

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 545

(Duly Adopted April 25, 2018)

AN ORDINANCE AMENDING CODIFIED ORDINANCES CHAPTER 61 TO PROHIBIT SMOKING ON PROPERTY OWNED OR LEASED BY THE BOROUGH; AMENDING CODIFIED ORDINANCES CHAPTER 67 TO REQUIRE PERSONS TO PROPERLY SECURE RECEPTACLES FOR THE COLLECTION OF SOLID WASTE AND RECYCLABLE MATERIALS AND CLARIFYING THE TIME FOR PLACING MATERIALS FOR COLLECTION; AND AMENDING CODIFIED ORDINANCES CHAPTER 97 TO REQUIRE APPLICANTS FOR PEDDLING LICENSES TO SUBMIT CRIMINAL HISTORY RECORD INFORMATION REPORTS, TO AUTHORIZE DENIAL OF LICENSES TO PERSONS WHOSE REPORTS ARE UNSATISFACTORY, AND TO INCREASE THE FEE FOR A LICENSE.

WHEREAS, Borough Council desires to support the Pennsylvania Department of Health's Young Lungs at Play initiative to eliminate children's exposure to secondhand smoke at public parks and playgrounds, and more generally protect all persons from exposure to secondhand smoke on Borough property; and

WHEREAS, Borough Council finds that some garbage and recyclable materials placed for collection by the Borough's contractor are not being properly secured, causing significant amounts of such materials to become scattered and blown onto public streets and private property; and

WHEREAS, Borough Council desires to tighten its existing rules and regulations to address this concern; and

WHEREAS, Borough Council desires to clarify the earliest time that municipal solid waste and recyclable materials may be placed at curbside (or other approved location) for collection; and

WHEREAS, Borough Council believes it is in the interest of the safety of Borough residents to require commercial peddlers who desire to operate in the Borough to provide

as part of their application a criminal history record information report, and to deny licenses to persons whose report are unsatisfactory; and

WHEREAS, Borough Council desires to increase the fees for peddling licenses;

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

SECTION 1. Codified Ordinances Chapter 61, Article I (relating to Parks and Recreation; Borough Property—Public Use of Property Owned by the Borough) is amended by adding the following new § 61-104.1, and amending §§ 61-105 and 61-106 as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 61-104.1 Rules and Regulations for All Borough Properties.

The following rules and regulations shall apply on all property owned or leased by the Borough:

(a) Smoking is not permitted on any portion of the property.

§ 61-105 Rules and Regulations for Recreation Places.

The In addition to the rules and regulations set forth in § 61-104.1,
the following rules and regulations shall apply upon all Recreation Places:

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§ 61-106 Additional Rules for the Playground of Adventure.

In addition to the rules and regulations set forth in § 61-104.1 and § 61-105, the following rules and regulations shall apply to the park/playground owned and maintained by the Borough located at East Stone Alley and Iron Alley:

(a) Eating of food shall occur only in the picnic areas designated by the Borough. No cooking of food is permitted.

~~(b) Smoking is permitted only in the picnic areas.~~

SECTION 2. Codified Ordinances Chapter 67 (relating to Municipal Solid Waste, Recyclables, and Other Refuse) is amended by amending §§ 67-302(b)(1), 67-404(b)(3), and 67-802(a) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

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Article III — Collection and Disposition of Collectible Municipal Waste

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§ 67-302 Receptacles.

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(b) **Initial Rules.** Until changed by regulations authorized under this Chapter, the following rules apply to collectible municipal waste placed for collection by the Borough or its Contractor:

(1) Except for riff-raff and bundles of construction and demolition debris described in § 67-219(h)(3), all collectible municipal waste must be placed for collection in one or more of the following containers:

(A) a plastic sack (plastic garbage bag) which is designed to store solid waste, has sufficient wall strength to maintain physical integrity when lifted by the top, and does not weigh more than

thirty-five (35) pounds, including the contents, and which is securely tied or otherwise closed to prevent any enclosed materials from escaping;

(B) a receptacle (garbage can) with a capacity less than thirty-five (35) gallons, constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting, having a tight fitting lid capable of preventing entrance into the container by vectors and spillage, leakage, or other discharge from the container of any of its contents, which is securely in place, having a mouth whose diameter is equal to or greater than that of the base, and which does not weigh more than sixty (60) pounds, including the contents. The receptacle itself shall not be collected from the property;

(C) a dumpster of a type and size reasonably acceptable to the Borough or its Contractor, and actually accepted by the Borough or its Contractor. Any such dumpster shall be kept in good repair, appearance, and in a sanitary condition at all times, and such that neither objectionable odors, noxious gasses, nor putrescent liquid shall escape therefrom.

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Article IV — Collection and Disposition of Collectible Recyclable Materials

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§ 67-404 Receptacles.

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(b) **Initial Rules.** Until changed by regulations authorized under this Chapter, the following rules apply to collectible recyclable materials to be placed for collection by or on behalf of the Borough or its Contractor:

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(3) The mandatory collectible recyclable materials under § 67-401(d) shall be placed in authorized recycling containers supplied or sold by the Borough, or in containers to which a recycling sticker supplied or sold by the Borough has been affixed. All such containers shall be securely closed so as to prevent any enclosed materials from escaping.

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Article VIII — Prohibited Acts

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§ 67-802 Outdoor Placement of Refuse.

