

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 316

(Duly Adopted May 10, 1995)

AN ORDINANCE AMENDING AND RESTATING CHAPTER 102 OF THE CODE OF THE BOROUGH OF ALBURTIS (RELATING TO SANITARY SEWER) AND AMENDING THE BOROUGH ORDINANCES TO CONFORM TO RECENT AMENDMENTS OF THE CITY OF ALLENTOWN INDUSTRIAL WASTE ORDINANCES WHICH WERE ENACTED TO COMPLY WITH STATE AND FEDERAL LAW.

WHEREAS, Borough Council of the Borough of Alburtis adopted Ordinances 152 and 153 on June 7, 1971, which established various rules and regulations concerning connection to and use of the Borough's new public sanitary sewer system, all as authorized under 53 PA. STAT. ANN. § 47001 *et seq.*; and

WHEREAS, Ordinances 152 and 153 were codified to Chapter 102 of the Code of the Borough of Alburtis by Ordinance 215, adopted November 11, 1981; and

WHEREAS, since 1981, certain amendments and rate changes were made with respect to the Borough's sanitary sewer ordinances; and

WHEREAS, the Borough's sanitary sewer collection system discharges into the Western Lehigh Interceptor of the Lehigh County Authority for ultimate transportation to the City of Allentown's sewer system and treatment at the City of Allentown's publicly owned treatment works, all pursuant to various agreements among the Borough, Lehigh County Authority, the City of Allentown, and other municipal entities; and

WHEREAS, under paragraph 4 of an Agreement dated November 27, 1985 among the City of Allentown, the Coplay-Whitehall Sewer Authority, the Lehigh County Authority, the Township of Salisbury, the Township of South Whitehall, and the Borough of Emmaus, to which the Borough of Alburtis joined in, consented to, and agreed to be bound by through action of Borough Council on January 13, 1988, the Borough of Albur-

tis is obligated to amend its sewer ordinances regarding pretreatment requirements whenever the City of Allentown amends its ordinances to comply with state and federal pollution laws and regulations; and

WHEREAS, the City of Allentown so amended its sewage and industrial wastes ordinances on February 3, 1994 (Ordinance No. 13248); and

WHEREAS, Borough Council desires to amend its sewer ordinances to conform to the changes made in City of Allentown Ordinance No. 13248; and

WHEREAS, Borough Council desires to restate and recodify its ordinances relating to the sanitary sewer system;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, that Chapter 102 of the Code of the Borough of Alburdis (relating to Sewer Use and Rents), shall be amended, restated, and replaced in its entirety by a new Chapter 102 which shall read as follows:

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Article I — Title, Purpose & Definitions¹

§ 102-1 Short title.²

This Chapter shall be known, and may be cited, as the “Alburtis Sanitary Sewer System Ordinance”.

§ 102-2 Purpose.³

It is declared that the enactment of this Chapter is necessary for the protection, benefit, and preservation of the health, safety and welfare of the inhabitants of this Borough. This Chapter is also enacted to comply with agreements entered into by the Borough with, *inter alia.*, the City of Allentown, which require the Borough to conform to uniform requirements for Users of the Publicly Owned Treatment Works for the City of Allentown. Such requirements enable the City and the Borough to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of those requirements are:

(a) To prevent the introduction of Pollutants into the City’s Publicly Owned Treatment Works that will interfere with its operation;

(b) To prevent the introduction of Pollutants into the City’s Publicly Owned Treatment Works that will pass through the City’s Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

¹ **Authority:** 53 PA. STAT. ANN. § 47001 *et seq.*

² Section added by recodification Ordinance 316 (5/10/95).

³ First sentence derived from Ordinance 152 § 8.01, (6/7/71), as codified to 1981 Code § 102-23 by Ordinance 215 (11/11/81); and from Ordinance 153 § 15 (6/7/71), as codified to 1981 Code § 102-36 by Ordinance 215 (11/11/81); recodified by Ordinance 316 (5/10/95). Remainder based on City of Allentown Ordinances § 941.1.1 (as amended by City Ordinance 13248, 2/3/94); added by recodification Ordinance 316 (5/10/95).

(c) To protect both Publicly Owned Treatment Works personnel who may be affected by Wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial Wastewater and sludge from the City's Publicly Owned Treatment Works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the City's Publicly Owned Treatment Works; and

(f) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the City's Publicly Owned Treatment Works is subject.

§ 102-3 Definitions: In General.¹

Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this Chapter shall be as provided in this Article I.

§ 102-4 Allentown Agreements.²

"Allentown Agreements" means, collectively, the Agreement, dated December 22, 1969, between the City, as party of the first part, and the County Authority, as party of the second part, and the Loan Agreement³, dated December 22, 1969, by and among the City, as party of the first part, and Coplay-Whitehall Sewer Authority, South Whitehall Township Authority and Salisbury Township Authority, all Pennsylvania municipality authorities, as parties of the second part, and the County, as party of the third part, including any amendments and/or supplements to either or both of said agreements at any time constituting a part of either or both of said agreements.

¹ Derived from Ordinance 152 § 1.01, intro. (6/7/71), as codified to 1981 Code § 102-1, intro., by Ordinance 215 (11/11/81); and from Ordinance 153 § 1, intro. (6/7/71), as codified to 1981 Code § 102-24, intro., by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 1(A) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Agreement no longer in effect.

§ 102-5 Allentown Authority.¹

“*Allentown Authority*” means Allentown Authority, a Pennsylvania municipality authority.

§ 102-6 Approval Authority.²

“*Approval Authority*” means the Regional Administrator of EPA, Region III.

§ 102-7 Authority.³

“*Authority*” means Borough of Alburtis Sewer Authority, a Pennsylvania municipality authority, acting by and through its Board or, in appropriate cases, acting by and through its authorized representatives.

§ 102-8 Authorized Representative of the User.⁴

“*Authorized Representative of the User*” means—

(a) If the User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other Person who performs similar policy or decision-making functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding Twenty-five Million Dollars (\$25,000,000) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

¹ Derived from Ordinance 153 § 1(B) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(B) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

³ Derived from Ordinance 153 § 1(C) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81); and first two clauses also derived from Ordinance 152 § 1.01(A) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.1.4(C) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

(b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individuals described in subsections (a) through (c) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Borough.

§ 102-9 Billing Unit.¹

“*Billing Unit*” means and includes, as applicable, each of the following: a Commercial Establishment, a Dwelling Unit, an Industrial Establishment, and an Institutional Establishment.

§ 102-10 BOD.²

“*BOD*” is an abbreviation for “biochemical oxygen demand”, which means the quantity of oxygen, expressed in parts per million or mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees Centigrade (20° C.). The standard laboratory procedure shall be that found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association.

§ 102-11 Borough.³

“*Borough*” means the Borough of Alburdis, Lehigh County, Pennsylvania, a municipality of the Commonwealth of Pennsylvania, acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

¹ Derived from Ordinance 153 § 1(D) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 1(E) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). *See also* City of Allentown Ordinances § 941.1.4(D) (as amended by City Ordinance 13248, 2/3/94). Recodified by Ordinance 316 (5/10/95), and amended by adding the words “or mg/l”.

³ Derived from Ordinance 152 § 1.01(C) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and Ordinance 153 § 1(F) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-12 Building Sewer.¹

“*Building Sewer*” means the extension from the sewage drainage system of any structure to the Lateral of a Sewer.

§ 102-13 Categorical Pretreatment Standard or Categorical Standard.²

“*Categorical Pretreatment Standard*” or “*Categorical Standard*” means any regulation containing Pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

§ 102-14 CFR.³

“*CFR*” means Code of Federal Regulations.

§ 102-15 City.⁴

“*City*” means the City of Allentown, Lehigh County, Pennsylvania, or the City Council of Allentown.

§ 102-16 Clean Water Act.⁵

“*Clean Water Act*” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

¹ Derived from Ordinance 152 § 1.01(B) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(E) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

⁴ Based on Ordinance 153 § 1(G) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81); and on City of Allentown Ordinances § 941.1.4(F) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

⁵ Based on City of Allentown Ordinances § 941.1.4(A) (defining “Act”) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

§ 102-17 COD.¹

“COD” means Chemical Oxygen Demand.

§ 102-18 Commercial Establishment.²

“*Commercial Establishment*” means any room, group of rooms, building or enclosure used or intended for use in the operation of one (1) business enterprise for the sale and distribution of any product, commodity, article, or service, or used or intended for use for any social, amusement, religious, educational, charitable, or public purpose, and containing plumbing facilities for kitchen, toilet, or washing facilities.

§ 102-19 County.³

“*County*” means the County of Lehigh, Pennsylvania.

§ 102-20 County Authority.⁴

“*County Authority*” means Lehigh County Authority, a Pennsylvania municipality authority.

§ 102-21 Dwelling Unit.⁵

“*Dwelling Unit*” means any room, group of rooms, building, or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of Persons living together or by a Person living alone.

¹ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Derived from Ordinance 153 § 1(H) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Derived from Ordinance 153 § 1(I) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Derived from Ordinance 153 § 1(J) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁵ Derived from Ordinance 153 § 1(K) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-22 Environmental Protection Agency or EPA.¹

“*Environmental Protection Agency*” or “*EPA*” means the U.S. Environmental Protection Agency, or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

§ 102-23 Existing Source.²

“*Existing Source*” means any source of Discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

§ 102-24 Garbage.³

“*Garbage*” means solid wastes resulting from preparation, cooking, and dispensing of food and from handling, storage, and sale of produce.

§ 102-25 gpd.⁴

“*gpd*” means gallons per day.

§ 102-26 Grab Sample.⁵

“*Grab Sample*” means a sample which is taken from a waste stream without regard to flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

¹ Based on City of Allentown Ordinances §§ 941.1.3 and 941.1.4(G) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(H) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Derived from Ordinance 153 § 1(L) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁵ Based on City of Allentown Ordinances § 941.1.4(I) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

§ 102-27 Improved Property.¹

“*Improved Property*” means any property located within this Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure Sanitary Sewage and/or Industrial Wastes shall be or may be discharged.

§ 102-28 Indirect Discharge or Discharge.²

“*Indirect Discharge*” or “*Discharge*” means the introduction of Pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

§ 102-29 Industrial Establishment.³

“*Industrial Establishment*” means any room, group of rooms, building, or other enclosure used or intended for use, in whole or in part, in the operation of one business enterprise for the manufacturing, fabricating, processing, cleaning, laundering, or assembling of any product, commodity, or article or from which any process waste, as distinct from Sanitary Sewage, shall be discharged.

§ 102-30 Industrial Wastes.⁴

“*Industrial Wastes*” means any solid, liquid, or gaseous substance or waterborne wastes or form of energy rejected or escaping in the course of any industrial, manufacturing, trade, or business process or in the course of the development, recovery, or processing of natural resources, as distinct from Sanitary Sewage.

