

# ALBURTIS CODIFIED ORDINANCES

## Chapter 35

### Property Maintenance

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## Chapter 35 — Property Maintenance

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## Article I — In General

### § 35-101 Short Title.

This Chapter shall be known, and may be cited, as the “Property Maintenance Code of the Borough of Alburtis.”

## § 35-102 Adoption.

A certain document, three (3) copies of which are on file in the office of the Borough Manager of the Borough of Alburtis, being marked and designated as “The 2021 International Property Maintenance Code,” as published by the International Code Council, Inc., and including optional Appendix A (Boarding Standard) but not optional Appendix B (Board of Appeals) (said code being incorporated herein by reference), as modified by the additions, insertions, deletions, and changes set forth in Article II and the additions set forth in Article III, is hereby adopted as the Property Maintenance Code of the Borough of Alburtis, Lehigh County, Pennsylvania.

## Article II — Modifications of International Code

### § 35-201 In General.

The 2021 International Property Maintenance Code is modified for purposes of the Property Maintenance Code of Borough of Alburtis as set forth in the remaining sections of this Article II (with insertions indicated by double underlining and deletions indicated by ~~stricken through~~ type).

### § 35-202 Name of Jurisdiction.

Section 101.1 (relating to Scope and Administration— Scope and General Application— Scope and General Requirements— Title) is modified as follows:

These regulations shall be known as the ~~International Property Maintenance Code~~ Property Maintenance Code of ~~[NAME OF JURISDICTION]~~ the Borough of Alburtis, hereinafter referred to as “this code.”

### § 35-203 Penalties.

Section 109.3 (relating to Scope and Administration— Administration and Enforcement— Violations— Prosecution of violation) is modified as follows:

Any person failing to comply with a notice of violation or order served in accordance with Section 111.4 shall be ~~deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and~~ subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure, and upon conviction thereof, be sentenced to pay a criminal fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each violation or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the court, plus court costs and reason-

able attorney fees incurred by the Borough in the enforcement proceeding. ~~the~~ The violation shall be deemed a *strict liability offense*. Each violation of a separate section, subsection, paragraph, or other division of this code shall constitute a separate offense. The enforcement action shall be brought before a magisterial district judge or, where applicable under Borough Code § 3321(b)(4), 8 PA. CONS. STAT. § 3321(b)(4), the Lehigh County Court of Common Pleas. If the notice of violation is not complied with, the *code official* shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the *structure* in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such *premises*, shall be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate.

### § 35-204 Appeals.

Sections 107.3 (relating to Scope and Administration—Administration and Enforcement—Means of Appeal—Qualifications) and 108.1 (relating to Scope and Administration—Administration and Enforcement—Board of Appeals—Membership of board) are deleted in their entirety. Section 107.1 (relating to Scope and Administration—Administration and Enforcement—Means of Appeal—General) is modified as follows:

**107.1 General.** ~~In order~~ The joint Board of Appeals under Codified Ordinances § 30-301 (relating to Uniform Construction Code) shall be the board of appeals to hear and decide appeals of orders, decisions, or determinations made by the *code official* relative to the application and interpretation of this code, ~~there shall be and is hereby created a board of appeals. The board of appeal shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adapt rules the procedure for conducting its business and if that Board is willing to accept jurisdiction regarding this code in the same manner as appeals under the Pennsylvania Construction Code Act and the Uniform Construction Code. Otherwise, the Borough of Alburdis Zoning Hearing Board shall be the board of appeals under this code. The joint Board or Zoning Hearing Board shall conduct appeals under this code in accordance with its ordinary practices and procedures, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *code official*.~~

### § 35-205 Weeds.

Section 302.4 (relating to General Requirements—Exterior Property Areas—Weeds) is deleted in its entirety. See Chapter 93 (relating to weed control) for treatment of this subject matter.

### § 35-206 Insect Screens.

Section 304.14 (relating to General Requirements—Exterior Structure—Insect screens) is modified as follows:

During the period from {DATE} April 1 to {DATE} October 31, every door, window and other outside opening utilized or required for *ventilation* . . . .

