

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 465

(Duly Adopted December 26, 2007)

AN ORDINANCE AMENDING CHAPTER 21 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING) TO REDUCE THE DIMENSIONAL REQUIREMENTS APPLICABLE IN THE L-1 LIGHT INDUSTRIAL-OFFICE RESEARCH ZONING DISTRICT TO CULTURAL FACILITIES, PRIVATE COMMERCIAL EDUCATIONAL INSTITUTIONS, REPAIR SERVICES (OTHER THAN AUTOMOBILE REPAIR SERVICES), AND ADMINISTRATIVE, MANAGEMENT, AND PROFESSIONAL OFFICES, TO A 10,000 SQUARE FOOT MINIMUM LOT AREA, 20 FOOT MINIMUM FRONT YARD, 25 FOOT MINIMUM REAR YARD, AND 10 FOOT MINIMUM SIDE YARD; AND TO PERMIT NOT ONLY THE DEFERRAL OF BUFFER-TYPE IMPROVEMENTS OTHERWISE REQUIRED BY THE ZONING ORDINANCE WITH THE CONSENT OF THE PROPERTY OWNER WHO WAS TO BE PROTECTED BY THE IMPROVEMENTS, BUT ALSO TO PERMIT, BY CONDITIONAL USE, THE PERMANENT WAIVER OF SUCH BUFFER-TYPE IMPROVEMENTS WITH THE CONSENT OF THE AFFECTED PROPERTY OWNER.

**WHEREAS**, the Borough of Alburtis 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 amended from time to time and codified as Chapter 21 of the Alburtis Codified Ordinances; and

**WHEREAS**, by Ordinance 400, adopted October 9, 2002, Borough Council determined that certain commercial uses permitted by right in the C-1 Commercial zoning district are also compatible with the L-1 Light Industrial-Office Research zoning district, and so amended the zoning ordinance to permit such uses in the L-1 Light Industrial-Office Research zoning district; and

**WHEREAS**, when Ordinance 400 was adopted, no special dimensional requirements were adopted for the new commercial uses permitted in the L-1 Light Industrial-Office Research zoning district, and so those uses became subject to the general dimensional requirements of the L-1 Light Industrial-Office Research zoning district; and

**WHEREAS**, if such uses are established in the C-1 Commercial zoning district, they are subject to a 5,000 square foot minimum lot area requirement, a 20 foot minimum front yard requirement, a 25 foot minimum rear yard requirement, and a 5 yard minimum side yard requirement, while the current requirements for *all* uses in the L-1 Light Industrial-Office Research zoning district are 1 acre minimum lot area, 40 foot minimum front yard, 40 foot minimum rear yard, and 40 foot minimum side yard (with a total minimum of 85 feet for both side yards); and

**WHEREAS**, Borough Council believes that the general dimensional requirements in the L-1 Light Industrial-Office Research zoning district are excessive for some of the commercial uses permitted in that district since Ordinance 400, and should be reduced for those uses to a 10,000 square foot minimum lot area, 20 foot minimum front yard, 25 foot minimum rear yard, and 10 foot minimum side yard; and

**WHEREAS**, the commercial uses for which these dimension requirements should be reduced are those set forth in Codified Ordinances § 21-803(d) (cultural facilities, including art galleries, auditoriums, libraries, or museums open to the public or connected with a permitted educational use); § 21-803(f) (private commercial educational institution, including schools for dance, music, art, drama, and other similar activities); § 21-803(g) (repair services such shops for appliances, watches, guns, bicycles, locks, etc., but not automotive repair services); and § 21-803(h) (administrative, management, or professional offices, including but not limited to, offices of realtors, physicians, lawyers, clergymen, teachers, dentists, architects, engineers, insurance agents, opticians, and medical and related professionals (including incidental laboratories and out-patient clinics), and

the incidental retail sale of products directly related to any professional services provided); and

**WHEREAS**, there are a number of provisions in the zoning ordinance which require buffer-type improvements to protect certain properties from certain uses on abutting properties; and