¹ Derived from Ordinance 152 § 1.01(D) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and Ordinance 153 § 1(M) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(J) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Derived from Ordinance 152 § 1.01(E) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and from Ordinance 153 § 1(N) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Derived from Ordinance 152 § 1.01(F) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and from Ordinance 153 § 1(O) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-31 Instantaneous Maximum Allowable Discharge Limit.¹

“*Instantaneous Maximum Allowable Discharge Limit*” means the maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

§ 102-32 Institutional Establishment.²

“*Institutional Establishment*” means any room, group of rooms, building, or other enclosure which does not constitute a Commercial Establishment, a Dwelling Unit, or an Industrial Establishment.

§ 102-33 Interceptor System.³

“*Interceptor System*” means a system of interceptor sewers acquired and constructed by the County Authority and leased to the County for use and operation, to which interceptor system the Sewer System is connected for the purpose of receiving Sewage and wastes collected in the Sewer System and transporting the same to the Sewer System owned by the Allentown Authority and leased to the City for the purpose of further transportation, treatment, and disposal pursuant to the Allentown Agreements.

§ 102-34 Interference.⁴

“*Interference*” means a Discharge, which alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use, or disposal, and therefore is a cause of a violation of the City’s NPDES permit or of the prevention of Sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); and state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste

¹ Based on City of Allentown Ordinances § 941.1.4(K) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Derived from Ordinance 153 § 1(P) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Derived from Ordinance 153 § 1(Q) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified, and amended to reflect that the Interceptor System has been constructed, by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.1.4(L) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

§ 102-35 Lateral.¹

“*Lateral*” means that part of the Sewer System extending from a Sewer to the curb line or, if there shall be no curblin, to the property line, or if no such Lateral shall be provided, then “*Lateral*” shall mean that portion of or place in a Sewer which is provided for connection of any Building Sewer.

§ 102-36 Manager of Water Resources.²

“*Manager of Water Resources*” means the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by the City’s Sewage and Industrial Wastes Ordinance, City Ordinances Section 941.

§ 102-37 Medical Waste.³

“*Medical Waste*” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

§ 102-38 mg/l.⁴

“*mg/l*” means milligrams per liter.

¹ Derived from Ordinance 152 § 1.01(G) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(EE) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Based on City of Allentown Ordinances § 941.1.4(M) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁴ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

§ 102-39 Multiple Unit.¹

“*Multiple Unit*” means any Improved Property in which shall be located more than one Billing Unit.

§ 102-40 New Source.²

“*New Source*” means—

(a) Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, *provided* that:

(1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of Pollutants at an Existing Source; or

(3) The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this Section has commenced if the owner or operator has:

(1) Begun, or caused to begin, as part of a continuous on-site construction program—

(A) any placement, assembly, or installation of facilities or equipment;
or

¹ Derived from Ordinance 153 § 1(R) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(N) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

(B) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph (2).

§ 102-41 NPDES.¹

“*NPDES*” means National Pollutant Discharge Elimination System.

§ 102-42 Noncontact Cooling Water.²

“*Noncontact Cooling Water*” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

§ 102-43 Owner.³

“*Owner*” means any Person vested with ownership, legal or equitable, sole or partial, of any Improved Property.

§ 102-44 Pass Through.⁴

“*Pass Through*” means a Discharge which exits the POTW into waters of the United States in quantities or concentration which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of

¹ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(O) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Derived from Ordinance 152 § 1.01(H) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and from Ordinance 153 § 1(S) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.1.4(P) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

the City's NPDES permit, including an increase in the magnitude or duration of a violation.

§ 102-45 Person.¹

“*Person*” means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, society, trust, estate, governmental entity, or other group or legal entity, including all federal, state, and local governmental entities.

§ 102-46 pH.²

“*pH*” means the logarithm of the reciprocal of the weight of hydrogen ions, expressed in grams per liter of solution, and indicates the degree of acidity or alkalinity of a substance.

§ 102-47 Pollutant.³

“*Pollutant*” means dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of Wastewater (including but not limited to pH, TSS, turbidity, color, BOD, COD, toxicity, or odor).

§ 102-48 ppm.⁴

“*ppm*” means parts per million, by weight.

¹ Based on Ordinance 152 § 1.01(I) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); Ordinance 153 § 1(T) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81); and City of Allentown Ordinances § 941.1.4(Q) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 1(U) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.1.4(S) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

⁴ Derived from Ordinance 153 § 1(V) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-49 Pretreatment.¹

“*Pretreatment*” means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment Standard.

§ 102-50 Pretreatment Requirements.²

“*Pretreatment Requirements*” means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

§ 102-51 Pretreatment Standards or Standards.³

“*Pretreatment Standards*” or “*Standards*” means Prohibited Discharge Standards, Categorical Pretreatment Standards, and local limits.

§ 102-52 Prohibited Discharge Standards or Prohibited Discharges.⁴

“*Prohibited Discharge Standards*” or “*Prohibited Discharges*” means absolute prohibitions against the discharge of certain substances. These prohibitions appear in § 102-201.

¹ Based on City of Allentown Ordinances § 941.1.4(T) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(U) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Based on City of Allentown Ordinances § 941.1.4(V) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁴ Based on City of Allentown Ordinances § 941.1.4(W) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

§ 102-53 Properly Chopped Garbage.¹

“*Properly Chopped Garbage*” means Garbage that has been chopped to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than one-half (1/2) inch in any dimension.

§ 102-54 Publicly Owned Treatment Works or POTW.²

“*Publicly Owned Treatment Works*” or “*POTW*” means a “treatment works” as defined in Section 212 of the Clean Water Act (33 U.S.C. § 1292) which is owned by the City or any municipality which contributes Wastewater to the City’s system. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of a liquid nature and any conveyances which convey Wastewater to a Treatment Plant. “*POTW*” includes, without limitation, the Sewer System, the Interceptor System, and the Wastewater Treatment Plant.

§ 102-55 RCRA.³

“*RCRA*” means the Resource Conservation and Recovery Act.

§ 102-56 Sanitary Sewage.⁴

“*Sanitary Sewage*” means the normal water-carried household and toilet wastes from any Improved Property.

¹ Derived from Ordinance 153 § 1(W) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² All except last sentence based on City of Allentown Ordinances § 941.1.4(X) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁴ Derived from Ordinance 152 § 1.01(J) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and from Ordinance 153 § 1(X) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-57 Septic Tank Waste.¹

“*Septic Tank Waste*” means any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

§ 102-58 Sewage.²

“*Sewage*” means human excrement and gray water (household showers, dishwashing operations, etc.).

§ 102-59 Sewage Treatment Plant.³

“*Sewage Treatment Plant*” means the plant and facilities owned by Allentown Authority and leased to the City for operation and use for the purpose, *inter alia*, of treatment and disposition of Sanitary Sewage and certain Industrial Wastes which may be collected in the Sewer System and ultimately delivered to said plant and facilities, including all additions thereto.

§ 102-60 Sewer.⁴

“*Sewer*” means any pipe, main, or conduit constituting a part of the Sewer System and used or usable for collection and transportation of Sanitary Sewage and Industrial Wastes.

¹ Based on City of Allentown Ordinances § 941.1.4(Y) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(Z) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Derived from Ordinance 153 § 1(Y) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Derived from Ordinance 153 § 1(Z) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81); also similar to Ordinance 152 § 1.01(K) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81) Recodified by Ordinance 316 (5/10/95).

§ 102-61 Sewer System.¹

“*Sewer System*” means all facilities, as of any particular time, for collecting, transporting, pumping, treating, or disposing of Sanitary Sewage and Industrial Wastes, situate in or adjacent to this Borough, owned by the Authority and leased to this Borough for operation and use.

§ 102-62 Significant Industrial User.²

“*Significant Industrial User*” means—

(a) A User subject to Categorical Pretreatment Standards; or

(b) A User that:

(1) Discharges an average of twenty-five thousand (25,000) gpd or more of process Wastewater to the POTW (excluding sanitary, Noncontact Cooling Water, and boiler blowdown Wastewater);

(2) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or

(3) Is designated as such by the City or the Borough on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement.

(c) Upon a finding that a User meeting the criteria in subsection (b) has no reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement, the Borough and the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

¹ Derived from Ordinance 152 § 1.01(L) (6/7/71), as codified to 1981 Code § 102-1 by Ordinance 215 (11/11/81); and from Ordinance 153 § 1(AA) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.1.4(AA) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

§ 102-63 Slug Load or Slug.¹

“*Slug Load*” or “*Slug*” means any Discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards in § 102-201.

§ 102-64 Standard Industrial Classification (SIC) Code.²

“*Standard Industrial Classification (SIC) Code*” or “*SIC Code*” means a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

§ 102-65 Storm Water.³

“*Storm Water*” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

§ 102-66 Suspended Solids.⁴

“*Suspended Solids*” means the total suspended matter that floats on the surface of, or is suspended (but not dissolved) in, water, Wastewater, or other liquids, and which is removable by laboratory filtering, as determined by appropriate procedures found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association.

¹ Based on City of Allentown Ordinances § 941.1.4(BB) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(CC) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Based on City of Allentown Ordinances § 941.1.4(DD) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁴ Based on Ordinance 153 § 1(BB) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81), except that solids floating on the surface were not included in Ordinance 153, but are in this recodification. Also based on City of Allentown Ordinances § 941.1.4(FF) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95).

§ 102-67 Total Solids.¹

“*Total Solids*” means all solids as determined by appropriate procedures found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association.

§ 102-68 Toxic Substance.²

“*Toxic Substance*” means any poisonous substance, including copper, cyanide, chromium, beryllium, cadmium, lead, nickel, tin and zinc ions, and any phenolic bodies or radioactive isotopes.

§ 102-69 TSS.³

“*TSS*” means Total Suspended Solids.

§ 102-70 U.S.C.⁴

“*U.S.C.*” means United States Code.

§ 102-71 User or Industrial User.⁵

“*User*” or “*Industrial User*” means a source of Indirect Discharge.

¹ Derived from Ordinance 153 § 1(CC) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 1(DD) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁴ Based on City of Allentown Ordinances § 941.1.3 (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

⁵ Based on City of Allentown Ordinances § 941.1.4(GG) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

§ 102-72 Wastewater.¹

“*Wastewater*” means liquid and water-carried Industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

§ 102-73 Wastewater Treatment Plant or Treatment Plant.²

“*Wastewater Treatment Plant*” or “*Treatment Plant*” means that portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

§ 102-74 Water System.³

“*Water System*” means the facilities owned by any Person and used for the supply of water to the public in the Borough.

Article II — Required Connection to and Use of Borough System⁴

§ 102-101 Connection of Improved Properties to System.

(a) **Connection to Available Sewers Required.⁵** The Owner of any Improved Property benefited, improved or accommodated by a Sewer shall connect such Improved Property with such Sewer, in such manner as this Borough may require, within forty-five (45) days after notice to such Owner from this Borough to make such connection, for the purpose of discharge of all Sanitary Sewage and Industrial Wastes from such Improved

¹ Based on City of Allentown Ordinances § 941.1.4(HH) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

² Based on City of Allentown Ordinances § 941.1.4(II) (as amended by City Ordinance 13248, 2/3/94). Added by recodification Ordinance 316 (5/10/95)

³ Derived from Ordinance 153 § 1(EE) (6/7/71), as codified to 1981 Code § 102-24 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ **Authority:** 53 PA. STAT. ANN. §§ 47051, 47052, 47054, 46202(74).

