

BOROUGH OF ALBURTIS
Lehigh County, Pennsylvania

ORDINANCE NO. 280

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ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF ALBURTIS, LEHIGH COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF ALBURTIS, CHAPTER 137, ZONING, BEING ORIGINALLY KNOWN AS ORDINANCE NO. 172, AS PREVIOUSLY AMENDED, BY (1) ADDING TO SECTION 137-1 THEREOF PURPOSES OF PRESERVING CERTAIN ENVIRONMENTAL AND NATURAL FEATURES TOGETHER WITH ADEQUATE LIGHT AND ACCESS TO SOLAR ENERGY; (2) ADDING TO SECTION 137-5 THEREOF DEFINITIONS FOR "ADULT BOOK STORE", "ADULT MOTION PICTURE THEATER", "BED AND BREAKFAST", "CABARET", "COMPOSTING FACILITY", "MASSAGE", "MASSAGE PARLOR", "MOBILE HOME LOT", "MUNICIPAL WASTE", "MUNICIPAL WASTE LANDFILL", "SPECIFIED ANATOMICAL AREAS", "SPECIFIED SEXUAL ACTIVITIES", "TRASH MANAGEMENT FACILITY" AND "TRASH TRANSFER FACILITY"; (3) AMENDING THE DEFINITIONS OF "MOBILE HOME", "MOBILE HOME PARK", "PUBLIC NOTICE", "CONDITIONAL USE", "SPECIAL EXCEPTION" AND "VARIANCE" IN SECTION 137-5; (4) AMENDING SECTIONS 137-13, 137-21, 137-29, 137-37 AND 137-45 THEREOF TO ALLOW BED AND BREAKFAST FACILITIES AS CONDITIONAL USES IN ALL ZONING DISTRICTS; TO ALLOW MOBILE HOMES AS CONDITIONAL USES IN THE RESIDENTIAL ZONING DISTRICTS AND MOBILE HOME PARKS AS A CONDITIONAL USE IN THE R-2 RESIDENTIAL ZONING DISTRICT; AND TO ALLOW ADULT BOOKSTORES, ADULT MOTION PICTURE THEATERS, CABARETS AND MASSAGE PARLORS AS CONDITIONAL USES IN THE C-1 COMMERCIAL AND L-1 LIGHT INDUSTRIAL-OFFICE RESEARCH ZONING DISTRICTS; TO ALLOW NEIGHBORHOOD CONVENIENCE STORES AS CONDITIONAL USES IN THE C-1 AND L-1 COMMERCIAL AND LIGHT INDUSTRIAL ZONING DISTRICTS; TO ALLOW DRIVE-THROUGH AND/OR FAST FOOD RESTAURANTS AS CONDITIONAL USES IN THE C-1 COMMERCIAL ZONING DISTRICT; AND TO ALLOW PUBLIC STORAGE FACILITIES AND TRASH TRANSFER FACILITIES AS CONDITIONAL USES IN THE L-1 LIGHT INDUSTRIAL ZONING DISTRICT; (5) ADDING A NEW SECTION 137-72(Z) THERETO REGARDING STANDARDS FOR MOBILE HOMES, MOBILE HOME LOTS AND MOBILE HOME PARKS; (6) AMENDING SECTION 137-73 THEREOF TO INCLUDE CERTAIN PARKING REGULATIONS FOR MOBILE HOMES; (7) ADDING THERETO A NEW SECTION 137-61(A) REGARDING PROVISIONS FOR MOBILE HOMES SITING; (8) AMENDING SECTION 137-113 THEREOF AS TO REQUISITES FOR ENFORCEMENT NOTICES; (9) AMENDING SUBSECTION 137-111(A) THEREOF TO REQUIRE ZONING PERMITS FOR CHANGES OF USE; (10) AMENDING SECTION 137-109 THEREOF BY CLARIFYING THE QUALIFICATIONS OF THE ZONING OFFICER; (11) AMENDING SECTION 137-109 THEREOF TO CLARIFY THE DUTIES OF THE ZONING OFFICER; (12) AMENDING THE PROCEDURE TO AMEND THE ORDINANCE CONTAINED IN SECTION 137-108; (13)

AMENDING SECTION 137-100 REGARDING CHALLENGES TO THE VALIDITY OF THE ORDINANCE; (14) AMENDING SECTION 137-110 TO RESTATE FEES FOR PERMITS AND OTHER RELIEF; (15) AMENDING SECTION 137-97 THEREOF TO RESTATE THE EXPENDITURES OF THE BOROUGH FOR ZONING MATTERS; (16) AMENDING SECTION 137-94 RELATING TO MEMBERSHIP OF THE ZONING HEARING BOARD; (17) CLARIFYING THE ORGANIZATION OF THE ZONING HEARING BOARD IN SUBSECTION 197-96; (18) AMENDING SECTION 137-98 THEREOF TO CLARIFY THE PROCEDURES FOR HEARINGS; (19) AMENDING SECTION 137-99 THEREOF TO STATE THE EXCLUSIVE JURISDICTION OF THE ZONING HEARING BOARD; (20) AMENDING SECTION 137-102 THEREOF TO DELETE PROVISIONS RELATING TO UNIFIED APPEALS; (21) AMENDING SUBSECTION 139-103 TO RESTATE PARTIES APPELLANT BEFORE THE ZONING HEARING BOARD; (22) AMENDING SUBSECTION 137-104(B) THEREOF TO LIMIT APPEALS FROM DETERMINATIONS ADVERSE TO LANDOWNERS; (23) ADDING THERETO A NEW SECTION 137-105B PROVIDING A MEDIATION OPTION; (24) ADDING A NEW SUBSECTION 137-114 THERETO TO PERMIT AGGRIEVED LANDOWNERS AND TENANTS TO PURSUE CERTAIN EQUITABLE RELIEF; (25) CHANGING CRIMINAL PENALTIES IN SUBSECTION 137-113(B) TO CIVIL REMEDIES IN CASES OF VIOLATIONS THEREOF; (26) AMENDING SUBSECTION 137-59(E) THEREOF TO MORE CLEARLY DESCRIBE CERTAIN NATURAL FEATURES AFFECTING MINIMUM LOT SIZE; (27) ADDING A NEW SUBSECTION 137-72(AA) REGARDING ADULT BOOKSTORES, ADULT MOTION PICTURE THEATERS, CABARETS AND MASSAGE PARLORS; (28) AMENDING SUBSECTION 137-73(O) TO RESTATE PARKING PROVISIONS FOR UNLICENSED AND/OR UNREGISTERED VEHICLES; (29) AMENDING SUBSECTION 137-74(C) TO DELETE PARKING STANDARDS FOR TOURIST HOMES; (30) ADDING A NEW SUBSECTION 137-74(Z) RELATING TO PARKING REQUIREMENTS FOR BED AND BREAKFAST FACILITIES; (31) ADDING A NEW SUBSECTION 137-72(BB) REGARDING BED AND BREAKFAST USES; (32) ADDING A NEW SUBSECTION 137-73(CC) REGARDING PUBLIC STORAGE FACILITIES; (33) ADDING A NEW SUBSECTION 137-72(DD) REGARDING DRIVE-THROUGH AND/OR FAST FOOD RESTAURANTS; (34) ADDING A NEW SUBSECTION 137-72(EE) REGARDING NEIGHBORHOOD CONVENIENCE STORES; (35) ADDING A NEW SECTION 137-61A REGARDING SUBSTANDARD LOTS; AND CONTAINING CLAUSES REGARDING SEVERABILITY, REPEAL AND EFFECTIVE DATE.

