

# ALBURTIS CODIFIED ORDINANCES

## Chapter 93

### Weed Control

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# Chapter 93 — Weed Control

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## Article I — Title and Definitions

§ 93-101	Short Title. ....	93-3
§ 93-102	Definitions – In General. ....	93-3
§ 93-103	Borough. ....	93-3
§ 93-104	Person. ....	93-3
§ 93-105	Prohibited Vegetation. ....	93-3
§ 93-106	Restricted Vegetation. ....	93-3

## Article II — Prohibitions and Duties

§ 93-201	Restricted Vegetation. ....	93-4
§ 93-202	Prohibited Vegetation. ....	93-4
§ 93-203	Duty to Cut or Remove Improper Vegetation. ....	93-4
§ 93-204	Penalties for Violation. ....	93-5
	(a) Civil Penalty. ....	93-5
	(b) Initial Determination of Violation. ....	93-5
	(c) Civil Enforcement Proceeding. ....	93-5
	(d) Separate Offenses. ....	93-5
§ 93-205	Enforcement. ....	93-5

## Article III — Removal or Cutting by the Borough

§ 93-301	Notice to Owner or Occupant. ....	93-6
§ 93-302	Action by Borough. ....	93-6
§ 93-303	Collection of Costs. ....	93-6

## Appendix

¶ 93-A	Disposition of Ordinance 45. ....	93-7
¶ 93-B	Disposition of Ordinance 46. ....	93-7
¶ 93-C	Disposition of 1981 Code, Chapter 56 (after Ord. 319). ....	93-7
¶ 93-D	Source Ordinances. ....	93-7
¶ 93-E	Prior Ordinances Concerning Related Subject Matter. ....	93-8

## Article I — Title and Definitions

### § 93-101 Short Title.

This Chapter shall be known, and may be cited, as the “Alburtis Weed Control Ordinance.”

[Ord. 415 10-29-2003]

### § 93-102 Definitions – In General.

For purposes of this Chapter, the terms defined in the remaining sections of this Article I shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

[Ord. 415 10-29-2003]

### § 93-103 Borough.

The term “Borough” shall mean the Borough of Alburtis, Lehigh County, Pennsylvania, a Pennsylvania borough and municipal corporation.

[Ord. 415 10-29-2003]

### § 93-104 Person.

The term “Person” shall mean an individual, partnership, corporation, estate, trust, association, or governmental entity. In the case of any penalty provided by this Chapter, the term “Person” includes the officer(s), general partners, fiduciaries, or other similar individual persons with authority to act for a Person which is not an individual with respect to the matters described in this Chapter.

[Ord. 415 10-29-2003]

### § 93-105 Prohibited Vegetation.

The term “Prohibited Vegetation” means any poisonous vegetation, Canada thistles, vegetation which throws off any unpleasant or noxious odor, vegetation which conceals any filthy deposit, or vegetation which is not legal to be possessed by the owner or occupier of the property on which it is growing (*e.g.*, marijuana).

[Ord. 415 10-29-2003]

### § 93-106 Restricted Vegetation.

The term “Restricted Vegetation” means any grass, weeds, or other vegetation whatsoever, *except—*

(a) flowers, hedges, shrubs, ornamental grasses, and other vegetation maintained for ornamental purposes;

(b) vegetables, fruits, grains, and other vegetation intended for human consumption and contained within gardens or flower beds;

(c) vegetation on a parcel of property for which agricultural uses are permitted under the terms of Chapter 21 (relating to Zoning) or as a pre-existing nonconforming use, *provided* that such vegetation is growing on a portion of the property which is actively devoted to agricultural or horticultural purposes; or

(d) vegetation growing naturally (*i.e.*, not planted by any person) on any naturally wooded portion of a parcel of property. An area is considered “wooded” if it contains trees of varying heights and trunk diameters, and the maximum distance from each tree with a minimum height of six (6) feet and a minimum diameter of four (4) inches to another such tree is ten (10) feet.

[Ord. 415 10-29-2003]

## Article II — Prohibitions and Duties

### § 93-201 Restricted Vegetation.

No Person owning or occupying any property within the Borough shall permit any Restricted Vegetation to grow or remain upon such property at a height in excess of eight inches (8”). Any Restricted Vegetation in violation of this Section is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, comfort, and general welfare of the inhabitants of the Borough.

[Ords. 415 10-29-2003, 479 12-29-2008]

### § 93-202 Prohibited Vegetation.

No Person owning or occupying any property within the Borough shall permit any Prohibited Vegetation to grow or remain upon such property. All Prohibited Vegetation is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, comfort, and general welfare of the inhabitants of the Borough.