⁵ Subsection (a) derived from Ordinance 152 § 2.01 (6/7/71), as codified to 1981 Code § 102-2 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

Property, subject to such limitations and restrictions as shall be established in this Chapter or as otherwise shall be established by this Borough from time to time.

(b) Notice to Connect.¹ The notice by this Borough to make a connection to a sewer, referred to in subsection (a), shall consist of a copy of this Chapter, including any amendments and/or supplements at the time in effect, or a summary of each section of this Chapter, and a written or printed document requiring the connection in accordance with the provisions of this Chapter and specifying that such connection shall be made within forty-five (45) days from the date such notice is given. Such notice may be given at any time after a Sewer is in place which can receive and convey Sanitary Sewage and Industrial Wastes for treatment and disposal from the particular Improved Property. Such notice shall be served upon the Owner either by personal service or by registered mail or by such other method as at the time may be provided by law.

(c) Connection by Borough.² If the Owner of any Improved Property benefited, improved or accommodated by a Sewer, after forty-five (45) days' notice from this Borough requiring the connection of such Improved Property with a Sewer, in accordance with this Section, shall fail to connect such Improved Property as required, this Borough may make such connection and may collect from such Owner the costs and expenses thereof by a municipal claim, an action in assumpsit or such other legal proceeding as may be permitted by law.

§ 102-102 Required Use of System for All Sanitary Sewage and Industrial Wastes.

(a) Wastes Must Be Conducted to Sewer.³ All Sanitary Sewage and Industrial Wastes from any Improved Property, after connection of such Improved Property with a Sewer shall be required under § 102-101, shall be conducted into a Sewer, subject to such limitations and restrictions as shall be established in this Chapter or as otherwise shall be established by this Borough from time to time.

(b) Wastes May Not Be Deposited On Property.⁴ No Person shall place or deposit or permit to be placed or deposited upon public or private property within this Borough any Sanitary Sewage or Industrial Wastes in violation of § 102-101.

(c) Wastes May Not Be Discharged to Natural Outlets.¹ No Person shall discharge or permit to be discharged to any natural outlet within this Borough any Sani-

¹ Subsection (b) derived from Ordinance 152 § 2.06 (6/7/71), as codified to 1981 Code § 102-7 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (c) derived from Ordinance 152 § 3.07 (6/7/71), as codified to 1981 Code § 102-14 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Subsection (a) derived from Ordinance 152 § 2.02 (6/7/71), as codified to 1981 Code § 102-3 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Subsection (b) derived from Ordinance 152 § 2.03, 1st para. (6/7/71), as codified to 1981 Code § 102-4(A) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

tary Sewage or Industrial Wastes in violation of § 102-101, except where suitable treatment has been provided which is satisfactory to this Borough.

§ 102-103 Privy Vaults, Cesspools, Septic Tanks, etc.

(a) **Use Prohibited.**² No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or maintained at any time upon any Improved Property which has been connected to a Sewer or which shall be required under § 102-101 to be connected to a Sewer.

(b) **Abandonment; Cleansing.**³ Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Borough, shall be cleansed and filled at the expense of the Owner of such Improved Property and under the direction and supervision of this Borough; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Borough, cleansed and filled, shall constitute a nuisance and such nuisance may be abated as provided by law, at the expense of the Owner of such Improved Property.

(c) **Connection to Sewer Prohibited.**⁴ No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a Sewer.

§ 102-104 Permit and Notice Required For Connection.

(a) **Permit Required.**⁵ No Person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any Sewer or any part of the Sewer System without first obtaining a permit in writing from this Borough.

(b) **Application by Owner.**¹ Application for a permit requested with respect to the connection of an Improved Property to a Sewer shall be made by the Owner of the Improved Property.

¹ Subsection (c) derived from Ordinance 152 § 2.03, 2nd para. (6/7/71), as codified to 1981 Code § 102-4(B) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (a) derived from Ordinance 152 § 2.04, 1st para. (6/7/71), as codified to 1981 Code § 102-5(A) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Subsection (b) derived from Ordinance 152 § 2.04, 2nd para. (6/7/71), as codified to 1981 Code § 102-5(B) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Subsection (c) derived from Ordinance 152 § 2.05 (6/7/71), as codified to 1981 Code § 102-6 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁵ Subsection (a) derived from Ordinance 152 § 3.01 (6/7/71), as codified to 1981 Code § 102-8 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

(c) **Tapping Fees.**² No permit shall be issued under this Section unless the applicant shall have furnished satisfactory evidence to the Secretary of this Borough that all connection, customer facilities, and tapping fees imposed by the Borough and/or the Authority against the Owner with respect to the connection of the Owner's Improved Property to the Sewer System has been paid.

(d) **Notice of Connection.**³ No Person may act under any permit issued under this Section unless such Person shall have given the Secretary of this Borough at least twenty-four (24) hours' notice of the time when such actions will be taken, so that this Borough may supervise and inspect the work of connection and necessary testing.

§ 102-105 Building Sewers.

(a) **Separate Connection for Each Property.**⁴ Except as otherwise provided in this subsection, each Improved Property shall be connected separately and independently with a Sewer through a Building Sewer. Grouping of more than one (1) Improved Property on one Building Sewer shall not be permitted except under special circumstances and for good sanitary reasons or other good cause shown and then only after special permission of this Borough, in writing, shall have been secured and subject to such rules, regulations and conditions as may be prescribed by this Borough.

(b) **Point of Connection.**⁵ A Building Sewer shall be connected to a Sewer at the place designated by this Borough and where the Lateral is provided. The invert of a Building Sewer at the point of connection shall be at the same or a higher elevation than the invert of the Sewer. A smooth, neat joint shall be made and the connection of a Building Sewer to the Lateral shall be made secure and watertight.

(c) **Pre-Existing House Sewer Lines.**⁶ Where an Improved Property, at the time connection to a Sewer is required, shall be served by its own Sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such Sewage disposal system or device and attachment shall be made, with proper fittings, to continue such house sewer line as a Building Sewer.

¹ Subsection (b) derived from Ordinance 152 § 3.02 (6/7/71), as codified to 1981 Code § 102-9 by Ordinance 215 (11/11/81). Recodified and amended by Ordinance 316 (5/10/95).

² Subsection (c) based on Ordinance 152 § 3.03(D) (6/7/71), as codified to 1981 Code § 102-10(D) by Ordinance 215 (11/11/81). Added by recodification Ordinance 316 (5/10/95).

³ Subsection (d) based on Ordinance 152 § 3.03(C) (6/7/71), as codified to 1981 Code § 102-10(C) by Ordinance 215 (11/11/81). Added by recodification Ordinance 316 (5/10/95).

⁴ Subsection (a) derived from Ordinance 152 § 3.04 (6/7/71), as codified to 1981 Code § 102-11 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁵ Subsection (b) derived from Ordinance 152 § 3.06 (6/7/71), as codified to 1981 Code § 102-13 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁶ Subsection (c) derived from Ordinance 152 § 4.01 (6/7/71), as codified to 1981 Code § 102-15 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

(d) Inspections.¹ No Building Sewer shall be covered until it has been inspected and approved by this Borough. If any part of a Building Sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the Owner of the Improved Property to be connected to a Sewer.

(e) Excavations.² Every excavation for a Building Sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and all other public property disturbed in the course of installation of a Building Sewer shall be restored, at the cost and expense of the Owner of the Improved Property being connected, in a manner satisfactory to this Borough.

(f) Costs of Construction and Connection.³ All costs and expenses of construction of a Building Sewer and all costs and expenses of connection of a Building Sewer to a Sewer, including testing, shall be borne by the Owner of the Improved Property to be connected; and such Owner shall indemnify and save harmless this Borough from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a Building Sewer or of connection of a Building Sewer to a Sewer.

(g) Maintenance.⁴ Every Building Sewer of any Improved Property shall be maintained in a sanitary and safe operating condition by the Owner of such Improved Property.

(h) Unsatisfactory Conditions.⁵ If any Person shall fail or refuse, upon receipt of a notice from this Borough, in writing, to remedy any unsatisfactory conditions with respect to a Building Sewer within forty-five (45) days of receipt of such notice, this Borough may refuse to permit such Person to discharge Sanitary Sewage and Industrial Wastes into the Sewer System until such unsatisfactory condition shall have been remedied to the satisfaction of this Borough.

¹ Subsection (d) derived from Ordinance 152 § 4.02 (6/7/71), as codified to 1981 Code § 102-16 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (e) derived from Ordinance 152 § 4.04 (6/7/71), as codified to 1981 Code § 102-18 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Subsection (f) derived from Ordinance 152 § 3.05 (6/7/71), as codified to 1981 Code § 102-12 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Subsection (g) derived from Ordinance 152 § 4.03 (6/7/71), as codified to 1981 Code § 102-17 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁵ Subsection (h) derived from Ordinance 152 § 4.05 (6/7/71), as codified to 1981 Code § 102-19 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-106 Responsibility of Owner for Tenants and Others.¹

The Owner of each Improved Property connected to the Sewer System shall be responsible for all acts of tenants or other occupants of such Improved Property insofar as such acts shall be governed by provisions of this Chapter.

§ 102-107 Additional Rules and Regulations.²

This Borough reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a Sewer and the Sewer System and/or to the use and operation of the Sewer System, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as a part of this Chapter.

Article III — Capital Construction Fees³

§ 102-121 Connection Fee.⁴

[RESERVED]

§ 102-122 Customer Facilities Fee.⁵

[RESERVED]

¹ Derived from Ordinance 153 § 11 (6/7/71), as codified to 1981 Code § 102-34 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 152 § 4.06 (6/7/71), as codified to 1981 Code § 102-20 by Ordinance 215 (11/11/81); and Ordinance 153 § 12 (6/7/71), as codified to 1981 Code § 102-35 by Ordinance 215 (11/11/81) Recodified and combined by Ordinance 316 (5/10/95).

³ **Authority:** 53 PA. STAT. ANN. §§ 47053, 10507-A, 306(B)(t),(z), (z.1), (z.2).

⁴ Section titled and reserved by recodification Ordinance 316 (5/10/95).

⁵ Section titled and reserved by recodification Ordinance 316 (5/10/95).

§ 102-123 Tapping Fee: In General.¹

[RESERVED]

Article IV — Sewer Rental & System Usage Fees²

§ 102-141 Imposition of Rents or Charges.³

Sewer rentals or charges are imposed upon and shall be collected from the Owner of each Improved Property which shall be connected with the Sewer System, for use of the Sewer System, whether such use shall be direct or indirect, which sewer rentals or charges shall commence and shall be effective as of the date of connection of each Improved Property to the Sewer System and shall be payable as provided in this Article.