WHEREAS, the Borough of Alburtis, Lehigh County, Pennsylvania (hereinafter referred to as the "Borough") on March 5, 1975 enacted a zoning ordinance known as Ordinance No. 172, which is codified as Chapter 137 of the Code of the Borough of Alburtis;

WHEREAS, Ordinance No. 172 was drafted, enacted and enforced pursuant to the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended;

WHEREAS, the Pennsylvania Legislature re-enacted and amended the Pennsylvania Municipalities Planning Code by Act of December 21, 1988, P.L. 1329, No. 170, together with future amendments thereto (hereinafter referred to as the "Pennsylvania Municipalities Planning Code");

WHEREAS, the Borough desires to amend Ordinance No. 172, as amended (hereinafter referred to as the "Ordinance") by incorporating therein the amendments of the Pennsylvania Municipalities Planning Code.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Borough of Alburtis, Lehigh County, Pennsylvania, AND IT IS HEREBY ENACTED AND ORDAINED by the authority of the same, pursuant to the provisions of the Pennsylvania Municipalities Planning Code and the Borough Code of the Commonwealth of Pennsylvania, as follows:

SECTION 1. Section 137-1 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-1. Purpose.

The purpose of this chapter is to promote the public health, safety, morals and the general welfare of the present and future inhabitants of the Borough of Alburtis by:

- A. Assuring maximum compatibility between all present and future land uses and making the wisest possible use of the limited land remaining in the Borough.
- B. Selectively maintaining and increasing employment opportunities in the Borough.
- C. Providing a variety of housing opportunities for a diversified population in the Borough.
- D. Enhancing the quality of the Borough's visual and natural environment and conserving valuable natural resources to make the Borough a safer, healthier and more pleasant place in which to live.
- E. Realizing the downtown's full economic potential by eliminating problems, by preserving and enhancing current assets and by continuing and expanding business activities.
- F. Facilitating the implementation of a safe and efficient transportation network to serve both local and regional traffic while minimizing the negative effects the network has on the natural environment and the quality of life in the Borough.
- G. Promoting the widest possible range of public services with high quality and with maximum efficiency.

- H. Carrying out the goals of the Alburdis Comprehensive Plan.
- I. Continuing to make the Borough a place in which residents have a strong identity.
- J. Preserving the natural, scenic and historic values in the environment and preserving forests, wetlands, aquifers and flood plains.
- K. Preserving and assuring adequate light and air and access to incidental solar energy.

SECTION 2. Section 137-5 of the Ordinance is hereby amended so as to add the following new terms: "Adult Book Store", "Adult Motion Picture Theater", "Bed and Breakfast", "Cabaret", "Composting Facility", "Massage", "Massage Parlor", "Mobile Home Lot", "Municipal Waste", "Municipal Waste Landfill", "Specified Anatomical Areas", "Specified Sexual Activities", "Trash Management Facility" and "Trash Transfer Facility" and a definition for each as set forth below:

Adult Book Store: A commercial establishment having as a substantial or significant portion of its stock and trade, books, magazines, photographs, pamphlets, newspapers, films or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities (as defined below) or Specified Anatomical Areas (as defined below), or an establishment with a segment or section devoted to the sale or display of such material.

Adult Motion Picture Theater: A building or establishment used in whole or in part for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities (as defined below) or Specified Anatomical Areas (as defined below), for observation by patrons therein.

Bed and Breakfast: The use and occupancy of a single family detached dwelling for accommodating transient guests for rent, within the requirements of Subsection 137-72BB hereof.

Cabaret: A club, restaurant, bar, tavern, theater, hall or similar place or establishment which features male/female entertainers, including but not limited to topless or bottomless dancers, entertainers, strippers or employees, whose performance or activities include, even though not limited to, simulated sex acts, live or actual sex acts or other Specified Sexual Activities (as defined below) and/or reveal or display Specified Anatomical Areas (as defined below) for observation by patrons.

Composting Facility: A facility using land for processing of municipal waste by composting. The term includes land thereby affected during the lifetime of the operations, including, but not limited to, areas where composting actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or incidental to operation of the

facility. The term does not include a facility for composting residential municipal waste that is located at the site where the waste was generated.

Massage:

Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third party on his or her behalf will pay money or give any other consideration or any gratuity therefor.

Massage Parlor:

Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage; provided, however, that this definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the Commonwealth of Pennsylvania, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck or the shoulders. In addition, this definition shall not be construed to include a volunteer fire department, a volunteer rescue squad for a nonprofit organization operating a community center,

swimming pool, tennis court or other educational, cultural, recreational or athletic facilities and facilities for the welfare of the residents of the area.

Mobile Home Lot:

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

Municipal Waste:

Any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, §101, et seq., as amended, from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

Municipal Waste Landfill:

A facility using land for disposing of municipal waste. The facility includes land affected during the lifetime of operations including, but not limited to, areas where disposal or processing activities actually occur, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite and contiguous collection, transportation and storage facilities, closure and postclosure care and maintenance activities and other activities in which the natural land surface has been disturbed as a result of or

incidental to operation of the facility. The term does not include a construction/demolition waste landfill or a facility for the land application of sewage sludge.

Specified Anatomical Areas:

- (1) Less than completely or opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

Specified Sexual Activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast(s).

Trash Management Facility: A composting facility, municipal waste landfill or a trash transfer facility.

Trash Transfer Facility: A facility which receives and temporarily stores solid waste at a location other than the generation site, and which facilitates the bulk transfer of accumulated solid waste to a facility for further processing or disposal. The term includes land affected during the lifetime of the operations, including, but not limited to, areas where storage or transfer actually occurs, support facilities, borrow areas, offices, equipment sheds, air and water pollution control and treatment systems, access roads, associated onsite or contiguous collection and

transportation facilities, closure and postclosure care and maintenance activities, and other activities in which the natural surface has been disturbed as a result of or incidental to operation of a transfer station. A facility is a transfer facility regardless of whether it reduces the bulk or volume of waste. The term does not include portable storage containers used for the collection of municipal waste other than special handling waste.

SECTION 3. Section 137-5 of the Ordinance is hereby amended so as to change the definitions for certain defined terms as follows:

Mobile Home:

A transportable, single family dwelling intended for permanent occupancy, contained in one (1) unit or in two (2) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. For purposes of this Chapter, excluded from the definition of Mobile Home are travel trailers. Further, a Mobile Home shall not be construed as a temporary structure.

Mobile Home Park:

A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes.

Public Notice: Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Special Exception: A use permitted in a particular district by the Zoning Hearing Board pursuant to standards set forth in Section 137-102 of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, when such use is not permitted by right under this Ordinance.

