

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 302

(Duly Adopted September 29, 1993)

AN ORDINANCE AMENDING THE BOROUGH OF ALBURTIS ZONING ORDINANCE BY REPLACING THE DEFINITION OF "HOME PROFESSIONAL OFFICE" AND "CUSTOMARY HOME OCCUPATION" WITH A DEFINITION OF "HOME OFFICE OR BUSINESS", INCLUDING "INTRUSIVE" AND "NON-INTRUSIVE" TYPES; DESIGNATING NON-INTRUSIVE HOME OFFICES AND BUSINESSES AS PERMITTED USES IN THE R-1, R-2, R-3, AND C-1 ZONING DISTRICTS UPON RECEIPT OF AN ANNUAL PERMIT THEREFOR; DESIGNATING INTRUSIVE HOME OFFICES AND BUSINESSES AS SPECIAL EXCEPTION USES IN THE R-1, R-2, AND R-3 ZONING DISTRICTS, AND AS PERMITTED, CONDITIONAL USE, OR SPECIAL EXCEPTION USES IN THE C-1 ZONING DISTRICT; CLARIFYING THE INTENT OF THE ZONING ORDINANCE THAT NO NON-RESIDENTIAL USES MAY BE PERMITTED ON A RESIDENTIAL LOT UNLESS THEY ARE AGRICULTURAL USES OR HOME OFFICES OR BUSINESSES; AND ELIMINATING THE REQUIREMENT OF SITE-PLAN REVIEW FOR HOME OFFICES AND BUSINESSES.

**WHEREAS**, the Borough of Alburdis is empowered to enact, amend, and repeal zoning ordinances under Article VI of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. § 10601 *et seq.*; and

**WHEREAS**, Borough Council has enacted a zoning ordinance, which has been codified as Chapter 137 of the Code of the Borough of Alburdis (1981), as amended; and

**WHEREAS**, Borough Council desires to amend the provisions of the Zoning Ordinance relating to home offices and businesses in the manner set forth in this Ordinance; and

**WHEREAS**, more than thirty (30) days prior to the date of the enactment of this Ordinance, the Borough submitted a copy of this Ordinance to the Alburdis Planning Commission and the Joint Planning Commission of Lehigh and Northampton Counties, to

provide them with an opportunity to submit recommendations, in accordance with the provisions of 53 PA. STAT. ANN. § 10609(c) and (e); and

**WHEREAS**, the Alburdis Planning Commission recommended adoption of this Ordinance by a unanimous vote at its regular meeting on August 17, 1993; and

**WHEREAS**, the Joint Planning Commission of Lehigh and Northampton Counties voted at its meeting on August 26, 1993 to offer no comment on this Ordinance; and

**WHEREAS**, on September 15, 1993 and September 22, 1993, 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 conduct a hearing on this Ordinance on September 29, 1993 at 7:00 p.m. in the Borough Hall, 260 Franklin Street, Alburdis, Pennsylvania, and to consider the adoption of this Ordinance thereafter. The notice stated the particular nature of the matter to be considered at the hearing, as provided in the title of this Ordinance; and

**WHEREAS**, immediately prior to the vote of Borough Council enacting this Ordinance, Borough Council conducted a hearing on this Ordinance, pursuant to 53 PA. STAT. ANN. § 10609(b), and did not substantially change or revise this Ordinance as a result of the hearing;

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

**SECTION 1.** The definition of “Home Professional Office and Customary Home Occupation” contained in Section 137-5 of the Code of the Borough of Alburdis (relating to Zoning Ordinance—Definitions), shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining):

§ 137-5 Definitions.

\* \* \*

~~Home Professional Office and Customary Home Occupation~~  
Home Office or Business — A business or office conducted in the home or principal buildings ~~excluding multifamily dwellings, of a lot used for residential purposes~~ by members of the resident family, provided that:

(1) ~~no technical person may be employed in a “home professional office or business” who is not a member of the resident family;~~

(2) ~~that not more than one-third (1/3) of the total area of one (1) aboveground floor of the home shall be used for such purposes at least eight hundred (800) square feet of the habitable floor space of the home shall be preserved free from all business or office use;~~

(3) ~~the use is clearly incidental and secondary to the residential use of the home and does not change the residential character of the home;~~

(4) ~~that signs indicating products made or services rendered shall be in accord with this chapter;~~

(5) ~~that adequate space for off-street parking and loading shall be provided if adjacent on-street parking is not ordinarily sufficient;~~

(6) ~~no more than a total of two (2) vehicles shall be utilized by the home offices or businesses conducted on the property (regardless of whether such vehicles are also used for other purposes);~~

(7) ~~that there shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such “home occupation office or business” other than a sign;~~  
and

(8) ~~that no machinery or equipment that would produce noise, odor, vibration, light or electrical interference beyond the bounds of the immediate property (or outside of the dwelling unit, in the case of multifamily dwellings) shall be permitted; and~~

(9) no hazardous materials shall be present on the property at any time in connection with the home office or business.

