

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 538

(Duly Adopted May 10, 2017)

AN ORDINANCE PROVIDING FOR THE REGULATION OF RESIDENTIAL RENTAL UNITS, INCLUDING DEFINITIONS AND PROVISIONS CONCERNING REQUIRED REPORTS IDENTIFYING TENANTS AND OCCUPANTS, REGISTRATION OF UNITS, INSPECTION OF UNITS, CERTIFICATES OF COMPLIANCE AND NONCOMPLIANCE, APPEALS, REQUIRED STANDARDS (INCLUDING A REQUIREMENT FOR EACH LANDLORD TO PROVIDE MAILBOX FACILITIES FOR THE TENANTS), FEES, AND VIOLATIONS AND PENALTIES; AND EXPANDING THE CURRENT REQUIREMENT OF LANDLORDS TO PROVIDE SEMI-ANNUAL LISTS OF THEIR TENANTS TO REQUIRE ALL OWNERS OF RESIDENTIAL PROPERTIES TO PROVIDE SEMI-ANNUAL LISTS OF THE RESIDENTS AND OCCUPANTS OF THEIR PROPERTIES.

WHEREAS, Council is authorized by Section 1202(15) of the Borough Code, 8 PA. CONS. STAT. § 1202(15), to enforce its property maintenance code, construction code, and any fire prevention code; and

WHEREAS, Council is authorized by Section 1202(20)(ii) of the Borough Code, 8 PA. CONS. STAT. § 1202(20)(ii), to prohibit, license, and regulate businesses unless prohibited by law; and

WHEREAS, Council is authorized by Section 1202(5) of the Borough Code, 8 PA. CONS. STAT. § 1202(5), to make regulations as may be necessary for the health, safety, morals, general welfare, and cleanliness and beauty, convenience, comfort and safety of the Borough; and

WHEREAS, Council is authorized by Section 1203 of the Borough Code, 8 PA. CONS. STAT. § 1203, to make and adopt all ordinances, rules, and regulations not inconsistent with or restrained by the Constitution and laws of the Commonwealth of Pennsylvania as may be expedient or necessary for the proper management, care, and control of the borough and its finances and the maintenance of peace, good government, safety, and welfare of the borough and its trade, commerce, and manufactures; and

WHEREAS, Council is authorized by Section 1202(1) of the Borough Code, 8 PA. CONS. STAT. § 1202(1), to prescribe reasonable fees for the services of the borough's officers and to enforce the payment of the fees; and

WHEREAS, Council is authorized by Section 1202 of the Borough Code, 8 PA. CONS. STAT. § 1202, including the introductory paragraph and subsections (1), (3), to enforce its ordinances and impose fines and penalties for violations; and

WHEREAS, Council has determined that a residential dwelling unit used by a person or group of persons which does not include an owner of the property on which the unit is located is more susceptible to inadequate maintenance than owner-occupied units, and it is in the interest of the health, safety, and welfare of the tenants and occupants of such residential dwelling units and the borough in general to regulate the rental of such units and provide timely inspections of such units to insure compliance with the Borough's property maintenance and other building/housing codes and established standards; and

WHEREAS, due to the limited mail delivery options made available within the Borough by the United States Postal Service, there is an increased demand for the use of Borough right-of-way for the placement of individual mailboxes, to the detriment of pedestrian traffic and other uses of the right-of-way and the beauty and safety of the Borough; and

WHEREAS, residential rental units aggravate the proliferation of individual mailboxes in the right-of-way. These units can frequently be accommodated by multiple boxes on a single pole or cluster or group mailboxes which have a lesser impact on the right-of-way, and such arrangements are best coordinated by the landlord. In addition, the occupants of these units have a lesser incentive to establish sound, safe, long-lasting, and aesthetically pleasing mailboxes than the landlords; and

WHEREAS, Council therefore determines that it is in the best interest of the borough and its residents and their health, safety, and welfare, to require landlords to furnish mail delivery facilities to the tenants and occupants of residential rental units; and

WHEREAS, it is in the interest of the health, safety, welfare, and good governance of the Borough for the Borough to have current and accurate lists of the persons residing in each occupied property in the Borough, both in order to assist the activities of police and emergency services personnel and to insure the full and complete collection of Borough taxes; and

WHEREAS, on May 3, 2017, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Alburdis, of its intention to consider the adoption of this Ordinance on May 10, 2017 at 7:00 P.M. in the Borough Hall, 260 Franklin Street, Alburdis, Pennsylvania. The notice stated the particular nature of the matter to be considered at the hearing, as provided in the title of this Ordinance;

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

SECTION 1. The Codified Ordinances are hereby amended by adding the following new Chapter 36 to Part III:

Chapter 36 — Residential Rental Properties

Article I — Title and General Definitions

§ 36-101 Short Title.

