

BOROUGH OF GORDON, SCHUYLKILL COUNTY, PA.
ORDINANCE NO. 110606

AN ORDINANCE OF THE GORDON BOROUGH COUNCIL OF GORDON BOROUGH SCHUYLKILL COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES AND PRESCRIBING PENALTIES FOR VIOLATION.

WHEREAS, the Gordon Borough Council, Schuylkill County, Pennsylvania deem it to be in the best interests and general welfare of the citizens and the residents of this Borough to prohibit the unreasonable, unwarrantable or unlawful use of private or public property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property; and

The Pa. Borough Code, Act of January 1, 1966, as amended, 53 P.S. 45101 ET. SEQ., and particularly, Sections 1202 (4) and (5), related to the prohibition and removal of any nuisance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED as follows:

Section 1. Definitions.

For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word

"shall" is always mandatory and not merely directory.

A. "Borough" is the Borough of Gordon, which is located within the confines of Schuylkill County, Pennsylvania.

B. "Gordon Borough Council" is the Council of Gordon Borough, Schuylkill County, Pennsylvania.

C. "Owner" is a person owning, leasing, occupying or having charge of any premises within the Borough.

D. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society, or any organization of any kind.

Section 2. Nuisances.

The following are hereby declared nuisances and are declared to be illegal within Gordon Borough:

A. Storing or accumulating garbage and rubbish, including, but not limited to wastes resulting from the handling, preparation, cooking or consumption of food, and all items such as paper, cartons, boxes, wood, cans, metals, dirt, small quantities of rock or concrete, glass, crockery and plastics which no longer serve any legitimate use to the owner thereof.

B. Storing or accumulating ashes or dirt on property which can be blown by wind off the property of the owner and onto other property.

C. Storing or accumulating junk material, including, but not limited to unused or abandoned machinery, equipment or appliances, scrap metal, glass, and industrial waste.

D. Storing, accumulating or burning of tires or tar products.

E. Storing or accumulating abandoned or junked motor vehicles, which shall include all vehicles in a non-serviceable condition or vehicles without current inspection stickers and registration plates.

F. Draining or flowing, or allowing to drain or flow, by pipe or other channel, whether natural or artificial, any foul or offensive water or drainage from sinks, bathtubs, wash stands, lavatories, water closets, swimming pools, privies, or cesspools of any kind or nature whatsoever, or any foul or offensive water of foul or offensive drainage of any kind, from any property into or upon any adjoining property.

G. Maintaining or causing to be maintained, any dangerous structure, including but not limited to, abandoned or unoccupied buildings or parts of buildings in a state of dilapidation or disrepair.

H. Permitting the growth of any grass, weeds or any vegetation whatsoever, not edible or planted for some useful, legal or ornamental purpose, beyond a height of twelve (12) inches, or to throw off any unpleasant or obnoxious odor, or to conceal any rubbish, garbage, trash or any other violation of this Ordinance.

I. Permitting or allowing any well or cistern to be, or remain, uncovered.

J. Allowing or permitting any excavation, material excavated or obstruction on or adjoining any highway, street, or road, to remain opened or exposed without the same being secured by a barricade, temporary fence, or other protective materials.

K. Interfering with the flow of a stream, creek or other waterway, by means of dam construction or otherwise, or removing the embankment of a stream so as to alter the natural flow of the stream.

Section 3. Defenses.

It shall be a defense to any action brought for a violation of Section 2 of this ordinance if the owner alleged to be in violating conducts a legitimate, permitted business on the property and act in violation is a legitimate act in furtherance of the business.

Section 4. Notice.

A. Whenever a condition constituting a nuisance exists, the Borough Council shall cause written notice to be served upon the owner(s) in one of the following manners:

1. By making personal delivery of the notice to the owner(s) or
2. By handing a copy of the notice at the residence of the owner(s) to an adult member of the family with which he/she resides, but if no adult member of the family is found, then to an adult person in charge of such residence; or
3. By fixing a copy of the notice on a door at the entrance of the premises in violation; or
4. By mailing a copy of the notice to the last known address of the owner by certified mail or

5. By publishing a copy of the notice in a local newspaper of general circulation within Schuylkill County, Pennsylvania, once a week for two (2) successive weeks.

B. Such notice shall set forth in what respect a nuisance exists, and what steps the Borough requires to remove or abate the nuisance.

C. After receipt of such notice the owner shall remove or abate the nuisance as required by the Borough within twenty (20) days, unless immediate removal or abatement is required to preserve the public health, under which circumstance, the removal or abatement shall occur within twenty-four (24) hours. If the nuisance requires immediate removal or abatement, the Borough Notice to the owner shall so state.

D. Any owner can request that the Gordon Borough Council extend the time period required by Section 4.C. for removal or abatement of the nuisance, and any such request shall be in writing.

Section 5. Penalties.

A. Any owner who violates Section 2 of this Ordinance, and has been served with notice pursuant to Section 4 and has failed to comply therewith, is subject to prosecution by the initiation of summary criminal proceedings. Said proceedings may be initiated in any manner allowed by the Pennsylvania Rules of Criminal Procedure. The Gordon Borough Solicitor may assume charge of the prosecution pursuant to the Pennsylvania Rules of Criminal Procedure.

B. Any owner convicted of violating Section 2 of this Ordinance shall pay a fine of \$300.00 to \$1000.00 per violation, which each day the nuisance occurs or continues constituting a separate violation, costs of prosecution, which shall include reasonable attorney's fees, and/or be sentenced to a term of imprisonment upon conviction or failure to pay a fine not exceeding thirty (30) days.

C. Any fine, or portion thereof, imposed by a District Justice or Court pursuant to this Section may be waived with the consent of the Borough Council in return for immediate compliance by the owner.

D. Gordon Borough may also bring a Civil Action against any owner violating Section 2 of this Ordinance, after compliance with section 4 of this Ordinance, to force compliance and penalize any violations. In the event a Civil action is instituted, any owner against whom a judgment is entered shall pay Gordon Borough's court costs and reasonable legal fees, and shall pay Gordon Borough a civil penalty of One Thousand (\$1,000.00) dollars per violation, with each day the nuisance occurs or continues constituting a separate violation.

E. Gordon Borough acting through its Borough Council shall have discretion to decide to proceed either with a criminal action or a civil action.

F. If an owner is in violation of Section 2 of this Ordinance, and after compliance with Section 4 of this Ordinance, the Borough Council may undertake the removal or abatement of the nuisance and cause its agents to enter upon the private property of the owner therefor. Any costs accumulated by the Borough in removing or abating the nuisance, including, but not limited to counsel fees, shall be certified by the Borough Secretary and thereafter any legal action required to convert the certified costs into a lien on the property may be undertaken.

Section 6. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 7. Scope.


This Ordinance is a supplement to existing ordinances regulating behavior or actions within Gordon Borough. This Ordinance is not intended to repeal any prior ordinance and does not limit the effectiveness or enforceability of any ordinance.

Section 8. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

ENACTED AND ORDANINED this 6 day of NOVEMBER 2006.

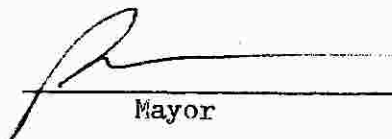
ATTEST:


Paul L. Snyder
Secretary

Gordon Borough Council


President of Council

Gordon Borough Council


Mayor