

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 599

(Duly Adopted September 10, 2025)

AN ORDINANCE REVISING CHAPTER 35 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO PROPERTY MAINTENANCE) TO UPDATE THE BASE CODE FROM THE 1996 BOCA NATIONAL PROPERTY MAINTENANCE CODE TO THE 2021 INTERNATIONAL PROPERTY MAINTENANCE CODE OF THE INTERNATIONAL CODE COUNCIL, INC., WITH CERTAIN MODIFICATIONS, TO ESTABLISH MINIMUM MAINTENANCE STANDARDS FOR BASIC EQUIPMENT, LIGHT, VENTILATION, HEATING, SANITATION, AND FIRE SAFETY FOR THE SAFE USE OF EXISTING STRUCTURES IN THE INTEREST OF THE SOCIAL AND ECONOMIC WELFARE OF THE BOROUGH; ADDING PROVISIONS TO THE PROPERTY MAINTENANCE CODE TO REQUIRE CERTAIN PROPERTIES TO INSTALL AND MAINTAIN KEY BOXES TO PERMIT RAPID ENTRY IN THE EVENT OF EMERGENCIES FOR FIRE-FIGHTING OR LIFE-SAVING PURPOSES IN ORDER TO MINIMIZE CRITICAL DELAYS, INJURIES, AND PROPERTY DAMAGE; PROHIBITING MOST OPEN BURNING AND REGULATING PERMITTED OPEN BURNING; ADDING A NEW CHAPTER 34 TO THE ALBURTIS CODIFIED ORDINANCES (RELATING TO FIRE CODE) TO ADOPT THE 2021 INTERNATIONAL FIRE CODE OF THE INTERNATIONAL CODE COUNCIL, INC., WITH CERTAIN MODIFICATIONS, TO ESTABLISH MINIMUM STANDARDS FOR FIRE PREVENTION, FIRE PROTECTION, LIFE SAFETY, AND SAFE STORAGE AND USE OF HAZARDOUS MATERIALS IN EXISTING STRUCTURES, FACILITIES, AND PROCESSES; ESTABLISHING A FIRE INSPECTION PROGRAM FOR COMMERCIAL STRUCTURES, INCLUDING BIENNIAL INSPECTIONS OF EXISTING STRUCTURES AND A FEE SCHEDULE; RECOGNIZING THE LOWER MACUNGIE FIRE DEPARTMENT AS THE OFFICIAL FIRE SERVICES PROVIDER IN THE BOROUGH; APPOINTING THE CHIEF AND FIRE MARSHAL OF THE LOWER MACUNGIE FIRE DEPARTMENT AS THE BOROUGH FIRE CHIEF AND BOROUGH FIRE MARSHAL; AUTHORIZING A FIRE PROTECTION SERVICES AGREEMENT WITH THE LOWER MACUNGIE FIRE DEPARTMENT; DELETING CODIFIED ORDINANCES CHAPTER 7, ARTICLE III (RELATING TO SPECIAL FIRE POLICE); AUTHORIZING THE MAYOR TO DECLARE LOCAL DISASTER

EMERGENCIES; AMENDING CODIFIED ORDINANCES § 7-402 (RELATING TO SALES OF SURPLUS PROPERTY HAVING A SMALL VALUE) TO PERMIT THE SPECIAL PROCEDURES TO BE UTILIZED WHEN THE VALUE OF THE PROPERTY DOES NOT EXCEED \$2,000.00 AND TO AUTHORIZE UTILIZATION OF ONLINE OR ELECTRONIC AUCTIONS; AND ABOLISHING THE PARK AND RECREATION COMMISSION AND DELETING CODIFIED ORDINANCES CHAPTER 4, ARTICLE II (RELATING TO PARK AND RECREATION COMMISSION).

**WHEREAS**, the Borough of Alburdis is empowered to adopt and enforce a property maintenance code under Sections 1202(15) and 32A04 of the Borough Code, 8 PA. CONS. STAT. §§ 1202(15), 32A04; and

**WHEREAS**, Borough Council adopted the 1996 edition of the BOCA® National Property Maintenance Code, with certain modifications, on September 25, 1996 by Ordinance No. 339; and

**WHEREAS**, the Borough's Property Maintenance Code was codified to Chapter 35 of the Codified Ordinances and has been amended on a number of occasions thereafter, including the addition of requirements for the prevention of carbon monoxide poisoning; and

**WHEREAS**, Borough Council desires to update the Borough's Property Maintenance Code by adopting the 2021 edition of the International Property Maintenance Code, with certain modifications. Since the 2021 Code includes provisions relating to the prevention of carbon monoxide poisoning, the special local provisions previously adopted are no longer necessary; and

**WHEREAS**, Borough Council desires to add provisions to the Property Maintenance Code to require certain properties to install and maintain rapid entry key lock boxes to permit the fire department to access structures on the property in emergencies for fire-fighting or life-saving purposes without the need for forced entry, minimizing critical delays, injuries, and property damage; and

**WHEREAS**, Borough Council desires to incorporate certain prohibitions and regulations of open burning into the Borough's Property Maintenance Code; and

**WHEREAS**, the Borough of Alburtis is empowered to adopt and enforce a fire prevention code (which is also a property maintenance code) under Sections 1202(15) and 32A04 of the Borough Code, 8 PA. CONS. STAT. §§ 1202(15), 32A04; and

**WHEREAS**, Borough Council desires to adopt the 2021 edition of the International Fire Code, with certain modifications, as the Borough's Fire Code; and

**WHEREAS**, Borough Council desires to establish a fire inspection program for commercial structures, including biennial inspections of existing structures; and

**WHEREAS**, now that the merger of the Alburtis Fire Company into the Lower Macungie Fire Department is complete and certain disputes have been resolved, Borough Council desires to officially recognize the Lower Macungie Fire Department as the provider of fire services in the Borough, and appoint the Chief and Fire Marshal of the Lower Macungie Fire Department as the Borough Fire Chief and Borough Fire Marshal; and

**WHEREAS**, Borough Council desires to enter into an Agreement for Fire Protection Services with the Lower Macungie Fire Department in the form attached to this ordinance; and

**WHEREAS**, since fire police appointed for the Lower Macungie Fire Department by other municipalities are authorized to act in the Borough by 35 PA. CONS. STAT. § 7435 and 7546, it is no longer necessary for the Borough to appoint special fire police as it did when the Borough was served by the Alburtis Fire Company; and

**WHEREAS**, Borough Council desires to authorize the Mayor to declare local disaster emergencies pursuant to the authority granted by 35 PA. CONS. STAT. § 7501(b); and

**WHEREAS**, Borough Council desires to update Codified Ordinances § 7-402 (relating to Sales of Surplus Property Having a Small Value) as authorized by 8 PA. CONS. STAT. § 1201.2(b) and Resolution 2024-4 to permit the special procedures to be used when the

value of the property is less than \$2,000.00 and to authorize the use of online and electronic auctions; and

**WHEREAS**, Borough Council previously created a Park and Recreation Commission; and

**WHEREAS**, pursuant to 8 PA. CONS. STAT. §§ 2708(a) and 2709(a), Borough Council may choose to supervise, maintain, equip, and operate recreation places through a recreation board, but is not required to have or utilize such a board; and

**WHEREAS**, Borough Council desires to abolish the Park and Recreation Commission;

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, as follows:

**SECTION 1.** Codified Ordinances § 35-102 (relating to Property Maintenance—In General—Adoption) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 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 BOCA National Property Maintenance Code, Fifth Edition, 1996~~” “The 2021 International Property Maintenance Code,” as published by the ~~Building Officials and Code Administrators International, Inc.~~ International Code Council, Inc., and including optional Appendix A (Boarding Standard) but not optional Appendix B (Board of Appeals) (~~and said code being incorporated herein by reference~~), ~~and~~ as modified by the additions, insertions, deletions, and changes set forth in Article II and the additions set forth in Articles III and IV, is hereby adopted as the Property Maintenance Code of the Borough of Alburtis, Lehigh County, Pennsylvania.