This Chapter shall be known, and may be cited, as the “Borough of Alburdis Residential Rental Property Ordinance.”

§ 36-102 Definitions—In General.

For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated therein, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

§ 36-103 Agent.

The term “Agent” shall mean any person who or which, for monetary consideration, aids in the rental of a Residential Rental Unit. When used in this Chapter in a clause proscribing any activity or imposing a penalty, the term, as applied to partnerships, limited liability companies, and associations, shall mean each partner or member, and as applied to corporations, the officers thereof.

§ 36-104 Certificate of Compliance.

The term “Certificate of Compliance” shall mean a certificate of compliance issued pursuant to § 36-204.

§ 36-105 Codes.

The term “Codes” shall mean all building and property maintenance codes as adopted by the Borough from time to time, and any rules and regulations promulgated thereunder. *See, e.g.*, Chapters 30 through 35.

§ 36-106 Inspector.

The term “Inspector” shall mean the Borough’s Property Maintenance Code Enforcement Official or his/her designee.

§ 36-107 Landlord.

The term “Landlord” shall mean any person who grants or has granted a lease to, or otherwise permits the use of, a Residential Rental Unit for valuable consideration, monetary or otherwise.

§ 36-108 Occupancy or Occupy.

The terms “occupancy” and “occupy” shall mean the presence of a person in a structure for purposes of shelter, cooking, sleeping, and/or resting for a period expected to extend, or which actually extends, longer than seven (7) days. The terms do not include the mere presence in a Residential Rental Unit for purposes of maintenance, repair, construction, demolition, or inspection.

§ 36-109 Person.

The term “person” shall include individuals, corporations, companies, associations, firms, partnerships, limited liability companies, and other entities; municipalities, authorities, and other governmental or quasi-governmental entities established by law; and fiduciaries.

§ 36-110 Registration.

The term “Registration” means the registration issued and approved by the Borough under § 36-202.

§ 36-111 Residential Rental Unit.

The term “Residential Rental Unit” means a dwelling unit or structurally enclosed area including or intending to be used as the living quarters for one or more individuals, none of whom are an owner of the real property on which the unit is located.

Article II — Reports, Registration, Inspections, Certificates

§ 36-201 Report Required.

(a) **In General.** At each time specified in subsection (b), each Landlord of a Residential Rental Unit shall report in a writing filed with the Borough Manager, the number of Residential Rental Units then being rented by the Landlord, a description (by address, unit or apartment number, tax parcel number, and/or some other meaningful method) of each such Residential Rental Unit, the names of all the then-current tenants and/or occupants of each such Residential Rental Unit, which shall identify the specific Residential Rental Unit occupied by each named individual, the date of the report, the Landlord’s name, address, telephone number, and other contact information.

(b) **Reporting Events.** A report under this Section shall be filed—

(1) By August 1, 2017, in the case of a Landlord of a Residential Rental Unit as of the date this Chapter is adopted. The Landlord shall be deemed to have filed this report if he/she/it filed the semi-annual list of residents required under § 89-201 by June 30, 2017 and there has

been no change in the tenancy or occupancy of any Residential Rental Unit between the date of the § 89-201 report and August 1, 2017;

(2) In the case of a person who is not required to file a report under paragraph (1) above, within thirty (30) calendar days after the person first acquires, rents, or makes available for rental a Residential Rental Unit;

(3) In the case of a person who has previously filed a report under this Section, within thirty (30) calendar days after the person first acquires, rents, or makes available for rental a Residential Rental Unit not already included in the most recent report filed by that person under this Section; and

(4) Within ten (10) calendar days after any change in the tenancy or occupancy of any Residential Rental Unit from that stated in the most recent report filed by the person under this Section. A report shall be filed whenever a Residential Rental Unit becomes vacant, and for any other addition or subtraction of individuals who are the tenants or occupants of a Residential Rental Unit.

