

**GORDON BOROUGH, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 2021-05

AN ORDINANCE OF GORDON BOROUGH, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, DEFINING AND PROHIBITING CERTAIN QUALITY OF LIFE VIOLATIONS WITHIN GORDON BOROUGH; ESTABLISHING A VIOLATION TICKETING PROCESS, INCLUDING WHO MAY SERVE TICKETS, HOW SERVICE IS EFFECTUATED, THE TICKET FINE AMOUNTS AND THE APPEAL PROCEDURES; PRESCRIBING CITATION PENALTIES FOR VIOLATIONS; CLARIFYING THAT OTHER GORDON BOROUGH ORDINANCES REMAIN IN EFFECT; CONTAINING A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE.

WHEREAS, Section 1202(5) of the Pennsylvania Borough Code authorizes the enactment of regulations as may be necessary for the cleanliness, beauty, convenience, comfort and safety of the Borough, 8 Pa.C.S.A. Section 1202(5);

NOW, THEREFORE, be it ORDAINED AS FOLLOWS:

Section 1. Definitions.

The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

AUTHORIZED LITTER RECEPTACLE - is a litter collection receptacle which is placed on the public right -of -way or on public property by the Borough for use by the public to deposit small quantities of hand -held trash, but not household or commercial waste.

DEBRIS - any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked, or piled in such a manner so as not to create a nuisance or a harboring place or food supply for insects and rodents.

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE - the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, mattresses, etc, and which based on their materials are not meant to be exposed to outdoor weather.

LITTER - includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

- (1) Broken windshields, mirrors, or other glass, with sharp edges.
- (2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (4) Protruding sharp objects from the chassis.
- (5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
- (6) One or more open tires or tubes which could permit animal harborage.
- (7) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.
- (8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.
- (9) Disassembled body or chassis parts stored in, on or about the vehicle.
- (10) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

PERSON - every natural person, firm, corporation, partnership, association, institution or other legal entity.

PLANTER STRIP - the non-concrete space in the sidewalk area filled with dirt.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC OFFICER - any police officer employed by or contracted for by Gordon Borough, the Gordon Borough code enforcement officer or assistant code enforcement officer, or the mayor.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility or other easement, including curb and gutter areas.

RECYCLABLE MATERIALS - material which would otherwise become municipal waste, which can be collected, separated, or processed, and returned to the economic main-stream in the form of raw materials or products. These materials may include, but not be limited to, aluminum cans, ferrous and bi-metal cans, glass containers, plastic bottles and containers, mixed paper, major appliances, televisions, tires, and large auto parts.

RESIDUAL WASTE - any discarded material or other waste including solid, semisolid, or contained gaseous materials resulting from construction, industrial, mining, and agricultural operations, excluding municipal water and sewer operations.

RUBBISH - combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar material.

SIDEWALK AREA - the public right-of-way between or within the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

VIOLATION TICKET - a form issued by a Public Officer to a person who violates a provision of this Ordinance.

WEEDS - an unwanted plant of any species. Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes.

Section 3. Quality Of Life Violations.

A. No person shall allow an unreasonably excessive or unsightly accumulation of solid waste, residual waste, recyclable materials, trash, rubbish or garbage on any property under his/her control.

B. No person shall allow an unreasonably excessive or unsightly accumulation of tires, appliances not in use for the purposes they were manufactured, vehicle parts including trailers, machines not in use for the purposes they were manufactured, wood, debris, construction materials or lawn equipment on any property under his/her control.

C. No person shall litter, engage in dumping, deposit or cause to be deposited any solid waste, residual waste, recyclable materials, trash, rubbish or garbage on any private property of another, or on any public property including any public right-of-way, except in an authorized litter receptable.

D. No person owning, possessing or in control of any animal shall fail to immediately clean up, pick up or remove any animal waste matter or feces that the animal has excreted on the property of another or on any public property including a public right-of-way.

E. No person owning, possessing or in control of any animal shall fail to clean up, pick up or remove any animal waste matter or feces that the animal has excreted on the property of said person for a period longer than 7 days.

F. No person shall allow, on property under his/her control, grass to grow to a length in excess of 8 inches, weeds to grow in excess of 12 inches, or any shrub to grow disproportionately so as to be unsightly.

G. No person shall allow a motor vehicle without a current inspection sticker or without a valid license plate to be on property under his/her control if the location of said vehicle is visible from the private property of another, or from any public property or public right-of-way.

H. No person shall allow a motor vehicle nuisance on any property under his/her control.

I. No person shall place a motor vehicle on blocks or on a jack while said vehicle is on public property, including a public right-of-way, for a period longer than 1 hour.

J. No person shall allow any sidewalk area under his/her control abutting a residence to be covered by an accumulation of snow or ice more than 12 hours after the cessation of the storm producing the snow or ice.

K. No person shall allow any sidewalk area under his/her control abutting a commercial establishment to be covered by an accumulation of snow or ice after the cessation of the storm producing the snow or ice if the commercial establishment is open to the public, and in any event more than 12 hours after the cessation of the storm producing the snow or ice.

L. No person shall allow grass to grow in the planter strip of any sidewalk area, or in the cracks of any sidewalk area, under his/her control.

M. No person shall place his/her garbage, trash or recyclable materials at curbside or roadside for pick-up by the hauler for than 24 hours prior to the customary and designated time for pick-up, and shall remove any garbage, trash or recycling containers from curbside or roadside within 12 hours post pick-up of the garbage, trash or recycling materials by the hauler.