Variance: A waiver from the terms and conditions of this Ordinance, granted by the Zoning Hearing Board, pursuant to Section 137-101 of this Chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

SECTION 4. Section 137-13 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-13. Conditional Uses.

The following conditional uses and their accessory uses may be permitted following a review and recommendation by the Planning Commission in accordance with the provisions of Article XII, any other applicable provisions listed below and approval by the Borough Council:

- A. Places of worship.
- B. Public and private educational institutions, but excluding commercial dance and music studios, commercial educational institutions and institutions of correction and detention.
- C. Public facility owned or operated by the Borough, but excluding outdoor storage.
- D. Utility substations, including accepted easements for local need and serving the Borough.
- E. Bed and breakfast facilities.
- F. Mobile home on individual lot.

SECTION 5. Section 137-21 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-21. Conditional Uses.

The following conditional uses and their accessory uses may be permitted following a review and recommendation by the Planning Commission in accordance with the provisions of Article XII, any other applicable provisions listed below and approval by the Borough Council:

- A. Single-family attached dwelling (townhouses).
- B. Places of worship.
- C. Multifamily residential development.

- D. Public and private educational institutions, except such uses as commercial dance and music studios, institutions of correction and detention and trade schools.
- E. Public facility owned or operated by the Borough or other government.
- F. Nonprofit recreational or educational facility, other than a golf course.
- G. Utility substation, including accepted easements for local need and serving the Borough.
- H. Conversion of existing single-family detached dwelling to a two-family, single-family attached or multifamily dwelling limited to three (3) dwelling units.
- I. Mobile homes and mobile home parks.
- J. Bed and breakfast facilities.

SECTION 6. Section 137-29 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-29. Conditional Uses.

The following conditional uses and their accessory uses may be permitted following a review and recommendation by the Planning Commission in accordance with the provisions of Article XII, any other applicable

provisions listed below and approval by the Borough Council:

- A. Single-family attached dwelling (townhouse).
- B. Places of worship.
- C. Multifamily residential development.
- D. Public and private educational institutions, except such uses as commercial dance and music studios, institutions of correction and detention and trade schools.
- E. Public facility owned or operated by the borough or other government.
- F. Nonprofit recreational or educational facility.
- G. Mid-rise multifamily residential development for the elderly.
- H. Conversion of existing single-family detached dwelling to a two-family, single-family attached or multifamily dwelling limited to three (3) dwelling units.
- I. Essential utilities, including accepted easements.
- J. Utility substation.
- K. Home professional office and home occupation.
- L. Bed and breakfast facilities.
- M. Mobile home on individual lot.

SECTION 7. Section 137-37 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-37. Conditional Uses.

The following conditional uses and their accessory uses may be permitted following a site plan review and recommendation by the Planning Commission and in accordance with the provisions of Article XII and approval by the Borough Council:

- A. Planned shopping center.
- B. Planned medical and/or dental center.
- C. Public facilities owned or operated by the Borough or other government.
- D. Motel, hotel, motor inn.
- E. Automotive service station.
- F. Drive-in service, banking, eating, drinking or similar drive-in place.
- G. Automobile, truck, mobile and modular home, boat and recreational vehicle sales completely enclosed in buildings.
- H. Wholesale and distribution activities, provided all materials are stored within buildings.
- I. Membership club or private lodge.
- J. Mortuary or funeral home.
- K. Multifamily residential development may be in combination with a commercial use.

- L. Conversion of existing single-family detached dwelling to a two-family, single-family attached or multifamily dwelling limited to three (3) dwelling units.
- M. Nursery or day-care center.
- N. Places of worship.
- O. Indoor theater.
- P. Bus or taxicab terminal.
- Q. Hospital or nursing home.
- R. Commercial recreation, swimming pool and other similar entertainment activities.
- S. Bed and breakfast facilities.
- T. Adult bookstores, adult motion picture theaters, cabarets and massage parlors.
- U. Drive-through and/or fast food restaurants.
- V. Neighborhood convenience stores.

SECTION 8. Section 137-45 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-45. Conditional Uses.

The following conditional uses and their accessory uses may be permitted following a site plan review and recommendation by the Planning Commission in accordance with the provisions of Article XII, any other applicable provisions listed below and approval by the Borough Council:

- A. Research laboratory or similar experimental testing or scientific establishment.
- B. Professional offices, including management, real estate, insurance, legal, engineering and other professional endeavors, not including retail sales activities.
- C. Publishing, printing, lithographing, bookbinding or similar establishment.
- D. Warehouse, wholesale, storage or distribution use, but excluding truck terminals.
- E. Manufacturers, assembly or treatment of articles or merchandise from the following previously prepared materials; plastics, bone, canvas, cellophane, cork, feathers, fiber, glass, horn, leather and fur (excluding tanning, curing and dyeing), precious or semiprecious metals or stones, shell, textiles and tobacco.
- F. Manufacture of: ceramic products (using only previously pulverized clay); novelty or small products from previously prepared paper or cardboard (not including bulk processing); jewelry, clocks and watches; medical, drafting, optical and other professional and scientific instruments and equipment; musical instruments; small rubber products and synthetic treated

fabrics (excluding all rubber and synthetic processing); textiles (including spinning and weaving, but not including wool scouring and pulling or jute or burlap processing or reconditioning); toys; wood products (excluding planing mills and bulk processing of wood and lumber).

- G. Processing, packaging and treatment or compounding of such products as cosmetics and toiletries, drugs, perfumes and pharmaceutical.
- H. Manufacture and assembly of electrical or electronic devices; home, commercial and industrial appliances and instruments; and electrical supplies, including such equipment and supplies as lighting fixtures, fans, home radio and television receivers, electric switches, lamps, washing machines, refrigerators and air conditioners.
- I. Processing and combining of food products (except meat and fish), (including baking, canning, cooking, freezing and mixing, but not including manufacture of basic products from the raw state or such processes as drying, smoking, preserving or curing meats, or manufacturing sauerkraut, vinegar or yeast, fish, milling flour, roasting coffee or spices.

- J. Light metal processes such as: metal machining, finishing, grinding and polishing; metal stamping and extrusion of small products (such as costume jewelry and kitchen utensils); and the manufacture of light metal products, tools and hardware (such as hand tools, bolts, nuts).
- K. Bottling, packing or packaging establishment.
- L. Central heating plant.
- M. Commercial laundry not for use by the public on the premises.
- N. Manufacture of paper or cardboard boxes, envelopes, containers and novelties from previously prepared paper or cardboard.
- O. Trade school.
- P. Utility easements and accepted easements for local need and serving the Borough.
- Q. Planned industrial, office or research park.
- R. Public facilities owned or operated by the Borough or other government.
- S. Private, nonprofit recreational or educational facility, such as company-sponsored recreational and technical training institutes.
- T. Motor vehicle repair shop.
- U. Utility substations.
- V. Gasoline service station.

- W. Hotel, motel, motor inn.
- X. Restaurant or cafeteria.
- Y. Bank or similar financial institution.
- Z. Cemetery.
- AA. Planned neighborhood convenience center with uses necessary and convenient to employees in this L-1 District.
- BB. Bed and breakfast facilities.
- CC. Adult bookstores, adult motion picture theaters, cabarets and massage parlors.
- DD. Neighborhood convenience stores.
- EE. Public storage facilities.

