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Article IV — Open Burning

§ 35-401 Addition to Property Maintenance Code.

The provisions of this Article are hereby added to and incorporated into the Property Maintenance Code of the Borough of Alburtis. Except as may be provided otherwise in this Article, the administrative provisions of the Property Maintenance Code as established under Articles I and II of this Chapter shall apply to the matters regulated in this Article, including but not limited to enforcement, notices, appeals, penalties, and definitions.

§ 35-402 Short Title.

This Article shall be known, and may be cited, as the “Alburtis Open Burning Ordinance.”

§ 35-403 Definitions.

The following words and phrases, when used in this Article, shall have the meanings assigned to them under this Section, unless the context shall clearly indicate otherwise:

- (a) **“Bonfire”** shall mean an outdoor fire used for ceremonial purposes.
- (b) **“EPA”** shall mean the United States Environmental Protection Agency, or any successor agency, department, or organization.
- (c) **“Fire Official”** shall mean the Borough Fire Chief or his/her designee from among the members of the Fire Department.
- (d) **“Fire Department”** shall mean the Lower Macungie Fire Department, a volunteer fire company officially recognized as the provider of fire services in the Borough.
- (e) **“Open Burning”** shall mean the burning of any materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues, or chimneys necessary to provide combustion air and to permit the escape of exhaust gas and heat are open.
- (f) **“Person”**. Whenever the word “person” is used in any portion of the Fire Code relating to a fine or penalty, and the particular violation being charged relates to a violation of this Article, the word shall include the partners or members of a partnership, limited liability company, or association, and the officers, agents, or members of a corporation who are responsible for the violation of this Article.
- (g) **“Recreational Fire”** shall mean an outdoor fire which is used for heating and/or cooking.

§ 35-404 In General.

It is unlawful for any person to kindle, maintain, or feed, or authorize to be kindled, maintained, or fed, any Open Burning within the Borough except as provided in this Article.

§ 35-405 Burning Allowed Without Notification or Permit.

(a) **In General.** The Subject to the requirements of this Article, Open Burning shall be allowed without prior notification to the *code official* or Fire Official and without a permit for:

- (1) Recreational Fires; and
- (2) highway safety flares.

(b) **Permission of Owner.** No Open Burning shall be conducted under this Section without the permission of the *owner* of the land upon which the Open Burning is to take place.

§ 35-406 Burning Allowed After Notification and Under a Permit.

(a) **In General.** Subject to the requirements of this Article and the terms and conditions of the permit, Open Burning shall be allowed after notification to and receipt of a permit from the Fire Official for:

- (1) recognized silvicultural or range or wildlife management practices;
- (2) recognized agricultural or horticultural management purposes to maintain or increase the quantity or quality of agricultural or horticultural production;
- (3) prevention or control of disease or pests;
- (4) a Bonfire;
- (5) instruction in methods of firefighting or for research in control of fires;
- (6) heating for warmth of outworkers;
- (7) disposal of landscape waste other than residential and agricultural waste; and
- (8) in emergency or other extraordinary circumstances for any purposes determined to be necessary by the EPA, *but not including* the ordinary disposal of hazardous or toxic material by burning even though the EPA determines that there is no practical alternative method of disposal. Such materials will need to be transported outside of the Borough for disposal.

(b) **Permit Application.** Applications for a permit under this Section shall be submitted in writing by the *owner* or occupant of the land on which the burning is to take place to the Fire Official by filing the same at the office of the Borough Manager at least ten (10) calendar days before the fire is to be set, and shall be in such form and contain such information as may be required, from time to time, by the Fire Official. Such applications shall contain, at a minimum, information regarding (1) the purpose of the proposed burning; (2) the nature and quantities of material to be burned; (3) the date when such burning will take place; and (4) the location of the burning site.

(c) **Approval.** The Fire Official shall grant a written permit only after determining that:

(1) all applicable requirements of this Article are to be satisfied;

(2) any burning under subsection (a)(8) satisfies any conditions specified in the EPA permission; and

(3) the proposed burning can be conducted in a safe manner.

The Fire Official may impose such reasonable terms and conditions in the permit as he/she deems necessary to satisfy this standard.

(d) **Permission of Owner.** No Open Burning shall be conducted under this Section without the permission of the *owner* of the land upon which the Open Burning is to take place.

§ 35-407 General Regulations.

All Open Burning permitted under this Article shall satisfy the following requirements:

(a) **Location.** Open Burning shall not be conducted less than fifty (50) feet from any structure, property line, street right-of-way line, above-ground utility line, tree (including limbs/branches), or bush, and provisions shall be made to prevent the fire from spreading to within fifty (50) of any structure, property line, street right-of-way line, above-ground utility line, tree (including limbs/branches), or bush. However, in the case of Recreational Fires under § 34-308, the minimum distance shall be reduced to fifteen (15) feet. Distance to overhanging items, such as above ground utility lines and tree limbs/branches, shall be measured along the ground surface to the points on the ground directly beneath the overhanging items.

(b) **Size.** Open Burning shall be the minimum size for the intended purpose.

(c) **Fuel.** The fuel used in Open Burning shall be chosen to minimize the generation and emission of air contaminants, and shall be limited to wood, charcoal, natural gas, or liquified petroleum gas (LP-gas).

(d) **Site Control.** The site of Open Burning shall be controlled so as to prevent endangerment to persons or property. The Fire Official or his designee may direct the extinguishment of any fire when he/she deems it to be a threat to the safety of persons or property.