§ 102-142 Charges for Dwelling Units, Commercial Establishments, and Institutional Establishments.

(a) **Flat Rates.**⁴ Sewer rentals or charges for Sanitary Sewage discharged into the Sewer System from any Improved Property constituting a Dwelling Unit, a Commercial Establishment, or an Institutional Establishment shall be on a flat rate basis for the following classifications at the following rates per quarter annum:

¹ Section titled and reserved by recodification Ordinance 316 (5/10/95).

² **Authority:** 53 PA. STAT. ANN. § 47061 *et seq.*

³ Derived from Ordinance 153 § 2 (6/7/71), as codified to 1981 Code § 102-25 by Ordinance 215 (11/11/81); and from Ordinance 278 § VI, introductory clause (12/27/89); and from Ordinance 284 § VI, introductory clause (12/26/90); and from Ordinance 288 § VI, introductory clause (12/30/91); and from Ordinance 296 § VI, introductory clause (12/30/92); and from Ordinance 305 § VI, introductory clause (12/29/93); and from Ordinance 314 § VI, introductory clause (12/28/94). Recodified by Ordinance 316 (5/10/95).

⁴ Subsection (a) derived from Ordinance 153 § 3(A) (6/7/71), as codified to 1981 Code § 102-26(A)(1) by Ordinance 215 (11/11/81). As originally adopted, the rates were as follows:

(1) *Each Dwelling Unit* \$25.00 per quarter annum.

(2) **Commercial Establishments:**

a. *Each social hall* \$25.00 per quarter annum.

b. *Each church* \$25.00 per quarter annum.

c. *Each retail gasoline station* \$37.50 per quarter annum.

d. *Each motel, hotel, or other establishment providing overnight facilities and each nursing or convalescent home that has private toilet or washing facilities in or connected to the room* \$12.50 per room per quarter annum.

(1) **Dwelling Units.** Thirty Dollars (\$30.00) per Dwelling Unit (\$120.00/year).

(2) **Commercial Establishments.** Forty-two Dollars and fifty cents (\$42.50) per Commercial Establishment or combination Dwelling Unit and Commercial Establishment (\$170.00/year).

(3) **Institutional Establishments.**

(A) **Schools.** The charge for each public or private school is—

(I) One Dollar and fifty cents (\$1.50) for each full-time pupil, full-time teacher, or full-time employee, based on the daily average number of full-time

e. Each motel, hotel, or other establishment providing overnight facilities and each nursing or convalescent home that does not have private toilet or washing facilities in or connected to a room \$8.33 per room per quarter annum.

Wherever a restaurant or barroom is conducted in connection with any motel or hotel, a separate sewer rental or charge shall be imposed for such facilities in accordance with the classification set forth under paragraph (2) f below.

f. Each restaurant, barroom, or other Commercial Establishment which regularly dispenses food or beverages for consumption on the premises \$2.00 per quarter-annum per employee, plus \$2.50 per quarter-annum for each seat regularly intended for customer use, subject to a minimum charge of \$50.00 per quarter. This sewer rental or charge shall be computed on the basis of the average daily number of employees for the quarter-annum immediately preceding the date of the bill. An owner shall be considered an employee for purposes of computing sewer rentals.

g. Each retail store, business or professional office, barber shop or beauty shop (not operated in a home by the homeowner or tenant of the home) \$25.00 per quarter annum.

h. All other Commercial Establishments not separately classified under (2) a., (2) b., (2) c., (2) d., (2) e., (2) f., or (2) g. above, and not constituting a combination Dwelling Unit and Commercial Establishment as classified in (3) below \$2.00 per quarter-annum per employee, plus \$20.00 per quarter-annum for each public restroom, subject to a minimum charge of \$37.50 per quarter. This sewer rental or charge shall be computed on the basis of the average daily number of employees for the quarter annum immediately preceding the date of the bill. An owner shall be considered an employee for purposes of computing sewer rentals.

(3) *Combination Dwelling Unit and Commercial Establishment located in one structure and owned or occupied by the same Person; provided that this subsection (3) shall not be applicable in those cases where the Commercial Establishment shall constitute a restaurant, bar room, or other Commercial Establishment which regularly dispenses food and/or beverages for consumption on the premises \$37.50 per quarter.*

As amended by Ordinance 278 § VI (12/27/89), which provided for a “Flat rate for each dwelling unit” of “\$120.00/year”, which added the temporary surcharge (*see* § 102-150), and which stated that “[a]ll other sewer rentals or charges shall remain unchanged. Sewer rentals or charges shall continue to be payable per quarter annum.”; as amended by Ordinance 284 § VI (12/26/90), which included the same language as Ordinance 278 § VI; as amended by Ordinance 288 § VI (12/30/91), which included the same language as Ordinance 278 § VI (except with respect to the temporary surcharge).

As amended by Ordinance 296 § VI (12/30/92), which provided for a “Flat rate for each dwelling unit” of “\$120.00/year”, which changed the flat rate for *each* “commercial/business” to “\$170.00/year”, which continued the temporary surcharge (*see* § 102-150), and which stated that “[a]ll other sewer rentals or charges shall remain unchanged. Sewer rentals or charges shall continue to be payable per quarter.”; as amended by Ordinance 305 § VI (12/29/93), which included substantially the same language as Ordinance 296 § VI (except with respect to the amount of the temporary surcharge); as amended by Ordinance 314 § VI (12/28/94), which included substantially the same language as Ordinance 296 § VI (except with respect to the amount of the temporary surcharge).

Added by recodification Ordinance 316 (5/10/95).

pupils, teachers, and employees enrolled or employed on days when the school was in session during the immediately preceding full school year; plus

(II) Seventy-five cents (\$0.75) for each part-time pupil, part-time teacher, or part-time employee, based on the daily average number of part-time pupils, teachers, and employees enrolled or employed on days when the school was in session during the immediately preceding full school year.

(b) **Alteration of Flat Rate Classifications.**¹ This Borough reserves the right, from time to time, to establish additional flat rate classifications and to establish quarter annum rates therefor; and this Borough further reserves the right, from time to time, to alter, modify, revise and/or amend flat rate classifications and the quarter annum rates applicable thereto.

(c) **Metering.**² The Borough reserves the right to require any of the above Units or Establishments to pay sewer rentals or charges on the basis of metered rates. In such case, such Units or Establishments shall pay the same rentals or charges as are provided in this Article for Industrial Establishments; *provided*, however, that such Units or Establishments shall not pay less than the above flat rates.

§ 102-143 Charges for Industrial Establishments.

(a) **In General.**³ Sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting an Industrial Establishment shall be based on—

(1) the actual metered volume of discharge, as permitted in this Article, where discharge is metered;

(2) the volume of water usage, measured and adjusted, if appropriate, as provided in § 102-148, where the actual volume of Sewage discharge is not metered but the volume of water usage is metered in connection with the Water System or otherwise; or

(3) an estimate by this Borough of the water consumption of the Improved Property, when the actual volume of Sewage discharge is not metered as permitted in this Article, and the volume of water usage is not metered in connection with the Water System or otherwise.

(b) **Volume Rates.**¹ Base sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting an Industrial

¹ Subsection (b) derived from Ordinance 153 § 3(G) (6/7/71), as codified to 1981 Code § 102-26(G) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (c) derived from Ordinance 153 § 3(A), last paragraph (6/7/71), as codified to 1981 Code § 102-26(A)(2) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Subsection (a) based on Ordinance 153 § 3(B), first paragraph, and § 3(C) (6/7/71), as codified to 1981 Code § 102-26(B)(1) and (C) by Ordinance 215 (11/11/81). Added by recodification Ordinance 316 (5/10/95).

Establishment shall be equal to the greatest of the amounts determined under paragraphs (1), (2), (3), and (4):

(1) Volume Rate Schedule. The amount computed in accordance with the following schedule based on the number of gallons discharged (determined under the method set forth in subsection (a)):

<u>Gallons Discharged</u>	<u>Base Amount</u>	<u>plus</u>	<u>Marginal Rate</u>	<u>For volume over</u>
0 – 15,000	\$25.00	+	0	0 gallons
15,001 – 30,000	\$25.00	+	\$1.35 / 1000 gal	15,000 gallons
30,001 – 100,000	\$40.25	+	\$1.15 / 1000 gal	30,000 gallons
100,001 – 200,000	\$120.75	+	\$0.75 / 1000 gal	100,000 gallons
200,001 – 1,000,000	\$195.75	+	\$0.60 / 1000 gal	200,000 gallons
1,000,001 – 3,000,000	\$675.75	+	\$0.50 / 1000 gal	1,000,000 gallons
3,000,001 – 9,000,000	\$1,675.75	+	\$0.35 / 1000 gal	3,000,000 gallons
over 9,000,000	\$3,775.75	+	\$0.33 / 1000 gal	9,000,000 gallons

(2) Minimum Flat Charge. A minimum quarterly charge of Twenty-five Dollars (\$25.00); or

(3) Minimum Employee Charge. A minimum quarterly charge of Two Dollars (\$2.00) per employee, based upon the daily number of employee for the quarter-annum immediately preceding the quarter-annum for which the bill is rendered.

(4) Historical Minimum Charge. A minimum quarterly charge of seventy-five percent (75%) of the average sewer rental or charge paid by the Industrial Establishment during the same quarter annum period of the two (2) preceding calendar years or, if said Industrial Establishment did not pay rentals or charges during such two (2) previous years, then seventy-five percent (75%) of the sewer rental or charges paid by said Industrial Establishment during the same quarter annum of the previous year.

(c) Exceptional Strength Charges.² The sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting an Industrial Establishment may be increased above the base charges set forth in subsection (b) by an exceptional strength charge if the wastes discharged have BOD greater than 210 mg/l, Suspended Solids greater than 230 mg/l, or total Kjeldahl nitrogen greater than 40 mg/l. The exceptional strength charges shall be equal to the additional charges to the Borough by the County Authority and/or the City for exceptional strength discharges, plus any additional costs for accelerated deterioration of the Borough Sewer System as may be established by resolution of Borough Council or in an agreement or arrangement under § 102-207.

¹ Subsection (b) based on Ordinance 153 § 3(B), § 3(C), and §3(E) (6/7/71), as codified to 1981 Code § 102-26(B), (C), and (E) by Ordinance 215 (11/11/81). Added by recodification Ordinance 316 (5/10/95).

² Subsection (c) addresses matters considered in City of Allentown Ordinances § 941.2.1(C) (as amended by City Ordinance 13248, 2/3/94); Sections 3(B) and 8 of the Agreement of December 29, 1981 among the City of Allentown, County of Lehigh, Coplay-Whitehall Sewer Authority, Lehigh County Authority, Township of Salisbury, and Township of South Whitehall, joined in and consented to by the Borough of Alburdis; and Articles III and IV of the April 1, 1983 Wastewater Treatment Capacity Allocation Agreement among Lehigh County Authority, the County of Lehigh, Borough of Macungie, Townships of Lower Macungie, Lowhill, Upper Macungie, Upper Milford, and Weisenberg, consented to and joined in by the Borough of Alburdis, as amended by the August 1, 1987 amendment thereto. Added by Ordinance 316 (5/10/95).

