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Article I — In General

§ 35-101 Short Title.

This Chapter shall be known, and may be cited, as the "Property Maintenance Code of the Borough of Alburtis."

§ 35-102 Adoption.

A certain document, three (3) copies of which are on file in the office of the Secretary of the Borough of Alburtis, being marked and designated as "The BOCA National Property Maintenance Code, Fifth Edition, 1996" as published by the Building Officials and Code Administrators International, Inc. (and 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 Article III, is hereby adopted as the Property Maintenance Code of the Borough of Alburtis, Lehigh County, Pennsylvania.

Article II — Modifications of National Code

§ 35-201 In General.

The 1996 BOCA National Property Maintenance Code is modified for purposes of the Property Maintenance Code of 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-101.1 (relating to Administration—General—Title) is modified as follows:

These regulations shall be known as the Property Maintenance Code of ~~[NAME OF JURISDICTION]~~ the Borough of Alburtis, hereinafter referred to as "this code."

§ 35-203 Penalties.

PM-106.2 (relating to Administration—Violations—Penalty) 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.

§ 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) are deleted in their entirety and replaced with the following new PM-111.2:

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.

§ 35-205 Weeds.

PM-303.4 (relating to General Requirements—Exterior Property Areas—Weeds) is deleted in its entirety. *See* Chapter 93 (relating to weed control) for treatment of this subject matter.

§ 35-206 Insect Screens.

PM-304.15 (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 (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 (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 on terms, either experss 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 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.

§ 35-209 Heat Supply for Nonresidential Structures.

PM-602.3 (relating to Mechanical and Electrical Requirements—Heating Facilities—Residential buildings—Heat supply) is modified as follows:

> Every enclosed occupied work space shall be supplied with sufficient heat during the period from ~~[DATE]~~ October 1 to ~~[DATE]~~ April 30 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

* * *

§ 35-210 Motor Vehicles.

PM-303.8 (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 shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.
>
> **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.

Article III — Prevention of Carbon Monoxide Poisoning

§ 35-301 In General.

The 1996 BOCA National Property Maintenance Code is further modified for purposes of the Property Maintenance Code of the Borough of Alburtis by adding thereto and incorporating therein the provisions set forth in this Article III. Unless otherwise provided in this Article III, terms defined in the 1996 BOCA National Property Maintenance Code shall have the same meaning when used in this Article III.

§ 35-302 Applicable Residential Rental Unit.

(a) In General. For purposes of this Article, the term "Applicable Residential Rental Unit" shall mean any *dwelling unit* which is rented out for compensation for occupancy by one or more individuals, other than—

(1) an owner-occupied unit (as defined in subsection (b)), or

(2) a *dwelling unit* which satisfies all of the requirements set forth in § 35-306 (relating to Exception Where Limited Threat of Carbon Monoxide Poisoning).

(b) Owner-Occupied Unit. For purposes of this Section, an "owner-occupied unit" means a *dwelling unit* occupied by—

(1) one or more individual *owners* of the *premises* containing the *dwelling unit* and/or one or more individuals related directly to an *owner* of that *premises* by blood, marriage, or adoption; and

(2) not more than three (3) individuals who are not related directly to an *owner* of that *premises* by blood, marriage, or adoption.

§ 35-303 Applicable Residential Facility.

(a) Residential Facility. For purposes of this Article, the term "Residential Facility" shall mean any building or part of a building (other than any part of a building which constitutes a *dwelling unit*) occupied or intended to be occupied for sleeping purposes (whether long-term, transient, or overnight), together with any related areas of the building occupied or intended to be occupied by or for the benefit or care of any individual utililizing a sleeping area, for the purpose of living, eating, cooking, sanitation, access, personal assistance or supervision in "activities of daily living" or "instrumental activities of daily living" (within the meaning of 55 Pa. Code § 2600.4), and/or nursing or medical care. The term "Residential Facility" includes, but is not limited to, a *hotel*, *rooming house*, *dormitory*, group home, personal care home, long-term care facility, and nursing home.

(b) Applicable Residential Facility. For purposes of this Article, the term "Applicable Residential Facility" shall mean a Residential Facility other than—

(1) a Residential Facility which satisfies all of the requirements set forth in § 35-306 (relating to Exception Where Limited Threat of Carbon Monoxide Poisoning); or

(2) any part of the Residential Facility which is occupied exclusively by—

(A) one or more individual *owners* of the *premises* containing the Residential Facility and/or one or more individuals related directly to an *owner* of that *premises* by blood, marriage, or adoption; and

(B) not more than three (3) individuals who are not related directly to an *owner* of that *premises* by blood, marriage, or adoption.

§ 35-304 Applicable Day Care Facility.