SECTION 9. The Ordinance is hereby amended so as to add thereto a new Section 137-72 Z as follows:

§ 137-72. Specific Requirements.

- Z. Mobile Homes, Mobile Home Lots and Mobile Home Parks shall meet the following requirements:
 - (1) There shall be no more than five (5) mobile homes per acre in a mobile home park.
 - (2) Mobile home parks shall have a minimum area of ten (10) acres; a minimum public street frontage of five hundred (500) feet; a minimum distance from public

street of one hundred (100) feet to the first row of mobile homes; a minimum side yard of fifty (50) feet; a minimum distance from the rear line of the park to the nearest mobile home of fifty (50) feet; and a maximum height of thirty-five (35) feet for mobile homes.

- (3) Mobile home lots located on mobile home parks shall have a minimum area of eight thousand (8,000) square feet; a minimum public street frontage of eighty (80) feet; a minimum front yard setback of twenty-five (25) feet; a minimum side yard of twenty-five (25) feet, a minimum rear yard setback of twenty-five (25) feet; and a maximum height for mobile homes of thirty-five (35) feet.
- (4) Dimension requirements for mobile home sites not in mobile home parks shall be those for single family detached dwellings in the zoning district where such mobile home sites are proposed to be developed.
- (5) In addition to general regulations in this Article IX, the following shall apply to mobile home parks:

- (a) Each site shall be served with underground electricity, water and sewers. The water supply and sewage disposal shall be acceptable to the Pennsylvania Department of Environmental Resources and in conformance with the ordinances and regulations of the Borough.
- (b) In all parks accommodating or designed to accommodate twenty-five (25) or more mobile homes, there shall be one (1) or more recreation areas which shall be easily accessible to all homes. The size of such areas shall equal at least two hundred (200) square feet for each mobile home and no recreation area shall be less than five thousand (5,000) square feet. Such recreational areas shall comply with all ordinances and regulations of the Borough.
- (c) Pedestrian walks of portland cement concrete shall be provided between the individual mobile homes, public and private streets and all

community facilities provided for the residents. Such pedestrian walks shall meet all ordinances and regulations of the Borough, including, without limitation, Section 110-3 of the Code of the Borough of Alburtis, as amended.

- (d) Streets within mobile home parks shall comply with all ordinances and regulations of the Borough, including, without limitation, Section 113-20 of the Code of the Borough of Alburtis, as amended.

SECTION 10. Section 137-73 of the Ordinance is hereby amended so as to add thereto new Subsections 137-73(P) and 137-73(Q) as follows:

P. Parking of Mobile Homes.

- (1) For purposes of this Section 137-73, the term "to park" and other forms of such term shall mean the temporary stationing of a mobile home, whether or not on an approved mobile home park, mobile home lot or other approved site, without full compliance with the provisions of Sections 137-72 and 137-61A hereof, setting forth

the requirements of mobile home placements.

(2) Only one (1) mobile home may be parked at the same time on any single premises other than an approved mobile home park, and on such single premises, such mobile home may not be parked more than forty-eight (48) consecutive hours. At the end of such time period, the mobile home must be removed or placed on an approved site as set forth in Section 137-61A hereof. One (1) or more mobile homes may be parked in an approved mobile home park for a period of time no longer than forty-eight (48) consecutive hours at the end of which time such mobile home or homes must be removed or placed on approved mobile home lots within such mobile home park as set forth in Section 137-61A hereof.

(3) A mobile home may be parked on the approved site not in a mobile home park, upon which site such mobile home shall be placed as set forth in Section 137-61A hereof, provided that the mobile home is parked on such site no longer than forty-eight (48) hours before such placement.

(4) No mobile home shall be parked in any district outside an approved mobile home park or an approved site outside a mobile home park. Parking of mobile homes shall observe the yard requirements for an accessory building.

(5) No mobile home shall be parked on any public street.

Q. Temporary Facility Permit.

(1) As an exception to Subsection 137-73(P), a permit may be issued by the Zoning Officer for parking and occupying a mobile home on land as set forth below:

(a) On land owned by the occupant or occupants as a temporary facility during construction of the permanent facility thereon; or

(b) On land during construction of a permanent facility thereon as a temporary office of the general contractor.

(2) In no event shall the zoning permit authorize such parking for a period exceeding one hundred eighty (180) days but such permit shall be renewable for an additional period not exceeding one

hundred eighty (180) days. The Zoning Officer may renew such permit if the permit holder shows clearly and convincingly that construction has been prosecuted diligently and that construction cannot be completed with one hundred eighty (180) days despite diligent efforts due to the scope of the project or delays outside such permit holder's control as follows: Acts of God, war, labor strikes and materials unavailability. If material progress with construction work ceases for a consecutive period of forty-five (45) days, any such permit or renewal shall be revoked. The mobile home shall be removed from the site or placed on an approved mobile home site on the earliest date of completion of construction or the end of the term of the permit and any renewal or any revocation thereof. There shall be only one occupancy during construction, either as a residence or office by the landowner or as an office by the general contractor.

- (3) Conditions to issuance and continued validity of any such temporary parking

permit shall be (a) provisions for electrical supply, water supply and sanitary sewage disposal and approval by the respective utility provider, the plumbing inspector and/or the building inspector, as appropriate, shown by the permit applicant clearly and convincingly to the Zoning Officer; and (b) compliance with all rules, regulations and orders of any governmental or judicial entity having jurisdiction over the premises.

SECTION 11. The Ordinance is hereby amended so as to add thereto the following new Section 137-61 A:

§ 137-61 A. Mobile Home Siting.

A. All mobile home placements on an individual lot, whether or not a mobile home lot, shall satisfy the following minimum conditions:

- (1) The mobile home shall be situate on a foundation which, for purposes of this Chapter, shall be known as the "stand". The stands or lot shall be elevated on compacted fill, or on pilings, so that the lowest floor of the mobile home shall be at least one and one-half (1-1/2) feet above the elevation of the line for floods

having an average frequency of occurrence on the order of once in one hundred (100) years.

- (2) The stands shall be constructed from material sufficient to adequately support the mobile home and prevent abnormal settling or heaving. The corners of the mobile home shall be anchored to prevent wind overturn and rocking with tie-down, such as concrete "dead-men", screw augers, arrowhead anchors, or other devices suitable to withstand a tension of at least two thousand eight hundred (2,800) pounds and otherwise to resist floatation, collapse or lateral movement.
- (3) The mobile home site shall be provided with adequate surface drainage and adequate access for a hauler.
- (4) After a mobile home has been anchored to the mobile home stand, the hitch which is employed for the transportation of the mobile home shall be removed if the same can be accomplished without damaging the mobile home. Further, a skirt shall be installed around the base of the mobile home.

- (5) As required by the Borough's Building Code, all mobile homes placed on a permanent foundation or on foundation piers shall be designed and constructed to comply with all of the requirements of the Building Code for on-site and prefabricated construction.

SECTION 12. Section 137-113 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-113. Notice of Violation.