(d) Special Agreements.¹ Notwithstanding any provision to the contrary in this Article, this Borough shall have the right, based upon good reasons and circumstances existing, to enter into special agreements with the Owner of any Improved Property, which Improved Property shall constitute an Industrial Establishment, with respect to terms and conditions upon which Sanitary Sewage and/or Industrial Wastes may be discharged into the Sewer System and with respect to payments to be made to this Borough in connection therewith. In such event, such service and payments with respect thereto shall be governed by terms and conditions of such special agreement.

§ 102-144 Multiple Units.²

Each Billing Unit located in a Multiple Unit shall be billed as a separate entity and the foregoing sewer rentals or charges, as appropriate, shall be used in computing the sewer rentals or charges applicable to each such Billing Unit as though such Billing Unit was in a separate structure and had a direct and separate connection to the Sewer System, *provided*, however, that this Section shall not be applicable to a combination Dwelling Unit and Commercial Establishment as specified in § 102-142(a)(2).

§ 102-145 Changes in Billing Status During a Billing Period.

(a) Change in Use or Classification of Property.³ If the use or classification of any Improved Property shall change during any quarter annum period, the sewer rental or charge shall be adjusted by this Borough by proration on a monthly basis to the nearest calendar month, with a credit or charge, as shall be appropriate under the circumstances, being made on the statement for the next succeeding quarter annum period.

(b) Commencement or Termination of Use.⁴ Whenever service to any Improved Property shall begin after the first day or shall terminate before the last day of any quarterly billing period, sewer rentals or charges for such period shall be prorated equitably, if appropriate, for that portion of the quarterly billing period during which such Improved Property was served by the Sewer System.

¹ Subsection (d) derived from Ordinance 153 § 3(H) (6/7/71), as codified to 1981 Code § 102-26(H) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 3(D) (6/7/71), as codified to 1981 Code § 102-26(D) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Subsection (a) derived from Ordinance 153 § 3(F) (6/7/71), as codified to 1981 Code § 102-26(F) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Subsection (b) derived from Ordinance 153 § 4(C), 2nd paragraph (6/7/71), as codified to 1981 Code § 102-27(C)(2) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-146 Time and Method of Payment.¹

(a) **Quarterly Billing.** Sewer rentals or charges imposed by this Article shall be payable quarterly, or, at the discretion of the Borough, the same may be payable monthly.

(b) **Date of Bills.** All bills with respect to Billing Units shall be rendered each calendar quarter on the first days of January, April, July, and October of each year for service during the preceding quarter annum or, at the discretion of the Borough, the same may be rendered monthly on the first day of the month for service during the preceding month.

(c) **Payment of Bills.**

(1) **In General.** Sewer rentals or charges shall be due and payable five (5) days after mailing or delivery by or in behalf of this Borough to the Person responsible for payment thereof.

(2) **Late Charge after 30 Days.** If sewer rentals or charges are not paid within thirty (30) calendar days after the same become due and payable, an additional sum of five per centum (5%) shall be added to such net bill, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty-calendar-day period shall constitute payment within such period. If the end of such thirty-calendar-day period shall fall on a legal holiday or on a Sunday, payment made on or mailed and postmarked on the next succeeding business day which is not a legal holiday shall constitute payment within such period.

(3) **Interest Charged after 60 Days.** If sewer rentals and charges are not paid within sixty (60) calendar days after the same become due and payable, the bill therefor, in addition to bearing the five-percent late charge under paragraph (2), shall also bear interest at the rate of one-half per centum (1/2%) per month or fraction thereof from the due date until the date of payment.

(d) **Provision of Mailing Address.** Every Owner of an Improved Property which is connected to the Sewer System initially shall provide this Borough with and thereafter shall keep this Borough advised of his correct address. Failure of any Person to receive quarterly bills for sewer rentals or charges shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

¹ Derived from Ordinance 153 § 4 (except subsection (C), 2nd paragraph) (6/7/71), as codified to 1981 Code § 102-27 (except subsection (C)(2)) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95) with minor changes.

§ 102-147 Liens for Sewer Rentals.¹

Sewer rentals or charges imposed under this Article shall be a lien on the Improved Property connected to and served by the Sewer System; and any such sewer rentals or charges which are not paid within thirty (30) days after each quarterly billing date applicable to the particular Improved Property, at the discretion of the Borough, shall be filed as a lien against the Improved Property so connected to and served by the Sewer System, which lien shall be filed and collected in the manner provided by law for the filing and collecting of municipal claims.

§ 102-148 Measuring Volumes Based on Water Usage.²

(a) Measurement of Total Volume Discharged.

(1) All Water Supplied By Water System. Whenever the entire water supply of an Improved Property or, if applicable, a Billing Unit or Billing Units located therein, constituting an Industrial Establishment, which shall be discharging Sanitary Sewage and/or Industrial Wastes into the Sewer System, is supplied by the Water System, the volume of water furnished, as determined from meter readings of the Water System, shall be used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing sewer rentals or charges, subject to adjustment, if appropriate, as provided in paragraph (3).

(2) All Water Not Supplied By Water System. Whenever an Improved Property or, if applicable, a Billing Unit or Billing Units located therein, constituting an Industrial Establishment, which shall be discharging Sanitary Sewage and/or Industrial Wastes into the Sewer System, shall have a source or sources of water supply in addition to or other than the Water System, the Owner of such Improved Property shall provide a meter or meters on such additional or other source or sources of water supply. The total volume of water consumed, as determined from the meter readings of the Water System and the meter readings of the meter or meters on such additional or other source or sources of water supply, or the meter readings of the meter or meters on such other source or sources of water supply, as appropriate, shall be used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing the sewer rentals or charges, subject to adjustment, if appropriate, as provided in paragraph (3).

(3) Adjustment When All Water Used Is Not Discharged to Sewer System. Whenever an Improved Property or, if applicable, a Billing Unit or Billing Units located therein, constituting an Industrial Establishment, shall use water from the Water System and/or water from a source or sources of supply in addition to or other than the Water System for cooling or unpolluted commercial or industrial process purposes, and all or part of the water so used shall *not* be discharged into the Sewer System, the volume

¹ Derived from Ordinance 153 § 5 (6/7/71), as codified to 1981 Code § 102-28 by Ordinance 215 (11/11/81). Recodified and amended by deleting the reference to the Office of the Prothonotary of Lehigh County by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 6 (6/7/71), as codified to 1981 Code § 102-29 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing sewer rentals or charges may be adjusted by one of the following methods:

(A) **Sewer Meter.** By installing a meter or other measuring device on the connection to the Sewer System. The readings from such meter or measuring device shall be used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing sewer rentals or charges.

(B) **Meter of Water Not Discharged to Sewer System.** By installing a meter or other measuring device to measure the volume not being discharged into the Sewer System. The readings from such meter or measuring device shall be deducted from the total water meter readings and the remainder shall be used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing sewer rentals or charges.

(C) **Estimate by Borough.** If it is not practical, in the opinion of this Borough, to install a meter or other measuring device to determine continuously the volume not discharged into the Sewer System, this Borough shall determine, in such manner and by such method as it may prescribe, the percentage of metered water which is being discharged into the Sewer System. The quantity of water used as the measure of discharge of Sanitary Sewage and/or Industrial Wastes in computing sewer rentals or charges shall be the percentage so determined of the quantity measured by the water meter or meters. Any dispute as to such estimated percentage shall be submitted to this Borough, after notice of such estimate. The decision of this Borough with respect to the matter shall be final for the then-current calendar year.

(b) **Measurement of Industrial Wastes Discharged.**

(1) **All Discharge Is Industrial Wastes.** Whenever an Industrial Establishment shall discharge only Industrial Wastes into the Sewer System, the volume of water used, measured as provided in this Section, shall be used as a measure of the quantity of Industrial Wastes so discharged.

(2) **Discharge Includes Both Sanitary Sewage and Industrial Wastes.** Whenever an Industrial Establishment shall discharge combined Sanitary Sewage and Industrial Wastes into the Sewer System, the volume of water used, measured as provided in this Section, chargeable as Industrial Wastes shall be the total volume of water used, less the volume of water determined to be Sanitary Sewage. The volume of water determined to be Sanitary Sewage shall be determined, at the option of the Borough, in either of the following ways:

(A) Actual measured flow; or

(B) By multiplying the average number of employees in the Industrial Establishment during the calendar quarter annum immediately preceding the billing date by nine hundred (900) gallons.

(c) **Measuring Devices.** Meters or other measuring devices which shall not be available in connection with the Water System, but which shall be required or permitted under provisions of this Section shall be furnished and installed in accordance with specifications of this Borough by the Owner of the Improved Property at his expense, shall be under the control of this Borough and may be tested, inspected or repaired by this Borough whenever necessary. The Owner of the Improved Property upon which such meter or other measuring device shall be installed shall be responsible for its maintenance and safekeeping; and all repairs thereto shall be made at the expense of the Owner, whether such repairs shall be made necessary by ordinary wear and tear or other causes.

Bills for such repairs, if made by this Borough, shall be due and payable immediately upon completion of such repairs and shall be collected in the same manner as quarterly bills for sewer rentals or charges.

(d) **Meter Readings.** This Borough, except to the extent that meter readings are made by any other Person in connection with the Water System and are made available to this Borough for purposes of this Article, shall be responsible for the reading of all meters or other measuring devices and the same shall be available to this Borough at all reasonable times.

§ 102-149 Temporary Surcharges.¹

In addition to all other sewer rental fees and charges set forth in this Article, temporary surcharges are imposed upon the Owners of Improved Properties which shall be connected with the Sewer System, for the direct or indirect use of the Sewer System, as follows:

(a) **1990.** Forty-five Dollars (\$45.00) for each Dwelling Unit for fiscal year 1990.

(b) **1991.** Forty-five Dollars (\$45.00) for each Dwelling Unit for fiscal year 1991.

(c) **1992.** Fifty-five Dollars (\$55.00) for each Dwelling Unit for fiscal year 1992.

(d) **1993.** Fifty-five Dollars (\$55.00) for each Dwelling Unit and each commercial/business unit for fiscal year 1993, to be added as Borough Council deems necessary.

(e) **1994.** One Hundred Twenty Dollars (\$120.00) for each Dwelling Unit and each commercial/business unit for fiscal year 1994, to be added as Borough Council deems necessary.

(f) **1995.** One Hundred Twenty Dollars (\$120.00) for each Dwelling Unit and each commercial/business unit for fiscal year 1995, to be added as Borough Council deems necessary.

¹ Based on Ordinance 278 § VI (12/27/89) (for 1990); Ordinance 284 § VI (12/26/90) (for 1991); Ordinance 288 § VI (12/30/91) (for 1992); Ordinance 296 § VI (12/30/92) (for 1993); Ordinance 305 § VI (12/29/93) (for 1994); Ordinance 314 § VI (12/28/94) (for 1995). Added by recodification Ordinance 316 (5/10/95).