**SECTION 2.** Chapter 35, Article II of the Codified Ordinances (relating to Property Maintenance—Modifications of National Code) is amended as follows (with deletions indicated by material inside braces (*e.g.*, {deletion}), and insertions indicated by material inside angled brackets (*e.g.*, : «insertion»):

**Article II — Modifications of {National} «International» Code**

**§ 35-201 In General.**

The {1996 BOCA National} «2021 International» Property Maintenance Code is modified for purposes of the Property Maintenance Code of the 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.**

{PM-} «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 {Property Maintenance Code} «~~International Property Maintenance Code~~ Property Maintenance Code» of {NAME OF JURISDICTION} the Borough of Alburtis, hereinafter referred to as “this code.”

**§ 35-203 Penalties.**

{PM-106.2} «Section 109.3» (relating to {Administration—Violations—Penalty} «Scope and Administration—Administration and Enforcement—Violations—Prosecution of violation») is modified as follows:

{Any *person* who shall violate a provision of this code shall be 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 ~~subject~~ sentenced to pay a

criminal fine of not less than {AMOUNT} One Hundred Dollars (\$100.00) nor more than {AMOUNT} One Thousand Dollars (\$1,000.00) for each violation or imprisonment for a term not to exceed {NUMBER} thirty (30) days, or both, at the discretion of the court, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceeding. Each day that a violation continues after due notice has been served shall be deemed a separate offense, and 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(5), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas.}

«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 reasonable attorney fees incurred by the Borough in the enforcement proceeding.~~ 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.**

{PM-111.2 through 111.7 (relating to Administration—Means of Appeal—Membership of the board; Notice of meeting; Open hearing;

Postponed hearing; Board decision; and Court review))} «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 {and replaced with the following new PM-111.2} «. Section 107.1 (relating to Scope and Administration—Administration and Enforcement—Means of Appeal—General) is modified as follows»:

**{PM-111.2 Board of appeals.** The Board of Appeals under this Code shall be the Borough of Alburtis Zoning Hearing Board, which shall conduct appeals under this Code in accordance with its ordinary practices and procedures.}

«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 Alburtis 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.**

{PM-303.4} «Section 302.4» (relating to General Requirements—Exterior Property Areas—Weeds) is deleted in its entirety. *See* Codified Ordinances Chapter 93 (relating to Weed Control) for treatment of this subject matter.

**§ 35-206 Insect Screens.**

{PM-304.15} «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* {purposes serving any structure} . . . .

**§ 35-207 Garbage Facilities.**

{PM-306.3.1} «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.**

{PM-602.2.1} «Section 602.3» (relating to Mechanical and Electrical Requirements—Heating Facilities—{Residential buildings—}Heat supply) is modified as follows:

Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling {unit, rooming unit, dormitory or guestroom}* «*units or sleeping units*» on terms, either {express} «express» or implied, to furnish heat to the *occupants* thereof shall supply {sufficient} heat during the period from {DATE} October 1 to {DATE} April 30 to maintain {the} «a minimum» room {temperatures specified in Section PM-602.2 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.) during other hours} «temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*».

«**Exceptions:** . . . .»



**§ 35-209 Heat Supply for {Nonresidential Structures} «Occupiable Work Spaces».**

{PM-602.3} «Section 602.4» (relating to Mechanical and Electrical Requirements—Heating Facilities—{Residential buildings—Heat supply} «Occupiable work spaces») is modified as follows:

{Every enclosed occupied work space} «Indoor occupiable work spaces» shall be supplied with {sufficient} heat during the period from {DATE} October 1 to {DATE} April 30 to maintain a «minimum» temperature of {not less than 65 degrees F. (18 degrees C.) during all working hours} «65°F (18°C) during the period the spaces are occupied.

**«Exceptions: . . . .»**

**§ 35-210 Motor Vehicles.**

{PM-303.8} «Section 302.8» (relating to General Requirements—Exterior Property Areas—Motor Vehicles) is modified as follows:

Except as provided in for in other regulations, {~~no not more than one~~ currently unregistered or uninspected motor vehicle or trailer} «~~inoperative, or unlicensed, unregistered, or uninspected~~ motor vehicles or trailers shall «not» be parked, kept or stored on any *premises*, and {no vehicle} «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.»

**SECTION 3.** Chapter 35, Article III of the Codified Ordinances (relating to Property Maintenance—Prevention of Carbon Monoxide Poisoning) is hereby deleted in its entirety and replaced with the following new Article III:

### **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 Alburdis. 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 “Alburdis 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.** 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 burning is to take place.

#### **§ 35-407 General Regulations.**

All Open Burning permitted under this Ordinance 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 § 34-303(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.

**SECTION 4.** The Codified Ordinances are hereby amended by adding the following new Chapter 34 to Part III, as follows:

## **Chapter 34 — Fire Code**

### **Article I — In General**

#### **§ 34-101 Short Title.**

This Chapter shall be known, and may be cited, as the “Fire Code of the Borough of Albury.”

#### **§ 34-102 Adoption.**

A certain document, three (3) copies of which are on file in the office of the Borough Manager of the Borough of Albury, being marked and designated as “The 2021 International Fire Code,” as published by the International Code Council, Inc., and including its appendices (said code being incorporated herein by reference), as modified by the additions, insertions, deletions, and changes set forth in § 34-103 and Articles II and III is hereby adopted as the Fire Code of the Borough of Albury, Lehigh County, Pennsylvania.

#### **§ 34-103 No Applicability to New Construction.**

Notwithstanding anything to the contrary in the 2021 International Fire Code, the Fire Code of the Borough of Albury shall not be applicable to new construction subject to the Pennsylvania Construction Code Act, 35 PA. STAT. ANN. § 7210.101 *et seq.* or the Uniform Construction Code, 34 PA. CODE ch. 401-405, as amended, or any matter pre-empted by that Act and/or the Uniform Construction Code, except to the extent the International Fire Code is incorporated into the Uniform Construction Code. This Chapter is only intended to constitute a fire prevention code and property maintenance code.

**§ 34-104 Cross References.**

- (a) *See* Codified Ordinances Chapter 35, Article III regarding key lock boxes for fire department access to buildings or properties.
- (b) *See* Codified Ordinances Chapter 35, Article IV regarding prohibitions and regulations of open burning.