**WHEREAS**, by Ordinance 403, adopted March 26, 2003 and enacted without the Mayor's signature as of April 9, 2003, Borough Council determined that improvements designed to protect one property from the adverse effects of the use of an adjoining property need not be constructed where the owners of the property to be "protected" feel the cure is worse than the symptoms, and believes that the effected owners should not be required to seek relief from the zoning hearing board or Borough Council in those cases; and

**WHEREAS**, by Ordinance 403, Borough Council amended the zoning ordinance to permit the deferral of such buffer-type improvements with the consent of the owners of the "protected" property, until one-year after the date the consenting owner or his successors in title withdraw such consent; and

**WHEREAS**, Borough Council believes that it would also be appropriate to permit, as a conditional use, the permanent waiver of such buffer-type improvements with the consent of the owners of the "protected" property, so long as such owners agree for themselves and their successors in title, that they will not seek any variances based on a hardship that would not have existed if the buffer-type improvements had been installed (or would not have been sufficient to justify the variance sought); and

**WHEREAS**, Borough Council desires to amend the zoning ordinance as set forth in this ordinance, and this amendment is generally consistent with the Borough Comprehensive Plan; and

**WHEREAS**, at least thirty (30) days prior to the Council's adoption of this Ordinance, the Borough submitted a copy of this Ordinance to the Alburdis Planning Commis-

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

**WHEREAS**, the Albutis Planning Commission reviewed this Ordinance at its meeting on December 18, 2007 and recommended its adoption; and

**WHEREAS**, the Lehigh Valley Planning Commission reviewed this Ordinance at its meeting on December 20, 2007 and voted to offer no comment because it considers the proposed amendments to be a matter of local concern; and

**WHEREAS**, on December 12, 2007 and December 19, 2007, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Albutis, of its intention to conduct a hearing on this Ordinance on December 26, 2007 at 7:00 P.M. in the Borough Hall, 260 Franklin Street, Albutis, 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 or the comments of the Albutis Planning Commission or the Lehigh Valley Planning Commission;

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

**SECTION 1.** Codified Ordinances § 21-808 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Area and Height Regulations) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-808 Area and Height Regulations.**

The following dimensional requirements in this section apply to each use permitted in the L-1 District by right, by condition, or by special exception, subject to further applicable provisions of this Article, Article IX (relating to General Regulations), and Article XIII (relating to Conditional Uses and Special Exceptions). The most restrictive dimensional requirements for each use shall apply. All uses in the L-1 District shall hook up with the existing public centralized water and sewerage systems.

<b>Principal Use</b>	<b>Minimum Lot Area</b>	<b>Minimum Lot Width (feet)</b>	<b>Maximum Building Coverage (%)</b>	<b>Maximum Building Height (feet)*</b>
<u>Any use described in § 21-803(d), (f), (g), or (h)</u>	<u>10,000 ft<sup>2</sup></u>	<u>100</u>	<u>40</u>	<u>50</u>
All <u>other</u> uses	1 acre	100	40	50

\* The prescribed height limit may be exceeded, *provided that* yard setbacks are increased one (1) foot for each foot of additional height, but not to exceed seventy-five (75) feet.

**SECTION 2.** Codified Ordinances § 21-809 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Minimum Yard requirements) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-809 Minimum Yard requirements.**

The following are the minimum yard requirements for principal uses in the L-1 District:

Principal Use	Front Yard	Side Yard*		Rear Yard
	(feet)	One	Both	(feet)
<u>Any use described in § 21-803(d), (f), (g), or (h)</u>	<u>20</u>	<u>10</u>	<u>20</u>	<u>25</u>
All <u>other</u> uses	40	40	85	40

\* No side yard or rear yard shall be required when the lot abuts a railroad.

