

GORDON BOROUGH, SCHUYLKILL COUNTY  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE BOROUGH COUNCIL OF GORDON BOROUGH, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REQUIRING PERMITS FOR THE INSTALLATION AND OPERATION OF EXTERNAL HEATING DEVICES, REGULATING THEIR USE, AND ESTABLISHING PENALTIES FOR VIOLATIONS.

WHEREAS, Section 1202(5) of the Pennsylvania Borough Code, 8 Pa.C.S.A. §1202(5), empowers Gordon Borough to make regulations as may be necessary for the health of the residents of the Borough; and

WHEREAS, Section 1202(11) of the Pennsylvania Borough Code, 8 Pa.C.S.A. §1202(11), empowers Gordon Borough to regulate the emission of smoke from chimneys, smokestacks and other sources; and

WHEREAS, the Borough Council of Gordon Borough recognizes that emissions, both smoke and other air pollutants, can exacerbate cardiovascular problems such as angina, irritate eyes and lungs, and also can exacerbate respiratory diseases such as asthma, emphysema and bronchitis, and can generally affect the quality of life of residents exposed to such smoke and other air pollutants; and that the chance that a person will experience adverse health effects from exposure to smoke depends both on the concentration of air contaminants they breathe, the nature of the contaminants, and the duration of their exposure; and that outdoor appliances/furnaces that supply heat and/or hot water to residences are of special concern compared to outdoor burning in general and other transient sources of smoke due to their operation throughout the year, the frequency of operation, and potential for such operation to affect neighboring residents;

NOW THEREFORE, the following is hereby ENACTED and ORDAINED by the Borough Council of Gordon Borough:

SECTION 1. DEFINITIONS.

“External Heating Device” - Any device, including but not limited to a furnace, stove or boiler, designed and constructed to burn solid fuels, including but not limited to wood, coal or corn, which is situated outdoors, and/or not situated in the principal structure intended for habitation or occupation by humans to which it is affixed through piping or otherwise, which is used for the primary purpose of combustion of fuel to produce heat or hot water to the principal structure. Generators, the principal purpose for which is to provide power during electric power outages, are excluded from this definition.

“Occupied Building” - Any building or structure currently used for residence, business or meeting purposes.

“Person” - an individual, proprietorship, partnership, corporation, association or other legal entity.

## SECTION 2. USE OF EXTERNAL HEATING DEVICE.

(A) No person shall install or operate an External Heating Device within the confines of Gordon Borough without having obtained a permit from Gordon Borough.

(B) Gordon Borough may create a permit form, appoint an agent to receive permit applications and set a fee for consideration of permit applications from time to time by Resolution. Any person seeking a permit to install/operate an External Heating Device shall apply for same on the approved form, to the appointed agent and shall pay the set fee. Any Person seeking a permit shall allow the agent onto the property where the External Heating Device is proposed to inspect the site where the External Heating Device is to be located to insure compliance with subpart C of this Section of this Ordinance. Use of the External Heating Device shall be limited to the area for which the permit is issued. The Person seeking the permit shall supply the agent with a copy of the manufacturer specifications and instructions for the External Heating Device to be installed/operated.

(C) No permit for the installation/operation of an External Heating Device shall issue unless the External Heating Device will be situated on a lot/parcel at least one-half ( $\frac{1}{2}$ ) acre in size, and unless the External Heating Device will be situated at least fifty (50') feet from the nearest lot/parcel property line, and unless the External Heating Device will be situated at least one hundred (100') feet from the nearest Occupied Building on any lot/parcel adjacent to the lot/parcel on which the External Heating Device will be placed.

(D) No Person shall cause to be burned in any External Heating Device any fuel or substance other than the manufacturer-intended fuel or substance, but in no circumstance shall any Person cause to be burned in an External Heating Device the following: wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite woods; rubbish or garbage, including but not limited to food wastes, food packaging or food wraps; rubber, including tires or other synthetic rubber-like products; any plastic materials; waste petroleum products; newspaper, cardboard or any paper with ink or dye products; and any fuel or substance which is prohibited for such use by the Commonwealth of Pennsylvania Department of Environmental Protection or the United States Environmental Protection Agency.

(E) No Person shall operate an External Heating Device unless same is installed in accordance with manufacturer guidelines.

## SECTION 3. ASHES AND WASTE.

No Person shall dispose of ashes or waste from the use of an External Heating Device except in accordance with all laws of the Commonwealth of Pennsylvania, all regulations of the Department of Environmental Protection and all other Departments of the Commonwealth of Pennsylvania, and all Ordinances of Gordon Borough.



#### SECTION 4. STORAGE.

No Person shall store any items or substances to be used as fuel for an External Heating Device in a way which creates a nuisance.

#### SECTION 5. PENALTIES.

(A) Enforcement of this Ordinance may be by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney.

(B) Any Person who operates an External Heating Device in violation of the requirements of any Section of this Ordinance is subject to the provisions of Section 5A of this Ordinance and upon conviction thereof shall pay a fine of not less than \$100.00 nor more than \$1,000.00 per violation, and/or be sentenced to a term of imprisonment upon conviction or for failure to pay a fine for a time not exceeding 30 days per violation, and shall pay the court costs and reasonable attorney fees incurred by Gordon Borough in the enforcement proceeding.

(C) Each day on which a violation of this Ordinance occurs shall be considered a separate violation. Each Section of this Ordinance that is violated is considered a separate violation.

(D) Gordon Borough may enforce this Ordinance in equity.

#### SECTION 6. REPEALER.

All ordinances or parts of ordinances which are inconsistent with this Ordinance are repealed to the extent necessary to give effect to the provisions of this Ordinance.

#### SECTION 7. SEVERABILITY.

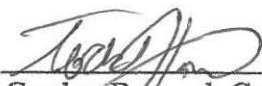
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is found to be unconstitutional, illegal or unenforceable by a court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed separate, distinct and independent from the remainder of this Ordinance, and such finding shall not effect the enforceability of the remainder of this Ordinance.

SECTION 8. EFFECTIVE DATE.

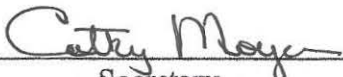
This Ordinance shall be effective immediately upon its enactment or on the first day allowed by law thereafter.

ENACTED and ORDAINED this 13 day of August, 2019.

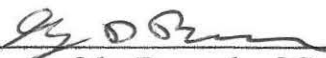
BOROUGH OF GORDON,  
Schuylkill County, Pennsylvania

By:   
Gordon Borough Council

ATTEST:

  
Secretary

EXAMINED AND APPROVED, this 13 of AUGUST, 2019.

  
Mayor of the Borough of Gordon,  
Schuylkill County, Pennsylvania