**Article II — Modifications of International Code**

**§ 34-201 Deleted Provisions.**

The following provisions of the 2021 International Fire Code are deleted in their entirety, including any subsections or other subdivisions thereof, from the Fire Code of the Borough of Alburtis:

- (a) Section 102.3 (relating to Scope and Administration—General Provisions—Applicability—Change of use or occupancy);
- (b) Section 102.5 (relating to Scope and Administration—General Provisions—Applicability—Application of residential code);
- (c) Section 102.6 (relating to relating to Scope and Administration—General Provisions—Applicability—Historic buildings);
- (d) Section 104.2 (relating to Scope and Administration—Administration and Enforcement—Duties and Powers of the Fire Code Official—Applications and permits);
- (e) Section 104.10 (relating to Scope and Administration—Administration and Enforcement—Duties and Powers of the Fire Code Official—Alternative materials, design and methods of construction and equipment);
- (f) Section 105 (relating to Scope and Administration—Administration and Enforcement—Permits);
- (g) Section 106 (relating to Scope and Administration—Administration and Enforcement—Construction Documents);

(h) Section 107 (relating to Scope and Administration—Administration and Enforcement—Fees);

(i) Section 111.3 (relating to Scope and Administration—Administration and Enforcement—Means of Appeals—Qualifications);

(j) Section 307 (relating to General Requirements—Open Burning, Recreational Fires and Portable Outdoor Fireplaces). *See* Codified Ordinances Chapter 35, Article IV (relating to Property Maintenance—Open Burning) for replacement provisions;

(k) Section 308.2 (relating to General Requirements—Open Flames—Permits required);

(l) Sections 311.1.1 through 311.6 (relating to General Requirements—Vacant Premises);

(m) Section 506 (relating to Fire Service Features—Key Boxes). *See* Codified Ordinances Chapter 35, Article III (relating to Property Maintenance—Key Boxes) for replacement provisions;

(n) Section 901.2 (relating to Fire Protection and Life Safety Systems—General—Construction documents);

(o) Section 3105.2 (relating to Tents, Temporary Special Event Structures and Other Membrane Structures—Temporary Special Event Structures—Approval);

(p) Section 3501.2 (relating to Welding and Other Hot Work—General—Permits);

(q) Section 3504.3 (relating to Welding and Other Hot Work—General—Area reviews);

(r) Chapter 36 (relating to Marinas);

(s) Section 5001.5 (relating to Hazardous Materials—General Provisions—General—Permits);

(t) Section 5001.6 (relating to Hazardous Materials—General Provisions—General—Facility closure);

(u) Section 5301.2 (relating to Compressed Gases—General—Permits);



(v) Section 5706.4.7 (relating to Flammable and Combustible Liquids—Special Operations—Bulk plants or terminals—Wharves);

(w) Section 5706.5.4.1 (relating to Flammable and Combustible Liquids—Special Operations—Bulk transfer and process transfer operations—Dispensing from tank vehicles and tank cars—Marine craft and special equipment);

(x) Section 5706.5.4.5 (relating to Flammable and Combustible Liquids—Special Operations—Bulk transfer and process transfer operations—Dispensing from tank vehicles and tank cars—Commercial, industrial, governmental or manufacturing);

(y) Section 5706.6 (relating to Flammable and Combustible Liquids—Special Operations—Tank vehicles and vehicle operation);

(z) Section 5706.7 (relating to Flammable and Combustible Liquids—Special Operations—Refineries);

(aa) Section 6101.2 (relating to Liquefied Petroleum Gases—General—Permits);

(bb) Section 6101.3 (relating to Liquefied Petroleum Gases—General—Construction documents);

(cc) Appendix A (relating to Board of Appeals);

(dd) Appendix J (relating to Building Information Sign);

(ee) Appendix K (relating to Construction Requirements for Existing Ambulatory Care Facilities);

(ff) Appendix L (relating to Requirements for Fire Fighter Air Replenishment Systems);

(gg) Appendix M (relating to High-Rise Buildings—Retroactive Automatic Sprinkler Requirements);

#### **§ 34-202 In General.**

The 2021 International Fire Code is modified for purposes of the Fire Code of the Borough of Alburty as set forth in the remaining sections of

this Article II (with insertions indicated by double underlining and deletions indicated by ~~stricken through~~ type).

**§ 34-203 Title.**

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

These regulations shall be known as the *Fire Code of* ~~[NAME OF JURISDICTION]~~ the Borough of Albury, hereinafter referred to as “this code.”

**§ 34-204 Scope.**

Section 101.2 (relating to Scope and Administration—General Provisions—Scope and General Requirements—Scope) is modified as follows:

This code establishes regulations affecting or relating to structures, processes, premises, and safeguards regarding all of the following:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials, or devices.
2. Conditions hazardous to life, property, or public welfare in the occupancy of structures or premises.
3. Fire hazards in the structure or on the premises from occupancy or operation.
4. ~~Matters related to the construction, extension, repair, alteration or removal of fire protection systems~~ [Deleted].
5. Conditions affecting the safety of the firefighters and emergency responders during emergency operations.

**101.2.1 Appendices.** Provisions in the appendices shall not apply unless specifically adopted.

**§ 34-205 Purpose.**

Section 101.3 (relating to Scope and Administration—General Provisions—Scope and General Requirements—Purpose) is modified as follows:

The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in ~~new and~~ existing buildings, structures, and premises, and to provide a reasonable level of safety to firefighters and emergency responders during emergency operations.

**§ 34-206 Applicability of Construction and Design Provisions.**

Section 102.1 (relating to Scope and Administration—General Provisions—Applicability—Construction and design provisions) is modified as follows:

The construction and design provisions of this code shall apply to:

1. ~~Structures, facilities, and conditions arising after the adoption of this code~~ [Deleted].
2. Existing structures, facilities, and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions where required in Chapter 11.
4. Existing structures, facilities, and conditions that, in the opinion of the *fire code official*, constitute a distinct hazard to life or property.

**§ 34-208 Applicability of Building Code.**

Section 102.4 (relating to Scope and Administration—General Provisions—Applicability—Application of building code) is modified as follows:

The design and construction of new structures ~~shall comply with the *International Building Code*, and any *alterations*, additions, changes in use or changes in structures required by this code,~~

~~which are within the scope of the *International Building Code*,~~  
shall be made in accordance ~~therewith~~ with the applicable Building Code and the Pennsylvania Uniform Construction Code, contained in 34 PA. CODE Chapters 401–405, as amended from time to time.

#### **§ 34-209 Other Laws.**

Section 102.11 (relating to Scope and Administration—General Provisions—Applicability—Other laws) is modified as follows:

The provisions of this code are intended to ensure life safety for existing commercial buildings and shall not be deemed to nullify or contradict any provisions of local, state, or federal law for new buildings, additions, alteration or structures that comply with the applicable Building Code or the Pennsylvania Construction Code.

#### **§ 34-210 Duties of Fire Code Official.**

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

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

#### **§ 34-211 Right of Entry.**

The first paragraph of Section 104.3 (relating to Scope and Administration—Administration and Enforcement—Duties and Powers of the Fire Code Official—Right of entry) is modified as follows:

Where it is necessary to make an inspection to enforce the provisions of this code, or where the *fire code official* has reasonable cause to believe that there exists in the building or on any premises any conditions or violations of this code that make the building or premises unsafe, dangerous, or hazardous, the *fire code official* shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed on the

*fire code official* by this code. If such building or premises is occupied, the *fire code official* shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the *fire code official* shall first make a reasonable effort to locate the *owner*, the *owner's* authorized agent or other person having charge or control of the building or premises and request entry. If entry is refused, the *fire code official* ~~has recourse~~ is authorized to seek an administrative warrant, in addition to every any other remedy provided by available under applicable law in order to secure entry.

#### **§ 34-212 Fire Records.**

Section 104.6.3 (relating to Scope and Administration—Administration and Enforcement—Duties and Powers of the Fire Code Official—Official records—Fire records) is modified as follows:

The Borough of Alburtis (or the fire department serving it) shall keep a record of fires occurring within its jurisdiction and of facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, together with other information as required by the *fire code official*.