(A) For purposes of this paragraph (9), the term “hazardous materials” shall mean any material described in clauses (I), (II), or (III), unless they are excluded under subparagraph (B):

(I) any source, byproduct, or special nuclear material, as defined in the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq.;

(II) any substance designated as a hazardous substance by the U.S. Environmental Protection Agency and listed in Table 302.4 under 40 C.F.R. § 302.4 or the appendices to 40 C.F.R. § 302.4, if present in a quantity greater than or equal to the reportable quantity for such substance under 40 C.F.R. §§ 304.4 and 304.5; or

(III) any substance(s) which is/are or may become, when used in the home office or business, a solid waste (as defined in 40 C.F.R. § 261.2, other than a waste excluded under 40 C.F.R. § 261.4(b)) which exhibits or will exhibit any of the characteristics of a hazardous waste identified in 40 C.F.R. § 261.21 (relating to ignitability), 40 C.F.R. § 261.22 (relating to corrosivity), 40 C.F.R. § 261.23 (relating to reactivity), or 40 C.F.R. § 261.24 (relating to toxicity), if present or if will be present in a quantity greater than or equal to the reportable quantity for such substance(s) under 40 C.F.R. §§ 304.4 and 304.5;

(B) Notwithstanding subparagraph (A), none of the following shall be considered “hazardous materials” for purposes of this paragraph (9):

(I) food, drugs, cosmetics, or alcoholic beverages, if (i) contained in the packaging used for sale of such materials to consumers, (ii) intended for personal consumption by residents of the property, or (iii) used on the property in the same manner as in normal consumer use;

(II) any “consumer product” as defined under the Consumer Product Safety Act, 15 U.S.C. § 2051 et seq., or

“hazardous substance” as defined under the Federal Hazardous Substances Act, 15 U.S.C. § 1261 et seq., if (i) contained in the packaging used for sale of such materials to consumers, (ii) intended for personal consumption by residents of the property, or (iii) used on the property in the same manner as in normal consumer/household use;

(III) motor oil or used motor oil.

A beauty shop, retail shop, barbershop, repair shop, service shop or similar use shall not be considered a “customary home occupation.” A “hobby” shall be considered to be a “business” subject to the restrictions of this Chapter, and not an accessory use to residential uses, if consideration in excess of One Thousand Dollars (\$1,000.00) per year, exclusive of the cost of materials, is charged or received by the resident(s) operating the hobby/business related to activities conducted at the residence.

**A. Non-Intrusive Home Office or Business.** A Home Office or Business shall be considered “Non-Intrusive” if (1) no signs indicating products made or services rendered by the office or business are displayed on or in relation to the property; and (2) the amount of traffic from customers or suppliers of the office or business does not increase the amount of traffic associated with the property beyond the amount of traffic normally associated with a residential dwelling unit.

**B. Intrusive Home Office or Business.** A Home Office or Business shall be considered “Intrusive” if it does not qualify as a “Non-Intrusive” use under paragraph A.

\* \* \*

**SECTION 2.** Articles IV, V, VI, and VI of Chapter 137 of the Code of the Borough of Alburtis (relating to Zoning Ordinance—Regulations for the R-1, R-2, and R-3 Residential Zoning Districts and the C-1 Commercial Zoning District) shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining):

**Article IV — Regulations for R-1 Low-Density Residential District**

\* \* \*

**§ 137-12 Uses permitted by right.**

\* \* \*

E. Non-Intrusive Home Office or Business, provided that the person(s) conducting the use obtains an annual permit therefor from the Zoning Officer upon payment of a fee of Ten Dollars (\$10.00) or such other amount as shall be provided by Resolution of Borough Council.

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**§ 137-14 Special exception uses.**

\* \* \*

A. Home professional office and customary home occupation. Intrusive Home Office or Business.

\* \* \*

**Article V — Regulations for R-2 Medium-Density Residential District**

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**§ 137-20 Uses permitted by right.**

\* \* \*

E. Non-Intrusive Home Office or Business, provided that the person(s) conducting the use obtains an annual permit therefor from the

Zoning Officer upon payment of a fee of Ten Dollars (\$10.00) or such other amount as shall be provided by Resolution of Borough Council.

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**§ 137-22 Special exception uses.**

\* \* \*

~~B. Home professional office and customary home occupation.~~  
Intrusive Home Office or Business.

\* \* \*

**Article VI — Regulations for R-3 High-Density Residential District**

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**§ 137-28 Uses permitted by right.**

\* \* \*

E. Non-Intrusive Home Office or Business, provided that the person(s) conducting the use obtains an annual permit therefor from the Zoning Officer upon payment of a fee of Ten Dollars (\$10.00) or such other amount as shall be provided by Resolution of Borough Council.