§ 102-150 Administrative Charges and Fees.¹

The Borough may adopt, by Resolution, reasonable fees for reimbursement of costs of setting up and operating the Borough's industrial Wastewater discharge program, which may include—

(a) Fees for Wastewater Discharge Permit applications, including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Reimbursement of costs imposed on the Borough by the City or the County Authority in setting up and operating their industrial Wastewater discharge programs; and

(f) Other fees as the Borough may deem necessary to carry out the requirements of this Chapter. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties chargeable by the Borough.

Article V — General Sewer Use Requirements²

§ 102-201 Prohibited Discharge Standards.

(a) **Stormwater, etc.**³ No Person shall discharge or cause to be discharged any stormwater, surface water, springwater, groundwater, roof runoff, subsurface drainage, building foundation drainage, cellar drainage, drainage from roof leader connections and overflow or drainage from cesspools into any Sewer.

¹ Based on City of Allentown Ordinances § 941.15.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² **Authority:** 53 PA. STAT. ANN. § 47054.

³ Subsection (a) derived from Ordinance 153 § 8(A) (6/7/71), as codified to 1981 Code § 102-31(A) by Ordinance 215 (11/11/81); *cf. also* City of Allentown Ordinances § 941.2.1(B)(12) (as amended by City Ordinance 13248, 2/3/94). Recodified by Ordinance 316 (5/10/95).

(b) General Prohibitions.¹ No User or other Person shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements.

¹ Subsection (b) based on City of Allentown Ordinances § 941.2.1(A) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Corresponding provision of prior law, Ordinance 153 § 8(D) (6/7/71), as codified to 1981 Code § 102-31(D) by Ordinance 215 (11/11/81), read as follows:

As provided in the Allentown Agreements, any industrial waste or other waste which is dangerous to the public health and safety or which at any time is prohibited by any ordinance, resolution, rule or regulation of the City from entering into the sewage treatment plant shall not be discharged into any sewer.

(c) **Specific Prohibitions.**¹ Except as provided in § 102-207, no User or other Person shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:

(1) Waste having BOD greater than three hundred (300) mg/l. Waste having BOD greater than two hundred ten (210) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;

¹ Paragraphs (1) through (3) of subsection (c) address matters considered in City of Allentown Ordinances § 941.2.1(C)(b) (as amended by City Ordinance 13248, 2/3/94); Sections 3(B) and 8 of the Agreement of December 29, 1981 among the City of Allentown, County of Lehigh, Coplay-Whitehall Sewer Authority, Lehigh County Authority, Township of Salisbury, and Township of South Whitehall, joined in and consented to by the Borough of Alburdis; and Articles III and IV of the April 1, 1983 Wastewater Treatment Capacity Allocation Agreement among Lehigh County Authority, the County of Lehigh, Borough of Macungie, Townships of Lower Macungie, Lowhill, Upper Macungie, Upper Milford, and Weisenberg, consented to and joined in by the Borough of Alburdis, as amended by the August 1, 1987 amendment thereto.

Remaining paragraphs based on City of Allentown Ordinances § 941.2.1(B) (as amended by City Ordinance 13248, 2/3/94), and on Borough Ordinance 153 § 8(C)(1),(4),(6),(12) (6/7/71), as codified to 1981 Code § 102-31(C)(1),(4),(6),(12) by Ordinance 215 (11/11/81).

Added by recodification Ordinance 316 (5/10/95).

Corresponding provisions of prior law, Ordinance 153 § 8(C) (6/7/71), as codified to 1981 Code § 102-31(C) by Ordinance 215 (11/11/81) were as follows:

Except as provided in . . . [the pretreatment provisions] of this chapter, no sewage or industrial wastes or other wastes shall be discharged to the sewer system:

- (1) *Having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.).*
- (2) *Containing more than one hundred (100) milligrams per liter by weight of fat, oil, or grease.*
- (3) *Containing any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.*
- (4) *Containing any unground garbage.*
- (5) *Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the proper operation of the sewage treatment plant.*
- (6) *Having a pH lower than 6.0 or higher than 9.0 or having any other corrosive or scale-forming property capable of causing damage or hazard to structures, equipment or personnel operating the sewage treatment plant.*
- (7) *Containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant; toxic wastes shall include wastes containing cyanide, copper and/or chromium ions.*
- (8) *Containing suspended solids in excess of three (3) pounds per one thousand (1,000) gallons and of such character that unusual attention or expense is required to handle such materials at the sewage treatment plant.*
- (9) *Containing noxious or malodorous gas or substance capable of creating a public nuisance.*
- (10) *Containing BOD in excess of two and five-tenths (2.5) pounds per one thousand (1,000) gallons and of such character that unusual attention or expense is required to handle such materials at the sewage treatment plant, unless otherwise agreed to by the city and permitted by the Commonwealth of Pennsylvania or any duly constituted board, commission or department thereof.*
- (11) *Having a chlorine demand in excess of one-tenth (0.1) pound per one thousand (1,000) gallons; or*
- (12) *Prohibited by any permit issued by the Commonwealth of Pennsylvania.*

(2) Waste having a content of Suspended Solids greater than three hundred sixty (360) mg/l. Waste having Suspended Solids greater than two hundred thirty (230) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;

(3) Waste having a content of total Kjeldahl nitrogen greater than eighty-five (85) mg/l. Waste having total Kjeldahl nitrogen greater than forty (40) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;

(4) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60° C) using the test methods specified in 40 CFR 261.21;

(5) Wastewater having a pH less than 5.0 or more than 12.0, or otherwise causing corrosive structural damage to the POTW or equipment. Wastewater having a pH less than 6.0 or more than 9.0 or otherwise causing corrosive structural damage to the Sewer System shall not be introduced into the Sewer System without the express written approval of the Borough;

(6) Solid or viscous substances in amounts which, alone or in combination with other substances, will cause obstruction of the flow in the POTW resulting in Interference;

(7) Any unground garbage;

(8) Pollutants, including oxygen-demanding Pollutants (BOD, etc.), released in a discharge at a flow rate and/or Pollutant concentration which, either singly or by interaction with other Pollutants, will cause Interference with the POTW;

(9) Wastewater having a temperature that will inhibit biological activity in the Treatment Plant resulting in Interference, but in no case Wastewater which causes the temperature at the introduction into the treatment plan to exceed 104° F (40° C). Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) shall not be introduced into the Sewer System without the express written approval of the Borough;

(10) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

(11) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(12) Trucked or hauled Pollutants;

(13) Noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(14) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the Treatment Plant's effluent, thereby violating the City's NPDES permit;

(15) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable federal or state regulations;

(16) Artesian well water, significant quantities of condensate, deionized water, Noncontact Cooling Water, or unpolluted water, unless specifically authorized by the Manager of Water Resources and the Borough;

(17) Sludges, screenings, or other residues from the pretreatment of Industrial Wastes;

(18) Medical wastes, except as specifically authorized by the Manager of Water Resources in a Wastewater Discharge Permit, and by the Borough in writing;

(19) Wastewater causing, alone or in conjunction with other sources, the Treatment Plant's effluent to fail a toxicity test;

(20) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW or its discharge;

(21) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 200 mg/l; and

(22) Pollutants, substances, or Wastewater prohibited in the POTW by any federal or state permit.

(d) **Storage and Processing of Wastes.**¹ Pollutants, substances, or Wastewater prohibited by this Section shall not be processed or stored in such a manner than they could be discharged to the POTW or the Sewer System.

§ 102-202 National Categorical Pretreatment Standards.²

(a) **In General.** The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(b) **Standard Expressed in Mass or Concentration, but not Both.** Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Borough and the Manager of Water Resources may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

¹ Subsection (d) based on City of Allentown Ordinances § 941.2.1(B), last paragraph (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Corresponding provision of prior law, Ordinance 153 § 8(D) (6/7/71), as codified to 1981 Code § 102-31(D) by Ordinance 215 (11/11/81), read as follows:

As provided in the Allentown Agreements, any industrial waste or other waste which is dangerous to the public health and safety or which at any time is prohibited by any ordinance, resolution, rule or regulation of the City from entering into the sewage treatment plant shall not be discharged into any sewer.

² Based on City of Allentown Ordinances § 941.2.2 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(c) **Mixed Wastewater Whose Components are Subject to Different Standards.** When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same standard, the Borough and the Manager of Water Resources shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(d) **Variations.** A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions of 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

(e) **Net Gross Adjustments.** A User may obtain a net gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15.

§ 102-203 State Pretreatment Standards.¹

[RESERVED]

§ 102-204 Limits Established or Revised by City POTW.

(a) **City Limits.**² Limits for discharging Pollutants which are of concern to the POTW will be made by the City using headworks loading analyses which have been reviewed and approved by the Allentown Authority. Allocations for discharging such Pollutants will be made to each Significant Industrial User. Limits may be in the form of monthly average concentration, daily maximum concentration, or instantaneous maximum concentration. Limits will be contained in the Wastewater Discharge Permits issued under § 102-252 *et seq.* All concentrations for metallic substances are for “total” metal unless indicated otherwise. The Borough and the Manager of Water Resources may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(b) **Revisions.**³ The City retains the right to establish, by ordinance, inter-municipal agreement, or in Wastewater Discharge Permits, more stringent standards or requirements on discharges to the POTW.

(c) **Adoption by Borough.**¹ No Person shall discharge Pollutants into the Sewer System which would exceed the limits, or violate the restrictions established by the City

¹ Section titled and reserved by recodification Ordinance 316 (5/10/95). Based on reservation in City of Allentown Ordinances § 941.2.3 (as amended by City Ordinance 13248, 2/3/94).

² Subsection (a) based on City of Allentown Ordinances § 941.2.4 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Subsection (b) based on City of Allentown Ordinances § 941.2.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

or the Manager of Water Resources as described in this Section and other portions of this Chapter.

§ 102-205 Dilution.²

No User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Borough or the Manager of Water Resources may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

§ 102-206 Rights Reserved by Borough to Prevent Harmful Discharges.³

This Borough reserves the right to refuse permission to connect to the Sewer System, to compel discontinuance of use of the Sewer System or to compel pretreatment of Industrial Wastes by an Industrial Establishment in order to prevent Discharges deemed harmful or to have a deleterious effect upon any Sewer or the Sewer System or the Sewage Treatment Plant and to comply with provisions of the Allentown Agreements.