#### **§ 34-213 Board of Appeals.**

Section 111.1 (relating to Scope and Administration—Administration and Enforcement—Means of Appeals—Board of appeals established) is modified as follows:

~~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 *fire 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 appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adapt rules of 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 Alburtis 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 *fire code official*.

#### § 34-214 Appeals to Court.

Section 111.4 (relating to Scope and Administration—Administration and Enforcement—Means of Appeals—Administration) is modified as follows:

~~111.4 Administration. The *fire code official* shall take immediate action in accordance with the decision of the board.~~

111.4 Appeals to Court. Any appeal from a decision of the board of appeals under this code shall be filed with the Lehigh County Court of Common Pleas within thirty (30) days of the issuance of the board's decision and proceed in accordance with the Pennsylvania Local Agency Law, 2 PA. CONS. STAT. § 751 *et seq.* Within thirty (30) days of the filing of such an appeal, the Borough and the owner or tenant of the premises directly involved in the action appealed from may intervene in the appeal as of course by filing a notice of intervention, accompanied by proof of service of the same upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

#### § 34-215 Violation Penalties.

Section 112.4 (relating to Scope and Administration—Administration and Enforcement—Violations—Violation penalties) is modified as follows:

~~Persons who shall violate a provision of this code, or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or direction of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFIED OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

Any person who shall violate a provision of this code, or fail to comply with a notice of violation or order served in accordance

with Section 112 within the timeframe set forth therein, or who shall erect, install, alter, repair or do work in violation of the direction of the *fire code official* or of a permit or certificate used under provisions of this code, shall be 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 reasonable attorney fees incurred by the Borough in the enforcement proceeding. 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, and each day that a violation continues after due notice has been served shall be deemed 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.

**112.4.1 Abatement of violation.** In addition to the imposition of the penalties herein described, the *fire code official* is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises. 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.

#### **§ 34-216 Cost of Emergency Repairs.**

A new Section 114.8 is added as follows:

**114.8 Cost of emergency repairs.** Costs incurred in the performance of emergency work are the responsibility of the *owner* of the premises where the unsafe structure is or was located. Such costs, however, may be paid initially by the Borough. The Borough Solicitor may institute the appropriate proceeding at law or in equity against the *owner* of the premises where the unsafe structure is or was located for the recovery of such costs. The costs shall also be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate.

#### § 34-217 Definitions.

Section 202 (relating to Definitions—General Definitions) is modified as follows:

\* \* \*

**FIRE CHIEF.** ~~The chief officer of the fire department serving the jurisdiction,~~ Fire Chief of the Borough of Alburdis or a duly authorized representative.

\* \* \*

**JURISDICTION.** ~~The government unit that has adopted this code~~ Borough of Alburdis.

\* \* \*

#### § 34-218 Vacant Premises.

The first paragraph of Section 311.1 (relating to General Requirements—Vacant Premises—General) is modified as follows:

Temporarily unoccupied buildings, structures, premises or portions thereof, including tenant spaces, shall be safeguarded and maintain in accordance with ~~Sections 311.1.1 through 311.6 the~~ Borough of Alburdis Property Maintenance Code. See Codified Ordinances Chapter 35.

#### § 34-219 Approval of Emergency Plans and Procedures.

Section 401.2 (relating to Emergency Planning and Preparedness—General—Approval) is modified as follows:

Where required by this code, fire safety plans, emergency procedures and employee training programs shall be *approved* by the ~~*fire code official*~~ property owner and/or occupant. Any reference to an approved fire safety plan, emergency procedures, or training programs shall be deemed to be that approved by the property owner and/or occupant, and not the *fire code official*.



**§ 34-220 Maintenance of Emergency Guides in Long-term Group Residences.**

Section 403.9.2.2.2 (relating to Emergency Planning and Preparedness— Emergency Preparedness Requirements—Group R occupancies— Group R-2 occupancies—Emergency guide—Emergency guide maintenance) is modified as follows:

Emergency guides shall be reviewed and *approved* by the ~~fire code official~~ property owner and/or occupant.

**§ 34-221 Lease Plans for Covered and Open Mall Buildings.**

Section 403.10.1.3 (relating to Emergency Planning and Preparedness—Emergency Preparedness Requirements—Special uses—Covered and open mall buildings—Lease plan approval) is modified as follows:

The lease plan shall be ~~submitted to the fire code official for approval~~ reviewed and approved by the property owner and/or occupant, and shall be maintained on-site for immediate reference by responding fire service personnel.

**§ 34-222 Lockdown Plans.**

The first paragraph of Section 404.2.3 (relating to Emergency Planning and Preparedness—Fire Safety, Evacuation and Lockdown Plans—Contents—Lockdown plans) is modified as follows:

Lockdown plans shall ~~only be permitted where such plans are approved by the fire code official and are~~ be reviewed and approved by the property owner and/or occupant, and shall be in compliance with Sections 404.2.3.1 and 404.2.3.2.

**§ 34-223 Plans for Fire Service Features.**

Section 501.3 (relating to Fire Service Features—General—Construction documents) is modified as follows:

*Construction documents* for proposed fire apparatus access, location of fire lanes, security gates across fire apparatus access roads and *construction documents* and hydraulic calculations for fire hydrant systems shall be submitted to the ~~fire department~~ Borough Engineer for review and approval prior to construction.

**501.3.1 Site safety plan.** The *owner* or *owner's* authorized agent shall be responsible for the development, implementation, and maintenance of ~~an approved~~ a written *site safety plan* approved by the property owner and/or occupant in accordance with Section 3308. Any reference to an approved site safety plan shall be deemed to be that approved by the property owner and/or occupant, and not the fire code official.

#### **§ 34-224 Permits for Emergency Responder Radio Coverage Systems.**

Section 510.3 (relating to Fire Service Features—Emergency Responder Communication Coverage—Permit required) is modified as follows:

~~A construction permit~~ Permits for the installation of or modification to ~~in-building, two-way~~ emergency responder ~~communication~~ radio coverage systems and related equipment ~~is required as specified in Section 105.6.4~~ shall comply with the applicable Building Code or the Pennsylvania Uniform Construction Code. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

#### **§ 34-225 Scope of Building Services and Systems.**

Section 601.1 (relating to Building Services and Systems—General—Scope) is modified as follows:

The provisions of this chapter shall apply to the ~~installation~~, operation and maintenance of the following building services and systems:

1. Electrical systems; and equipment; ~~and wiring~~.
2. ~~Information technology server rooms~~ [Deleted].
3. Elevator ~~systems, emergency operation, and recall~~.

4. Fuel-fired appliances; and heating systems, chimneys,  
and fuel oil storage.
5. Commercial ~~cooking~~ kitchen equipment ~~and systems.~~
6. ~~Commercial cooking oil storage~~ [Deleted].
7. Mechanical refrigeration systems.
8. ~~Hyperbaric facilities~~ [Deleted].
9. ~~Clothes dryer exhaust systems~~ [Deleted].
10. Emergency and standby power systems.
11. Stationary storage battery systems.

All new construction, additions, installations, or alterations to buildings, structures or equipment shall comply with the applicable Building Code or the Pennsylvania Uniform Construction Code.

#### **§ 34-226 Scope of Fire Protection and Life Safety Systems.**

Section 901.1 (relating to Fire Protection and Life Safety Systems—General—Scope) is modified as follows:

The provisions of this chapter shall specify where *fire protection* and *life safety systems* are required, and shall apply to ~~the design, installation,~~ inspection, operation, testing and maintenance of all *fire protection* and *life safety systems*. All new construction, additions, installations, or alterations to buildings, structures or equipment shall comply with the applicable Building Code or the Pennsylvania Uniform Construction Code.