- A. If it appears to the Borough that a violation of this chapter has occurred, the Borough shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel in which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:

- (1) The name of the owner of record and any other person against whom the Borough intends to take action.
- (2) The location of the property in violation.
- (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
- (4) The date before which the steps for compliance must be commenced.
- (5) The date before which the steps for compliance must be completed.
- (6) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within thirty (30) days next following the date of the notice.
- (7) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

SECTION 13. Section 137-111 A of the Ordinance is hereby amended to read henceforth as follows:

§ 137-111. Zoning Permits Required.

A. No building, structure or sign shall be erected, constructed, moved, added to, or structurally altered, nor shall land be put to any use nor shall the use of such land be changed without a permit therefor, issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this chapter or upon written order from the Zoning Hearing Board in the form of a special exception, variance or as otherwise provided for by this chapter, the Pennsylvania Municipalities Planning Code, any applicable laws or any court of competent jurisdiction.

SECTION 14. Section 137-109 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-109. Zoning Officer.

A Zoning Officer shall be appointed by the Borough Council to administer and enforce this chapter. The Zoning Officer shall meet any qualifications established by Borough Council and shall be able to demonstrate to the satisfaction of Borough Council a working knowledge of municipal zoning. The Zoning Officer shall not hold any elective office in the Borough. The Zoning Officer's duties shall include, but not be limited to, the following:

- A. Receive and examine all applications for zoning permits and issue zoning permits only for any use or change of use which conforms to this chapter.
- B. Refer zoning permit applications for special exceptions to the Zoning Hearing Board.
- C. Refer zoning permit applications for conditional uses to the Planning Commission.
- D. Issue permits for construction or uses requiring a special exception or variance only upon order of the Zoning Hearing Board. Permits requiring approval by the Borough Council shall be issued only after receipt of an authorization from Borough Council.
- E. Following refusal of a permit, receive applications for interpretation, appeals and variances and forward these applications to the Zoning Hearing Board for action thereon.
- F. Conduct inspections and surveys to determine compliance or noncompliance with the terms of this chapter.
- G. Issue enforcement notices for violations of this chapter as set forth in Section 137-113 below. Any failure to comply with such enforcement notice shall constitute a violation of this chapter.

- H. Institute civil enforcement proceedings as a means of enforcement when acting within the scope of such Zoning Officer's employment, subject to the approval or direction of Borough Council in cases of equitable actions as set forth more particularly in Section 137-114 below.
- I. Keep an official record of all business and activities, including complaints of a violation of any of the provisions of this chapter and of the subsequent action taken on each such complaint. All such records shall be open to public inspection. The Zoning Officer shall also file copies of all applications received, permits issued, reports and inspections made in connection with any structure, building or land.
- J. Maintain a map or maps showing the current zoning classification of all land in the Borough.
- K. Identify, register and map all nonconforming lots, uses and structures created as a result of the adoption of this chapter or created as a result of amendments thereto, and with each such case, the Zoning Officer shall indicate the reasons it was identified as a nonconformity.

- L. Issue occupancy permits in accordance with the terms of this chapter.

SECTION 15. Section 137-108 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-108. Amendments and Procedures.

- A. Borough Council may, from time to time, amend this chapter and/or the Official Zoning Map after public notice and hearing.

- B. Procedure. The following procedures shall be observed in amending this chapter or the Official Zoning Map:

- (1) For the preparation of amendments to this chapter, the procedure set forth in Section 607 of the Pennsylvania Municipalities Planning Code for the preparation of a proposed zoning ordinance shall be optional.

- (2) Before voting on the enactment of an amendment, the Borough Council shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the

Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.

- (3) In the case of an amendment other than that prepared by the Borough Planning Commission, the Borough Secretary shall submit each such amendment to the Borough Planning Commission at least thirty (30) days prior to the hearing on such proposed amendment to provide the Borough Planning Commission an opportunity to submit recommendations.
- (4) If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- (5) At least thirty (30) days prior to the public hearing on the amendment by Borough Council, the Borough Secretary shall submit the proposed amendment to the Joint

Planning Commission of Lehigh and
Northampton Counties for recommendations.

C. Publication, Advertisement and Availability of
Ordinances.

- (1) Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this subsection, and shall include the time and place of the meeting at which passage will be considered, a reference to the place within the Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough shall publish the proposed ordinance or amendment once in a newspaper of general circulation in the Borough not more than sixty (60) days nor less than seven (7) days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- (a) A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.
 - (b) An attested copy of the proposed ordinance shall be filed in the County Law Library or other county office designated by the Lehigh County Commissioners.
- (2) In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, Borough Council shall, at least ten (10) days prior to enactment, readvertise, in one newspaper of general circulation in the Borough, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.
 - (3) Within thirty (30) days after enactment, a copy of the amendment to this chapter shall be forwarded to the Joint Planning Commission of Lehigh and Northampton Counties.

SECTION 16. Section 137-100 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-100. Challenges to the Validity of the Chapter.

- A. A landowner who, on substantive grounds, desires to challenge the validity of this chapter or the Official Zoning Map or any provision thereof which prohibits or restricts the use or development of land in which he has an interest shall submit the challenge either:
- (1) to the Zoning Hearing Board under Subsection 137-99 of the Ordinance; or
 - (2) to the Borough Council together with a request for a curative amendment under Section 609.1 of the Pennsylvania Municipalities Planning Code.
- B. Persons aggrieved by a use or development permitted on the land of another by this chapter or the Official Zoning Map, or any provision thereof, who desires to challenge its validity on substantive grounds, shall first submit their challenge to the Zoning Hearing Board for a decision thereon under Subsection 137-99 A(1) of this chapter.
- C. The submissions referred to in Subsections A and B above shall be governed by the standards set forth in Section 916.1(c) of the Pennsylvania Municipalities Planning Code.

- D. The Zoning Hearing Board or Borough Council, as the case may be, shall commence its hearings within sixty (60) days after the request is filed unless the landowner requests or consents to an extension of time.
- E. Public notice of the hearing shall include notice that the validity of this chapter or the Official Zoning Map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.

SECTION 17. Section 137-110 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-110. Fees, Charges and Expenses.

- A. Borough Council shall establish, by resolution, a schedule of fees with respect to the administration of this chapter, as amended from time to time, and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall

not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs. The schedule of fees shall be posted in the office of the Zoning Officer.

- B. No action shall be taken on any application or appeal until all application fees, charges and expenses have been paid in full.

SECTION 18. Section 137-97 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-97. Compensation and Expenditures.

- A. Borough Council may appropriate funds to finance the preparation of zoning ordinances and amendments and shall appropriate funds for administration, for enforcement and for actions to support or oppose, upon appeal to the courts, decisions of the Zoning Hearing Board.
- B. Borough Council shall make provision in its budget and appropriate funds for the operation of the Zoning Hearing Board.
- C. Within the limits of funds appropriated by Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical

and clerical services. The legal counsel shall be an attorney other than the solicitor for the Borough.

- D. Members of the Zoning Hearing Board may receive compensation for the performance of their duties, as may be fixed by resolution of Borough Council, but in no case shall it exceed the rate of compensation authorized to be paid to the members of Borough Council. Alternate members of the Zoning Hearing Board may receive compensation, as may be fixed by resolution of Borough Council, for the performance of their duties when designated as alternate members, but in no case shall such compensation exceed the rate of compensation authorized to be paid to members of Borough Council.
- E. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if a transcript is ordered by the Zoning Hearing Board or Hearing Officer, or shall be paid by the person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the person

requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof.

