

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 308

(Duly Adopted August 10, 1994)

AN ORDINANCE AMENDING THE BOROUGH OF ALBURTIS ZONING ORDINANCE BY CHANGING THE DEFINITION OF "SWIMMING POOL" TO INCLUDE RECEPTACLES EIGHTEEN (18) INCHES OR MORE INSTEAD OF TWO (2) FEET OR MORE, TO EXPLICITLY INCLUDE SPAS AND WHILRPOOLS, AND TO INSURE THAT ALL POOLS WHICH ARE NOT CLASSIFIED AS "NON-COMMERCIAL" ARE CLASSIFIED AS "COMMERCIAL"; CLARIFYING THE FENCING REQUIREMENTS FOR SWIMMING POOLS; CHANGING THE SETBACK REQUIREMENTS FOR SWIMMING POOLS FROM FIFTEEN (15) FEET TO THREE (3) FEET FOR ANY PART OF THE POOL AND APPURTENANT EQUIPMENT AND FIVE (5) FEET FROM THE WATER'S EDGE; AND MAKING TECHNICAL CHANGES CONCERNING RELATIVE LOCATIONS OF SWIMMING POOLS AND UTILITIES.

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 codified as Chapter 137 of the Code of the Borough of Albutris (1981), as amended; and

WHEREAS, Borough Council desires to amend the provisions of the Zoning Ordinance relating to residential swimming pools in the manner set forth in this Ordinance; and

WHEREAS, more than thirty (30) days prior to the date of the enactment of this Ordinance, the Borough submitted a copy of this Ordinance to the Albutris Planning Commission and the Joint Planning Commission of Lehigh and Northampton Counties, to provide them with an opportunity to submit recommendations, in accordance with the provisions of 53 PA. STAT. ANN. § 10609(c) and (e); and

WHEREAS, the Alburdis Planning Commission recommended adoption of this Ordinance by a unanimous vote at its meeting on July 19, 1994; and

WHEREAS, the Joint Planning Commission of Lehigh and Northampton Counties voted at its meeting on July 28, 1994 to offer no comment on this Ordinance; and

WHEREAS, on July 27, 1994 and August 3, 1994, 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 10, 1994 at 7:30 p.m. in the Borough Hall, 260 Franklin Street, Alburdis, Pennsylvania, and to consider the adoption of this Ordinance thereafter. The notice stated the particular nature of the matter to be considered at the hearing, as provided in the title of this Ordinance; and

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

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

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

§ 137-5 Definitions.

Swimming Pool — Any receptacle or artificially constructed pool for water, including spas, whirlpools, and jacuzzis, whether constructed on-site or preconstructed, having a walled depth of ~~two (2) feet~~ eighteen

(18) inches or more at any point within its perimeter, intended or adapted for the purposes of immersion or partial immersion of human beings therein, and including all appurtenant equipment.

A. Swimming Pool, Noncommercial — ~~Any constructed body of water or structure to contain water, any preconstructed swimming pool brought to the site and any accessory equipment pertaining thereto,~~ Swimming Pool used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Such a pool shall not be operated for gain and shall be located on a lot only as an accessory use to the dwelling or dwellings, hotel, motel, private club, fraternal or social organization.

B. Swimming Pool, Commercial — ~~Any swimming pool operated for profit or gain and available to the general public through the payment of admission or membership fees.~~ Any Swimming Pool which is not a Noncommercial Swimming Pool under paragraph A.

SECTION 2. Section 137-15(C) of Chapter 137 of the Code of the Borough of Alburty (relating to Zoning Ordinance—Regulations for the R-1 Low Density Residential Zoning District—Accessory Uses—Noncommercial Swimming Pools; and which is referred to in establishing permitted Accessory Uses in the R-2 Medium Density and the R-3 High Density Residential Zoning Districts) shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining):

§ 137-15 Accessory uses.

C. ~~A Noncommercial~~ noncommercial swimming pool ~~which is designed to contain a water depth of twenty four (24) inches or more~~ shall not be located, constructed or maintained on any lot or land area except in conformity with the following requirements:

(1) A permit shall be required to locate, construct or maintain a noncommercial swimming pool.

(2) Such pool shall be located in a rear or side yard only. In no case shall the pool be located within the required minimum yard set-back.

~~(3) Every in-ground noncommercial swimming pool located on a lot shall be entirely enclosed with a good quality chain link or wooden or other equivalent fence of not less than four (4) feet in height which will prevent children from passing under or through. Any above-ground pools less than four (4) feet in height on any lot shall require a fence not less than four (4) feet in height.~~ Every noncommercial swimming pool, or the portion of a lot surrounding a noncommercial swimming pool area, shall be completely enclosed (whether by fencing, pool walls, or otherwise) by a barrier which is sufficient to prevent children from passing under or through and which is at least four (4) feet high from the ground to the top of the barrier at all points along the perimeter of the enclosure. The enclosure may include gates for entrance to the pool or pool area, provided that all gates are self-latching with latches placed at least four (4) feet above the level of the ground at that location or otherwise made inaccessible to small children, and that all gates are locked when the pool is not in use.

~~(4) Such pool shall not be located less than fifteen (15) feet from any lot line. No portion of such pool shall be located less than three (3) feet from any lot line, and none of the water contained within the pool shall be closer than five (5) feet from any lot line.~~

(5) Such pool shall not occupy more than thirty percent (30%) of the rear or side yard area, including all private garages or other accessory buildings or structures.

(6) If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.

(7) If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.

(8) No permit shall be granted for the installation or construction of any in-ground pool, permanent pool or any portable pool having a capacity of ten thousand (10,000) gallons or more unless the Borough Engineer has certified that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public streets.

(9) No loudspeaker or amplifying device shall be permitted which will project sound beyond the boundaries of the property or lot where such pool is located.

(10) No lighting or spotlight shall be permitted which will shine directly upon or beyond the bounds of the property or lot where such pool is located.

(11) ~~No pool shall be located under any overhead electric wiring.~~ No portion of a noncommercial swimming pool shall be located within any utility easement without the permission of the utility(ies) involved, nor within three (3) feet of any point directly underneath any overhead utility lines.

SECTION 3. The Secretary of the Borough shall send a certified copy of this Ordinance to the Joint Planning Commission of Lehigh and Northampton Counties within thirty (30) days after the date of enactment, as required by 53 PA. STAT. ANN. § 10609(g).

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 10th day of August, 1994, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURDIS**

Carlton R. Raines, President

Attest:

Louise Staub, Secretary

AND NOW, this 10th day of August, 1994, the above Ordinance is hereby APPROVED.

Ronald J. DeIaco, Mayor