#### **§ 34-227 Permits for Fire Protection and Life Safety Systems.**

Section 901.3 (relating to Fire Protection and Life Safety Systems—General—Permits) is modified as follows:

~~Permits shall be required as set forth in Sections 105.5 and 105.6 for work under this chapter shall comply with the applicable Building Code or the Pennsylvania Uniform Construction Code.~~

**§ 34-228 Permits for Construction in Existing Buildings.**

Section 1101.3 (relating to Construction Requirements for Existing Buildings—General—Permits) is modified as follows:

Permits ~~shall be required as set forth in sections 105.5 and 105.6 and the *International Building Code*~~ for work under this chapter shall comply with the applicable Building Code or the Pennsylvania Uniform Construction Code.

**§ 34-229 Construction Documents for Existing Buildings.**

Section 1101.4.1 (relating to Construction Requirements for Existing Buildings—General—Owner notification—Construction documents) is modified as follows:

*Construction documents* necessary to comply with this chapter shall be completed and submitted within a time schedule *approved* by the ~~fire code official~~ Borough's Construction Code Inspector.

**§ 34-230 Sprinkler Systems for Existing Group I-2, Condition 2 Buildings.**

Section 1103.5.3 (relating to Construction Requirements for Existing Buildings—Fire Safety Requirements for Existing Buildings—Sprinkler systems—Group I-2, Condition 2) is modified as follows:

In addition to the requirements of Section 1103.5.2, existing buildings of Group I-2, Condition 2 occupancy shall be equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1. The *automatic sprinkler system* shall be installed ~~as established by the adopting ordinance~~ within one (1) year after notice from the Borough to the owners of all such buildings pursuant to motion or resolution adopted by Borough Council. [DATE BY WHICH SPRINKLER SYSTEM MUST BE INSTALLED];

**§ 34-231 Scope of Tents, Temporary Stage Canopies, and Other Membrane Structures.**

Section 3101.1 (relating to Tents, Temporary Special Event Structures and Other Membrane Structures—General—Scope) is modified as follows:

*Tents*, temporary ~~special event structures~~ stage canopies and *membrane structures* shall comply with this chapter. The provisions of Section 3103 are applicable only to temporary *tents* and *membrane structures*. The provisions of ~~Sections~~ Section 3104 and 3106 are applicable to temporary and permanent *tents* and *membrane structures*. ~~The provisions of Section 3105 are applicable to temporary special event structures. The provisions of Section 3106 are applicable to outdoor assembly events. Other~~ All temporary structures shall comply with the *International Building Code* Alburdis Codified Ordinances Chapter 21 (relating to Zoning) and permits for work under this chapter shall comply with the Pennsylvania Uniform Construction Code.

**§ 34-232 Fire Safety Plan for Tire Storage Yards.**

Section 3404.5 (relating to Tire Rebuilding and Tire Storage—Precautions Against Fire—Fire safety plan) is modified as follows:

The *owner* or individual in charge of the tire storage yard shall be required to prepare and submit to the *fire code official* a fire safety plan ~~for review and approval~~ upon request. ~~The fire safety plan shall include provisions for fire department vehicle access. Not less than one copy of the fire safety plan shall be prominently posted and maintained at the storage yard.~~

**§ 34-233 Areas Where Hot Work May Be Conducted.**

Section 3501.3 (relating to Welding and Other Hot Work—General—Restricted areas) is modified as follows:

Hot work shall only be conducted in areas designed or authorized for that purpose by the personnel responsible for a hot work program. ~~Hot work shall not be conducted in the following areas unless approval has been obtained from the *fire code official*.~~

1. ~~Areas where the sprinkler system is impaired.~~
2. ~~Areas where there exists the potential of an explosive atmosphere, such as locations where flammable gases, liquids, or vapors are present.~~
3. ~~Areas with readily ignitable materials, such as storage of large quantities of bulk sulfur, baled paper, cotton, lint, dust, or loose combustible materials.~~
4. ~~On board ships at dock or ships under construction or repair.~~
5. ~~At other locations as specified by the *fire code official*.~~

#### **§ 34-234 Hot Work Near Automatic Sprinkler Protection.**

Section 3504.1.8 (relating to Welding and Other Hot Work—Fire Safety Requirements—Protection of combustibles—Sprinkler protection) is modified as follows:

Automatic sprinkler protection shall not be shut off while hot work is performed. Where hot work is performed close to automatic sprinklers, non-combustible barriers or damp cloth guards shall shield the individual sprinkler heads and shall be removed when the work is completed. If the work extends over several days, the shields shall be removed at the end of each workday. ~~The *fire code official* shall approve hot work where sprinkler protection is impaired.~~

#### **§ 34-235 Security for Areas with Hazardous Materials.**

Section 5003.9.2 (relating to Hazardous Materials—General Provisions—General Requirements—General safety precautions—Security) is modified as follows:

Storage, dispensing, use and handling areas ~~should~~ shall be secured against unauthorized entry and safeguarded ~~in a manner approved by the *fire code official*.~~

**§ 34-236 Permits for Explosives and Fireworks.**

The first paragraph of Section 5601.2 (relating to Explosives and Fireworks—General—Permit required) is modified as follows:

Permits shall be required as set forth in Section 105.5 and regulated in accordance with this section. Notwithstanding anything to the contrary in this code, persons shall comply with all applicable permit, fee, insurance, and other requirements of Alburdis Codified Ordinances Chapter 95 (relating to Fireworks), and no regulation in this code shall be valid to the extent it is in conflict with or preempted by the State Fireworks Law, 3 PA. CONS. STAT. § 1101 et seq., Codified Ordinances Chapter 95, or any license or permit issued thereunder.

**§ 34-237 Scope of Flammable and Combustible Liquids Regulations.**

Section 5701.1 (relating to Flammable and Combustible Liquids—General—Scope and application) is modified as follows:

Prevention, control, and mitigation of dangerous conditions related to storage, use, dispensing, mixing and handling of *flammable* and *combustible liquids* shall be in accordance with Chapter 50 and this chapter and shall not be deemed to nullify or contradict any provisions of Pennsylvania Act 15 of 1998, the Combustible and Flammable Liquids Act, 35 PA. STAT. ANN. § 1241 et seq., and any amendments thereto.

**§ 34-238 Site Assessment Due to Leak of Flammable and Combustible Liquids from a Tank System.**

Section 5703.3 (relating to Flammable and Combustible Liquids—General Requirements—Site assessment) is modified as follows:

In the event of a spill, leak or discharge from a tank system, a site assessment shall be completed by the *owner* or operator of such tank system if the *fire code official* determines that a potential fire or explosion hazard exists. Such site assessment shall be conducted to ascertain potential fire hazards and shall be completed and submitted to the ~~fire department~~ Borough within a time period established by the *fire code official*, not to exceed 60 days.

**§ 34-239 Scope of Regulation of Liquefied Petroleum Gases.**

Section 6101.1 (relating to Liquefied Petroleum Gases—General—Scope) is modified as follows:

Storage, handling, and transportation of liquefied petroleum gas (LP-gas) ~~and the installation of LP-gas equipment pertinent to systems for such uses~~ shall comply with this chapter and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58. Nothing set forth in this chapter shall be deemed to nullify or contradict any provisions of Pennsylvania Act 61 of 2002, the Propane and Liquefied Petroleum Gas Act, 35 PA. STAT. ANN. § 1329.1 et seq., as amended.

