

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 474

(Duly Adopted August 13, 2008)

AN ORDINANCE AMENDING CHAPTER 21 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING) TO PERMIT KENNELS IN THE L-1 LIGHT INDUSTRIAL–OFFICE RESEARCH ZONING DISTRICT BY RIGHT SO LONG AS NO ANIMALS ARE KEPT OUTSIDE OF A COMPLETELY ENCLOSED BUILDING AT NIGHT; TO PROVIDE A SPECIFIC OFF-STREET PARKING REQUIREMENT FOR NURSERIES AND DAY-CARE CENTERS; TO ADD THE REQUIREMENT OF SECTION 21-1311(a) THAT OUTDOOR PLAY AREAS AT NURSERIES OR DAY-CARE CENTER MUST BE SCREENED FROM ADJOINING PROPERTIES TO THE LIST OF BUFFER-TYPE IMPROVEMENTS WHICH MAY BE DEFERRED OR WAIVED UNDER CERTAIN CONDITIONS WITH THE CONSENT OF THE OWNER OF THE PROTECTED PROPERTY; AND TO CLEAN UP AND CLARIFY CERTAIN CONTRADICTORY, CONFUSING, OR INELEGANT LANGUAGE IN SECTIONS 21-255 (RELATING TO DEFINITION OF LOT LINE), 21-297 (RELATING TO DEFINITION OF YARD), AND 21-905(f) (RELATING TO GENERAL YARD REQUIREMENTS—CORNER LOTS); AND ALSO AMENDING CODIFIED ORDINANCES SECTION 35-307(d) (RELATING TO PROPERTY MAINTENANCE CODE—CARBON MONOXIDE ALARM REQUIREMENTS) TO PERMIT REQUIRED CARBON MONOXIDE ALARMS TO SATISFY EITHER UNDERWRITERS LABORATORIES STANDARD UL 2034 OR UL 2075.

**WHEREAS**, the Borough of Albutris 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 Albutris Codified Ordinances; and

**WHEREAS**, the zoning ordinance defines the term and use “kennel,” but does not specifically provide for this use in any zoning district; and

**WHEREAS**, Borough Council desires to permit kennels to be established in the L-1 Light Industrial-Office Research zoning district by right, provided that no animals may be kept outside of a completely enclosed building between the hours of 9:00 P.M. and 6:00 A.M., and all kennels shall operate in accordance with applicable state regulations; and

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

**WHEREAS**, by Ordinance 403, adopted March 26, 2003 and enacted without the Mayor's signature as of April 9, 2003, Borough Council amended the zoning ordinance to permit the deferral of certain buffer-type improvements with the consent of the owners of the "protected" property, until one-year after the date the consenting owner or his successors in title withdraw such consent, so that the improvements need not be constructed while the owners of the property to be "protected" feel the protection is either not necessary or even detrimental; and

**WHEREAS**, by Ordinance 465, adopted December 26, 2007, further amended the zoning ordinance to permit the permanent waiver of such buffer-type improvements with the consent of the owners of the "protected" property by conditional use approved by Borough Council; and

**WHEREAS**, although many buffer-type improvements are included in the list of improvements which may be so deferred or waived, the requirement of § 21-1311(a) that outdoor play areas at nurseries and day care centers must be screened from adjoining properties is not on the list; and

**WHEREAS**, Borough Council believes that it is appropriate to add the screening requirement of § 21-1311(a) to the list of buffer-type improvements which may be deferred with the consent of the owners of the adjoining properties; and

**WHEREAS**, the current off-street parking schedule under the zoning ordinance does not have a specific requirement applicable to nurseries and day care centers, and Borough Council believes that the current default requirement of § 21-1415(aa) for other business and service establishments not specifically covered in § 21-1415 is excessive for nurseries and day care centers; and

**WHEREAS**, Borough Council believes that it is appropriate to establish a specific parking requirement applicable to a nursery or day care center, such that there is at least one space for each employee working at the time the greatest number of employees are present, plus one additional space; and

**WHEREAS**, certain aspects of zoning ordinance sections 21-255 (relating to definition of lot line), 21-297 (relating to definition of yard), and 21-905 (relating to general yard requirements) are either contradictory, confusing, or inelegant, and Borough Council desires to clean up and clarify those provisions; 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**, by Ordinance No. 472 (adopted April 30, 2008), Borough Council recently amended Chapter 35 of the Alburdis Codified Ordinances (relating to Property Maintenance) to require the installation of carbon monoxide alarms in certain units, facilities, and places for which there is a threat of carbon monoxide poisoning; and