SECTION 19. Section 137-94 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-94. Membership; Term.

A. Regular Members. The membership of the Zoning Hearing Board shall consist of three (3) residents of the Borough, appointed by resolution of Borough Council. The terms of office shall be three (3) years and shall be so fixed that the term of office of one (1) member shall expire each year. The Zoning Hearing Board shall promptly notify Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Borough.

B. Alternate Members. Borough Council may appoint by resolution at least one (1) but no more than three (3) residents of the Borough to serve as alternate members of the Zoning Hearing Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to

the provisions of Section 137-96, an alternate shall be entitled to participate in all proceedings and discussions of the Zoning Hearing Board to the same and full extent as provided by this chapter for members of the Zoning Hearing Board, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. Alternates shall hold no other office in the Borough, including membership on the Planning Commission and Zoning Officer. Any alternate may participate in any proceeding or discussion of the Zoning Hearing Board but shall not be entitled to vote as a member of the Zoning Hearing Board nor be compensated pursuant to Section 137-95 of this chapter unless designated as a voting alternate member pursuant to Section 137-96 of this chapter.

SECTION 20. Section 137-96 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-96. Organization.

- A. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve

annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Zoning Hearing Board, but the Zoning Hearing Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Zoning Hearing Board as provided in Section 137-98 of this chapter.

- B. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Zoning Hearing Board shall designate as many alternate members of the Zoning Hearing Board to sit on the Zoning Hearing Board as may be needed to provide a quorum. Any alternate member of the Zoning Hearing Board shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Zoning Hearing Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

C. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business, which records shall be the property of the Borough, and shall submit a report of its activities to Borough Council as requested by Borough Council.

SECTION 21. Section 137-98 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-98. Hearings.

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer, all persons owning property adjoining the premises in question, and to any person who has made a timely request for the same.

Written notices shall be given at least fifteen (15) days before the date of hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of

land at least one (1) week prior to the hearing.

- B. The hearings shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Hearing Board; however, the appellant or the applicant, as the case may be, in addition to the Borough, may, prior to the decision of the hearing, waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the Hearing Officer as final.
- D. The parties to the hearing shall be the Borough, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter their appearances

in writing on forms provided by the Zoning Hearing Board for that purpose.

- E. The Chairman or Acting Chairman of the Zoning Hearing Board or the Hearing Officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The cost of the stenographer's appearance fee and the cost of the original transcript and copies shall be paid as set forth in Subsection 137-97 E of this Chapter.
- I. The Zoning Hearing Board or the Hearing Officer shall not communicate, directly or indirectly,

with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, and shall not take notice of any communication, reports, staff memoranda or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative, unless all parties are given an opportunity to be present.

- J. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board or Hearing Officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, this chapter, or of any other ordinance,

rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Where the Board fails to render the decision within the period required by this subsection or fails or hold the required hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of a failure of the Zoning Hearing Board to meet or

render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Zoning Hearing Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the date following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide, by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

SECTION 22. Section 137-99 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-99. Exclusive Jurisdiction.

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications on the following matters:

- A. Substantive challenges to the validity of any land use ordinance of the Borough, except those brought before Borough Council as landowner curative amendments pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance.
- C. Appeals from the determination of the Zoning Officer including, but not limited to, the granting or denial of any permit or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- D. Appeals from the determination by a municipal engineer or the Zoning Officer with reference to the administration of any flood plain or

flood hazard ordinance or such provisions within a land use ordinance.

- E. Applications for variances from the terms of this Ordinance and any flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 137-101 hereof.
- F. Applications for special exceptions under this Ordinance or any flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 137-102 hereof.
- G. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under Articles V or VII of the Pennsylvania Municipalities Planning Code.

SECTION 23. Section 137-102 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-102. Special Exceptions.

Where the Borough Council in this Chapter has stated special exceptions to be granted or denied by the Board pursuant to express standards and criteria, the Board

shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this Chapter.

SECTION 24. Section 137-103 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-103. Parties Appellant Before the Zoning Hearing Board.

Cases brought under Subsections 137-99 A, B, C, D, and G may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Borough or any person aggrieved. Requests for a variance under Section 137-101 and Subsection 137-99 E and for a special exception under Section 137-102 and Subsection 137-99 F may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

SECTION 25. Subsection 137-104 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-104. Time Limitations.

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later

than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan for a planned residential development pursuant to Section 709 of the Pennsylvania Municipalities Planning Code or from an adverse decision by the Zoning Hearing Officer on a challenge to the validity of this chapter, the Official Zoning Map or other ordinance pursuant to Section 916.2 of the Pennsylvania Municipalities Code, to the extent such decisions are permitted by this chapter, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative approval.

- B. All appeals from determinations adverse to the landowners made pursuant to Subsection 137-99 C, D and G and pursuant to any preliminary opinion of the Zoning Officer, to the extent permitted by this chapter, which is adverse to the landowner, shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

SECTION 26. Article XVII of the Ordinance is hereby amended so as to add thereto the following Section 137-105B as follows:

§ 137-105B. Mediation Option.

- A. Parties to proceedings authorized in this chapter and in Article X-A of the Pennsylvania Municipalities Planning Code may utilize mediation as an aid in completing such proceedings. In proceedings before the Zoning Hearing Board, in no case shall the Zoning Hearing Board initiate mediation or participate as a mediating party. Mediation shall supplement, not replace, those procedures in this chapter and in Article X-A of the Pennsylvania Municipalities Planning Code once they have been formally initiated. Nothing in this section shall be interpreted as expanding

or limiting municipal police powers or as modifying any principles of substantive law.

B. Participation in mediation shall be wholly voluntary. The appropriateness of mediation shall be determined by the particulars of each case and the willingness of the parties to negotiate. The Borough shall assure that, in each case, the mediating parties, assisted by the mediator as appropriate, develop terms and conditions for:

- (1) funding mediation.
- (2) selecting a mediator who, at a minimum, shall have a working knowledge of municipal zoning law and subdivision procedures and demonstrated skills in mediation.
- (3) completing mediation, including time limits for such completion.
- (4) suspending time limits otherwise authorized in this Ordinance and the Pennsylvania Municipalities Planning Code, provided there is a written consent by the mediating parties, and by an applicant or municipal decision-making body if either is not a party to the mediation.

- (5) identifying all parties and affording them the opportunity to participate.
- (6) subject to legal restraints, determining whether some or all of the mediation sessions shall be open or closed to the public.
- (7) assuring that mediated solutions are in writing and signed by the parties, and become subject to review and approval by the appropriate decision-making body pursuant to the authorized procedures set forth in other sections of this chapter and the Pennsylvania Municipalities Planning Code.

C. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

SECTION 27. The Ordinance is hereby amended so as to add thereto a new Section 137-114 as follows:

§ 137-114. Causes of Action.