(c) **Forms.** The Borough Manager may require that the report under this Section be filed on a form promulgated by the Borough Manager from time to time. However, the failure of the Borough Manager to provide such a form shall not excuse the obligation of any Landlord to file a report under this Section. The form may require specific pertinent additional information besides that set forth in subsection (a), if approved by Council.

(d) **Resident Registration under Chapter 89.** The reports required under this Section shall not excuse a Landlord from filing the semi-annual list of residents required under § 89-201, unless the Borough Manager specifically waives that requirement for a person who has filed a report under this Section less than six (6) months before a due date under § 89-201.

§ 36-202 Registration.

(a) **Registration Required.** No Landlord or Agent shall own, operate, or offer or assist in offering for rental or occupancy, any Residential Rental Unit in the Borough on or after August 1, 2017 unless that Residential Rental Unit is the subject of a current registration issued by the Borough. The Landlord or Agent should first confirm that a valid registration exists for the Residential Rental Unit, and bears the risk of noncompliance if he/she/it fails to do so. A Landlord or Agent should request a registration a sufficient period of time in advance of the date it is needed to permit any necessary inspection of the Residential Rental Unit under § 36-203 and the issuance of the registration. They are advised to check with the Borough Manager for scheduling. A registration shall not be issued until the requirements of § 36-203 are satisfied and a Certificate of Compliance is issued under § 36-204.

(b) **Term.** A registration under this Section shall be valid for the remainder of the calendar year in which it is issued, and shall be renewable for successive calendar years when the Residential Rental Unit complies with the Codes and all other applicable regulations. Renewals for a new calendar year shall be requested on forms provided by the Borough on or before November 30 of the preceding year. The registration shall be transferrable to a successor who so requests on forms provided by the Borough and satisfies all requirements of this Chapter. The registration may be revoked by the Borough Manager at any time for noncompliance with the Codes or any other applicable regulations.

(c) **Transfer of Ownership or Operation.** Any Landlord or Agent who transfers legal title and/or operational control of a Residential Rental Unit or the building or parcel of land in or on which it is located shall give the Borough written notice of the transfer within five (5) business days thereafter.

§ 36-203 Inspections.

(a) **Inspection Required.** Each Residential Rental Unit occupied on August 1, 2017 shall be inspected by the Inspector before August 1, 2017. Each Residential Rental Unit newly being offered as a Residential Rental Unit thereafter shall be inspected by the Inspector before it is first occupied as such. Each Residential Rental Unit shall be inspected again by the Inspector before it is occupied by any new or different tenant or occupant. Each Residential Rental Unit shall be inspected again by the Inspector in November or December of a calendar year, unless that Residential Rental Unit was already inspected under this Section at any during that calendar year or the immediately preceding two (2) calendar years. The Landlord or owner shall provide access to the Residential Rental Unit to the Inspector.

(b) **Exception.** Notwithstanding subsection (a), in the case of new construction, a Residential Rental Unit shall be deemed to have passed any inspection which would have been conducted under this Section after the issuance of a certificate of occupancy for the premises and before its initial occupancy, *provided* that the Borough Manager confirms the mailbox facilities requirements of § 36-302 have been satisfied.

(c) **Purpose.** The inspection under this Section shall be for the purpose of determining whether the Residential Rental Unit complies with the Codes and Article III, and satisfies the following minimum standards:

(1) The unit is clean and clear of all debris, garbage, and waste, and there shall be no offensive odors present, such as, but not limited to, urine, animal waste, or garbage.

(2) There shall be adequate access to the Residential Rental Unit and all exits shall be clearly marked in order to permit tenants and occupants to remove from the premises in the event of fire.

(3) The Residential Rental Unit shall have at least two (2) smoke alarms and one (1) carbon monoxide alarm in the unit, and all common areas utilized by the Residential Rental Unit shall have adequate detection devices and alarms for smoke and carbon monoxide.

(d) **Search Warrant.** For the purposes of enforcing this Chapter and this Section, the Inspector may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection of a Residential Rental Unit.

(e) **No Occupancy Without Compliance.** No owner of a Residential Rental Unit shall permit the unit to be occupied unless it meets the inspection requirements of this Section and the standards set forth in the Codes, this Section, and Article III.

§ 36-204 Certificates of Compliance and Noncompliance.

