

ORDINANCE NO. 070820B

GRATZ BOROUGH, DAUPHIN COUNTY, PENNSYLVANIA

*AN ORDINANCE REGULATING BURNING OUTSIDE*

**SECTION 201. SHORT TITLE.**

This Ordinance may be cited as the “Gratz Borough Burning Ordinance”.

**SECTION 202. PURPOSE.**

This Ordinance is intended to promote the public health, safety, and welfare of the residents of Gratz Borough by regulating outdoor burning within the Borough to protect persons and their property rights from fire hazards, inconvenience, and the inability to use and enjoy one’s property.

**SECTION 203. DEFINITIONS.**

For purposes of this Ordinance:

**“Agricultural Operation”**- means any parcel of land containing four or more acres, used in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aqua cultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry. The term does not include an Agri-business, Concentrated Animal Operation (CAO), and Concentrated Animal Feeding Operation (CAFO) as those terms are defined under the Gratz Borough Zoning Ordinance.

**“Borough”**- means Gratz Borough, Dauphin County, Pennsylvania.

**“Borough Council”**- means the governing body of Gratz Borough, Dauphin County, Pennsylvania.

**“Building”**- means any roofed structure intended for shelter, housing or enclosure of persons, animals, or property.

**“Burn” or “Burning”**- includes not only visible flames but also any visible smoke emanating from the burned materials after the flames have died out.

**“Burning Container”**- means a non-combustible metal, steel, brick, stone, cement, or cinderblock container in which a fire is permitted to be ignited under this Ordinance.

**"Campfire"**- means an outdoor contained fire no more than six feet in width and two feet in height intended for recreation or cooking but not including a fire intended for disposal of waste wood, refuse, garbage, trash, or a bon fire.

**"Code Enforcement Officer"**- means the person appointed by the Borough Council to administer and enforce the ordinances of Gratz Borough, including this Ordinance.

**"Confined Open Burning"** – to ignite, light, set a match to or set a fire in a limited, restricted, or contained non-combustible container where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

**"Fire"**- includes fire or flames and the smoke therefrom, the smoldering when the flames have subsided and the smoke when the flames have subsided, but smoke is still visible.

**"Fire Chief"**- means the Chief of Gratz Area Fire #1 or other person designated by the Fire Chief to enforce this Ordinance.

**"Landowner"**- means the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee authorized under a lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

**"Nuisance"**- means the burning of materials that create a foul or offensive odor, or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.

**"Occupied Building"**- means a structure where a person lives, works, or plays; a place of public assembly; or a place where people gather.

**"Open Burning" or "Open Burn"**- means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

**"Outdoor Burning"**- means open burning in an outdoor fireplace or outdoor wood fired burner.

**"Outdoor Fireplace"**- means a chiminea, patio warmer, or other portable wood-burning device used for outdoor recreation or heating.

**"Outdoor Wood Fired Burner"**- means a fuel burning device:

A. Designed to burn wood or other approved solid fuels;

B. That the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and

C. Heats building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

**“Person”**- includes any individual, firm, partnership, limited liability partnership, limited liability company, cooperative, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, the landowner, and the agent or employee having charge or control of an outdoor fire in the absence of the landowner.

**“Prohibited Materials”**- means:

A. Solid materials not considered to be highly flammable or explosive:

1. Rags, old clothes, leather, rubber, carpets, furniture, appliances, excelsior, ashes, tin cans, paint cans, glass, crockery, masonry, and other similar materials.

2. Treated or painted wood, plywood, composite wood products that are painted, varnished, or treated with preservatives, been painted, varnished, or coated with a similar material; pressure treated lumber and wood that contains resins or glues as in plywood or other composite wood products.

3. Corrugated cardboard and container board.

B. Solid, liquid, or gaseous waste products which are composed wholly or partly of such materials as:

1. Wasted or spoiled food.

2. Trade waste, industrial, commercial, and nonresidential waste.

3. Animal feces.

4. Plastic or plastic materials or products, including petroleum base products, cans, bottles, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers.