(e) **Attendance; Fire-Extinguishing Equipment.** Any Open Burning shall be attended at all times by a person at least eighteen (18) years of age until the fire is extinguished. Fire-extinguishing equipment shall be available for immediate use.

(f) **Hazardous or Objectionable Conditions.** Notwithstanding anything to the contrary in this Article and notwithstanding the issuance of a permit under this Article, Open Burning shall be prohibited or restricted when so ordered by proper state, county, or Borough authority in the event of a disaster emergency under the Pennsylvania Emergency Management Services Code, 35 PA. CONS. STAT. Ch. 71, 73, and 75, and shall be prohibited by the Fire Official when atmospheric conditions or local circumstances make such fires hazardous, offensive, or objectionable due to drought, wind, smoke, odor emissions, or similar conditions.

(g) Prohibited Materials. Open Burning shall not be used to burn any materials which create noxious or objectionable emissions, any materials that are prohibited by federal and/or state regulations, or any of the following:

- (1) tires or other rubber products;
- (2) roof shingles or other roofing materials;
- (3) treated wood;
- (4) electrical wire insulations;
- (5) fiberglass and home insulation;
- (6) plastic and vinyl products;
- (7) asbestos-containing materials;
- (8) paint, oil, and petroleum products;
- (9) painted or stained wood furniture;
- (10) mattresses, box springs, and other home furnishings;
- (11) metal objects;
- (12) televisions, radios, phonographs, monitors, speakers, computers, printers, scanners, servers, related equipment, other electronic devices, and appliances;
- (13) automobiles and automobile parts;
- (14) batteries;
- (15) diapers;
- (16) human and animal wastes;
- (17) animal hides, furs, and skins;
- (18) dirt-laden roots or tree stumps;
- (19) grass clippings;
- (20) leaves;
- (21) rubbish, refuse, or garbage; and
- (22) recyclable materials.

§ 35-408 Recreational Fires.

(a) Approved Containers—In General. All Open Burning permitted under this Article for Recreational Fires shall be conducted in either:

- (1) a portable non-combustible commercial container or enclosure designed and manufactured for outdoor use, such as a cooking grill, fire pit, or chiminea, used in accordance with manufacturer recommendations, specifications, and restrictions, and only for heating and/or

cooking purposes. Those items commonly known as “burn barrels” are not included and are not permitted. The portable container must be placed on a non-combustible level surface, such as brick, stone, or concrete; or

(2) a permanent container or enclosure, such as a fire pit, surrounded on the outside, above ground, by non-combustible materials such as cast iron, steel, brick, or stone. The container/enclosure shall not exceed two (2) feet in height above ground. If the container/enclosure extends below ground level, it shall be at least four (4) inches but not more than eighteen (18) inches in depth below ground. Outdoor fireplaces which are not used in a fashion which causes Open Burning as defined in § 35-403(c) are not regulated by this Article.

(b) **Diameter.** The container or enclosure shall not exceed three (3) feet in diameter (interior).

(c) **Covering of Openings.** All openings in the container/enclosure must be covered with a wire mesh or other screening material that will prevent the passage of sparks and embers.

(d) **Waste Disposal.** Recreational Fires shall not be used for waste disposal purposes other than the burning of twigs, branches, and tree and shrubbery trimmings (not including Christmas trees).

§ 35-409 Bonfires.

A Bonfire shall only be permitted when conducted in a safe manner, as determined by the Fire Official, and all of the following conditions are satisfied:

(a) **Size and Duration.** Generally, a Bonfire shall not be more than five (5) feet by five (5) feet by five (5) feet in dimension and shall not burn longer than three (3) hours. The size and duration of a Bonfire may be increased by the Fire Official when it is determined that fire safety requirements of the situation and the desirable duration of burn warrant the increase.

(b) **Material.** Fuel for a Bonfire shall consist only of seasoned dry firewood and shall be ignited with a small quantity of paper.

§ 35-410 Extinguishment of Impermissible Open Burning.

The Fire Official or his designee may order the extinguishment of any Open Burning which is not permitted under this Article, and may direct any fire department or company to extinguish such Open Burning if the persons responsible for the Open Burning fail, refuse, or are unable to do so.

§ 35-411 Fees.

(a) **Permits.** The fee for a permit under this Article, or any renewal or amendment thereof, shall be Two Hundred Dollars (\$200.00). No such permit, renewal, or amendment shall be issued until the fee is paid.

(b) **Fire Company Response.** In the event a fire company response is directed for the containment and/or extinguishing of a fire created in violation of this Article, the *owner* of the property will be assessed a fee of Five Hundred Dollars (\$500.00) to defray personnel and equipment costs incurred by the Borough and/or the fire company. This fee is in addition to the penalties for the violation.

§ 35-412 Revocation of Permits.

The Fire Official may revoke any permit issued under this Article when it is found by inspection or otherwise that:

- (a) the permit is being used for a location other than that for which it was issued;
- (b) the permit is being used for a condition or activity other than that identified in the permit;
- (c) the permit is being used by a different person than the one for whom it was issued;
- (d) there have been any false statements or misrepresentations as to any material facts in the application for permit or any plan submitted;
- (e) any conditions or limitations set forth in the permit have been violated;
- (f) the permittee failed, refused, or neglected to comply with orders or notices duly served by the *code official* or the Fire Official within the time provided therein; or
- (g) the permit was issued in error or in violation of a Borough ordinance or other applicable regulation.