

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 338

(Duly Adopted September 11, 1996)

AN ORDINANCE AMENDING THE BOROUGH OF ALBURTIS ZONING ORDINANCE BY DELETING THE SENTENCE "IN NO CASE SHALL THE POOL BE LOCATED WITHIN THE REQUIRED MINIMUM YARD SETBACK" FROM SECTION 137-15(C)(2).

WHEREAS, the Borough of Alburdis 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 Alburdis (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 to clarify the intent of Ordinance 308 (adopted August 10, 1994) that pools may be located within minimum yard setbacks so long as they satisfy the three feet (3') and five feet (5') requirements of Section 137-15(C)(4); 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 Alburdis 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 rejection of this Ordinance by a unanimous vote at its meeting on August 20, 1996. The Commission felt that a five foot (5') setback was acceptable for all zoning districts except the R-1 district, where a larger setback would be appropriate; and

WHEREAS, the Joint Planning Commission of Lehigh and Northampton Counties voted at its meeting on August 30, 1996 to offer no comment on this Ordinance; and

WHEREAS, on August 28, 1996 and September 4, 1996, 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 September 11, 1996 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;

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

SECTION 1. Section 137-15(C)(2) of Chapter 137 of the Code of the Borough of Alburdis (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 swimming pool shall not be located, constructed or maintained on any lot or land area except in conformity with the following requirements:

* * *

(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.~~

* * *

SECTION 2. 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 11th day of September, 1996, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Steven R. Hill, President

Attest:

Louise Stahley, Secretary

AND NOW, this 11th day of September, 1996, the above Ordinance is hereby APPROVED.

Ronald J. DeIaco, Mayor