

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 481

(Duly Adopted May 13, 2009)

AN ORDINANCE AMENDING SECTION 21-1415 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING—OFF-STREET PARKING SCHEDULE) TO MODIFY THE OFF-STREET PARKING REQUIREMENTS FOR MEDICAL AND DENTAL CLINICS; MUSEUMS, POST OFFICES, BOROUGH HALLS, AND SIMILAR ESTABLISHMENTS; LIBRARIES, THEATERS, AUDITORIUMS, STADIUMS, SPORTS ARENAS, OR SIMILAR USES; AND OTHER BUSINESS AND SERVICE ESTABLISHMENTS NOT SPECIFICALLY COVERED IN § 21-1415; ADDING A NEW SECTION 21-1415.1 TO PERMIT A REDUCTION IN OFF-STREET PARKING REQUIREMENTS FOR CERTAIN NON-RESIDENTIAL USES IN THE COMMERCIAL ZONING DISTRICT DURING THE PERIOD FROM 9:00 A.M. TO 5:00 P.M. BASED ON THE LENGTH OF THE FRONTAGE OF THE PROPERTY ALONG MAIN STREET AND FRANKLIN STREET; AMENDING SECTIONS 21-406, 21-706, AND 21-806 (RELATING TO ZONING—ACCESSORY USES) TO PERMIT FENCES TO BE PLACED ALONG A PROPERTY LINE OR LESS THAN ONE FOOT FROM THE PROPERTY LINE WITH THE NOTARIZED CONSENT OF THE ADJOINING PROPERTY OWNER(S); AND AMENDING SECTION 21-1413 (RELATING TO ZONING—UNLICENSED OR UNREGISTERED VEHICLES; TRAILERS) AND ADDING NEW SECTION 35-210 (RELATING TO PROPERTY MAINTENANCE CODE—MODIFICATION OF PM-303.8—MOTOR VEHICLES) TO NO LONGER PERMIT ANY VEHICLES, TRAILERS, OR PARTS OF VEHICLES OR TRAILERS WITHOUT A CURRENT LICENSE PLATE AND REGISTRATION STICKER TO BE PARKED OR STORED ON ANY LOT OUTSIDE OF A COMPLETELY ENCLOSED ACCESSORY BUILDING, TO PERMIT ONLY ONE LICENSED AND REGISTERED TRAILER TO BE PARKED OR STORED ON ANY LOT OUTSIDE OF A COMPLETELY ENCLOSED ACCESSORY BUILDING, AND TO PROVIDE A ONE-YEAR PERIOD TO REGISTER ANY LAWFUL PRE-EXISTING NONCONFORMITIES CAUSED BY THE AMENDMENT TO § 21-1413.

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, the Alburtis Business Revitalization Program has recommended an examination of the parking requirements for commercial uses to minimize the burdens on new business owners and encourage the development of commercial uses, and the Borough Planning Commission has conducted such an examination and made certain proposals to Borough Council; and

WHEREAS, the Borough Council desires to implement the recommendations of the Planning Commission and promote its goals of encouraging the development of commercial uses consistent with the reasonable parking needs of those uses and the availability of on-street parking; and

WHEREAS, Borough Council also desires to amend the zoning ordinance to permit fences to be placed along a property line with the consent of the adjoining landowner; and

WHEREAS, Borough Council desires to amend the zoning ordinance and the property maintenance code so that no unregistered vehicles may hereafter be located outside of a building, no unregistered trailers may hereafter be located outside of a building, and no more than one registered trailer may hereafter be located outside of a building; further, any pre-existing vehicles or trailers which will become nonconforming upon the passage of this Ordinance must be registered with the Borough within one year after notice to register; 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, the Alburtis Planning Commission reviewed this Ordinance at its meeting on April 21, 2009 and recommended its adoption; and

WHEREAS, the Lehigh Valley Planning Commission reviewed this Ordinance at its meeting on April 30, 2009 and voted to return the following comments for the Borough's use:

The Commission considers the proposed amendments to be a matter of local concern and voted to offer no comment.

; and

WHEREAS, on April 29, 2009 and May 6, 2009, 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 May 15, 2009 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 or the comments of the Alburdis Planning Commission or the Lehigh Valley Planning Commission;

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

SECTION 1. Codified Ordinances § 21-1415 (relating to Zoning—Off-Street Parking and Loading—Off-Street Parking Schedule) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-1415 Off-street Parking Schedule.

Except as otherwise provided in § 21-1415.1 (relating to Special Rules for Off-street Parking in the Commercial District), all AH uses per-

mitted by this Chapter or hereafter permitted in any of the districts herein established, shall provide as a minimum the number of off-street parking spaces specified in this section. Parking space for employees shall be computed on the basis of maximum employment, including seasonal and part-time, on the largest shift. For uses not specified in this section, the same requirements as for the most similar use specified in this section shall apply. Where calculations of spaces results in a fractional space, any fraction under one-half (1/2) may be disregarded and any fraction one-half (1/2) and over shall be construed as one (1) whole space:

(a) Residences, Apartments, and Conversions (except as hereinafter modified).

