Chapter 73 — Drought Emergencies

Article I — Water Use Restrictions

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Article I — Water Use Restrictions

§ 73-101 Short Title.

This Article shall be known, and may be cited, as the "Alburtis Drought Emergency Ordinance".

§ 73-102 Purpose.

(a) Commonwealth Program. The Commonwealth of Pennsylvania has developed a three-stage approach to drought preparedness and response which consists of:

(1) A *drought watch*, which is to alert the public and elected officials;

(2) A *drought warning*, which is to prepare and coordinate community response; and

(3) A *drought emergency*, which is a declaration by the Governor pursuant to the Emergency Management Services Code, title 35 of the Pennsylvania Consolidated Statutes.

(b) Borough Program. The Borough of Alburtis is, by statute and regulation, required to be responsive to the need to conserve water at any of the foregoing stages of preparedness and even prior thereto in the event that local conditions are deemed to require more immediate action.

§ 73-103 Authorization of Mayor.

Council hereby empowers the Mayor to invoke the power of this Article to impose prohibitions upon certain uses of water described in § 73-104 within the Borough whenever, in his or her judgment, any of the three (3) stages of drought preparedness are declared to be in existence in the Borough of Alburtis.

§ 73-104 Activities Which May Be Restricted.

The Mayor, in the exercise of the action empowered by this Article, shall consider the following activities, in the sequence of listing below, as a series of prohibitions to be imposed either sequentially or at random, individually or as a group:

(a) Washing of streets, roads, sidewalks, driveways or any outdoor paved surface, except when necessary for repaving.

(b) Filling and topping off of swimming pools.

(c) Car washing, except in car wash facilities that recycle water.

(d) Watering lawns and gardens, except with the use of a hand-held hose or container. (This prohibition is *not* applicable to commercial nurseries.)

(e) Operation of outdoor fountains and circulating pools.

(f) Serving water in restaurants, except at the request of customers.

§ 73-105 Violations and Penalties.

(a) Civil Penalty. Any person who violates any prohibition imposed by the Mayor under the terms of this Article shall be subject to a civil penalty as follows:

(1) First Offense. For the first offense, a person violating any prohibition imposed by the Mayor under this Article shall receive a written warning.

(2) Second Offense. For a second violation of this Article (which need not be a violation of the same prohibition as in the first offense), the amount of the civil penalty shall be Twenty-Five Dollars ($25.00).

(3) Subsequent Offenses. For a third or subsequent violation of this Article (which need not be a violation of the same prohibition(s) as in the previous offenses), the amount of the civil penalty shall be as follows::

(A) Third Violation — $125.00.

(B) Fourth Violation — $225.00.

(C) Fifth Violation — $325.00.

(D) Sixth Violation — $425.00.

(E) Seventh Violation — $525.00.

(F) Eighth and Subsequent Violations —$600.00.

(b) Initial Determination of Violation. Council hereby delegates the initial determination of violations under this Article to any police officer of the Borough. The police officer or the Executive Secretary shall serve notice of the violation(s) upon the person determined to have violated this Article in person or by first class U.S. mail addressed to that person at his/her last known address. The notice shall include a description of the violation(s), the provision(s) of the Codified Ordinances violated (*i.e.* section, subsection, paragraph, etc.), the penalty imposed for each violation, and the time for payment prior to the commencement of a civil enforcement proceeding. Service shall be complete on the date of in-person service or the date of mailing.

(c) Civil Enforcement Proceeding. When the penalty imposed for a violation(s) of this Article is not voluntarily paid to the Borough within fifteen (15) calendar days after service of the violation notice under subsection (b), the Executive Secretary shall initiate a civil enforcement proceeding in the name of the Borough before a magisterial district judge (or, where applicable under Borough Code § 3321(5), 53 PA. STAT. ANN. § 48321(5), the Lehigh County Court of Common Pleas). The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. Any person found to have violated this Article in the civil enforcement proceeding shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings, in addition to the penalty provided.

(d) Separate Offenses. Each day or portion of a day that a given violation exists or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Article or of a separate prohibition imposed by the Mayor shall constitute a separate offense.

(e) Equitable Remedies. In addition to or in lieu of enforcement of this Article through a civil action, the Borough may enforce this Article through an action in equity brought in the Court of Common Pleas of Lehigh County. The Borough Solicitor shall have authority to commence the action in equity on behalf of the Borough without explicit authorization of Council in any situation where the Solicitor or the President of Council deems it advisable to act before the next regular Council meeting.

Appendix

¶ 73-A Disposition of Ordinance 269.

Ordinance 269	2003 Codified Ordinances
§ I(1)	§ 73-102(a)
§ I(2)	§ 73-102(b)
§ II(1)	§ 73-103
§ II(2)	§ 73-104
§ III	§ 73-105

¶ 73-B Source Ordinances.

Ordinance 269	05-10-1989
Ordinance 415	10-29-2003
Ordinance 518	03-12-2014

¶ 73-C Prior Ordinances Concerning Related Subject Matter.

Ordinance 98	08-06-1962
Ordinance 370	07-28-1999

¶ 73-D Derivation of Unofficial Chapter 66 to 1981 Code (after Ordinance 269).

In 1989, General Code Publishers Corp. printed an unofficial codification of Ordinance 269 to Chapter 66 of the 1981 Code. Borough Council did not formally add Ordinance 269 to the 1981 Code, and did not formally adopt any of the numbering and stylistic changes made by General Code Publishers Corp.

A copy of the GCP unofficial Chapter 66 is provided with the on-line and CD-ROM versions of the Codified Ordinances.

The provisions of the GCP unofficial Chapter 66 were derived from Ordinance 269 as follows:

Unofficial Chapter 66	Ordinance 269
§ 66-1(A)	§ I(1)
§ 66-1(B)	§ I(2)
§ 66-2(A)	§ II(1)
§ 66-2(B)	§ II(2)
§ 66-3	§ III