**§ 137-29 Conditional Uses.**

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~~K. Home professional office and customary home occupation.~~  
[RESERVED].

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**§ 137-30 Special exception uses.**

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**B. Intrusive Home Office or Business.**

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**Article VII — Regulations for C-1 Commerical District**

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**§ 137-36 Uses permitted by right.**

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**N. Non-Intrusive Home Office or Business associated with a residential use which is permitted by variance or as a lawful nonconforming use, provided that the person(s) conducting the office or business use registers the use with the Zoning Officer so that the Borough is aware that a non-residential activity is being conducted on the property.**

**O. Intrusive Home Office or Business associated with a residential use which is permitted by variance or as a lawful nonconforming use, provided that the office or business use is the type of use permitted by right under this Section 137-36, and that the person(s) conducting the office or business use registers the use with the Zoning Officer so that the Borough is aware that a non-residential activity is being conducted on the property.**

**§ 137-37 Conditional Uses.**

\* \* \*

**W. Intrusive Home Office or Business associated with a residential use which is permitted by variance or as a lawful nonconforming use.**



provided that the office or business use is the type of use permitted as a conditional use under this Section 137-37.

**§ 137-38 Special exception uses.**

\* \* \*

**B.** ~~Home professional office and customary home occupation.~~ Intrusive Home Office or Business associated with a residential use which is permitted by variance or as a lawful nonconforming use, provided that the office or business use is the type of use permitted as a special exception use under this Section 137-38.

\* \* \*

**SECTION 3.** Section 137-52 of the Code of the Borough of Alburdis (relating to Zoning Ordinance—General Regulations—Overall Requirements), shall be amended by adding the following new subsection E thereto:

**E.** Notwithstanding any provision of this Chapter to the contrary, if a residential use is established on a lot, no other use may also be established on such lot, *unless* such other use is:

(1) one of the following uses—

(A) Crop farming and tilling of the soil;

(B) Farmstead and related accessory buildings necessary for farm operations;

(C) A use, other than a business, which is accessory to and customarily incidental to any use lawfully established on the lot; **or**

(D) Home Office or Business;

(2) the use is permitted in the applicable zoning district by right, conditional use, special exception, or as an accessory use, and all permits, conditional use approvals, and/or special exception approvals required to establish the use in the zoning district, if any, have been obtained;  
**and**

(3) the use complies in all respects with the area, height, yard, and other requirements of the applicable zoning district.

**SECTION 4.** The introductory paragraph of Section 137-66 of the Code of the Borough of Alburtis (relating to Zoning Ordinance—Site Plan Review—Purpose and Procedure), shall be amended as follows (with insertions indicated by double underlining):

In order to promote the safe and efficient movement of traffic, promote the development of a beautiful and well-ordered community, further the comprehensive planning and best serve the interests of public health, safety and general welfare, no public professional, commercial, industrial or other nonresidential structure or use of land (other than a Home Office or Business) and no multifamily dwelling use shall be permitted, nor shall any zoning permit required to be issued under this chapter for such uses be issued, until the following procedure has been complied with, if deemed necessary by the Zoning Officer:

**SECTION 5.** Section 137-72(H) of the Code of the Borough of Alburtis (relating to Zoning Ordinance—Specific Requirements for Home Professional Office and Customary Home Occupation), shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining):

**H. Home professional office and customary home occupation or business.** ~~The following minimum requirements shall be met:~~ All of the requirements set forth in the definition of Home Office or Business in Section 137-5 shall be satisfied. In addition, a Non-Intrusive Home Office

or Business shall also satisfy the requirements set forth in subparagraph A of the definition of Home Office or Business in Section 137-5.

~~(1) — No persons shall be employed who are not members of the family.~~

~~(2) — Not more than one third (1/3) of the area of one (1) floor shall be used for such purposes.~~

~~(3) — Signs indicating products made or services rendered shall be in accord with this chapter.~~

~~(4) — Adequate space for off street parking and loading shall be provided.~~

~~(5) — There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than a sign.~~

~~(6) — No machinery or equipment shall be permitted that produces noise, odor, vibration, light or electrical interference beyond the bounds of the immediate property.~~

**SECTION 6.** The Secretary of the Borough shall send a certified copy of this Ordinance to the Joint Planning Commission of Lehigh and Northampton Counties within thirty (30) days after the date of enactment, as required by 53 PA. STAT. ANN. § 10609(g).

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, this 29th day of September, 1993, in lawful session duly assembled.

BOROUGH COUNCIL  
BOROUGH OF ALBURDIS

\_\_\_\_\_  
Carlton R. Raines, President

Attest:

\_\_\_\_\_  
Louise Staub, Secretary

**AND NOW**, this 29th day of September, 1993, the above Ordinance is hereby APPROVED.

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Ronald J. DeIaco, Mayor