(1) Two (2) parking spaces for each dwelling unit in a multi-family dwelling which has fewer than three (3) bedrooms.

(2) Three (3) parking spaces for each dwelling unit other than a dwelling unit described in paragraph (1).

(b) Hotels: one (1) parking space for every three (3) guest or sleeping rooms and suites, plus one (1) space for every five (5) employees, plus one (1) parking space for every four (4) seats provided for customers, plus such additional space as required by this section because of any supplementary parking-generating activities represented by uses other than guest and sleeping rooms.

(c) Tourist Cabins, Motels, or Motor Inns: one (1) parking space for each guest or sleeping room or suite, plus one (1) space for the owner or manager if resident on the premises, plus additional space necessary as set forth in subsection (b) (relating to Hotels).

(d) Boardinghouses: one (1) parking space for each sleeping room to be occupied by roomers or boarders, plus one (1) space for each dwelling unit on the premises, plus one (1) space for every two (2) employees not living on the premises.

(e) Churches: one (1) parking space for every five (5) seats, plus one (1) parking space for every one hundred (100) square feet of meeting room area.

(f) **Clubs** and permanent meeting places of veterans, business, civic, fraternal, and similar organizations: one (1) parking space for every fifty (50) square feet of aggregate floor area in the auditoriums, assembly halls, and dining areas of such buildings, plus one (1) space for every two (2) employees, plus additional space as required by this section because of any supplementary parking-generating activities.

(g) **Hospitals:** one (1) parking space for every three (3) patient beds, excluding bassinets, plus one (1) space for each staff and/or visiting doctor, plus one (1) space for every two (2) employees, including nurses; loading and unloading space for ambulances and similar vehicles are not included in the space required herein.

(h) **Nursing and Convalescent Homes:** one (1) parking space for every five (5) beds, plus one (1) space for each staff doctor, plus one (1) space for every two (2) employees, including nurses; loading and unloading space for ambulances and similar vehicles are not included in the spaces required herein.

(i) **Medical and Dental Clinics:** ~~four (4)~~ one and one-quarter (1.25) parking spaces for each ~~doctor or dentist~~ treatment room, plus one (1) space for every one (1) employee other than a doctor or dentist (such as an assistant, nurse, hygienist, or receptionist).

(j) **Funeral Homes:** one (1) parking space for each family residing on the premises, plus one (1) space for every two (2) employees other than residents on the premises, plus one (1) space for every fifty (50) square feet of aggregate floor area in the viewing rooms, slumber rooms, parlors, or individual funeral services rooms, or a minimum total of twenty-five (25) spaces, whichever is greater.

(k) **Elderly Housing and Welfare Institutions**, such as asylums and orphanages: one (1) parking space for each staff doctor, plus one (1) space for every one thousand (1,000) square feet of gross habitable floor area for visitor and residential parking, plus such additional space as required by this section because of any supplementary parking-generating activities.

(l) **Museums, Post Offices, Borough Halls, and Similar Establishments:** parking or storage space for all vehicles used directly in the

operation of such establishments, ~~plus four (4) spaces for the first one thousand (1,000) square feet of gross usable floor area, plus one (1) space for every additional one hundred fifty (150) square feet of floor area~~ plus one (1) space for every one (1) employee, plus sufficient additional parking spaces to meet the reasonable demands of the business as determined by Council by conditional use.

(m) Bowling Alleys: four (4) parking spaces for each alley, plus one (1) for every two (2) employees.

(n) Libraries, Theaters, Auditoriums, Stadiums, Sports Arenas, or Similar Uses: one (1) parking space for every ~~six (6)~~ five (5) seats, plus one (1) space for every two (2) employees. Where individual seats are not provided, each twenty (20) inches of benches or other similar seating shall be considered as one (1) seat for the purposes of determining requirements hereunder.

(o) Schools: one (1) parking space for every two (2) employees, including teachers and administrators, plus off-street space for loading and unloading of students, plus additional facilities for student parking at the high school level and above at the ratio of five (5) spaces for each classroom.

(p) Office, Professional, or Public Buildings: one (1) space for each two (2) occupants or employees working on the premises, plus one (1) space for each five hundred (500) square feet. Subsection (i), and not this subsection (p), shall apply to any portion of a professional building which constitutes a medical or dental clinic.

(q) Transportation Terminals (Passenger): one (1) parking space for every one hundred (100) square feet of waiting room space, plus one (1) space for every two (2) employees.