**Article III — Inspection Program**

**§ 34-301 Addition to the Fire Code.**

The provisions of this Article are hereby added to and incorporated into the Fire Code of the Borough of Alburtis. Except as may be provided otherwise in this Article, the administrative provisions of the Fire 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.

**§ 34-302 Short Title.**

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

**§ 34-303 Commercial Structure.**

For purposes of this Article, the term “Commercial Structure” shall mean any building or facility, either open or closed, which includes an occupancy group defined in Section 202 of the *International Fire Code* other than:



- (a) a Residential Group R-3 occupancy;
- (b) a Storage Group S occupancy accessory to a *dwelling unit* which is part of a Residential Group R-3 occupancy; or
- (c) a Miscellaneous Group U occupancy.

The term includes, without limitation, office buildings, community centers, personal service businesses, industrial property, financial institutions, schools and educational facilities, cultural facilities, medical centers, hotels, motels, malls, retail stores, theaters, restaurants, taverns, shopping centers, places of worship, utility buildings, and warehouses.

#### **§ 34-304 Inspections.**

(a) **Biennial Inspections.** The *fire code official* is hereby authorized and directed to conduct inspections at least once every two (2) years on each Commercial Structure in the Borough to determine whether it is in compliance with the Fire Code. An inspection under Codified Ordinances Chapter 30 (relating to Uniform Construction Code) or Chapter 36 (relating to Residential Rental Properties) shall satisfy this requirement.

(b) **Other Inspections.** Additional or more frequent inspections under the Fire Code may be conducted if:

- (1) the *fire code official* reasonably determines they are necessary;
- (2) the use or occupancy of the Commercial Structure is to be changed and no inspection is to be made under the Uniform Construction Code; or
- (3) fixed fire suppression equipment, sprinkler systems, fire alarm systems, or fire hydrants are to be installed or modified, or activities involving blasting are to occur, unless a permit is required and an inspection is to be made under the Uniform Construction Code in connection therewith or inspection under the Fire Code is preempted by the Uniform Construction Code.

**§ 34-305 Supplemental Duties of Fire Code Official.**

In addition to all other duties under the Fire Code, the *fire code official* shall—

- (a) explain the results of all inspections under this Article with the property *owner*;
- (b) suggest measures which can be taken by the property *owner* to correct all dangerous and unsafe conditions which are in violation of the Fire Code; and
- (c) ensure compliance with the Fire Code and orders of the *fire code official*.

**§ 34-306 Fees.**

The *owner* or operator of a Commercial Structure shall pay a fee for inspections conducted under this Article as follows. The fee shall be due within thirty (30) days after billing by the Borough, together with a penalty of one percent (1%) of the unpaid balance for each month or fraction that payment is past due:

(a) Group A, B, M, S, and U occupancies—

(1)	1-999 ft <sup>2</sup> .....	\$310.00
(2)	1,000-5,000 ft <sup>2</sup> .....	\$345.00
(3)	5,001-10,000 ft <sup>2</sup> .....	\$415.00
(4)	10,001-50,000 ft <sup>2</sup> .....	\$470.00
(5)	50,001-100,000 ft <sup>2</sup> .....	\$565.00
(6)	100,001-250,000 ft <sup>2</sup> .....	\$685.00
(7)	250,001-500,000 ft <sup>2</sup> .....	\$800.00
(8)	over 500,000 ft <sup>2</sup> .....	\$925.00
(9)	additional inspections beyond 2/other services .....	\$70.00/hr

(b) Group E, F, H, I, and R occupancies—

(1)	1-999 ft <sup>2</sup> .....	\$160.00
(2)	1,000-5,000 ft <sup>2</sup> .....	\$175.00
(3)	5,001-10,000 ft <sup>2</sup> .....	\$210.00
(4)	10,001-50,000 ft <sup>2</sup> .....	\$240.00
(5)	50,001-100,000 ft <sup>2</sup> .....	\$300.00
(6)	100,001-250,000 ft <sup>2</sup> .....	\$350.00
(7)	250,001-500,000 ft <sup>2</sup> .....	\$415.00

- (8) over 500,000 ft<sup>2</sup> .....\$475.00
- (9) additional inspections beyond 2/other services.....\$70.00/hr

**SECTION 5.** Codified Ordinances § 11-107(b) (relating to Salaries and Compensation—Codes Enforcement—UCC and Property Maintenance Code Officials/Inspectors) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**(b) ~~UCC and Property Maintenance~~ Code Officials/Inspectors.**

The compensation of Code officials, plan reviewers, and inspectors engaged by the Borough in its administration of the Uniform Construction Code (*see* Chapter 30), the Fire Code (*see* Chapter 34), the Property Maintenance Code (*see* Chapter 35), and, where applicable, the Building Code (*see* Chapter 31) and the Plumbing Code (*see* Chapter 32), shall be established as such officials, reviewers, and inspectors are engaged by the Borough and from time to time thereafter.

**SECTION 6.** Chapter 7, Article II of the Codified Ordinances (relating to Departments—Fire Services) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 7-201    ~~Recognition of Alburdis Fire Company~~ Lower Macungie Fire Department.**

The Borough officially recognizes the ~~Alburdis Fire Company~~ Lower Macungie Fire Department, a volunteer fire company, as the organization providing fire services within the Borough of Alburdis, and recognizes and accepts those services.

**§ 7-202 Fire Chief and Fire Marshal.**

The Chief of the Lower Macungie Fire Department shall be the Fire Chief of the Borough, and the Fire Marshal of the Lower Macungie Fire Department shall be the Fire Marshal of the Borough.

**§ 7-203 Agreement for Fire Protection Services.**

The Borough of Alburty shall enter into an Agreement for Fire Protection Services with the Lower Macungie Fire Department in the form attached to Ordinance 599 as **Exhibit A**, which is incorporated into this Article by reference. The President (or Vice President) of Borough Council is hereby authorized and directed to execute the Agreement on behalf on the Borough.

**SECTION 7.** Chapter 7, Article III of the Codified Ordinances (relating to Departments—Special Fire Police) is hereby amended by deleting §§ 7-301 through 7-306, and revising the heading as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**Article III — ~~Special Fire Police~~ [RESERVED]**

**SECTION 8.** Chapter 71 of the Codified Ordinances (relating to Emergency Management) is amended by adding thereto the following new Article II after Article I:

## Article II — Local Disaster Emergencies

### § 71-201 Authorization of Mayor.

Pursuant to 35 PA. CONS. STAT. § 7501(b), Council hereby authorizes the Mayor to declare a local disaster emergency upon finding a disaster has occurred or is imminent, subject to ratification by Council. The declaration shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the Council.

### § 71-202 Notice to the Public and PEMA.

Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the Pennsylvania Emergency Management Agency.

### § 71-203 Effect of Declaration.

The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local emergency management plans, and to authorize the furnishing of aid and assistance thereunder.

**SECTION 9.** Codified Ordinances § 7-402 (relating to Departments—Administration—Sale of Surplus Property Having a Small Value) is amended as follows:

### § 7-402 Sale of Surplus Property Having a Small Value.

(a) **In General.** In any case in which the Borough desires to sell or otherwise dispose of Borough personal property of an estimated sale value of less than ~~One~~ Two Thousand Dollars (~~\$1,000.00~~) (\$2,000.00) (after totaling all items of property to be sold or otherwise disposed of at a given

time), it shall be sufficient authorization for such sale for Borough Council to approve the same by motion duly adopted.

