

Borough of Lilly

LILLY, PENNSYLVANIA

ORDINANCE

Ordinance No.: *October 2024-2*

*An Ordinance of the Lilly Borough Council
Regulating the Use of Outdoor
Wood-Fired Furnaces*

WHEREAS, by authority of Pennsylvania's Borough Code (8 Pa.C.S. §101, et. seq.) the Council may adopt ordinances necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough; and

WHEREAS, by authority of the Borough Code, Council may prohibit and remove any nuisances; and

WHEREAS, by authority of the Borough Code, Council may regulate the emission of smoke from chimneys, smokestacks and other sources; and

WHEREAS, the Council is aware that certain outdoor heating systems (outdoor furnaces) are being installed that emit smoke at or near ground level affecting the health, safety, general welfare and cleanliness, comfort and safety of the residents of the Borough.

NOW THEREFORE, **BE IT ORDAINED** by the Lilly Borough Council as follows:

Section 1. ***Title.*** This ordinance shall be known and may be cited as the Lilly Borough Outdoor Furnace Ordinance.

Section 2. ***Purpose.*** It is the purpose of this Ordinance to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the Borough of Lilly with the intent of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Borough and its citizens. It is generally recognized that the types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odor, air pollution, particles and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises.

Section 3. ***Definitions.*** The following words, terms and phrases, when used in this Ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

“Borough” The Borough of Lilly.

“Council” The Council of the Borough of Lilly.

“Outdoor Furnace” A fuel-burning device:

- (a) Designed to burn wood or other approved solid fuels;
- (b) That the manufacturer specifies for outdoor installation or for installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds; and
- (c) Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

“Person” Any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth or the federal government, political subdivision, municipality, district, authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

“Stack” Any vertical structure enclosing a flue(s) that carry off smoke or exhaust from an Outdoor Furnace.

Section 4. ***Regulations.*** An Outdoor Furnace may be installed, used or operated in the Borough, only in accordance with the following provisions:

- (a) An Outdoor Furnace shall not be installed in the Borough unless it is placed at least forty feet from any property line.
- (b) An Outdoor Furnace shall not be installed in the Borough unless it has a permanent attached Stack with a minimum stack height of twenty feet or at least two feet higher than the highest point of the roofline of the nearest residence, whichever is greater. The Stack shall also have a spark arrestor installed at the top.

- (c) No person that operates a new or existing Outdoor Furnace shall use a fuel other than the following:
 - (i) Wood;
 - (ii) Wood pellets;
 - (iii) Coal; or
 - (iv) Home heating oil, natural gas or propane, if it is used as a starter or supplemental fuel for dual-fired Outdoor Furnaces.
- (d) An area of twenty feet around any Outdoor Furnace shall be free of vegetation, except grass not exceeding four inches in height.
- (e) No Outdoor Furnace shall be used or operated unless it complies with all applicable federal, Commonwealth and Borough regulations.
- (f) Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.

Section 5. *Permits. *Reserved**

Section 6. *Public Nuisance.* A violation of this Ordinance shall constitute a public nuisance. The Borough shall have the authority to order any person causing a public nuisance to abate the public nuisance. Upon the failure to abate a public nuisance after being ordered to do so, the Borough may elect to abate the nuisance and the person(s) who cause the nuisance shall be liable for the Borough's costs of abatement.

Section 7. *Penalty.* Any person who shall violate any provision of this Ordinance shall, upon a finding of a violation, pay a civil penalty of up to six hundred dollars (\$600.00). Each day that a violation continues shall constitute a separate offense.

Section 8. *Remedies Not Mutually Exclusive.* The remedies provided for herein for the enforcement of this Ordinance or any remedy provided by law, shall not be mutually exclusive. Rather, they may be employed simultaneously or consecutively at the option of the Council.

Section 9. ***Grandfather Clause.*** All Outdoor Furnaces in existence and operation as of the date of this Ordinance shall not be subject to enforcement proceedings for any violations of Sections 4(a) or (e) hereof. All Outdoor Furnaces in existence and operation as of the date of this Ordinance shall be brought into compliance with Sections 4(b), (c) and (d) in conformance with a notice of non-compliance issued by the Borough. The operation of any Outdoor Furnace in existence and operation as of the date of this Ordinance shall otherwise be in compliance with the provisions hereof.

Section 10. ***Validity.*** The provisions of this Ordinance are severable and if any section, clause, sentence, part or provision thereof shall be determined to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 11. ***Repealer.*** All other ordinances or parts thereof which are in conflict with this ordinance are hereby repealed.

ORDAINED AND ENACTED this second day of October, 2024

BOROUGH OF LILLY

By: William D. Patterson
William D. Patterson - President

Attest: Claudine M. Falger (Seal)
Claudine M. Falger - Secretary

APPROVED this _____ day of October, 2024

Michael C. Sklodowski
Michael C. Sklodowski - Mayor