5. Hazardous substances, including batteries, household chemicals, pesticides, used oil, gasoline, paints, greases, varnishes, and solvents.

6. Tires.

C. Construction and demolition building waste materials, including shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, wood, metal, stone, brick, cement, or cinderblock or any combination thereof that results from building, construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other building or structure.

D. Yard waste limited to trees, stumps, leaves, brush, and grass clippings.

**“Public Property”**- includes any public street or right-of-way, sidewalk, curb, gutter, path, trail, or walkway.

**“Structure”**- means any man-made object.

#### **SECTION 204. OPEN BURNING PROHIBITED.**

No person shall open burn prohibited materials.

#### **SECTION 205. OUTDOOR BURNING PERMITTED.**

Outdoor burning in an outdoor fireplace, properly zoned outdoor wood fired burner, or campfire is permitted and not regulated under this Ordinance.

#### **SECTION 206. CONFINED OPEN BURNING PERMITTED.**

Confined open burning is permitted provided the following requirements are met:

A. No person shall open burn prohibited materials.

B. Open burning shall be conducted only on the property on which the materials were generated.

C. No person may burn in a manner that causes:

1. Malodorous air contaminants to be detectable off the property of the person on whose land the burning is being conducted.

2. The emissions to interfere with the reasonable enjoyment of life or property of others.

3. The emissions to damage vegetation or property.

4. The emissions to be deleterious to human or animal health.

5. A nuisance.

D. Confined open burning shall be allowed Monday through Sunday, during daylight hours, sunrise to sunset.

E. No materials may be burned upon any public property or any private property without the consent of the landowner.

F. The property where the confined open burning is being conducted must

not be less than 100 feet from the nearest occupied building other than the occupied building on the same property where the burning is being conducted. The confined open burning must be located at least 30 feet from any building or structure on the property where the burning is being conducted.

G. Open burning must be contained in a burning container. The following types of burning containers are the only types that are permitted under this Ordinance:

1. A 55-gallon drum or its equivalent.
  - i. The burning container must be covered with a metal screen, grate, or mesh fencing to prevent dispersal of unburned material.
  - ii. The size of the burning container may not exceed the size of a 55-gallon drum/barrel or its equivalent being 34.5 inches in height by 23 inches in width measured from outside edge to edge.
  - iii. The drum or barrel must be located on a concrete block, or a concrete, gravel or other base made of noncombustible material such as gravel, stone or concrete no less than 12 inches wider than the diameter of the drum/barrel.
  - iv. A drum/barrel may not have openings on its side and bottom except for those typical ½ inch openings or holes that act as a flue.
  - v. When the sides or bottom of the container weakens, collapses or fails, the container must be replaced.
2. An enclosed incinerator 1,000 gallons or less in size.
  - i. The burning container must be completely enclosed except for a door and chimney. The door must be closed during operation and the chimney must be cleaned regularly.
  - ii. The dimensions of the enclosed incinerator burning container may not exceed 78" in height by 58" in width by 72" in length.
  - iii. The container may not have openings on its side or top except for the chimney.
  - iv. When the container weakens, collapses, or fails, the container must be replaced.
  - v. A minimum of two acres is required on the property where the enclosed incinerator is located and the setback must be increased to 200 feet from 100 feet.

H. The person responsible for igniting the fire shall take the necessary safety precautions to ensure that the fire cannot spread and can be easily extinguished in case of an emergency. The person igniting a fire may not leave it unattended until the fire has

been completely extinguished. The person attending the fire shall have fire extinguishing equipment readily to extinguish or control the fire.

I. The use of accelerants such as gasoline is prohibited. Newspaper or dried wood is permitted to start a fire in a burning container.

J. Every person shall take all necessary measures to make certain that the fire is completely extinguished by 7 p.m. on the days that confined open burning is permitted.