It shall be unlawful for any person to place any refuse in any street, alley, or other public place in the Borough, or upon any private property in the Borough outside of a completely enclosed building, whether the property is owned by such person or not, unless:

(a) the refuse is placed in proper receptacles for collection which are securely tied or closed so as to prevent any enclosed materials from escaping (other than riff-raff and bound newsprint placed outside at the proper location for collection by the Borough or its Contractor no earlier than ~~sunset~~ 5:00 P.M. on the day before the scheduled collection thereof); and

(b) the refuse is placed on the property with the permission of the owner of such property, or is placed in a public right-of-way at a location directed or approved by the Borough Manager or Borough Council for collection by the Borough or its Contractor, no earlier than ~~sunset~~ 5:00 P.M. on the day before the scheduled collection thereof.

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SECTION 3. Codified Ordinances Chapter 97, Article I (relating to Business and Nonprofit Activities—Peddling and Soliciting) is amended by amending §§ 97-105, 97-106, and 97-107 as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 97-105 Application Procedure.

(a) In General. Every person desiring to engage in peddling in the Borough of Albury shall first make application to the Borough Manager for a license. If such person shall also be required to obtain a license from any county officer, he shall, when making such application, exhibit a valid county license. If unknown to the Borough Manager, an applicant may first be required to establish his or her identity by the display of a valid driver's license, birth certificate, or baptismal certificate. Following identification, the applicant shall give his name; address; the name of the person for whom he works, if any; the type of goods, wares and merchandise he wishes to peddle; the length of time for which he wishes to be licensed; the type of vehicle he uses, if any; and the number of helpers he has. Where a person makes application for himself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper and an individual license shall be required for each helper. No license issued under this Article shall be transferable from one person to another.

(b) Criminal Background Check. Except as provided in subsection (c), each license application under this section shall include a report of criminal history record information from the Pennsylvania State Police for each applicant and helper included in the application, or a

statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to the person. Such criminal history record information shall be limited to that which is disseminated pursuant to 18 PA. CONS. STAT. § 9121(b)(2). Each report or statement shall be dated no earlier than one (1) year before the date the license application is submitted. The Chief of Police or his delegate may request additional information from the applicant to clarify or supplement information disclosed by the criminal history record information reports. The Borough shall maintain the confidentiality of the information provided under this subsection (b), except to the extent necessary to defend an appeal or claim relating to the denial of a license to the person.

(c) **Exemption.** Criminal history record information reports or clearance statements under subsection (b) shall not be required for any person who is an elementary or secondary school student, or for persons soliciting funds for organizations engaged in charitable or philanthropic purposes which regularly conduct non-solicitation activities in the Borough.

§ 97-106 License Fees.

No license shall be issued under this ~~chapter~~ Article until the proper fee, as follows, which shall be for the use of the borough, shall be paid to the Borough Manager:

~~(a) Foot peddler: One Dollar (\$1.00) per day; Three Dollars (\$3.00) per month; Ten Dollars (\$10.00) per year.~~

~~(b) Peddler operating from a motor vehicle: Two Dollars (\$2.00) per day; Five Dollars (\$5.00) per month; Fifteen Dollars (\$15.00) per year.~~

~~(c) Each and every additional peddler employed by a peddler operating from a motor vehicle: One Dollar (\$1.00) per day; Three Dollars (\$3.00) per month; Ten Dollars (\$10.00) per year.~~

(a) Except as provided in subsection (b), the fee for each peddler (and for each helper included in a single application), whether operating on foot or from a motor vehicle, shall be Twenty-five Dollars (\$25.00) for

each period of up to five (5) consecutive calendar days for which a license is sought.

(d)(b) Organizations located within the Borough of Alburytis engaged in charitable or philanthropic enterprises, as well as all farmers and any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products, organized and existing or resident within the Borough of Alburytis, shall be issued a license annually for a fee of One Dollar (\$1.00) per annum.

§ 97-107 Issuance and Contents of License; Use.

(a) In General. Upon Except as provided in subsection (b), upon making application therefor and paying the proper fee as herein specified, a license shall be issued to every peddler. Such license shall contain the information required to be given upon application therefor, other than information provided under § 97-105(b) (relating to Criminal Background Check). Every peddler shall at all times when engaged in peddling in the Borough carry such license upon his person and shall exhibit such license upon request to all police officers, Borough officials and citizens. No peddler shall engage in selling any product not mentioned upon such license, nor shall any person having a foot peddler's license operate from or with any motor vehicle.

(b) Denial of License. The Chief of Police or his delegate may deny a license under this Article to any person if any information provided in connection with the application is false or misleading, or there is a reasonable basis for the Chief of Police or his delegate to conclude that approval would constitute an unnecessary risk to public safety, including, but not limited to, past criminal activity inconsistent with the role of a peddler. All denials under this subsection (b) may be appealed for a hearing before and adjudication by Council pursuant to the Local Agency Law, 2 PA. CONS. STAT. § 551 et seq., by filing a request for hearing with the Borough Manager within fifteen (15) days after the mailing date of the denial.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 25th day of April, 2018, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURDIS**

Ronald J. DeIaco, President

Attest:

Sharon Trexler, Borough Manager

AND NOW, this 25th day of April, 2018, the above Ordinance is hereby APPROVED.

Kathleen Palmer, Mayor