(r) Restaurants, Nightclubs, Barrooms, Lunch Counters, or the Like: one (1) parking space for every two (2) employees, plus one (1) space for every three (3) seats for customers.

(s) Roadside Stands, Drive-In Restaurants, or Other Roadside Service Establishments: one (1) parking space for each employee, plus sufficient spaces to meet the reasonable demands of the business as determined by the Planning Commission.

(t) Shopping Centers and Planned Neighborhood Convenience Centers: six (6) parking spaces for every one thousand (1,000) square feet of retail sales area. Office uses and other major non-retail uses within a shopping center shall provide spaces as required in this section.

(u) Repair Shops, Plumbing Shops, Electrical Shops, Roofing Shops, and Other Similar Service Establishments: parking or storage space for all vehicles used directly in the conduct of business, plus two (2) spaces for each employee.

(v) Self-service Laundries and Cleaning Establishments: one (1) parking space for every four (4) washing, drying, and dry-cleaning machines.

(w) Automotive Repair Garages: parking space for all vehicles used directly in the conduct of the business, plus three (3) spaces for each vehicle lift or similar facility, plus one (1) space for every two (2) employees.

(x) Industrial or Manufacturing Establishments: one (1) parking space for every four (4) employees, plus one (1) space for every one thousand (1,000) square feet of gross habitable floor area intended for use by visitors.

(y) Warehouses, Freight and Trucking Terminals, and Wholesale Businesses: adequate off-street loading and unloading space as determined by the Planning Commission, plus parking space for all vehicles used directly in the conduct of the business, plus one (1) space for each two (2) employees.

(z) Bed and Breakfast Facilities: one (1) off-street parking space shall be provided for each guest room in addition to two (2) off-street parking spaces for the residence. The off-street parking spaces shall be located either to the rear of the main dwelling or screened from the roadway and adjoining properties by fencing or natural vegetation.

(aa) Nurseries and Day-care Centers: one (1) parking space for each employee, plus one (1) additional parking space.

(bb) Other Business and Service Establishments not specifically covered herein: one (1) parking space for every ~~two hundred (200) square~~

~~feet of gross habitable floor area one (1) employee, plus sufficient additional parking spaces space~~ to meet the reasonable demands of the business as determined by Council by conditional use.

SECTION 2. Codified Ordinances Chapter 21, Article XIV (relating to Zoning—Off-Street Parking and Loading) is amended by adding the following new Section 21-1415.1 after existing Section 21-1415 and before existing Section 21-1416:

§ 21-1415.1 Special Rules for Daytime Off-street Parking Requirements in the Commercial District.

(a) **In General.** The minimum parking requirements for any Special Use described in subsection (b) operating in the Commercial District between 9:00 A.M. and 5:00 P.M., shall be determined as follows:

(1) First, calculate the number of parking spaces required for the use under § 21-1415 (relating to Off-Street Parking Schedule), *except* that:

(A) Parking spaces for employees shall be computed on the basis of maximum employment on the largest shift between the hours of 9:00 A.M. and 5:00 P.M.; and

(B) Do not apply the rule in the last sentence of the introductory paragraph of § 21-1415 that where calculations of spaces results in a fractional space, any fraction under one-half (1/2) may be disregarded and any fraction one-half (1/2) and over shall be construed as one (1) whole space. The calculation under this paragraph (1) may result in a number containing a fraction;

(2) Second, calculate the number of Creditable On-Street Spaces for the Special Use as described in subsection (c), and divide the result by two (2). This calculation may also result in a number containing a fraction;

(3) Subtract the number calculated under paragraph (2) from the number calculated under paragraph (1). If the result includes a frac-

tional space, any fraction under one-half (1/2) shall be disregarded and any fraction one-half (1/2) and over shall be increased to one (1) whole space. The amount determined under this paragraph (3) shall be the minimum number of off-street parking spaces required to operate the Special Use in the Commercial District between 9:00 A.M. and 5:00 P.M.

(b) Special Use. For purposes of this § 21-1415.1, the term “Special Use” means any use permitted by right, conditional use, or special exception in the Commercial District (*see* §§ 21-703, 21-704, and 21-705) *other* than a residential dwelling unit, motel, hotel, boarding house, motor inn, or bed and breakfast facility.

(c) Creditable On-Street Spaces. For purposes of this § 21-1415.1, the number of “Creditable On-Street Spaces” for all Special Uses on a lot in the Commercial District shall be equal to the number of feet along the portion of the curb of Main Street or Franklin Street which abuts the lot on the same side of the street as the lot, with the result divided by twenty-two (22). No Creditable On-Street Spaces are granted with respect to any frontage along any street other than Main Street or Franklin Street. If there is more than one Special Use on a lot, the owner of the lot may allocate the total number of Creditable On-Street Spaces for the lot among the Special Uses on the lot.