K. No more than one burning container is permitted on a property.

## **SECTION 207. EXCEPTIONS.**

The following exceptions apply to administration and enforcement of this Ordinance:

A. Borough Council may allow the burning of yard waste within the Borough during the spring and fall months for a specified and limited time. If allowed, the time periods will be for garden clean-up only of yard waste generated from the same property. Specified times may be posted in one or more places at the discretion of Borough Council: the newspaper, the post office, the Borough's Municipal Building, or the Borough's Website.

B. Open burning of weeds, brush, and crop stubble being conducted as part of an active agricultural operation is exempt under this Ordinance. This exception may not apply when Borough Council, the County, the Fire Chief, or any Emergency Management Coordinator or Agency imposes a ban on burning.

C. Any fires set for the purposes of instructing personnel in fire-fighting, provided such training is approved by the Department of Environmental Protection and State Fire Academy and the local Fire Department designated by the Borough to provide services in the Borough.

## **SECTION 208. BURNING BAN.**

Confined open burning shall be prohibited when Borough Council, the County, the Fire Chief, or any Emergency Management Coordinator or Agency places a ban on burning when weather conditions warrant. The ban may be posted in one or more places at the discretion of Borough Council: the newspaper, the post office, the Borough's Municipal Building, or the Borough's Website.

## **SECTION 209. ENFORCEMENT AND ADMINISTRATION.**

Borough Council or the Code Enforcement Officer are charged with administration and enforcement of the provisions of this Ordinance. Borough Council or the Code Enforcement Officer may inspect any property for the purpose of administering and enforcing this Ordinance.

**SECTION 210. FINES AND PENALTIES.**

A. Except as otherwise provided below, any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to a civil proceeding or summary offense and payment of a summary fine or civil penalty of:

<b>WRITTEN WARNING</b>	<b>First Offense</b>
<b>\$200.00</b>	<b>Second Offense</b>
<b>\$300.00</b>	<b>Third Offense</b>
<b>\$600.00</b>	<b>Fourth and Subsequent Offenses</b>

In addition to the fines, the defendant or violator shall be responsible for court costs and reasonable attorney fees. In default of payment in a summary proceeding, a defendant may also be subject to imprisonment for a term not to exceed 30 days. A separate violation shall arise for each day of a violation and each applicable section of the Ordinance.

B. In the event that a burning ban is declared under Section 208 of this Ordinance, the fines for a violation of this Ordinance shall increase so that any person who open burns during a burning ban shall, upon conviction thereof, be subject to the payment of a summary fine or civil penalty of:

<b>\$300.00</b>	<b>First Offense</b>
<b>\$600.00</b>	<b>Second and Subsequent Offense</b>

In addition to the fines, the defendant or violator shall be responsible for court costs and reasonable attorney fees. In default of payment in a summary proceeding, a defendant may also be subject to imprisonment for a term not to exceed 30 days. A separate violation shall arise for each day of a violation and each applicable section of the Ordinance.

C. In case any person fails to comply with this Ordinance and the Fire Company has to extinguish a fire, then the Fire Company may recover its costs of doing so to be collected by the Fire Company from the offending person through a civil proceeding. Abatement and collection under this Subsection shall be in addition to any other enforcement action set forth in this Ordinance.

**SECTION 211. SEVERABILITY.**

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

**SECTION 212. REPEALER.**

All ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

**SECTION 213. EFFECTIVE DATE.**

This Ordinance shall become effective immediately following its adoption.

**ENACTED AND ORDAINED** this 8<sup>th</sup> day of July, 2020 by Gratz Borough Council.

**ATTEST:**

Cindy L. Shode  
Secretary

**GRATZ BOROUGH COUNCIL**

[Signature]  
President

[Signature]  
Vice-President

[Signature]  
Council Member

[Signature]  
Council Member

[Signature]  
Council Member

[Signature]  
APPROVED BY THE MAYOR