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in

violation of this chapter, as amended, Borough Council, or with the approval of Borough Council, the Zoning Officer, or any aggrieved person or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Borough Secretary at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on Borough Council. No such action may be maintained until such notice has been given.

. SECTION 28. Section 137-113 of the Ordinance is hereby amended so as to henceforth read as follows:

§ 137-113. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter, as amended, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than Five

Hundred Dollars (\$500.00) plus all court costs, including reasonable attorneys fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the Pennsylvania Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the district justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorneys fees collected for the violation of this chapter shall be paid over to the Borough.

- B. The Court of Common Pleas of Lehigh County, Pennsylvania, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity, other than the Borough, the right to commence any action for enforcement pursuant to this section.

SECTION 29. Subsection 137-59 E of the Ordinance is hereby amended so as to henceforth read as follows:

- E. The presence of woodlands, steep slopes and soils with significant surface erodability are natural features of land which, when any two (2) are present in the affected area of a lot proposed to be developed, shall fix the minimum lot area as follows:
- (1) A minimum lot area of one (1) acre (43,560 square feet) shall be required when, in the affected area of any single lot, there exists any two (2) of the following natural features:

- (a) Steep Slopes in excess of eight percent (8%) but not more than fifteen percent (15%) grade;
 - (b) Woodlands covering fifty percent (50%) or more of the affected area;
 - (c) Soil surface erodability is medium or high.
- (2) A minimum lot area of one and a half (1.5) acres (65,340 square feet) shall be required when, in the affected area of any single lot, there exists any two (2) of the following natural features:
- (a) Steep Slopes in excess of fifteen percent (15%) grade;
 - (b) Woodlands covering seventy-five percent (75%) or more of the affected area;
 - (c) Soil surface erodability is medium or high.

Soil surface erodability shall be determined by reference to the Lehigh County Soil Survey, published by the Soil Conservation Service of the United States Department of Agriculture, as amended and reprinted from time to time. Steep slopes shall be determined by specific surveying measurements on the lot or lots in question as the average grade in the affected area, and

shall not be taken from the United States Geological Survey or other similar large-scale topographic maps. Notwithstanding anything contained in this subsection to the contrary, should any lot proposed for development be located in a zoning district requiring a greater minimum lot area than as set forth herein, then the minimum lot area for any such lot shall be as required in such zoning district. For purposes of this subsection, the term "affected area" shall mean any area of the lot where topsoil shall be removed or covered during development, including without limitation, the building site, parking and driveway areas. All lots shall be accessible from the existing or proposed street by means of adequately and properly designed service drives having a maximum grade of twelve percent (12%).

SECTION 30. Section 137-72 of the Ordinance is hereby amended so as to henceforth include the following Subsection 137-72 AA:

AA. Adult Bookstores, Adult Motion Picture Theaters, Cabarets and Massage Parlors. The following minimum requirements shall be met:

- (1) No adult bookstore, adult motion picture theater, cabaret or massage parlor shall be erected, established or used in any R-1 Low-Density Residential Zoning District, R-2

Medium-Density Residential Zoning District or
R-3 High-Density Residential Zoning District.

- (2) No adult bookstore, adult motion picture theater, cabaret or massage parlor shall be erected, established or used within one thousand (1,000) lineal feet from the property line of any existing adult bookstore, adult motion picture theater, cabaret or massage parlor.
- (3) No adult bookstore, adult motion picture theater, cabaret or massage parlor shall be erected, established or used within five hundred (500) feet from the property line of any school, building used primarily as a place of worship, playground or within five hundred (500) feet of the boundary of any other zoning district established by this Chapter.
- (4) The Zoning Hearing Board may authorize the establishment of an adult bookstore, adult motion picture theater, cabaret or massage parlor within five hundred (500) feet from the property line of any school, building used primarily as a place of worship, playground or within five hundred (500) feet of any other zoning district established by this Chapter, as

a conditional use only if the following findings are made by the Zoning Hearing Board:

- (a) That the applicant has presented to the Zoning Hearing Board a petition which indicates approval of the proposed use by fifty-one percent (51%) of the persons eighteen (18) years of age or older, residing or doing business within a radius of five hundred (500) feet of the location of the proposed use. The applicant shall have attempted to contact all eligible locations within this radius and must supply a list of all addresses at which no contact was made. The circulator of the petition shall subscribe to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition and that the same were affixed to the petition by the persons whose names appear thereon.
- (b) That the proposed use will not adversely affect the safe and comfortable enjoyment of the properties in the neighborhood and will not be detrimental to the general character of the area.

- (c) That the establishment of the proposed use in the area will not be contrary to any program of neighborhood conservation and will not interfere with any program of urban renewal.
- (d) That the conditions set forth in Subsection 137-71(A) of this Chapter relating to conditional uses will be met.
- (e) That all other applicable regulations of this Ordinance will be observed.

SECTION 31. Subsection 137-73(O) of the Ordinance is hereby amended so as to read henceforth as follows:

- o. No more than one (1) vehicle or part of a vehicle (excluding recreational vehicles) without a current license 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.

SECTION 32. Subsection 137-74(C) of the Ordinance is hereby amended so as to read henceforth as follows:

- 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 in Subsection B above.

SECTION 33. Section 137-74 of the Ordinance is hereby amended so as to add thereto a new Subsection 137-74(Z) as follows:

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.

SECTION 34. Section 137-72 of the Ordinance is hereby amended so as to add thereto the following new Subsection 137-72 BB:

BB. Bed and Breakfast Use. The following minimum requirements shall be met:

- (1) No more than five (5) guest rooms shall be provided.
- (2) Off-street parking spaces as provided in Subsection 137-74(Z) and subject to the general regulations and provisions set forth in Article XIII of this Chapter.

- (3) At least one (1) bathroom shall be provided for use by guests. A second bathroom shall be provided for use by the owner of the premises and the family of such owner. For purposes of this section, a bathroom shall be deemed to consist of the following minimum fixtures: a commode; window or approved ventilation system; lavatory; shower or bathtub (connected to water supply and sanitary sewage systems, respectively); and contained in a room served by at least one (1) light fixture and ground fault electric receptacle, which room is not designed or used as passage from a second room to a third room.
- (4) There shall be no use of show windows or any type of display or advertising visible from outside the premises, except for a single sign no larger than two (2) square feet in size constructed and placed in accordance with Article XV of this Chapter.
- (5) No external alterations or changes to the exterior structure shall be permitted except as required by the Pennsylvania

Department of Labor and Industry or for safety reasons as required by any other governmental agency.

- (6) The use shall be carried on by the owner of the premises or by members of the immediate family of such owner, who must reside on the premises.
- (7) There shall be no separate kitchen or cooking facilities in any guest room. Food served to guests on the premises shall be limited to breakfast only. The owner of the facility shall comply with all rules, laws, regulations or orders of any judicial body or governmental entity having jurisdiction over the facility, including without limitation any requirements in connection with preparation and service of food to guests.
- (8) The maximum, uninterrupted length of stay at a bed and breakfast use shall be fourteen (14) days.
- (9) The use of any amenities provided by the bed and breakfast, such as a swimming pool or tennis court, shall be restricted in use to the guests of the establishment,

the owner of the premises and such owner's family.

