

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 319

(Duly Adopted November 8, 1995)

AN ORDINANCE REPEALING THE EXISTING BOROUGH ORDINANCES RELATING TO BRUSH, GRASS, AND WEEDS, AND REPLACING THEM WITH NEW PROVISIONS DEFINING RESTRICTED VEGETATION AND PROHIBITED VEGETATION; DECLARING ALL RESTRICTED VEGETATION IN EXCESS OF TWELVE (12) INCHES IN HEIGHT AND ALL PROHIBITED VEGETATION TO BE A PUBLIC NUISANCE; REQUIRING OWNERS AND OCCUPIERS OF PROPERTY TO ABATE SUCH NUISANCES; AUTHORIZING THE BOROUGH TO ABATE SUCH NUISANCES IN THE EVENT OF DEFAULT BY THE OWNER OR OCCUPIER; PRESCRIBING PENALTIES; AND PROVIDING THE MEANS OF COLLECTING COSTS INCURRED BY THE BOROUGH IN ABATING SUCH NUISANCES.

WHEREAS, under Section 1202(5) of the Borough Code, 53 PA. STAT. ANN. §1202(5), the Borough of Alburtis is empowered to prohibit and remove any nuisance, or to require the removal of any such nuisance by the owner or occupier of the grounds on which the nuisance is maintained, in default of which the Borough may cause the same to be done, and to collect the cost of doing so, together with a 10% penalty, in the manner provided for the collection of municipal claims, or by civil action, or may seek relief in equity; and

WHEREAS, Borough Council has enacted ordinances relating to brush, grass, and weeds (No. 45 and No. 46, adopted May 1, 1994), which have been codified as Chapter 56 of the Code of the Borough of Alburtis (1981), as amended; and

WHEREAS, Borough Council desires to amend the ordinances relating to brush, grass, and weeds in the manner set forth in this Ordinance;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, that existing Chapter 56 of the

Code of the Borough of Alburdis (relating to Brush, Grass, and Weeds), is hereby repealed and replaced with the following new Chapter 56:

Chapter 56 — Weeds

§ 56-1 Definitions.

For purposes of this Chapter 56, the following terms shall have the meanings provided in this Section:

A. Borough. The Borough of Alburdis, Lehigh County, Pennsylvania, a Pennsylvania borough and municipal corporation.

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

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

D. Restricted Vegetation. Any grass, weeds, or other vegetation whatsoever, *except* —

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

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

(3). vegetation on a parcel of property for which agricultural uses are permitted under the terms of the Borough Zoning Ordinance or as a pre-existing nonconforming use, *provided* that such vegetation is

growing on a portion of the property which is actively devoted to agricultural or horticultural purposes; or

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

§ 56-2 Declaration of nuisance; Violation.

A. Restricted Vegetation. No Person owning or occupying any property within the Borough shall permit any Restricted Vegetation to grow or remain upon such property at a height in excess of twelve inches (12”). Any Restricted Vegetation in violation of this subsection (A) is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness, comfort, and general welfare of the inhabitants of the Borough.

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

§ 56-3 Duty to cut or remove improper vegetation.

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

§ 56-4 Removal, trimming, or cutting by the Borough.

A. Notice to owner or occupant. The Borough police department is hereby authorized to give notice, by personal service or first class U.S. mail, to the owner and/or occupant of any property in this Borough which contains vegetation in violation of this Chapter, directing such person to comply with his/her duty under § 56-3 within five (5) calendar days after the issuance of the notice. Whenever, in the reasonable judgment of the Chief of Police or his/her designee, it shall appear to be impracticable to give such notice, either because the owner and/or occupant cannot readily be found or cannot reliably be served, or because a search for the owner and/or occupant would entail unreasonable delay, the police department may give notice by posting a written notice in a conspicuous location on the property on which the nuisance and violation exists, directing the abatement of the nuisance and violation within five (5) calendar days after the date of posting.

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

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

§ 56-5 Penalties for Violation.

Any person who violates any provision of this Chapter shall be guilty of a summary offense, and upon conviction therefor, shall be sentenced to pay a fine of not more than three hundred dollars (\$300.00), plus the costs of prosecution, or, in default of payment, to undergo imprisonment for a period not to exceed thirty (30) days. Each day that a violation of this Chapter continues after notice has been given under § 56-4(A) shall constitute a separate offense.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 8th day of November, 1995, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Carlton R. Raines, President

Attest:

Louise Stahley, Secretary

AND NOW, this 8th day of November, 1995, the above Ordinance is hereby APPROVED.

Ronald J. DeIaco, Mayor