¹ Subsection (c) added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.2.6 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Derived from Ordinance 153 § 8(B) (6/7/71), as codified to 1981 Code § 102-31(B) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

§ 102-207 Special Agreements.¹

Nothing contained in this Article shall be construed as prohibiting any special agreement or arrangement between this Borough, the City, and any Person whereby wastes of unusual strength or character may be admitted into the Sewer System and the POTW by this Borough and the City either before or after preliminary treatment. However, no such special agreement or arrangement shall allow violation of federal Pretreatment Requirements, or any other applicable federal or state requirements. Whenever the Approval Authority shall deem it necessary for the protection and safe, economical, and efficient management of the POTW, the Owner of an Improved Property shall provide at the Owner's expense such facilities for preliminary treatment and processing of Industrial Waste as may be necessary to reduce BOD to three hundred (300) mg/l, Suspended Solids to three hundred sixty (360) mg/l, and total Kjeldahl nitrogen to eighty-five (85) mg/l.

Article VI — Admission of Industrial Wastes—In General²

§ 102-221 Required Survey Data.³

Any Person desiring to make a connection to the Sewer System through which Industrial Wastes shall be discharged into the Sewer System shall file with this Borough an Industrial Wastes report, which shall supply pertinent data, including estimated quan-

¹ First two sentences based on Ordinance 153 § 8(E) (6/7/71), as codified to 1981 Code § 102-31(E) by Ordinance 215 (11/11/81); and City of Allentown Ordinances § 941.2.1(C)(a) (as amended by City Ordinance 13248, 2/3/94). Third sentence based on City of Allentown Ordinances § 941.2.1(C)(c) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Ed. Note: Ordinance 153 § 7(A) (6/7/71), as codified to 1981 Code § 102-30(A) by Ordinance 215 (11/11/81) also provided the following language, which is redundant under this Section and §§ 102-201, 102-252:

The discharge into the sewer system of industrial wastes having—

- (1) *a five-day BOD greater than two and five-tenths (2.5) pounds per one thousand (1,000) gallons; [Ed. Note: 2.5 lbs/1000 gal ≈ 300 mg/l.]*
- (2) *a suspended solids content greater than three (3) pounds per one thousand (1,000) gallons; [Ed. Note: 3.0 lbs/1000 gal ≈ 360 mg/l.]*
- (3) *an average daily flow greater than five per centum (5%) of the average daily sewage flow at the sewage treatment plant; or*
- (4) *any quantity of substances possessing characteristics described in [the provision relating to prohibited waste],*

shall be subject to prior review and approval of this Borough.

² **Authority:** 53 PA. STAT. ANN. § 47054.

³ Derived from Ordinance 153 § 9(A) (6/7/71), as codified to 1981 Code § 102-32(A) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

tity of flow and chemical and bacteriological analyses, to this Borough with respect to Industrial Wastes proposed to be discharged into the Sewer System.

§ 102-222 Screening.¹

Industrial Establishments shall install fine screens to remove husks, hulls, vegetable skins, peelings, threads, lint, grease and other such nonsettleable and floating solids or other organic or inorganic substances determined by this Borough to overload, impair the efficiency of or cause difficulties in operation of the Sewage Treatment Plant used to treat and dispose of the wastes or in maintaining required quality of the Sewage Treatment Plant effluent.

§ 102-223 Flow Equalization.

(a) **General Requirements.²** Any Improved Property discharging three thousand (3,000) cubic feet or more of Sanitary Sewage and/or Industrial Wastes per day into the Sewer System and having large variations in the rate of discharge of such within a twenty-four-hour period shall install suitable storage and flow facilities for equalizing the rate of discharge uniformly over the entire twenty-four-hour period. The average rate of discharge during any twenty-four-hour period shall not be exceeded by more than fifty percent (50%) at any time during such twenty-four-hour period.

(b) **Additional Requirements.³** The Borough or the Manager of Water Resources may require any Person discharging into the POTW to install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow, even if such facility would not be required under subsection (a). A Wastewater Discharge Permit may be issued solely for flow equalization.

§ 102-224 Control Manholes.⁴

(a) **In General.** Any Person who shall discharge Industrial Wastes into the Sewer System, when required by this Borough, shall construct and thereafter properly

¹ Derived from Ordinance 153 § 9(B), 1st paragraph (6/7/71), as codified to 1981 Code § 102-32(B)(1) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (a) derived from Ordinance 153 § 9(B), 2nd paragraph (6/7/71), as codified to 1981 Code § 102-32(B)(2) by Ordinance 215 (11/11/81). References to “holding tanks” replaced by “storage and flow control facilities”, which is derived from City of Allentown Ordinances § 941.3.2(B) (as amended by City Ordinance 13248, 2/3/94). Recodified by Ordinance 316 (5/10/95).

³ Subsection (b) based on City of Allentown Ordinances § 941.3.2(B) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Derived from Ordinance 153 § 9(C) (6/7/71), as codified to 1981 Code § 102-32(C) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

shall maintain, at his own expense, a suitable control manhole to facilitate observation, measurement and sampling by this Borough.

(b) Location. Any such control manhole, when required by this Borough, shall be constructed at an accessible, safe, suitable and satisfactory location in accordance with plans approved by this Borough prior to commencement of construction.

§ 102-225 Sewage Sampling.¹

Industrial Wastes being discharged into the Sewer System shall be subject to periodic sampling, inspection and determination of character and concentration. Such sampling, inspection and determination shall be made by this Borough as frequently as may be deemed necessary. Representative samples for a full working day shall be obtained by taking hourly samples and compositing them in accordance with the flow at the time of sampling. Sewage sampling facilities shall be accessible to this Borough at all times. Due care shall be exercised in the collection and preservation of all samples to ensure preservation thereof in as nearly the natural state as possible, including refrigeration of all samples which are intended for analysis by biochemical methods.

§ 102-226 Analysis.²

(a) Analysis by Borough. This Borough shall be responsible for analysis of samples of Industrial Wastes at such intervals as this Borough shall determine or at the request and expense of the Industrial Establishment.

(b) Methods. Laboratory methods used in the analysis of samples of Industrial Wastes shall be those set forth in the latest edition of *Standard Methods for the Examination of Water and Wastewater* as published by the American Public Health Association; *provided*, however, that alternate methods for the analysis of Industrial Wastes may be used, subject to mutual agreement between this Borough and the Person discharging such Industrial Wastes into the Sewer System.

§ 102-227 Changes in Type of Wastes.³

Any Owner of an Improved Property who is discharging or permitting to be discharged Industrial Wastes into the Sewer System and who contemplates a change in the

¹ Derived from Ordinance 153 § 9(D) (6/7/71), as codified to 1981 Code § 102-32(D) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Derived from Ordinance 153 § 9(E) (6/7/71), as codified to 1981 Code § 102-32(E) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Derived from Ordinance 153 § 9(F) (6/7/71), as codified to 1981 Code § 102-32(F) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

method of operation which will alter the type of Industrial Wastes at the time being discharged into the Sewer System shall notify this Borough, in writing, at least ten (10) days prior to consummation of such change.

Article VII — Pretreatment of Wastewater¹

§ 102-241 Pretreatment Facilities.

(a) **Required Facilities.**² Users shall provide Wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all Categorical Pretreatment Standards, City limits, Borough limits, and the prohibitions set forth in § 102-201 within the time limitations specified by EPA, the Commonwealth of Pennsylvania, the Manager of Water Resources, or the Borough, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.

(b) **Plans, Specifications, etc.**³ Detailed plans describing a User's proposed Wastewater pretreatment facilities and operating procedures shall be submitted to the Manager of Water Resources and the Borough for review and approval before such facilities are constructed. Review and approval of plans are not an endorsement of the effectiveness of any facilities set forth therein and neither the City nor the Borough shall be held liable or responsible in any way for the performance of said facilities. The review of such plans and operating procedures shall in no way relieve the User from the responsi-

¹ **Authority:** 53 PA. STAT. ANN. § 47054.

² Subsection (a) based on City of Allentown Ordinances § 941.3.1, first two sentences (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

The corresponding provision of prior law, Ordinance 153 § 7(B), 1st paragraph (6/7/71), as codified to 1981 Code § 102-30(B)(1) by Ordinance 215 (11/11/81), read as follows:

Whenever necessary, in the opinion of this borough, the owner of an improved property shall provide, at his expense, or otherwise cause to be provided to the satisfaction of this borough, such facilities for preliminary treatment and handling of industrial wastes as may be necessary in order that such industrial wastes will be acceptable to the city to be received and handled at the sewage treatment plant.

³ Subsection (b) based on City of Allentown Ordinances § 941.3.1, last three sentences (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

The corresponding provision of prior law, Ordinance 153 § 7(B), 2nd paragraph (6/7/71), as codified to 1981 Code § 102-30(B)(2) by Ordinance 215 (11/11/81), read as follows:

Plans, specifications and any other pertinent information relating to proposed facilities for preliminary treatment and handling of industrial wastes shall be submitted for approval to this borough and the city, and no construction of any such facility shall be commenced until approval thereof shall first have been obtained in writing from this borough and the city and until approval thereof shall first have been obtained from any governmental regulatory body having jurisdiction.

bility for modifying such facilities and procedures as necessary to produce a discharge acceptable to the Borough under the provisions of this Chapter and to the City under corresponding City ordinances.

(c) **Maintenance and Inspection of Facilities.**¹ Whenever facilities for preliminary treatment and handling of Industrial Wastes shall have been provided by the Owner of such Improved Property or otherwise provided to the satisfaction of this Borough, such facilities shall be maintained continuously in satisfactory operating condition at no expense to this Borough; and this Borough shall have access to such facilities at reasonable times for purposes of inspection and testing.

(d) **Reduction, Loss, or Failure of Treatment Facility.**² Users shall control production of all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of a User's treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

§ 102-242 Additional Pretreatment Measures.

(a) **In General.**³ Whenever deemed necessary, the Borough or the Manager of Water Resources may require Users to restrict their discharge during peak flow periods, designate that certain Wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate Sewage wastestreams from Industrial Wastestreams, and such other conditions as may be necessary to protect the Sewer System and the POTW and determine the User's compliance with the requirements of this Chapter.

(b) **Grease, Oil, and Sand Interception.**⁴ Grease, oil, and sand interceptors shall be provided when, in the opinion of the Borough or the Manager of Water Resources, they are necessary for the proper handling of Wastewater containing excessive amounts of grease and oil, or sand, *except* that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Borough and the Manager of Water Resources, and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at the User's expense.

¹ Subsection (c) derived from Ordinance 153 § 7(B), 3rd paragraph (6/7/71), as codified to 1981 Code § 102-30(B)(3) by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

² Subsection (d) based on City of Allentown Ordinances § 941.13.1(F) (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

³ Subsection (a) based on City of Allentown Ordinances § 941.3.2(A) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Subsection (b) based on City of Allentown Ordinances § 941.3.2(C) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(c) **Combustible Gas Detection Meters.**¹ Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

§ 102-243 Accidental Discharge/Slug Control Plans.²

(a) **Requirement of Plan.** At least once every two (2) years, the Manager of Water Resources and/or the Borough shall evaluate whether each Significant Industrial User needs an accidental discharge/Slug control plan. The Borough or the Manager of Water Resources may require any User to develop, submit for approval to both the Borough and the Manager of Water Resources, and implement such a plan. Alternatively, the Borough or the Manager of Water Resources may develop such a plan for any User, which shall be implemented by the User.

