

ALBURTIS CODIFIED ORDINANCES

Chapter 47

Railroads

Chapter 47 — Railroads

Article I — In General

§ 47-101	Short Title.	47-2
§ 47-102	Obstructing Street Crossing by Train.	47-2
§ 47-103	Obstructing Street Crossing by Closed Crossing Gates.	47-3
§ 47-104	Duration of Sound Waves from Locomotives.	47-3
§ 47-105	Violations and Penalties.	47-3
	(a) Civil Penalty.	47-3
	(b) Initial Determination of Violation.	47-3
	(c) Civil Enforcement Proceeding.	47-3
	(d) Separate Offenses.	47-3
	(e) Equitable Remedies.	47-3

Article II — Railroad Crossings

§ 47-201	Authorization Regarding Crossing of Public Road.	47-4
----------	---	------

Appendix

¶ 47-A	Disposition of Ordinance 27.	47-4
¶ 47-B	Disposition of Ordinance 179A.	47-4
¶ 47-C	Disposition of 1981 Code, Chapter 97.	47-4
¶ 47-D	Source Ordinances.	47-5
¶ 47-E	Prior Ordinances Concerning Related Subject Matter.	47-5

Article I — In General

§ 47-101 Short Title.

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

§ 47-102 Obstructing Street Crossing by Train.

See 75 PA. CONS. STAT. § 3713 concerning operation of a train in such a manner as to prevent vehicular use of a roadway for a period of time in excess of five consecutive minutes.

§ 47-103 Obstructing Street Crossing by Closed Crossing Gates.

No person shall keep any gates closed at grade crossings for a period longer than five (5) minutes, except for a reason set forth in 75 PA. CONS. STAT. § 3713.

§ 47-104 Duration of Sound Waves from Locomotives.

No locomotives or railroad cars shall be permitted to stand within the Borough of Alburtis emitting low- or high-frequency sound waves by virtue of physical operation of the railroad car or auxiliary equipment thereon for a period in excess of three (3) hours.

§ 47-105 Violations and Penalties.

(a) **Civil Penalty.** Any person who violates any provision of this Article shall be subject to a civil penalty of Three Hundred Dollars (\$300.00).

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

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

(d) **Separate Offenses.** Each day or portion of a day that a given violation exists or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Article shall constitute a separate offense.

(e) **Equitable Remedies.** In addition to or in lieu of enforcement of this Article through a civil action, the Borough may enforce this Article through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

Article II — Railroad Crossings

§ 47-201 Authorization Regarding Crossing of Public Road.

The Reading Company is hereby authorized to construct, operate, and maintain an additional railroad track, at grade, across a public road located about 1362 feet West of its Alburdis Station, said track to be located at a point 13 feet north of its northernmost existing track (as of December 12, 1927) now crossing said public road, as shown by red lines on blueprint No. 13138, made a part of Ordinance 27 (approved December 12, 1927) and incorporated herein by reference, *provided* that Reading Company shall restore the surface of said road in passable condition for traffic upon completion of said additional track.

Appendix

¶ 47-A Disposition of Ordinance 27.

<u>Ordinance 27</u>	<u>2003 Codified Ordinances</u>
All	§ 47-201

¶ 47-B Disposition of Ordinance 179A.

<u>Ordinance 179A</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ I	§ 97-1	<i>See</i> § 47-102
§ II	§ 97-2	§ 47-103
§ III	§ 97-3	§ 47-104
§ IV	§ 97-4	§ 47-105

¶ 47-C Disposition of 1981 Code, Chapter 97.

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 97-1	<i>See</i> § 47-102
§ 97-2	§ 47-103
§ 97-3	§ 47-104
§ 97-4	§ 47-105

§ 47-D Source Ordinances.

Ordinance 27	12-12-1927
Ordinance 179A	12-08-1976
Ordinance 215	11-11-1981
Ordinance 415	10-29-2003
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015

§ 47-E Prior Ordinances Concerning Related Subject Matter.

Ordinance 12	03-16-1916
--------------	------------