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# Chapter 68 — Hazardous Materials

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## Article I — Title and Definitions

### § 68-101 Short Title.

This Chapter shall be known, and may be cited, as the “Alburtis Transportation of Hazardous Materials Ordinance.”

### § 68-102 Definitions – In General.

For purposes of this Chapter, the terms defined in the remaining sections of this Article I shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

### § 68-103 CFR.

The term “CFR” shall mean the Code of Federal Regulations. The numbers immediately preceding and immediately following the initials “CFR” shall refer to the volume, divisions, and sections used to identify parts of the Code of Federal Regulations.

### § 68-104 Compressed Gas.

The term “compressed gas” shall mean any substance regulated as a compressed gas by the United States Department of Transportation by regulations found in 49 CFR 173.300.

### § 68-105 Explosive.

The term “explosive” shall mean any substance regulated as a Class A explosive or as a Class B explosive by the United States Department of Transportation by regulations found in 49 CFR 173.53 and 49 CFR 173.88.

### § 68-106 Flammable Liquid.

The term “flammable liquid” shall mean any substance regulated as a flammable liquid by the United States Department of Transportation by regulations found in 49 CFR 173.115.

### § 68-107 Flammable Solid.

The term “flammable solid” shall mean any substance regulated as a flammable solid by the United States Department of Transportation by regulations found in 49 CFR 173.150.

**§ 68-108 Hazardous Material.**

The term “hazardous material” shall mean any substance defined in this Article as a compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poisonous or radioactive material, or biological waste.

**§ 68-109 Oxidizer.**

The term “oxidizer” shall mean any substance regulated as an oxidizer by the United States Department of Transportation by regulations found in 49 CFR 173.151.

**§ 68-110 Poison.**

The term “poison” shall mean any liquid or gas that is life-threatening when mixed with air in small amounts, and shall also include all those substances regulated as Poison A by the United States Department of Transportation by regulations found in 49 CFR 173.326.

**§ 68-111 Radioactive Material.**

The term “radioactive material” shall mean any substance required by the United States Department of Transportation to have Type A packaging or Type B packaging under regulations found in 49 CFR 173.426.

**§ 68-112 Transport Carrier.**

The term “transport carrier” shall mean any mode of conveyance moving on land upon wheels.

## **Article II — Regulations**

**§ 68-201 Designated Routes.**

(a) **In General.** No person, firm, or corporation shall transport any hazardous material through the Borough except over routes indicated as permitted routes in subsections (c) and (d) or as provided in subsection (b).

(b) **Local Destinations.** Deliveries to destinations in the Borough shall be made by following permitted routes to the point where the least amount of travel off a permitted route will

be needed to reach the destination and by going to the destination and returning to the permitted route or routes by the method requiring the shortest travel distance off permitted routes.

(c) **Highways.** The following highways are designated as “permitted routes”:

- (1) Main Street, S.R. 3001, from the Borough line to Franklin Street.
- (2) Franklin Street, S.R. 3001, from Main Street to the Borough line.
- (3) West Front Street, S.R. 3002, from the Borough line to Main Street.
- (4) East Penn Avenue, S.R. 3002, from Main Street to the Borough line.

(d) **Railroads.** The following railways are designated as “permitted routes”:

(1) Norfolk & Southern main line, from the Borough line to the Borough line, and adjacent sidings.

(2) Norfolk & Southern spur line, from Main Street to the Borough line, and adjacent sidings.

### **§ 68-202 Equipment.**

No hazardous materials may be carried on any permitted route for delivery in any transport carrier larger than a tractor with one (1) trailer upon streets and roads nor larger than a railroad tank car upon railroad lines.

### **§ 68-203 Condition of Transport Carriers.**

Any transport carrier used to transport hazardous materials anywhere in the Borough shall comply with all federal and state laws and regulations. All transport carriers shall be maintained in a safe condition.

### **§ 68-204 Spills.**

In the event that breakdown of a transport carrier containing hazardous materials within the Borough results in spill or escape of such material onto Borough streets or private property, the person, firm, or corporation transporting such materials as well as the owner and consignee of the material shall be jointly and severally responsible for its physical containment, recovery, and removal, and for any costs incurred by the Borough or other responsible persons or agencies acting with the same purpose of containment, recovery, and removal from the environment.

### **§ 68-205 Signs and Maps.**

Signs shall be posted to inform the public of the permitted routes for hazardous materials. The Alburis Police Department shall keep on hand copies of maps showing permitted routes for hazardous materials, and these maps shall be distributed free upon request.

### § 68-206 Exemption.

The regulations set out in this Chapter shall not apply to any transport carrier carrying no hazardous material except flammable liquid in a container or containers having a total capacity of not over one hundred ten (110) gallons or forty-one and six hundred thirty-five thousandths (41.635) decaliters by volume.

### § 68-207 Violations and Penalties.

Any person who shall violate any provision of this Chapter shall be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure, and upon conviction thereof, shall be sentenced to pay a criminal fine of One Thousand Dollars (\$1,000.00) for each violation, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and/or imprisonment for a period not exceeding thirty (30) days. Each day that a violation occurs or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Chapter shall constitute a separate offense. The enforcement action shall be brought 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.

## Appendix

### ¶ 68-A Disposition of Ordinance 245.

<u>Ordinance 245</u>	<u>2003 Codified Ordinances</u>
§ I	§ 68-101
§ II (intro)	§ 68-102
§ II(A)	§ 68-103
§ II(B)	§ 68-104
§ II(C)	§ 68-105
§ II(D)	§ 68-106
§ II(E)	§ 68-107
§ II(F)	§ 68-108
§ II(G)	§ 68-109
§ II(H)	§ 68-110
§ II(I)	§ 68-111
§ II(J)	§ 68-112
§ III	§ 68-206
§ IV	§ 68-201
§ V	§ 68-202
§ VI	§ 68-203
§ VII	§ 68-204

<u>Ordinance 245</u>	<u>2003 Codified Ordinances</u>
§ VIII	§ 68-205
§ X	§ 68-207

### ¶ 68-B Source Ordinances.

Ordinance 239	05-08-1985
Ordinance 245	08-13-1986
Ordinance 415	10-29-2003
Ordinance 518	03-12-2014

### ¶ 68-C Derivation of Unofficial Chapter 74 to 1981 Code (after Ordinance 245).

In 1988, General Code Publishers Corp. printed an unofficial codification of Ordinance 269 to Chapter 74 of the 1981 Code. Borough Council did not formally add Ordinance 245 to the 1981 Code, and did not formally adopt any of the numbering and stylistic changes made by General Code Publishers Corp. (Previously, General Code Publishers Corp. had printed an unofficial codification of Ordinance 239 to Chapter 74 of the 1981 Code. Borough Council did not formally add Ordinance 239 to the 1981 Code either, 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 74 (after Ordinance 245) is provided with the on-line and CD-ROM versions of the Codified Ordinances.

The provisions of the GCP unofficial Chapter 74 were derived from Ordinance 245 as follows:

<u>Unofficial Chapter 74 (after Ord. 269)</u>	<u>Ordinance 245</u>
§ 74-1	§ I
§ 74-2	§ II
§ 74-3	§ III
§ 74-4	§ IV
§ 74-5	§ V
§ 74-6	§ VI
§ 74-7	§ VII
§ 74-8	§ VIII
§ 74-9	§ X