\* \* \*

(c) **Auction.** Except as provided in subsection (d), all Borough property authorized for sale under subsection (a) or (b) shall be sold at either (1) a public auction conducted by a private auctioneer at a location within twenty (20) miles of the Borough, or (2) at a public auction conducted by means of an online or electronic auction, and the net proceeds shall be deposited into the Borough Treasury. The Borough Manager is hereby authorized and directed to make arrangements for such an auction on such terms and for such costs and/or commissions as to the Borough Manager shall seem reasonable and in the best interests of the Borough.

\* \* \*

(f) **Resolution.** This Section shall be considered a resolution of Council within the meaning of ~~53 PA. STAT. ANN. § 46201~~ 8 PA. CONS. STAT. § 1201.2(b), and is derived from Resolution ~~1997-3~~ 2024-4, as amended.

**SECTION 10.** The Alburtis Park and Recreation Commission is hereby abolished and Chapter 4, Article II of the Codified Ordinances (relating to Boards and Commissions—Park and Recreation Commission) is hereby amended by deleting §§ 4-201 through 4-209, and revising the heading as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**Article II — ~~Park and Recreation Commission~~ [RESERVED]**

**SECTION 11.** The attached **Exhibit A** is incorporated into this Ordinance by reference.

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Albur-  
tis, this 10<sup>th</sup> day of September, 2025, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

---

Ronald J. DeIaco, President

Attest:

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Stephen Nemeth, Borough Manager

**AND NOW**, this 10<sup>th</sup> day of September, 2025, the above Ordinance is hereby AP-  
PROVED.

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Kathleen Palmer, Mayor

# **Exhibit A**

## **AGREEMENT FOR FIRE PROTECTION SERVICES**

This Agreement for Fire Protection Services ("Agreement") is made and entered into this \_\_\_\_ day of September, 2025 (the "Effective Date") between LOWER MACUNGIE FIRE DEPARTMENT, a Pennsylvania non-profit corporation having offices at 958 Brookside Road, Wescosville, Lehigh County, Pennsylvania 18106 (the "Fire Department") and BOROUGH OF ALBURTIS, a Pennsylvania borough and municipal corporation having offices at 260 Franklin Street, Alburtis, Lehigh County, Pennsylvania 18011 (the "Borough").

### **BACKGROUND**

The Borough is a local governmental agency under the laws of the Commonwealth of Pennsylvania, and thus responsible for the health, safety, and welfare of its residents. Further, the Borough is empowered by the Pennsylvania legislature to appropriate funds for and to purchase or contribute to the purchase of equipment and supplies for fire companies pursuant to 8 Pa. Cons. Stat. § 1202(35), and to ensure that fire services are provided within the borough by the means and to the extent determined by the borough pursuant to 8 Pa. Cons. Stat. § 1202(56).

Following its own independent analysis, review and due diligence, the Borough has concluded that the Fire Department possesses the necessary resources to furnish the fire protection Services within the Borough.

As a consequence, the Borough has requested the Fire Department to agree to provide those Services, which the Fire Department is willing to do, under and subject though to the terms and conditions set forth in this Agreement.

### **TERMS AND CONDITIONS**

1. **Incorporation of Background; Intending to be Legally Bound Hereby.**

The parties incorporate herein by reference the statements, definitions and descriptions set forth in the Background section of this Agreement as if fully set forth herein.

The parties further acknowledge and agree that each is entering into this Agreement for the good and valuable consideration recited herein and intending to be legally bound hereby.

2. **The Scope of Fire Protection Services.** The Fire Department shall use reasonable best efforts to provide direct or indirect fire protection services (the "Services") to the entire Borough at all times during the Term (as defined below) of this Agreement, including manpower and equipment for such Services. To do so, the Fire Department may enlist the aid or assistance of adjacent or nearby fire departments and companies.

3. **Term of Agreement: Extension and Termination.** This Agreement shall commence and be effective upon the Effective Date stated above, following which it shall continue in full force and effect for a period of five (5) years, unless further extended or sooner terminated in accordance with the provisions hereof (each period, whether the original five-year period or



any applicable extension period shall be referred to hereinafter collectively and individually as "Term").

The Term of this Agreement shall be automatically extended for one (1) year periods upon the expiration of each previous Term unless either party hereto shall provide the other with written notice of its intention not to extend this Agreement for that additional one year, with that written notice to be provided at least ninety (90) days prior to the expiration of the Term that is then in effect.

Notwithstanding these provisions, this Agreement may be terminated at any time by either party, whether during the initial five-year Term, or during any one-year extension Term, by either party giving the other at least ninety (90) days prior written notice of intent to terminate, which notice shall provide a specified date of termination which is at least ninety (90) days after the date on which such notice is given/delivered.

4. **Borough Responsibilities.** The Borough shall be responsible to provide to the Fire Department the following information and/or documents: (i) designation of a contact person at the Borough to communicate with the Fire Department concerning any matters arising under this Agreement, and to provide any information reasonably requested or required by the Fire Department, (ii) notice of any fire safety plans of which the Borough has knowledge or information relating to any properties located within the Borough, and the plans themselves if in the possession of the Borough and permitted to be disclosed to the Fire Department; (iii) a map, or other documentation, of the Borough, clearly indicating all readily accessible static sources of water, such as hydrants, which are available for fire-fighting operations; and (iv) notice of any and all emergency plans which may have been adopted by anyone within the Borough of which the Borough has knowledge, and the plans themselves if in the possession of the Borough and permitted to be disclosed to the Fire Department. Further, the Borough shall promptly notify the Fire Department of any other agreements which the Borough enters into with any municipality or other entity relating to providing any of the Services, which may overlap or conflict in any way with the Services to be provided by the Fire Department under this Agreement.

5. **Borough Fire Chief and Borough Fire Marshall.**

(a) The Chief of the Fire Department shall be designated as the Borough Fire Chief. Pursuant to the laws of the Commonwealth of Pennsylvania, the Fire Chief shall be vested with the powers under authority granted by Council for the Borough ("Borough Council"), and shall carry a badge of authority when exercising his/her duties within said Borough. The Fire Chief shall be responsible to Borough Council as necessary in conducting his/her duties, and he/she shall appear at such times as directed to appear before Borough Council. The Fire Chief shall establish all procedures and policies relative to fire protection and prevention, response assignments, mutual aid and safety during the all fire and emergency operations within the Borough. Any significant changes in such procedures and policies shall be discussed with Borough Council in advance before implementation. Mutual aid agreements, and any changes thereto, shall be reviewed and approved by both the Fire Chief and the Borough Council. The Fire Chief may designate a Deputy and/or Assistant Chief and/or Captain of the Fire Department to act on his/her behalf in his/her absence.

(b) The Fire Marshall of the Fire Department shall be designated as the Borough Fire Marshall. Pursuant to the laws of Commonwealth of Pennsylvania, the Fire Marshall shall

be vested with powers under authority granted by the Fire Chief, and shall carry a badge of authority when exercising his/her duties within said Borough. The Fire Marshall shall be responsible to the Fire Chief as necessary in conducting his/her duties at such times as directed to appear before him/her. The Fire Marshall shall establish all procedures and policies relative to fire related investigations within the Borough. The Fire Marshall may designate an Assistant to act on his/her behalf in his/her absence.