(a) Day Care Facility. For purposes of this Article, the term "Day Care Facility" shall mean any building or part of a building in which care, supervision, or assistance is provided at any one time (other than under circumstances described in subsection (b)) to more than three (3) individuals—

(1) who are under the age of thirteen (13) years and/or are persons for whom such care, supervision, or assistance has been requested due to the individual's disability or condition;

(2) who are not related directly to the individual principally responsible for the operation of the facility, or an individual *owner* of the *premises* containing the facility, by blood, marriage, or adoption; and

(3) who do not reside in the facility or in any *dwelling unit* in which the facility is contained.

(b) Exceptions. Care, supervision, or assistance provided under any of the following circumstances shall not be taken into account for purposes of subsection (a):

(1) In places of worship, during religious services or religious education;

(2) In nonpublic schools, during hours of instruction, except for any portion of the school which includes students who are too young for admission to Kindergarten under the then-current rules of the East Penn School District. Care, supervision, or assistance provided before or after hours of instruction is not excluded and must be taken into account for purposes of subsection (a);

(3) In public schools, at any time; or

(4) In connection with specialized activities or instruction for school-age children, such as athletics, dance, art, music lessons, gymnastics, and organized clubs (*e.g.*, Boy Scouts, Girl Scouts, 4-H groups, Camp Fire Girls, etc.).

(c) Applicable Day Care Facility. For purposes of this Article, the term "Applicable Day Care Facility" shall mean a Day Care Facility other than a Day Care Facility which satisfies all of the requirements set forth in § 35-306 (relating to Exception Where Limited Threat of Carbon Monoxide Poisoning).

§ 35-305 Applicable Place of Public Assembly.

(a) Place of Public Assembly. For purposes of this Article, the term "Place of Public Assembly" shall mean any building or part of a building in which in which one hundred (100) or more individuals assemble at any one time for the purpose of discussion, recreation, entertainment, celebration, education, or shopping, such as an auditorium, theater, recreation hall, assembly hall, meeting hall, large store, large restaurant, or shopping mall, but not including gatherings for employment, worship, religious education, education of school-age children, or specialized activities or instruction for school-age children such as athletics, dance, art, music lessons, gymnastics, and organized clubs (*e.g.*, Boy Scouts, Girl Scouts, 4-H groups, Camp Fire Girls, etc.).

(b) Applicable Place of Public Assembly. For purposes of this Article, the term "Applicable Place of Public Assembly" shall mean a Place of Public Assembly other than a public school or a Place of Public Assembly which satisfies all of the requirements set forth in § 35-306 (relating to Exception Where Limited Threat of Carbon Monoxide Poisoning).

§ 35-306 Exceptions Where Limited Threat of Carbon Monoxide Poisoning.

A *dwelling unit*, Residential Facility, Day Care Facility, or Place of Public Assembly satisfies the requirements of this Section if it is—

(1) in a building that does not include any fuel-burning appliances (whether solid, liquid, and/or gaseous—such as coal, natural gas, kerosene, oil, propane, wood, etc.), including, but not limited to, devices used for cooking, heating, lighting, clothes washing or drying, or decorative purposes;

(2) in a building that is not connected in any way to an attached or detached garage which is less than fifty percent (50%) open to the outside air; and

(3) not adjacent to or above any source of carbon monoxide so as to be at risk of receiving carbon monoxide from that source.

§ 35-307 Carbon Monoxide Alarm Requirements.

(a) Rooms Used for Sleeping. Every Applicable Residential Rental Unit or Applicable Residential Facility in the Borough of Alburtis shall be equipped with one or more approved carbon monoxide alarms in operating condition so that each room used for sleeping purposes in the Applicable Residential Rental Unit or Applicable Residential Facility includes such an alarm, or an entrance to the room is within forty (40) feet of such an alarm located within the building, and the alarm is clearly audible within that room.

(b) Vicinity of Fuel-Burning Appliances. Every building in the Borough of Alburtis containing an Applicable Residential Rental Unit, Applicable Residential Facility, Applicable Day Care Facility, or Applicable Place of Public Assembly shall be equipped with an approved carbon monoxide alarm in operating condition in the immediate vicinity of each fuel-burning appliance used as a primary or supplemental heat source for the Applicable Residential Rental Unit, Applicable Residential Facility, Applicable Day Care Facility, or Applicable Place of Public Assembly. The alarm shall either be—

(1) clearly audible within a part of the building that is typically frequented at least once every three (3) days by—

(A) an *owner* of the *premises* or his/her/its agent;

(B) an operator of an Applicable Residential Facility, Applicable Day Care Facility, or Applicable Place of Public Assembly within the building; or

(C) an adult individual who resides in an Applicable Residential Rental Unit or Applicable Residential Facility within the building on a monthly or longer-term basis;

(2) connected to an alarm system which provides a clearly audible alarm in each Applicable Residential Rental Unit, Applicable Residential Facility, Applicable Day Care Facility, and Applicable Place of Public Assembly within the building; or

(3) connected to a system which provides an alarm to the fire department or company serving the Borough of Alburtis.

