

ALBURTIS CODIFIED ORDINANCES

Chapter 76

Peace and Good Order

Chapter 76 — Peace and Good Order

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Article I — Disorderly Conduct

§ 76-101 Disorderly Conduct; Indecent Language or Acts.

Any person who—

(a) shall unlawfully and willfully be engaged in or commit any disorderly conduct, noise, or disturbance, or

(b) shall unlawfully and willfully use any profane, scandalous, insulting, obscene, lewd, filthy, or other indecent language to any person or in the hearing of any other person in any public street or other public place, or in any place whatsoever within the Borough, to the annoyance or disturbance of any other person, or

(c) shall do any immodest, immoral, lewd, or indecent act to or in the presence of any other person in any public street or place, or in any place whatsoever within the Borough, to the annoyance and disturbance of any other person,

shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-102 Noisy, Rude, or Insulting Conduct.

Any person who—

(a) shall unlawfully and willfully conduct himself in a noisy, rude, insulting or other disorderly manner, either by words or acts, or

(b) shall in like manner conduct himself toward any person with intent to abuse or annoy such person or so as to annoy the citizens of the borough or any portion thereof, and shall commit said offenses or any of them in any public street or place, or other place whatsoever in the borough, to the abuse or annoyance of any such person, or

(c) shall in the manner aforesaid disturb the good order and quiet of the Borough,

shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-103 Breach of Peace; Riotous Conduct.

Any person or persons who—

(a) shall be engaged in or commit a breach of the peace within the Borough, or

(b) shall be guilty of riotous conduct, or

(c) shall assemble themselves together and conduct themselves in a noisy, riotous, mischievous or grossly disorderly manner,

shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-104 Fighting; Public Drunkenness.

Any person who—

(a) shall wrongfully strike another or be engaged in any fight or affray, or

(b) shall be or appear in a drunken or intoxicated condition in any public street, park, or public place within the Borough,

shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-105 Obstructing Travel; Loitering.

Any person who—

(a) shall unnecessarily and willfully obstruct or interfere with the travel upon any foot pavements, sidewalks, or passageway to any church, hall, or other public place, or

(b) shall lounge, loiter, or loaf thereupon or therein, or upon any street corners,

shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-106 Other Public Nuisances.

Any person who shall be engaged in any other disorderly conduct or public nuisance to the disturbance of the public peace or the annoyance of and against the good order and welfare of the inhabitants of the Borough or any part thereof, shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-107 Aiding or Abetting.

Any person who shall aid, assist, encourage, or abet any other person in the commission of any of the offenses prohibited by the preceding sections of this Article, or shall incite said commission, shall be guilty of disorderly conduct and shall be subject to the penalties provided in this Article.

§ 76-108 Violations and Penalties.

(a) **Civil Penalty.** Any person who violates any provision of this Article shall be subject to a civil penalty as follows:

(1) **First Offense.** Fifty Dollars (\$50.00) for the first offense.

(2) **Subsequent Offense.** One Hundred Dollars (\$100.00) each for the second and subsequent offenses.

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

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

(d) Separate Offenses. Each day 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.

Article II — Alcoholic Beverages in Public Places

§ 76-201 Definitions.

For purposes of this Article, the following terms, words, and phrases shall have the meanings provided in this Section, whether with or without initial capital letters:

(a) Alcoholic Beverage. The term “Alcoholic Beverage” shall mean a substance which is included within the definition of either “liquor” or “malt or brewed beverages” under the Pennsylvania Liquor Code, 47 PA. STAT. ANN. § 1-102.

(b) Public Place.

(1) In General. Except as provided in paragraph (2), the term “Public Place” shall mean any place within the Borough to which the public has access (whether by right, express or implied invitation, sufferance, or otherwise) and which is not inside of a completely enclosed building, including, without limitation, any public street, highway, alley, sidewalk, or park, any cemetery, any parking lot accessible to the public, and the outdoor areas accessible to the public on property utilized for a store, restaurant, tavern, and/or other place of business, non-profit, and/or governmental activity.

(2) **Exceptions.** The term “Public Place” shall not include—

(A) Any property used solely for residential purposes (other than any portions of such property which are within the public right-of-way); or

(B) Any area for which a current license or permit has been duly issued by the Pennsylvania Liquor Control Board for the sale or consumption of any Alcoholic Beverages.

§ 76-202 Prohibitions.

(a) No person shall drink or consume any Alcoholic Beverage in any Public Place, or in any automobile or other vehicle parked upon any Public Place.

(b) No person shall carry or possess any opened vessel containing any Alcoholic Beverage on or about any Public Place, or in any automobile or other vehicle parked upon any Public Place.

§ 76-203 Violations and Penalties.

(a) **Civil Penalty.** Any person who violates any provision of this Article shall be subject to a civil penalty in the amount set forth in subsection (b).

(b) **Amount of Penalty.** The amount of the civil penalty for any violation of this Article shall be—

- (1) Seventy-five Dollars (\$75.00) for a first offense;
- (2) One Hundred Fifty Dollars (\$150.00) for a second offense; and
- (3) Three Hundred Dollars (\$300.00) for a third or subsequent offense.

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

(d) **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 (c), 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.

(e) **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..

Appendix

¶ 76-A Disposition of Ordinance 88.

<u>Ordinance 88</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ x	§ 85-x	§ 76-10x

¶ 76-B Disposition of 1981 Code, Chapter 85.

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 85-x	§ 76-10x

¶ 76-C Source Ordinances.

Ordinance 88	05-02-1960
Ordinance 215	11-11-1981
Ordinance 415	10-29-2003
Ordinance 439	12-28-2005
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015

¶ 76-D Prior Ordinances Concerning Related Subject Matter.

Ordinance 11	03-16-1916
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