N. No person shall place his/her garbage, trash or recyclable materials at curbside or roadside for pick-up by the hauler in any manner that allows any of the garbage, trash or recyclable materials to fall out of their containers or blow or roll away onto the private property of another or onto any public property including a public right-of-way.

O. No person shall allow any swimming pool under his/her control which is visible either from the private property of another or from public property including a public right-of-way to remain uncovered in a dirty, un-clean or non-sanitary appearing condition.

P. No person shall place or store indoor furniture on property under his/her control in a location exposed to the elements or weather or visible from public property including any public right-of-way for a period longer than 12 hours.

Q. No person shall place or store indoor appliances, including but not limited to ranges, ovens, refrigerators, air conditioners, washers, dryers, microwaves or dishwashers, or indoor electronic devices, including but not limited to televisions and computers, on property under his/her control in a location exposed to the elements or weather or visible from public property including any public right-of-way for a period longer than 12 hours.

R. No person shall place or hang any private advertising matter on any public property without the permission of Gordon Borough or allow any said matter to remain on public property for more than 24 hours after the event advertised.

Section 4. Enforcement.

A. Upon observing or finding any violation of Section 3 of this Ordinance, any Public Officer of Gordon Borough may issue any person violating Section 3 a violation ticket.

B. A separate violation ticket may be issued for each specific part of this Ordinance being violated. Each day on which a specific part of this Ordinance is being violated shall constitute a separate violation. A separate violation ticket may be issued to each person committing a violation of this Ordinance.

C. Issuance of a violation ticket may be accomplished by any of the following:

- (1) personal delivery directly to the person in violation;
- (2) personal delivery to an adult member of the household at the residence where the person in violation resides;
- (3) sending first class mail to the address of record of the person in violation, in which case issuance is considered to be made 3 days from the date of mailing unless said mail is returned; or
- (4) posting on the property where the violation occurred if the person in violation is known or believed to reside at that property.

D. The fine amount of a violation ticket for a first offense in a 3-month period shall be set at the passage of this Ordinance at \$25.00, for a second similar offense in a 3-month period at \$50.00, and for a third or subsequent similar offense in a 3-month period at \$100.00, but said amounts may be amended from time to time by resolution.

E. Following issuance of a violation ticket, the person that the ticket was issued to may pay the fine amount of the ticket and abate the violation, or file an appeal of the ticket, within 10 calendar days, during which time no additional tickets may be issued to said person. If after 10 days from issuance the person has not either paid the fine and abated the violation, or appealed the ticket, he/she is subject to further action under Section 5 of this Ordinance.

F. Payment of the ticket shall be made to the Gordon Borough Secretary (payable to Gordon Borough) at the Gordon Borough Municipal Building at 324 East Plane and Otto Streets, Gordon, PA 17936.

G. An appeal of the ticket shall be effectuated by delivering or mailing a written request for an appeal hearing on the violation ticket to the Gordon Borough Secretary at the Gordon Borough Municipal Building at 324 East Plane and Otto Streets, Gordon, PA 17936. Effectuation of the appeal shall be considered to be accomplished on the date of receipt of the request by the Borough Secretary.

H. The hearing on the appeal will initially be conducted/heard by Gordon Borough Council at the first regular monthly meeting of Gordon Borough Council to take place after receipt by the Secretary of the written appeal hearing request. At the initial hearing, the Gordon Borough Council may decide the matter, continue any hearing to a future date, or assign a panel of Council members to conduct the hearing. During the pendency of an appeal no further violation tickets shall be issued to the appellant for the alleged violation under appeal. If Gordon Borough denies the appeal, which can be done either verbally at a public meeting, or in writing following a hearing, the person shall pay the fine of the violation ticket and abate the violation within 48 hours or be subject to further action under Section 5 of this Ordinance. The conduct of the appeal hearing as outlined by this sub-section (Section 4(H) of this Ordinance) may be amended from time to time by resolution.

Section 5. Alternate Penalties.

A. If 10 calendar days from issuance of the violation ticket has passed, and the person to whom the violation ticket was issued has not paid the ticket and abated the violation or filed an appeal, or if 48 hours from the denial by Gordon Borough Council of the appeal of the person to whom the violation ticket was issued has passed, and the person to whom the violation ticket was issued has not paid the ticket and abated the violation, Gordon Borough, through its appropriate official, may proceed to file a citation against the person for the violation of Section 3 of this Ordinance for which the violation ticket was issued. The citation shall be filed before the appropriate Magisterial 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 in violation of any part of Section 3 of this Ordinance, upon conviction, shall be ordered to pay a fine of not less than \$150.00, and not more than \$1,000.00, for each violation, court costs, and/or to undergo imprisonment for not more 90 days for a violation or for failure to pay a fine or both.

C. Each day shall on which a violation occurs shall constitute a separate violation.

Section 6. Nonexclusive Remedy.

This Ordinance is not meant to repeal, replace or rescind any prior Gordon Borough Ordinance. If a person in violation of a part of this Ordinance is also in violation of a different Gordon Borough Ordinance due to the same act or omission, Gordon Borough reserves the right to proceed against said person either under this Ordinance or any other applicable Ordinance.

Section 7. Severability.

If any section, subsection, provision or part of this Ordinance is found to be illegal or unenforceable by any court of competent jurisdiction, the remaining sections, subsections, provisions or parts of this Ordinance shall remain in full force and effect.

Section 8. Effective Date.

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

ORDAINED AND ENACTED this 13TH day of September, 2021.

Cathy E. Moyer
Secretary

GORDON BOROUGH COUNCIL

[Signature]
Council President

Read and approved by me this 13TH day of September, 2021.

[Signature]
Mayor