### § 35-207 Garbage Facilities.

Section 308.3.1 (relating to General Requirements—Rubbish and Garbage—Disposal of garbage—Garbage facilities) is modified as follows:

The *owner* of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each *dwelling unit*; ~~an approved incinerator unit in the structure available to the occupants in each dwelling unit~~; or an approved leakproof, covered, outside *garbage* container.

### § 35-208 Heat Supply for Residential Structures.

Section 602.3 (relating to Mechanical and Electrical Requirements—Heating Facilities—Heat supply) is modified as follows:

Every *owner* and *operator* of any building who rents, leases or *lets* one or more *dwelling units* or *sleeping units* on terms, either express or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from {DATE} October 1 to {DATE} April 30 to maintain a minimum room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

**Exceptions:** . . . .

### § 35-209 Heat Supply for Occupiable Work Spaces.

Section 602.4 (relating to Mechanical and Electrical Requirements—Heating Facilities—Occupiable work spaces) is modified as follows:

Indoor occupiable work spaces shall be supplied with heat during the period from {DATE} October 1 to {DATE} April 30 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

**Exceptions:** . . . .

### § 35-210 Motor Vehicles.

Section 302.8 (relating to General Requirements—Exterior Property Areas—Motor Vehicles) is modified as follows:

Except as provided in for in other regulations, inoperative, ~~or unlicensed, unregistered, or uninspected~~ motor vehicles or trailers shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

### § 35-211 Code Official.

Section 103.1 (relating to Scope and Administration—Administration and Enforcement—Code Compliance Agency—Creation of agency) is modified as follows:

**103.1 ~~Creation of Agency Code Official.~~** ~~The [INSERT NAME OF DEPARTMENT] is hereby created and the official in charge thereof shall be known as the code official. The function of this agency~~ The code official shall be responsible for the implementation, administration and enforcement of the provisions of this code.

## Article III — Key Boxes

### § 35-301 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.

### § 35-302 Short Title.

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

### § 35-303 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) **“Covered Structure or Property”** shall mean the following *structures* and properties:

(1) a *structure* or property which contains a fire alarm that uses an automatic dialer or contains an automatic fire suppression system;

(2) a multi-family residential *structure* containing four (4) or more dwelling units;

(3) a property or development containing four (4) or more dwelling units with common and restricted access to the dwelling units (*e.g.*, via a gate);

(4) a *structure* or property used for commercial or industrial purposes, except a home office or business; and

(5) a *structure* or property identified by the Fire Official as difficult to access during emergencies.

(b) **“Fire Official”** shall mean the Borough Fire Chief or his/her designee from among the members of the Fire Department.

(c) **“Fire Department”** shall mean the Lower Macungie Fire Department, a volunteer fire company officially recognized as the provider of fire services in the Borough.

(d) **“Key Box”** shall mean a key lock box of a type listed in accordance with UL 1037 and selected by the Fire Department for use in its rapid entry key lock box system, which contains those keys required under this Article and which may be accessed only by the Fire Department. The Fire Department may, from time to time, change or add to the selected products for its rapid entry key lock box system, but no *owner* shall be required to replace a previously installed acceptable Key Box before the end of its useful life merely because the Fire Department decided to select different products for its rapid entry key lock box system.

### § 35-304 Required Installation.

(a) **In General.** The *owner* of each Covered Structure or Property shall install and maintain a Key Box for that *structure* or property. The *owner* is responsible for ordering, purchasing, and installing the Key Box, and for maintaining and replacing it when necessary.

(b) **Compliance Date.** Covered Structures constructed after the adoption of this Article, and Covered Properties whose access to Covered Structures or *dwelling units* on the property is limited by new gates constructed or installed on the property after the adoption of this Article, shall be in compliance with this Article by no later than first occupancy of the Covered Structure or Property following said construction or installation. All other Covered Structures and Properties shall be in compliance with this Article by January 1, 2028.