[Ord. 415 10-29-2003]

### § 93-203 Duty to Cut or Remove Improper Vegetation.

Each Person who owns or occupies any real property located in whole or in part in this Borough shall remove, trim, or cut all vegetation growing on such real property in violation of this Chapter so that the violation shall cease.

[Ord. 415 10-29-2003]

### § 93-204 Penalties for Violation.

(a) **Civil Penalty.** Any person who violates any provision of this Article shall be subject to a civil penalty of One Hundred Dollars (\$100.00).

(b) **Initial Determination of Violation.** Council hereby delegates the initial determination of violations under this Article to the Zoning Officer. The Zoning Officer or the Borough Manager shall serve notice of the violation(s) upon the person determined to have violated this Article in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(c) **Civil Enforcement Proceeding.** When the penalty imposed for a violation(s) of this Article is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (b), the Borough Manager shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge (or, where applicable under Borough Code § 3321(5), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas). The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person found to have violated this Article in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(d) **Separate Offenses.** Each day that a violation of this Article continues after notice has been given under § 93-301 shall constitute a separate offense.

[Ords. 415 10-29-2003, 518 03-12-2014, 526 01-28-2015]

### § 93-205 Enforcement.

The Zoning Officer is hereby authorized and directed to enforce the provisions of this Chapter.

[Ord. 436 08-31-2005]

## Article III — Removal or Cutting by the Borough

### § 93-301 Notice to Owner or Occupant.

The Zoning Officer is hereby authorized to give notice, by personal service or first class U.S. mail, to the owner and/or occupant of any property in this Borough which contains vegetation in violation of this Chapter, directing such person to comply with his/her duty under § 93-203 within five (5) calendar days after the issuance of the notice. Whenever, in the reasonable judgment of the Zoning Officer, it shall appear to be impracticable to give such notice, either because the owner and/or occupant cannot readily be found or cannot reliably be served, or because a search for the owner and/or occupant would entail unreasonable delay, the police department may give notice by posting a written notice in a conspicuous location on the property on which the nuisance and violation exists, directing the abatement of the nuisance and violation within five (5) calendar days after the date of posting.

[Ords. 415 10-29-2003, 436 08-31-2005]

### § 93-302 Action by Borough.

In the event any Person who owns or occupies property in this Borough shall neglect, fail, or refuse to comply with any notice given under § 93-301 within the time period provided, the Borough may remove, trim, or cut vegetation on such property in any reasonable manner to abate the nuisance declared by this Chapter.

[Ord. 415 10-29-2003]

### § 93-303 Collection of Costs.

All costs incurred by the Borough under § 93-302, together with a penalty of ten percent (10%) of such costs, shall be paid to the Borough by the Person(s) owning or occupying the property in question immediately upon demand. The Borough may collect such costs and penalties by means of a municipal claim and lien against the property and/or a civil action against the Person(s) violating this Chapter.

[Ord. 415 10-29-2003]

## Appendix

### ¶ 93-A Disposition of Ordinance 45.

<u>Ordinance 45</u>	<u>1981 Code (prior to Ord. 319)</u>
§ 1	§ 56-1
§ 2	§ 56-2
§ 3	§ 56-3
§ 4	§ 56-4

### ¶ 93-B Disposition of Ordinance 46.

<u>Ordinance 46</u>	<u>1981 Code (prior to Ord. 319)</u>
§ 1	§ 56-5
§ 2	§ 56-6

### ¶ 93-C Disposition of 1981 Code, Chapter 56 (after Ord. 319).

<u>1981 Code, after Ord. 319</u>	<u>2003 Codified Ordinances</u>
§ 56-1 (intro)	§ 93-102
§ 56-1(A)	§ 93-103
§ 56-1(B)	§ 93-104
§ 56-1(C)	§ 93-105
§ 56-1(D)	§ 93-106
§ 56-2(A)	§ 93-201
§ 56-2(B)	§ 93-202
§ 56-3	§ 93-203
§ 56-4(A)	§ 93-301
§ 56-4(B)	§ 93-302
§ 56-4(C)	§ 93-303
§ 56-5	§ 93-204

### ¶ 93-D Source Ordinances.

Ordinance 319	11-08-1995
Ordinance 415	10-29-2003
Ordinance 436	08-31-2005
Ordinance 479	12-29-2008
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015

**§ 93-E Prior Ordinances Concerning Related Subject Matter.**

Ordinance 45	06-05-1944
Ordinance 46	06-05-1944
Ordinance 215	11-11-1981