(d) Nighttime Requirements. In calculating the minimum number of off-street parking spaces under § 21-1415 for any Special Use operating in the Commercial District between 5:00 P.M. and 9:00 A.M., parking spaces for employees shall be computed on the basis of maximum employment on the largest shift between 5:00 P.M. and 9:00 A.M.

SECTION 3. Codified Ordinances § 21-406 (relating to Zoning—Regulations for R-1 Low-Density Residential District—Accessory Uses) is amended by amending subsection (d) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining). Because this provision is cross-referenced in other sections of the Codified Ordinance, it also affects the R-2 (§ 21-506(a)) and R-3 (§ 21-606(a)) zoning districts:

§ 21-406 Accessory Uses.

Accessory uses on the same lot as, and customarily incidental to, the permitted use are permitted by right. The term “accessory use” shall not include a business, but may include the following uses, which shall comply with all yard regulations and applicable provisions listed below:

* * *

(d) Fences. Fences not to exceed six (6) feet in height may be placed within a required yard area, *provided that*:

(1) No part of any fence shall be closer than one (1) foot from any property line, unless the owner(s) of the adjoining property file a notarized consent with the Borough to permit the fence to be placed on the property line or less than one (1) foot from the property line;

(2) No part of any fence shall be located closer than twenty-five (25) feet from the legal right-of-way line of the street or alley on which the principal structure of the lot fronts;

(3) No part of any fence shall be closer than ten (10) feet from the legal right-of-way line of any street or alley; and

(4) No part of any fence shall be within any of the clear sight triangles established under § 21-906 (relating to Traffic Visibility at Intersections).

SECTION 4. Codified Ordinances § 21-706 (relating to Zoning—Regulations for C-1 Commercial District—Accessory Uses) is amended by amending subsection (e) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-706 Accessory Uses.

Accessory uses on the same lot as and customarily incidental to the permitted uses are permitted by right. The term “accessory use” may in-

clude the following uses, which shall comply with all applicable provisions stated for them:

* * *

(e) Fences not to exceed six (6) feet in height may be placed along the side and rear property lines no closer than one (1) foot from the property line, unless the owner(s) of the adjoining property file a notarized consent with the Borough to permit the fence to be placed on the property line or less than one (1) foot from the property line. No fences shall be placed in the front yard area between the building setback line and the front lot line.

SECTION 5. Codified Ordinances § 21-806 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Accessory Uses) is amended by amending subsection (f) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-806 Accessory Uses.

Accessory uses on the same lot as, and customarily incidental to, the permitted uses are permitted by right. The term “accessory use” shall not include a business, but may include the following uses, which shall comply with all applicable provisions stated for them:

* * *

(f) Fences not to exceed six (6) feet in height may be placed along the side and rear property line no closer than one (1) foot from the property line, unless the owner(s) of the adjoining property file a notarized consent with the Borough to permit the fence to be placed on the property line or less than one (1) foot from the property line. No fences shall be placed in the front yard area between the building setback line and the front lot line.

SECTION 6. Codified Ordinances § 21-1413 (relating to Zoning—Off-Street Parking and Loading—Unlicensed or Unregistered Vehicles) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-1413 Unlicensed or Unregistered Vehicles; Trailers.

(a) No more than one (1) vehicle, trailer, or part of a vehicle or trailer (excluding recreational vehicles covered by § 21-1412) without which does not bear a current license plate and registration sticker, should such sticker be required for current licensure, shall be parked or stored on any lot in any district outside of a completely enclosed accessory building.

(b) No more than one trailer shall be parked or stored on any lot in any district outside of a completely enclosed accessory building. Such a trailer must bear a current license plate and registration sticker.

(c) Any person claiming the right to continue to park or store a vehicle, trailer, or part of a vehicle or trailer on a lot outside of a completely enclosed accessory building after May 13, 2009 on the grounds that it is the continuation of legal pre-existing nonconformity as of May 13, 2009, must register the nonconformity with the Zoning Officer within one (1) year after the date the Borough or the Zoning Officer mails a written notice to the legal owner of the lot to so register any such nonconformity and provide evidence of the existence of the nonconformity. If the Zoning Officer determines that there is insufficient evidence of a pre-existing nonconformity, he/she shall deny the registration, and the applicant may appeal the Zoning Officer's decision to the Zoning Hearing Board pursuant to § 21-1807. Any nonconformity which is not timely registered may not be continued. It shall not be necessary to register any nonconformity which was previously approved by action of the Zoning Hearing Board.

SECTION 7. Codified Ordinances Chapter 35, Article II (relating to Property Maintenance Code—Modifications of National Code) is amended by adding the following new § 35-210 at the end of the existing Article:

§ 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.

SECTION 8. 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 13th day of May, 2009, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 13th day of May, 2009, the above Ordinance is hereby **APPROVED**.

Robert W. Mader, Mayor