

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 472

(Duly Adopted April 30, 2008)

AN ORDINANCE AMENDING CHAPTER 35 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO PROPERTY MAINTENANCE) TO REQUIRE THE INSTALLATION AND MAINTENANCE OF CARBON MONOXIDE ALARMS FOR APPLICABLE RESIDENTIAL RENTAL UNITS, APPLICABLE RESIDENTIAL FACILITIES (SUCH AS HOTELS, ROOMING HOUSES, DORMITORIES, GROUP HOMES, PERSONAL CARE HOMES, LONG-TERM CARE FACILITIES, AND NURSING HOMES), APPLICABLE DAY CARE FACILITIES FOR CHILDREN OR ADULTS, AND APPLICABLE PLACES OF PUBLIC ASSEMBLY FOR ONE HUNDRED OR MORE PERSONS AT ANY ONE TIME, EFFECTIVE NOVEMBER 15, 2008; DEFINING THE TERMS APPLICABLE RESIDENTIAL RENTAL UNIT, OWNER-OCCUPIED UNIT, RESIDENTIAL FACILITY, APPLICABLE RESIDENTIAL FACILITY, DAY CARE FACILITY, APPLICABLE DAY CARE FACILITY, PLACE OF PUBLIC ASSEMBLY, AND APPLICABLE PLACE OF PUBLIC ASSEMBLY; PROVIDING AN EXCEPTION FOR UNITS, FACILITIES, AND PLACES WHERE THERE IS A LIMITED THREAT OF CARBON MONOXIDE POISONING; AND PROVIDING STANDARDS FOR THE TYPE, INSTALLATION, MAINTENANCE, AND LOCATION OF REQUIRED CARBON MONOXIDE ALARMS.

WHEREAS, carbon monoxide poisoning constitutes a serious threat to the health, safety, and welfare of citizens in the Borough of Alburdis; and

WHEREAS, carbon monoxide alarms provide an effective safeguard against carbon monoxide poisoning; and

WHEREAS, Borough Council has determined that it is in the best interest of the health, safety, and welfare of the residents of residential rental property units, the residents and guests of residential facilities other than dwelling units, children and adults served in day care facilities, and persons congregating in large places of public assembly within the Borough of Alburdis to require the installation of carbon monoxide alarms in

all such units, facilities, and places for which there is a threat of carbon monoxide poisoning;

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

SECTION 1. Section 35-102 of the Codified Ordinances (relating to Property Maintenance—In General—Adoption) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 35-120 Adoption.

A certain document, three (3) copies of which are on file in the office of the Secretary of the Borough of Alburdis, 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 Alburdis, Lehigh County, Pennsylvania.

SECTION 2. Chapter 35 of the Codified Ordinances (relating to Property Maintenance) is hereby amended by adding the following new Article III after the end of existing Article II:

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 Alburdis 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 utilizing 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 Exception 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 Alburdis 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 Underwriter's Laboratory (UL) standard UL 2034, 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 *ten-*

ant, 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.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 30th day of April, 2008, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 30th day of April, 2008, the above Ordinance is hereby APPROVED.

Robert W. Mader, Mayor