless the citizen is making a formal comment in his turn during any public comment portion of the public meeting.

5. If the citizen chooses to cease videotaping at any time during the public meeting, he may do so; provided that the citizen may not commence removal – except for a hand-held videotape recorder, or begin to disassemble any videotape recorder or associated equipment until there is a break of at least five (5) minutes of the public meeting or until the public meeting has concluded.

Section 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

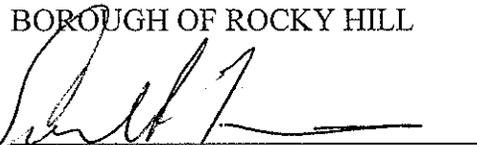
Section 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Rocky Hill, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Rocky Hill are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 6. This Ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

ATTEST:



Donna M. Griffiths, RMC
Borough Clerk

BOROUGH OF ROCKY HILL


Edward P. Zimmerman
Mayor

CERTIFICATION

I, Donna M. Griffiths, Clerk, of the Borough of Rocky Hill do hereby certify the foregoing to be a true and correct copy of an Ordinance adopted by the Borough Council of the Borough of Rocky Hill on June 18, 2007.

Donna M. Griffiths, RMC
Borough Clerk