**WHEREAS**, pursuant to that Ordinance every approved carbon monoxide alarm is required to meet the requirements of Underwriter’s Laboratory standard UL 2034; and

**WHEREAS**, standard UL 2034 applies only to “Single and Multiple Station Carbon Monoxide Alarms,” while the equivalent standard for carbon monoxide detectors connected to a control panel is UL 2075—“Gas and Vapor Detectors and Sensors”; and

**WHEREAS**, Borough Council desires to permit carbon monoxide alarms which satisfy either standard UL 2034 or UL 2075; and

**WHEREAS**, at least thirty (30) days prior to the Council's adoption of this Ordinance, the Borough submitted a copy of this Ordinance to the Alburdis Planning Commission and the Lehigh Valley Planning Commission, to provide them with an opportunity to submit recommendations, in accordance with the provisions of 53 PA. STAT. ANN. §§ 10609(c) and 10609(e); and

**WHEREAS**, the Alburdis Planning Commission reviewed this Ordinance at its meeting on July 15, 2008 and recommended its adoption; and

**WHEREAS**, the Lehigh Valley Planning Commission reviewed this Ordinance at its meeting on July 31, 2008 and voted to offer no comment because it considers the proposed amendments to be a matter of local concern only; and

**WHEREAS**, on July 30, 2008 and August 6, 2008, 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 August 13, 2008 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 § 21-255 (relating to Zoning—Definitions and Usage—Lot Line) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-255 Lot Line.**

(a) **In General.** The term “Lot Line” shall mean any boundary line of a lot. (See § 21-254(a) for the definition of a lot. Note, for example, that certain boundary line(s) of a lot whose recorded description includes area within a street right-of-way are the street line(s) rather than the property lines in the recorded description of the tract.)

(b) **Front.** The term “Front Lot Line” shall mean ~~the front lot line facing the primary street; see also the definition of “street line.”~~ a lot line which is also a street line. (Note that an alley having a right-of-way width of twenty (20) feet or less is not a “street” under § 21-285(a) and so does not form a “street line.”)

(c) **Rear.** The term “Rear Lot Line” shall mean any lot line which is parallel to or within forty-five degrees (45°) of being parallel to a street front lot line, except for a lot line that is ~~itself a street line~~ a front lot line, and except that in the case of a corner lot ~~the owner shall have the option of choosing which of the two (2) lot lines that are not street lines is to be considered a “rear lot line.”~~ there shall be no rear lot lines, only front lot lines and side lot lines. In the case of a lot having no street frontage or a lot of an odd shape, ~~only the one (1) lot line furthest from any street shall be considered a “rear lot line.”~~ the landowner may designate any lot line or group of connected lot lines which together constitute at least twenty percent (20%) of the circumference of the lot as the “Rear Lot Line(s)” of the lot.

(d) **Side.** The term “Side Lot Line” shall mean any lot line which is not a ~~street~~ front lot line or a rear lot line.

**SECTION 2.** Codified Ordinances § 21-297 (relating to Zoning—Definitions and Usage—Yard) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-297 Yard.**

(a) **In General.** The term “Yard” shall mean an open space unobstructed from the ground up, on the same lot with a structure, extending along a lot line ~~or street line~~ and inward to the structure. The size of a required “yard” shall be measured as the shortest distance between the structure and a lot line ~~or street line~~, exclusive of overhanging eaves, gutters, cornices, and open steps.

(b) **Front Yard.** The term “Front Yard” shall mean a required yard between a structure and a street front lot line, and extending the entire length of the street front lot line. ~~In the case of a corner lot, the yards extending along all streets are “front yards.”~~ In the case of a lot ~~other than a corner lot~~ that fronts on more than one (1) street, the yards extending along all streets are “front yards.”

(c) **Rear Yard.** The term “Rear Yard” shall mean a required yard between a structure and a rear lot line, and extending the entire length of the rear lot line and unoccupied except for accessory buildings and open porches, which, in the aggregate, shall occupy not more than the percent coverage for designated districts in which the lot is located.