6. **Purchase and Maintenance of Equipment; Fire Department Compensation.** The Fire Department agrees that, except as otherwise provided herein, the Borough shall not be responsible for the purchase or maintenance of fire and/or rescue equipment, or any employee or employee-related expenses of the Fire Department. In compensation for the services provided to the Borough hereunder, the Borough agrees to annually provide a contribution to the Fire Department, together with the funding to be set annually by Borough Council. In addition, the Borough shall permit the Fire Department to solicit voluntary contributions from Borough residents and businesses.

Provided further, it is acknowledged and agreed that all claims for recovery of any damages, losses, costs, fees and expenses of the Fire Department, whether against or under any potentially applicable insurance company or from any individuals or entities involved in any incident to which the Fire Department responds, arising out of or relating to providing the Services, shall be the sole and exclusive property of the Fire Department, and the Borough shall have no claim thereto.

7. **Fire Apparatus.** The Fire Department agrees to provide the Borough with reports outlining apparatus needs and replacement schedules. When it is agreed upon by both parties that new fire apparatus shall be purchased, funding for the new fire apparatus shall be determined by the Borough on a case-by-case basis.

8. **Fire Department Reports.** The Fire Department, through the Fire Chief, shall provide the Borough with brief monthly reports, more detailed quarterly reports and comprehensive annual reports, including the nature and number of all calls responded to by the Fire Department within the Borough.

9. **Liability, Indemnification, and Insurance Coverages.** The Fire Department shall not be liable for any injury, loss, damage or harm to the Borough, or to any of its agents, employees, residents, occupants or visitors, or for any damage to or loss of property of the Borough, or any of its agents and employees, residents, occupants, or visitors arising out of, relating to or connected in any way with the performance of the Services and/or any other provision of this Agreement.

Provided however, the foregoing waiver of liability shall not apply if the injury, damage or loss was caused by any intentional or willful act or conduct of any agent or representative of the Fire Department, particularly in not acting within the scope of his or her authority.

To the fullest extent permitted under the laws of Commonwealth of Pennsylvania, the Borough shall provide Workers' Compensation insurance protection to all members or personnel of the Fire Department who are injured while engaged in firefighting related operations and training. The Borough shall also provide for errors and omissions insurance coverage for the members and officers of the Fire Department while engaged in Fire

Department activities and/or matters. Such coverages shall be provided jointly by all municipalities served by the Fire Department under such arrangements as they may agree.

10. **Assignment and Succession.** This Agreement shall not be assignable by either party hereto, except that this provision is not intended to prohibit mutual aid agreements as may be provided for herein. This Agreement and all rights and obligations of the parties hereto shall insure to the benefit of, bind and be enforceable by the parties and their successors.

11. **Governing Law; Jurisdiction and Venue.** The parties acknowledge and confirm that: (i) the interpretation and application of the provisions of this Agreement shall be governed, controlled and construed in accordance with the substantive laws of the Commonwealth of Pennsylvania (excluding its conflicts-of-law principles), and (ii) the Lehigh County Court of Common Pleas shall have exclusive jurisdiction and venue over any and all claims, disputes, disagreements, and/or controversies between the parties arising out of, relating to or connected with any of the provisions of this Agreement, and/or the Fire Department's provision of the Services.

12. **Integration and Merger.** It is intended and agreed that the terms and provisions of this Agreement constitute the entire understanding and agreement between the parties hereto relating to the subject matter of this Agreement, and further, this Agreement shall be deemed to supersede, replace and extinguish, particularly by the doctrine of merger, any and all prior or contemporaneous oral or written representations, promises, proposals, negotiations, understandings and agreements relating to any of the subject matter of this Agreement.

13. **Severability.** If any provision or part of this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of part of this Agreement, which shall be construed as if such invalid, illegal or enforceable provision (or part thereof) had never been contained in this Agreement, but only to the extent of its invalidity illegality, or enforceability. However, notwithstanding the forgoing sentence, in the event that any of the obligations of the Fire Department under this Agreement, whether relating to the Services, or otherwise, are eliminated, reduced or modified in any way, due to a determination of invalidity, illegality and/or unenforceability, the parties agree that each shall attempt to renegotiate the remaining terms of this Agreement, and in so doing to act in good faith, in an effort to achieve the goals and purposes of this Agreement as closely as reasonably possible notwithstanding the modification, change or removal of any such provision(s).

14. **Execution and Counterparts; Electronic Signatures and Transmission Sufficient.** This Agreement may be executed in any number of separate counterparts by the parties hereto, each of which, when so executed and delivered, shall be an original, but all counterparts shall together constitute one instrument. This Agreement shall not be binding and enforceable as to any party who executes this Agreement until it has been executed by both of the parties hereto.

Provided further, this Agreement may be executed and transmitted electronically or by facsimile, and copies of signatures shall be deemed equally as effective as an original.

15. **Section and Subsection Headings.** This Section headings and subheadings have been included for convenience only, and shall not be part of this Agreement and shall neither constitute a part of this Agreement nor affect this Agreement's construction, interpretation, meaning or effect.

16. **Gender and Numerical References.** Whenever the context requires, reference in this Agreement to the neuter gender shall include the masculine and/or feminine gender, and the singular number shall include the plural, and, in each case, vice versa, as the context requires or permits.

17. **Amendment.** This Agreement may only be amended, waived, changed, modified, or rescinded by an agreement in writing signed by both parties hereto. Provided further, the parties acknowledge and agree that this requirement of assigned writing to effect any such change or modification may not be deemed waived by the acts, conduct or omissions of either party, and further, and each party agrees that it will never allege, argue or contend in any legal proceeding that this requirement of a signed writing to effect any such change, modification, etc. has in any way been waived, and each party expressly waives the right to make any such allegation, contention and/or argument.

18. **Appropriate Municipal Authorization.** The Borough warrants and represents that the terms of this Agreement, and its execution by its authorized representative, have been approved by Ordinance No. 599, adopted by Borough Council on September 10, 2025.

19. **Notices.** Any and all notices or other communications required or appropriate under this Agreement or relating to the Services shall be delivered, to the attention of the Borough Manager in the case of the Borough and to the attention of the Fire Chief in the case of the Fire Department, by either personal hand delivery, by mail to the address of the other party referenced at the beginning of this Agreement, or by recognized overnight delivery services (Federal Express, UPS, etc.) to the same address. Provided however, in the event of any emergencies, or matters requiring an immediate or prompt response, a notification may be sent by e-mail, facsimile, or text message to such addresses/numbers as provided from time to time by one party to the other for these purposes. Any notice shall be deemed given as of the date on which it is received by the intended recipient.

20. **No Agency or Joint Venture Relationship.** It is acknowledged and agreed that the Fire Department is acting as an independent contractor to the Borough, and this Agreement shall not be deemed to create the relationship of principal/agent and/or as joint ventures or partners.

Notwithstanding the foregoing, it is acknowledged, understood, and agreed that nothing herein shall be deemed or construed to modify, change or eliminate the applicability of any legal authority, including court decisions, establishing that a volunteer fire company, such as the Fire Department is a "local agency," and entitled to governmental immunity to the full extent available under applicable Pennsylvania law, including but not limited to 42 Pa. Cons. Stat. § 8541, or that members of a volunteer fire company or department may be considered employees of the Borough in certain circumstances under the Pennsylvania Workers' Compensation Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

Attest:

LOWER MACUNGIE FIRE DEPARTMENT

\_\_\_\_\_  
, Secretary

By: \_\_\_\_\_  
, President

Attest:

BOROUGH OF ALBURTIS

\_\_\_\_\_  
Stephen Nemeth, Borough Manager

By: \_\_\_\_\_  
Ronald J. Delaco, President of Borough  
Council