(c) **Exemption.** The Fire Official may exempt a Covered Structure or Property from the requirements of this Article if there are security personnel with full access to the entire Covered Structure or Property on site at all times (24 hours per day, each day of the year).



### § 35-305 Location.

(a) **In General.** The Key Box for a Covered Structure or Property shall be installed at such location as determined by the Fire Official in his complete discretion. The typical location for a Covered Structure is on the front of the *structure* near the main entry door, on the right hand side, between six (6) and eight (8) feet above the ground, but the Fire Official may choose a different location.

(b) **Installation.** The *owner* shall contact the Fire Official prior to mounting the Key Box for approval of the location, and shall allow the Fire Official to observe the installation of the Key Box to ensure proper location and installation.

(c) **Access.** The *owner* shall insure that the Fire Department has completely unobstructed access to the Key Box at all times.

### § 35-306 Contents.

(a) **In General.** The *owner* shall cause to be placed in the Key Box for a Covered Structure or Property the key(s) (or other device(s) for gaining access) for all exterior doors and gates, all interior doors and gates within the building, and all doors or panels with restricted access to building systems (*e.g.*, HVAC, alarm panels, sprinkler controls, electrical panels, and elevator controls). Each key or device shall be clearly labeled and easily identifiable.

(b) **Updating.** The *owner* shall insure that the key(s) and device(s) contained in the Key Box for a Covered Structure or Property are up-to-date at all times and provide access to all areas within the *structure* or property and all building systems with restricted access. Whenever a lock is changed or new doors, gates, panels, or similar items with locks are installed at the Covered Structure or Property, the *owner* shall immediately arrange with the Fire Official to place or replace, as necessary, the required key(s) and device(s) in the Key Box.

### § 35-307 Entry into Key Box.

No *person* or entity shall have the ability or right to enter a Key Box other than the Fire Department, including the *owner*, an occupant, the Borough, and the Borough Police Department. Except in the event of an emergency at the Covered Structure or Property, the *owner* or his/her authorized representative shall be present whenever the Fire Department enters the Key Box.

### § 35-308 Contact Information.

The *owner* of a Covered Structure or Property shall provide the Fire Official with contact information, including the names, mailing addresses, telephone numbers, facsimile numbers, and e-mail addresses of the *owner* and his/her authorized representatives, and shall ensure that information remains up-to-date by providing notice of any changes to the Fire Official, preferably in advance.

## 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.

## Appendix

### ¶ 35-A Disposition of Ordinance 339.

Ordinance 339 was never codified to the 1981 Code.

#### Ordinance 339

#### 2003 Codified Ordinances

§ 1	§ 35-102
§ 2 (intro)	§ 35-201
§ 2(a)	§ 35-202
§ 2(b)	§ 35-203
§ 2(c)	§ 35-204
§ 2(d)	§ 35-205
§ 2(e)	§ 35-206
§ 2(f)	§ 35-207

<u>Ordinance 339</u>	<u>2003 Codified Ordinances</u>
§ 2(g)	§ 35-208
§ 2(h)	§ 35-209
§ 3 (repealer)	

### **¶ 35-B Source Ordinances.**

Ordinance 339	09-25-1996
Ordinance 415	10-29-2003
Ordinance 472	04-30-2008
Ordinance 474	08-13-2008
Ordinance 481	05-03-2009
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015
Ordinance 599	09-10-2025

### **¶ 35-C Prior Ordinances Concerning Related Subject Matter.**

Ordinance 287	09-11-1991
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### **¶ 35-D Chapter 123 of the 1981 Code (before Ord. 339).**

Ordinance 287 adopted a new Chapter 123 of the 1981 Code. That Chapter was superseded by Ordinance 339, which was not codified to the 1981 Code.

A copy of Chapter 123 as in effect before Ordinance 339 is included with the CD-ROM and online versions of the Codified Ordinances. (See the link to Ordinance 287 in ¶ 35-C.)