(c) Other Alarms.

(1) Every Applicable Residential Rental Unit in the Borough of Alburtis shall be equipped with one or more approved carbon monoxide alarms in operating condition such that at each location in the Applicable Residential Rental Unit at least one such alarm is clearly audible under typical conditions.

(2) Each Applicable Residential Facility, Applicable Day Care Facility, and Applicable Place of Public Assembly in the Borough of Alburtis shall be equipped with one or more approved carbon monoxide alarms in operating condition on each floor such that at each location

on a given floor in the Applicable Residential Facility, Applicable Day Care Facility, or Applicable Place of Public Assembly, at least one such alarm on that floor is clearly audible under typical conditions prevailing during maximum use of the facility or place.

(3) Alarms installed under subsection (a) or subsection (b) may be taken into account for purposes of satisfying the requirements of this subsection (c).

(d) Standards. Every approved carbon monoxide alarm shall meet the requirements of the current Underwriters Laboratories (UL) standard UL 2034 or UL 2075, bear the label of a nationally-recognized testing laboratory, and be installed and maintained in accordance with the requirements of the current National Fire Protection Association (NFPA) standard NFPA 720 and the manufacturer's instructions. Each carbon monoxide alarm must also comply with all applicable federal and state laws and regulations.

(e) Dual Alarms. The carbon monoxide alarm may be combined with smoke detecting devices, *provided* that the combined unit complies with the applicable standards relating to both smoke detecting devices and carbon monoxide alarms. The combined unit must also emit separate alarms that clearly differentiate between the two hazards.

(f) Owner's and Tenant's Responsibilities.

(1) Applicable Residential Rental Units. The *owner* of each *premises* containing an Applicable Residential Rental Unit shall install the carbon monoxide alarm(s) required within each Applicable Residential Rental Unit and supply required carbon monoxide testing and maintenance information to at least one adult *tenant* in each Applicable Residential Rental Unit. The *owner* shall insure that each alarm is in operating condition at the time the *tenant* takes possession of the Applicable Residential Rental Unit. The *tenant* shall test, provide general maintenance, and replace required batteries for carbon monoxide alarms within his Applicable Residential Rental Unit, and promptly notify the *owner* if any alarm is not functioning. The *tenant* shall provide the *owner* with access to the Applicable Residential Rental Unit to correct any deficiencies in the carbon monoxide alarm device that have been reported by the *tenant*, and the *owner* shall promptly repair or replace any non-functioning carbon monoxide alarm. The *tenant* shall not modify, damage, or tamper with the alarm, remove any batteries from an alarm without immediately replacing them with functioning batteries, or unplug any alarm connected into an electrical socket.

(2) Other Alarms. Except as provided in paragraph (1) for alarms within an Applicable Residential Rental Unit, the *owner* of each *premises* on which a carbon monoxide alarm is required under this Article III shall install, test, replace required batteries, and maintain in proper working order or replace all carbon monoxide alarms required under this Article III. No *tenant*, *occupant*, or other person shall modify, damage, or tamper with any such alarm, remove any batteries from an alarm without immediately replacing them with functioning batteries, or unplug any alarm connected into an electrical socket.

§ 35-308 Effective Date.

This Article shall take effect on November 15, 2008.

Appendix

¶ 35-A Disposition of Ordinance 339.

Ordinance 339 was never codified to the 1981 Code.

Ordinance 339	2003 Codified Ordinances
§ 1	§ 35-102
§ 2 (intro)	§ 35-201
§ 2(a)	§ 35-202
§ 2(b)	§ 35-203
§ 2(c)	§ 35-204
§ 2(d)	§ 35-205
§ 2(e)	§ 35-206
§ 2(f)	§ 35-207
§ 2(g)	§ 35-208
§ 2(h)	§ 35-209
§ 3 (repealer)	

¶ 35-B Source Ordinances.

Ordinance 339	09-25-1996
Ordinance 415	10-29-2003
Ordinance 472	04-30-2008
Ordinance 474	08-13-2008
Ordinance 481	05-03-2009
Ordinance 518	03-12-2014

¶ 35-C Prior Ordinances Concerning Related Subject Matter.

Ordinance 287	09-11-1991

¶ 35-D Chapter 123 of the 1981 Code (before Ord. 339).

Ordinance 287 adopted a new Chapter 123 of the 1981 Code. That Chapter was superseded by Ordinance 339, which was not codified to the 1981 Code.

A copy of Chapter 123 as in effect before Ordinance 339 is included with the CD-ROM and online versions of the Codified Ordinances. (*See* the link to Ordinance 287 in ¶ 35-C.)