- (10) The existing sewage system shall be recertified as being adequate, in accordance with state regulations.

SECTION 35. Section 137-72 of the Ordinance is hereby amended so as to add thereto the following new Subsection 137-72CC:

CC. Public Storage Facilities. The following minimum requirements shall be met:

- (1) The minimum yard requirements for all yards along lot lines which adjoin residential uses or districts and for all yards which front on public streets shall be increased by five (5) feet, and a buffer strip shall be installed within such yards which satisfies the conditions of Section 137-79.
- (2) Roads and driveways shall be designed and constructed in accordance with Chapter 113, Article VI, of the Code of the Borough of Alburtis.
- (3) There shall be a minimum of one (1) parking space for each storage unit. Parking spaces and areas shall be designed and constructed in accordance with Chapter

137, Article XIII, of the Code of the Borough of Alburdis.

- (4) Minimum lot size shall be one (1) acre.
- (5) No person shall be permitted to store flammable, toxic, explosive or other hazardous materials, nor shall any meats, animal matter, living animal, foods or FDA identified controlled substances be stored or kept on the premises.
- (6) At least one (1) electric light shall serve each storage unit.
- (7) Maximum building height shall be twenty-five (25) feet and no building shall be more than one (1) story. However, if a residential dwelling unit is approved under paragraph 8, the dwelling unit may constitute the second story of a building, and the maximum height of the portion of any building which contains a residential dwelling unit shall be thirty-five (35) feet. All other dimensional requirements of the zoning district shall be met.
- (8) There shall be a functioning security system in place at all times and the owner, or his designated agent, shall be available to supervise the premises at all

hours. The owner shall provide to the Alburdis Police Department his name, address and telephone numbers, and the name, address and telephone numbers of his agent, if any, in charge of the facility. The owner shall be responsible for keeping such information current while such public storage facility is used. Telephone numbers provided shall enable the Alburdis Police Department to reach such owner and agent directly twenty-four (24) hours each day. If approved by Borough Council on conditional use review, the facility may include one (1) residential dwelling unit for the sole use of the owner or his designated facility supervisor or manager and his family.

- (9) All items of personal property shall be stored within an enclosed building on the premises, provided, however, that recreational vehicles, boats, trailers and other motor vehicles may be stored on the premises outside an enclosed building under screened conditions. Such screening must consist of a wall, fence or buffer strip which, in the judgment of the

Alburtis Borough Council, shall keep such personal property from public view on adjacent streets and properties.

SECTION 36. Section 137-72 of the Ordinance is hereby amended so as to add thereto the following new Subsection 137-72DD:

DD. Drive-Through and/or Fast Food Restaurants.

The following minimum requirements shall be met:

- (1) The subject property shall front on a collector street as identified in Section 113-20(B) of the Borough Code of Ordinances.
- (2) Exterior trash receptacles shall be provided and routinely emptied so as to prevent the scattering of litter. Such trash receptacles shall be emptied into a central trash storage receptacle, or dumpster, which shall be kept behind the restaurant and out of public view in a walled or fenced area under lock. Such walls or fences shall be at least eight (8) feet in height. All applications shall include a description of a working plan for the clean-up of litter.

- (3) All drive-through window lanes shall be separated from the parking lot's interior driveways.
- (4) Any exterior speaker/microphone system, if any, shall be arranged and/or screened to prevent objectionable noise impact on adjoining residential properties.
- (5) All exterior seating/play areas shall be completely enclosed by a three-foot-high fence.
- (6) No part of the subject property shall be located within two hundred (200) feet of any residentially-zoned land.
- (7) A buffer yard shall be required as set forth in Subsection 137-72(CC)(1) along all lot lines adjoining residential uses and along all public streets.
- (8) All exterior lights shall be arranged and designed to prevent light from shining on adjoining residential properties and public streets.

SECTION 37. Section 137-72 of the Ordinance is hereby amended so as to add thereto the following new Subsection 137-72EE:

EE. Convenience Stores. The following minimum requirements shall be met:

- (1) Convenience stores shall be located only on collector streets as identified in Section 113-20(B) of the Borough Code of Ordinances.
- (2) The proposed convenience store shall be designed for sales of goods for personal or household uses. No vehicular uses, other than gasoline sales, shall be permitted nor shall adult-related uses be permitted on the premises.
- (3) The proposed convenience store shall not be located adjacent to a residential zoning district.
- (4) All activities except those to be performed at the fuel pumps and/or air pumps, if any, shall be performed within a completely enclosed building.
- (5) Other than cars of employees of the store, no vehicle shall be parked on the premises for more than one (1) hour.
- (6) There shall be provided the following minimum parking spaces: one (1) parking space for each employee, one (1) parking space for each gasoline pump and for each air pump, plus six (6) parking spaces for

each one thousand (1,000) square feet of retail sales area.

- (7) Fuel pumps, if any, shall be located at least twenty-five (25) feet from any street right-of-way.
- (8) The minimum lot size shall be one (1) acre.
- (9) No convenience store shall be located within one thousand (1,000) feet of another convenience store.
- (10) Such convenience store shall be screened from adjoining residences and public street fronts by a buffer yard as set forth in Subsection 137-72(CC)(1).
- (11) No outdoor storage shall be permitted. Dumpsters shall be enclosed out of public view by an eight (8) foot high wall or fence kept under lock.

SECTION 38. A new Section 137-61A is hereby added to the Ordinance after the end of existing Section 137-61:

§ 137-61A. Substandard Lots.

Notwithstanding any other provision of this Ordinance to the contrary, Borough Council may approve as a conditional use, in accordance with the provisions of Article XII, the creation and use of a lot which fails to

satisfy one or more of the dimensional requirements of Sections 137-16, 137-17, 137-24, 137-25, 137-32, 137-33, 137-40, 137-41, 137-49, 137-50, so long as the lot is restricted to use as:

- A. a buffer area, a detention or retention pond, or a way of passage for pedestrian, vehicles or utilities, provided that the lot is identified on all applicable subdivision plans as "Not a Building Lot";
- B. a water ejector station; or
- C. a public facility owned or operated by the Borough or other government unit;

and such use on the substandard lot is not detrimental to the public health, safety or general welfare.

SECTION 39. Severability. Should any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

SECTION 40. Repeal of Conflicting Ordinances. All existing ordinances or parts of ordinances, including, without limitation, Ordinance No. 172 of March 5, 1975, as amended, are

hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 41. Effective Date. This Ordinance shall become effective immediately from and after its advertisement and enactment as required by law.

ENACTED and ORDAINED as an Ordinance of the Borough of Alburdis, Lehigh County, Pennsylvania, this 30 day of December, 1941.

BOROUGH OF ALBURDIS

BY: Arthur R. Raine
President of Borough Council

ATTEST: Louise Staub
Secretary of the
Borough of Alburdis

APPROVED as an Ordinance of the Borough of Alburdis, Lehigh County, Pennsylvania, this day of , 19 .

Paul J. H. Law
Mayor

I hereby certify that the foregoing is a true and correct copy of Ordinance 280, Amendments to the Zoning Ordinance, Chapter 137.

Louise Staub
Louise Staub, Secretary