**SECTION 3.** Codified Ordinances § 21-1506 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Deferral of Buffer-Type Improvements with Consent of the Property Owner to be Protected by the Improvements) is amended by amending subsection (a) and (b) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-1506 Deferral or Waiver of Buffer-Type Improvements with Consent of the Property Owner to be Protected by the Improvements.**

**(a) In General.**

(1) Notwithstanding any other provision of this Chapter to the contrary, a developer or property owner may defer the installation of a Buffer-Type Improvement if the owner of the Protected Property consents to the deferral in a notarized writing filed with the Borough. The consenting owner or his successors in title to the Protected Property may withdraw his consent at any time, and such withdrawal shall take effect one (1) year after the date the owner files a notarized writing with the Borough.

(2) Notwithstanding any other provision of this Chapter to the contrary, a Buffer-Type Improvement otherwise required by this Chapter need not be installed or maintained by a developer or property owner if the use of the property without the Buffer-Type Improvement is so approved by Council as a conditional use. A development or property qualifies for a conditional use under this paragraph (2) if—

(A) the owner of the Protected Property, for himself and his successors in title to the Protected Property, consents in perpetuity that the Buffer-Type Improvement otherwise required by this Chapter need not be installed or maintained, and agrees that he and they will not seek any variance based on a hardship that would not have existed if the Buffer-Type Improvement had been installed, or that would not have been sufficient to justify the variance sought if the Buffer-Type Improvement had been installed; and

(B) Council determines that, for the foreseeable future, the owners of the Protected Property will be able to make reasonable use of the Protected Property without obtaining any variance related to a hardship which would not have existed if the Buffer-Type Improvement had been installed, or that would not have been sufficient to justify the variance sought if the Buffer-Type Improvement had been installed.

**(b) Recorded Plan or Document.**

(1) If a developer or property owner elects to defer the installation of a Buffer-Type Improvement under this Section subsection (a)(1), then:

~~(1)~~ (A) if a subdivision and/or land development plan is required in connection with the activity that requires the installation of the Buffer-Type Improvement, then the developer or property owner must show the Buffer-Type Improvement on the approved and recorded subdivision and/or land development plan, with a notation that installation of the Buffer-Type Improvement is deferred under this Section by consent of the owner of the Protected Property until one (1) year after that consent is withdrawn, at which time the Buffer-Type Improvement will be installed;  
**or**

~~(2)~~ **(B)** if no subdivision and/or land development plan is required in connection with the activity that requires the installation of the Buffer-Type Improvement, then the developer or property owner must record a plan in the office of the Recorder of Deeds of Lehigh County, Pennsylvania which satisfies the requirements of a record plan for a final plan under Chapter 22 (relating to Subdivision and Land Development) and which shows the Buffer-Type Improvement with a notation that installation of the Buffer-Type Improvement is deferred under this Section by consent of the owner of the Protected Property until one (1) year after that consent is withdrawn, at which time the Buffer-Type Improvement will be installed.

(2) If Council approves a conditional use under subsection (a)(2), then the developer or property owner shall record a document in the office of the Recorder of Deeds of Lehigh County, Pennsylvania, signed and acknowledged by the owner of the Protected Property, which describes the Protected Property, the Buffer-Type Improvement which is not to be installed or maintained, and the property on which the Buffer-Type Improvement would otherwise be required, and which includes the consent and agreement described in subsection (a)(2)(A). The conditional use approval shall be noted and described on any subdivision and/or land development plan which includes the property on which the Buffer-Type Improvement is not to be installed by virtue of the conditional use approval.

\* \* \*

**SECTION 4.** The Executive Secretary of the Borough shall send a certified copy of this Ordinance to the Lehigh Valley Planning Commission 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 Al-  
burtis, this 26<sup>th</sup> day of December, 2007, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

\_\_\_\_\_  
Steven R. Hill, President

Attest:

\_\_\_\_\_  
Sharon Trexler, Executive Secretary

**AND NOW**, this 26<sup>th</sup> day of December, 2007, the above Ordinance is hereby  
APPROVED.

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Robert W. Mader, Mayor