(a) **Certificate of Compliance.** If the inspection of a Residential Rental Unit under § 36-203 discloses no violations of the Codes and satisfies the standards set forth in § 36-203(c) and Article III, the Inspector shall issue a Certificate of Compliance to the owner of the Residential Rental Unit, in such form as established from time to time by the Borough Manager. When an inspection is deemed to have been passed under the exception in § 36-203(b), the Borough Manager shall issue the Certificate of Compliance to the owner of the Residential Rental Unit. The Certificate of Compliance shall be displayed in plain view within the Residential Rental Unit or the structure in which it is contained. A new Certificate of Compliance shall be required every time a new inspection is required under § 36-203(a).

(b) **No Occupancy Without Display of Current Certificate of Compliance.** No Residential Rental Unit shall be occupied by any person unless the unit is currently registered under § 36-202 and a current Certificate of Compliance for the unit is displayed as required under this Section.

(c) **Certificate of Noncompliance.** If the inspection of a Residential Rental Unit under § 36-203 discloses any violation(s) of the Codes or fails to satisfy the standards set forth in § 36-203(c) and Article III, the Inspector shall issue a Certificate of Noncompliance, setting forth:

- (1) the street address and unit designation or other appropriate description of the Residential Rental Unit;
- (2) the date of inspection;

(3) the identity of the inspector;

(4) a list of all Codes violations and failures to satisfy the standards set forth in § 36-203(c) and Article III;

(5) the number of days in which the owner is to accomplish repairs and corrections of violations and failures, including a provision allowing for a reasonable time extension if the owner shows a good faith attempt to comply with this requirement to the satisfaction of the Inspector; and

(6) Notice that, if the conditions are not repaired or corrected within the time specified, the Residential Rental Unit may be placarded as unfit for human occupancy.

(d) Reinspection. Upon the expiration of the time specified in subsection (c) to complete repairs and corrections, or upon notice from the owner that the repairs and corrections have been accomplished, whichever occurs first, the Inspector shall reinspect the Residential Rental Unit that was issued a Certificate of Noncompliance. If the Inspector determines that the repairs and corrections have been accomplished and the Residential Rental Unit is now in compliance, the Inspector shall issue a Certificate of Compliance to the owner of the Residential Rental Unit, as under subsection (a). If, however, the Inspector determines that the owner has failed to complete the necessary repairs and corrections, the Inspector shall issue a new Certificate of Noncompliance in accordance with subsection (c).

(e) Effect of Certificate of Compliance. The issuance of a Certificate of Compliance shall not establish or denote compliance with the Codes or any applicable standard. The issuance of the Certificate of Compliance is not a representation by the Borough that the Residential Rental Unit or any building in which it is located is in compliance with the Codes and all applicable standards. Neither the enactment of this Chapter nor the issuance of a Certificate of Compliance shall impose any liability whatsoever on the Borough for any errors or omissions in inspections, or for any other reason.

§ 36-205 Appeals.

Any person aggrieved by a decision of the Borough's Inspector or any other Borough official under this Chapter may appeal the decision to the Court of Common Pleas of Lehigh County within thirty (30) calendar days after the date of the decision.

Article III — Additional Standards and Requirements

§ 36-301 Insurance.

All owners and Landlords of Residential Rental Units in the Borough of Alburty shall maintain hazard and general liability insurance with a minimum coverage of Fifty Thousand Dollars (\$50,000.00), and casualty insurance in amounts sufficient to either restore or remove the building in which the Residential Rental Units are located in the event of a fire or other casualty.

§ 36-302 Mail Facilities.

The Landlord must provide a mailbox or other mail receptacle or post office box meeting the standards and requirements of the United States Postal Service for mail delivery to the Residential Rental Unit or the occupants thereof, at the Landlord's expense.

§ 36-303 False Information.

No person shall furnish any false information to the Borough in any report or other activity associated with the administration of this Chapter.

Article IV — Miscellaneous

§ 36-401 Fees.

Each Landlord shall pay the following fees in connection with the administration of this Chapter:

(a) **Initial Registration.** The fee for the initial registration of a Residential Rental Unit under this Chapter shall be Sixty Dollars (\$60.00), *provided* that if the exception for new construction in § 36-203(d) applies, the fee for the initial registration shall be Ten Dollars (\$10.00).