(d) **Side Yard.** The term “Side Yard” shall mean a required yard between a structure and a side lot line, ~~extending from the front yard to the rear yard~~ except for any area within a front yard or a rear yard. ~~In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a “side yard.”~~

**SECTION 3.** Codified Ordinances § 21-905(f) (relating to Zoning—General Regulations—General Yard Requirements—Corner Lots) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-905      General Yard Requirements.**

\* \* \*

(f) ~~Corner lots with four (4) or more sides and fronting on two (2) intersecting streets shall be considered to have two (2) front yards, two (2) side yards, and no rear yard. One front yard shall meet the yard requirements for the applicable district and the other shall be not less than fifteen (15) feet. In the case of a corner lot, the front yard requirements for the applicable district shall apply along only one of the streets on which the lot abuts. All other front yards shall be not less than fifteen (15) feet.~~

\* \* \*

**SECTION 4.** Codified Ordinances § 21-803 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Uses Permitted By Right) is amended by adding the following new subsection (k) (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 21-803      Uses Permitted By Right.**

The following uses and their accessory uses are permitted by right pursuant to the performance standards contained in this Chapter, and subject to site plan review and report by the Planning Commission:

\* \* \*

(k) Kennels, provided that no animals are kept outside of a completely enclosed building at any time between the hours of 9:00 P.M. and 6:00 A.M., and the kennel operates in accordance with all applicable state regulations.

**SECTION 5.** 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.**

All uses permitted 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 result 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.

\* \* \*

**(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.

**~~(aa)~~ (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, plus sufficient space to meet the reasonable demands of the business.



**SECTION 6.** Codified Ordinances § 21-1506 (relating to Zoning—Regulations for L-1 Light Industrial-Office Research District—Deferral or Waiver of Buffer-Type Improvements with Consent of the Property Owner to be Protected by the Improvements) is amended by amending subsection (c) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

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

\* \* \*

**(c) Buffer-Type Improvement; Protected Property.** For purposes of this Section, the term “Buffer-Type Improvement” means an improvement required under one of the following provisions of this Chapter, and the term “Protected Property” has the meaning set forth below:

\* \* \*

**(2)** Section 21-1305(e) (relating to Conditional Uses and Special Exceptions—Multifamily Dwellings and Single-family Attached Dwellings—Buffer Yards): the “Buffer-Type Improvement” is the fifty (50) foot buffer yard, and the “Protected Property” is the adjoining lot(s) that contains a nonresidential use.

**(2.1)** Section 21-1311(a) (relating to Conditional Uses and Special Exceptions—Nursery or Day-care Center—Screening of Outdoor Play Areas): the “Buffer-Type Improvement” is the required screening of outdoor play areas, and the “Protected Property” is an adjoining property.

**(3)** Section 21-1313(f) (relating to Conditional Uses and Special Exceptions—Planned Shopping Center—Buffer Yards): the “Buffer-Type Improvement” is the fifty (50) foot buffer yard, and the “Protected Property” is the property(ies) in the residential district which abut the lot line or street line which constitutes the residential district boundary line (or which abuts the portion of the street line on the opposite side of the street from the street line which constitutes the residential district boundary line).

\* \* \*

\* \* \*

**SECTION 7.** Section 35-307(d) of the Codified Ordinances (relating to Property Maintenance—Prevention of Carbon Monoxide Poisoning—Carbon Monoxide Alarm Requirements—Standards) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 35-307 Carbon Monoxide Alarm Requirements.**

\* \* \*

**(d) Standards.** Every approved carbon monoxide alarm shall meet the requirements of the current ~~Underwriter's Laboratory~~ Underwriters Laboratories (UL) standard UL 2034 or UL 2075, bear the label of a nationally-recognized testing laboratory, and be installed and maintained in accordance with the requirements of the current National Fire Protection Association (NFPA) standard NFPA 720 and the manufacturer's instructions. Each carbon monoxide alarm must also comply with all applicable federal and state laws and regulations.

\* \* \*

**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 13<sup>th</sup> day of August, 2008, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

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

Attest:

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

**AND NOW**, this 13<sup>th</sup> day of August, 2008, the above Ordinance is hereby AP-  
PROVED.

\_\_\_\_\_  
Robert W. Mader, Mayor