(b) **Annual Renewal.** The fee for the renewal of a registration for a new calendar year shall be Sixty Dollars (\$60.00).

(c) **Registration Transfer.** The fee for the transfer of a registration to a successor owner shall be Ten Dollars (\$10.00).

(d) **Reinspections.** The fee for any reinspection under § 36-204(d) shall be Fifty Dollars (\$50.00).

(e) **Miscellaneous.** All fees under this Section shall be payable to the Borough. All fees shall be paid in full before the registrations are issued, renewed, or transferred, and before inspections are made which are necessary for the issuance or renewal of a registration. If the failure of a person to pay any required fees results in his/her/its failure to obtain a required inspection and/or registration, any resulting violations of this Chapter shall subject the person to the applicable penalties of § 36-402.

§ 36-402 Violations and Penalties.

(a) **Civil Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a civil penalty of One Hundred Dollars (\$100.00).

(b) **Initial Determination of Violation.** Council hereby delegates the initial determination of violations under this Chapter to the Borough Manager. The Borough Manager shall serve notice of the violation(s) upon the person determined to have violated this Chapter 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 Chapter 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(b)(4), 8 PA. CONS. STAT. § 3321(b)(4), 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 Chapter 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 Chapter shall constitute a separate offense, and each violation with respect to a separate Residential Rental Unit shall constitute a separate offense.

(e) Equitable Remedies. In addition to or in lieu of enforcement of this Chapter through a civil action, the Borough may enforce this Chapter through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

§ 36-403 No Waiver.

The failure of the Borough to insist on timely performance or compliance by any person with the requirements of this Chapter shall not constitute a waiver of the Borough's right to later insist on timely performance or compliance by that person or any other person. The failure of the Borough to enforce any provision of this Chapter on any occasion shall not operate as a waiver or estoppel of its right to enforce any provision of this Chapter on any other occasion. Nothing in this Chapter shall restrict or prevent the Borough from enforcing any Codes or other ordinance requirements not contained in this Chapter to the same extent as if this Chapter had not been enacted. This Chapter regulates the ability of an owner to rent or otherwise permit the occupancy of his/her/its property by others for residential purposes. The Codes regulate the condition of a property itself and are separately enforceable in accordance with their own terms, regardless of whether the property contains a Residential Rental Unit.

SECTION 2. The title of Chapter 89 of the Codified Ordinance shall be changed as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

Chapter 89 — Moving Permits and Tenant Resident Registration

SECTION 3. Codified Ordinances Chapter 89, Article II is amended by amending the title and §§ 89-201 and 89-202 as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

Article II – ~~Tenant~~ Resident Registration

§ 89-201 ~~Duty to File List of Tenants~~ Residents.

It shall be the duty of every ~~landlord maintaining rental person or entity owning residential~~ property within the Borough of Alburdis ~~and every owner of multiple family dwelling units within the Borough~~ to certify to the Borough Manager, on a form provided by the Borough Manager, a list of ~~lessees and tenants~~, as well as ~~their addresses~~ the names and mailing addresses of all the residents and occupants of each property so owned who are eighteen (18) years of age or older, and the number of persons under the age of eighteen (18) years also residing in or occupying any such property, on or before June 30 and December 31 of every calendar year. In addition, the owner shall provide a person's physical residence location if it is different from his/her mailing address or if it is needed to identify the precise dwelling unit or abode occupied by the person. The form shall provide that the persons signing the form verify that the information presented in the form is true, correct, and complete, subject to the penalties of 18 PA. CONS. STAT. § 4904 (relating to unsworn falsification to authorities).

§ 89-202 ~~Liability of Landlord~~ Property Owner.

Every ~~landlord maintaining rental~~ owner of residential property in the Borough ~~and every owner of multiple family dwelling units~~ who willfully or negligently fails to submit ~~tenant resident~~ lists as required under § 89-201 shall be liable for, in addition to other penalties provided in this Article, such sums as would have been billed by the Borough if such ~~tenant resident~~ list had been provided, less any sums actually received from such ~~tenant resident~~

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Albur-
tis, this 10th day of May, 2017, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Ronald J. DeIaco, President

Attest:

Sharon Trexler, Borough Manager

AND NOW, this 10th day of May, 2017, the above Ordinance is hereby **APPROVED**.

Kathleen Palmer, Mayor