(b) **Content of Plan.** An accidental discharge/Slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Manager of Water Resources and the Borough of any accidental or Slug discharge, as required by § 102-276; and

(4) Procedures to prevent adverse impact from any accidental or Slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

§ 102-244 Hauled Wastewater.

(a) **Tank Trucks and Equipment.**³ Any tank truck or any equipment used or intended to be used for the removal, transportation, and disposal of Sewage and Industrial Wastes shall conform to the following requirements:

(1) The container shall be watertight;

¹ Subsection (c) based on City of Allentown Ordinances § 941.3.2(D) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.3.3 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Subsection (a) based on City of Allentown Ordinances § 941.3.4 (A) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(2) Tanks, containers, or other equipment shall be so constructed that every portion of the interior and exterior can be easily cleaned and shall be kept in a clean and sanitary condition;

(3) Piping, valves, and permanent or flexible connections shall be accessible and easily disconnected for cleaning purposes;

(4) The inlet opening, or opening to every container, shall be so constructed that no material will leak out or run out to other than the point of discharge, and shall be of a design and type suitable for the material handled and capable of controlling the flow of discharge without spillage, undue spray, or flooding immediate surroundings while in use.

(5) No connection shall be made at any time between a tap or outlet furnishing potable water on any premises and any container or equipment holding material by any means other than an open connection.

(b) **Discharge to Sewer System.**¹ No hauler, operator, or other Person cleaning cesspools, septic tanks, privies, or other equipment for on-lot management and storage of Sewage shall discharge or otherwise dispose of any Wastewater into the Borough's Sewer System, whether generated within or without the Borough.

Article VIII — Wastewater Discharge Permits²

§ 102-251 Wastewater Analysis.³

When requested by the Borough or the Manager of Water Resources, a User must submit information on the nature and characteristics of its Wastewater within ninety (90) days of the request. The Borough Engineer and the Manager of Water Resources are authorized to prepare a form for this purpose and may periodically require Users to update this information.

¹ Subsection (b) added by Ordinance 316 (5/10/95).

² **Authority:** 53 PA. STAT. ANN. § 47054.

³ Based on City of Allentown Ordinances § 941.4.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

§ 102-252 Wastewater Discharge Permit Requirement.

(a) Users Required to Obtain Permit.

(1) **Significant Industrial Users.**¹ No Significant Industrial User shall discharge Wastewater into the Sewer System or the POTW without first obtaining a Wastewater permit from the Borough and the Manager of Water Resources, *except* that a Significant Industrial User that has filed a timely application pursuant to subsection (b)(1) may continue to discharge for the time period specified therein.

(2) **Other Users.**² The Borough or the Manager of Water Resources may require other Users to obtain Wastewater Discharge Permits as necessary to carry out the purposes of this Chapter.

(b) Time by Which Permit Is Required.

(1) **Existing Connections.**³ Any User required to obtain a Wastewater Discharge Permit who was discharging Wastewater into the Sewer System and the POTW prior to the effective date of this Section and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the Borough and the Manager of Water Resources for a Wastewater Discharge Permit in accordance with § 102-253, and shall not cause or allow discharges to the Sewer System or the POTW to continue after one hundred eighty (180) days following the effective date of this Section except in accordance with a Wastewater Discharge Permit issued by the Borough and the Manager of Water Resources.

(2) **New Connections.**⁴ Any User required to obtain a Wastewater Discharge Permit who proposes to begin or recommence discharging into the Sewer System or the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this Wastewater Discharge Permit, in accordance with § 102-253, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(c) **Violations of Permits.**⁵ Any violation of the terms and conditions of a Wastewater Discharge Permit shall be deemed a violation of this Chapter and subjects the Wastewater Discharge Permittee to the sanctions set out in Articles XI and XII.

¹ Based on City of Allentown Ordinances § 941.4.2(A) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.4.2(B) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.4.3 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.4.4 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁵ Based on City of Allentown Ordinances § 941.4.2(C), first sentence (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(d) Other Legal Obligations.¹ Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirement of federal, state, or local law.

§ 102-253 Wastewater Discharge Permit Application.

(a) Contents of Application.² All Users required to obtain a Wastewater Discharge Permit must submit a permit application. The Borough and the Manager of Water Resources may require all Users to submit as part of an application the following information:

- (1)** All information required by § 102-271(c);
- (2)** Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the Sewer System and the POTW;
- (3)** Number and type of employees and proposed or actual hours of operation;
- (4)** Each product produced by type, amount, process or processes, and rate of production;
- (5)** Type and amount of raw materials processed (average and maximum per day);
- (6)** Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (7)** Time and duration of discharges; and
- (8)** Any other information as may be deemed necessary by the Borough or the Manager of Water Resources to evaluate the Wastewater Discharge Permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(b) Signatures and Certification.³ All Wastewater Discharge Permit applications and User reports must be signed by an Authorized Representative of the User and contain the following certification statement:

¹ Based on City of Allentown Ordinances § 941.4.2(C), second sentence (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Subsection (a) based on City of Allentown Ordinances § 941.4.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.4.6 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations,”

§ 102-254 Determination on Permit Application; Reconsideration; Appeals.

(a) Decisions on Permit Applications.¹ The Borough and the Manager of Water Resources will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete Wastewater Discharge Permit application, the Borough and the Manager of Water Resources will determine whether or not to issue a Wastewater Discharge Permit. The Borough and the Manager of Water Resources may deny any application for a Wastewater Discharge Permit. The Borough or the Manager of Water Resources shall provide public notice of the issuance of a Wastewater Discharge Permit.

(b) Petition for Reconsideration.² Any Person, including the User, may petition the Borough and the Manager of Water Resources to reconsider the terms of a Wastewater Discharge Permit, within thirty (30) days after notice of its issuance. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the Wastewater Discharge Permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the Wastewater Discharge Permit. If the Borough and the Manager of Water Resources fail to act within thirty (30) days after the filing of a petition for reconsideration, the request for reconsideration shall be deemed to be denied.

(c) No Stay Pending Reconsideration.³ The effectiveness of a Wastewater Discharge Permit shall not be stayed pending a decision on a request for reconsideration.

(d) Final Administrative Decisions.⁴ Decisions not to reconsider a Wastewater Discharge Permit, not to issue a Wastewater Discharge Permit, or not to modify a

¹ Based on City of Allentown Ordinances § 941.4.7 and § 941.5.3, first sentence (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on portions of City of Allentown Ordinances § 941.5.3 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.5.3 (C) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Based on portions of City of Allentown Ordinances § 941.5.3(D),(E) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Wastewater Discharge Permit shall be considered final administrative decisions. Aggrieved parties seeking review of administrative decisions may do so in accordance with §§ 102-371, 102-372, and applicable City ordinances and state law.

§ 102-255 Duration of Permits.

(a) **In General.**¹ A Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A Wastewater Discharge Permit may be issued for a period less than five (5) years, at the discretion of the Borough and the Manager of Water Resources. Each Wastewater Discharge Permit will indicate a specific date upon which it will expire.

(b) **Cessation of Operations or Transfer of Ownership.**² Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership.

(c) **Replacement.**³ All Wastewater Discharge Permits issued to a particular User are void upon the issuance of a new Wastewater Discharge Permit to that User.

§ 102-256 Content of Permits.⁴

(a) **In General.** A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Borough and the Manager of Water Resources to prevent Pass Through or Interference, protect the quality of the water body receiving the Treatment Plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(b) **Required Provisions.** Wastewater Discharge Permits must contain:

(1) A statement that indicates Wastewater Discharge Permit duration, which in no event shall exceed five (5) years;

(2) A statement that the Wastewater Discharge Permit is nontransferable without prior notification to the Borough and the City in accordance with § 102-258, and provisions for furnishing the new owner or operator with a copy of the existing wastewater Discharge Permit;

¹ Based on City of Allentown Ordinances § 941.5.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on portions of City of Allentown Ordinances § 941.5.6, last paragraph (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on portions of City of Allentown Ordinances § 941.5.6, last paragraph (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.5.2 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(3) Effluent limits based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of Pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

(5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(c) **Optional Provisions.** Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the Wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable federal, state, and local Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge Permit; and

(8) Other conditions as deemed appropriate by the Borough or the Manager of Water Resources to ensure compliance with this Chapter and federal, state, and local laws, rules, and regulations.

§ 102-257 Modification of Permits.¹

The Borough and the Manager of Water Resources may modify a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

¹ Based on City of Allentown Ordinances § 941.5.4 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

- (a) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the User's operation, process, or Wastewater volume or character since the time of Wastewater Discharge Permit issuance;
- (c) To address a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) To respond to information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;
- (e) Due to a violation of any terms or conditions of the Wastewater Discharge Permit;
- (f) Due to misrepresentations or the failure to fully disclose all relevant facts in the Wastewater Discharge Permit application or in any required reporting;
- (g) Due to a revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- (h) To correct typographical or other errors in the Wastewater Discharge Permit;
or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator, *provided* that the permit is transferable under § 102-258.

§ 102-258 Transfer of Permits.¹

Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Borough and the Manager of Water Resources, and the Borough and the Manager of Water Resources approves the Wastewater Discharge Permit transfer. Failure to provide advance notice of a transfer renders the Wastewater Discharge Permit void as of the date of the facility transfer. The notice must include a written certification by the new owner or operator which:

- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (b) Identifies the specific date on which the transfer is to occur; and

¹ Based on City of Allentown Ordinances § 941.5.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(c) Acknowledges full responsibility for complying with the existing Wastewater Discharge Permit.

§ 102-259 Revocation of Permits.¹

The Borough or the Manager of Water Resources may revoke a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the Borough and the Manager of Water Resources of significant changes to the Wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the Borough and the Manager of Water Resources of changed conditions pursuant to § 102-275;

(c) Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;

(d) Falsifying self-monitoring reports;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the Borough or the Manager of Water Resources timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a Wastewater survey or the Wastewater Discharge Permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any Pretreatment Standard or Requirement, or any terms of the Wastewater Discharge Permit or this Chapter.

¹ Based on City of Allentown Ordinances § 941.5.6 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

§ 102-260 Reissuance of Permits.¹

A User with an expiring Wastewater Discharge Permit shall apply for Wastewater Discharge Permit reissuance by submitting a complete permit application, in accordance with § 102-253, a minimum of one hundred eighty (180) days prior to the expiration of the User's existing Wastewater Discharge Permit.

Article IX — Reporting Requirements²

§ 102-271 Baseline Monitoring Reports.

(a) **Existing Users.**³ Within one hundred eighty (180) days after either the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical Users currently discharging to or scheduled to discharge to the POTW shall submit to the Borough and the Manager of Water Resources a report which contains the information listed in subsection (c).

(b) **New Sources and New Categorical Users.**⁴ At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Borough and the Manager of Water Resources a report which contains the information listed in subsection (c). A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards, and give estimates of its anticipated flow and the quantity of Pollutants to be discharged.

(c) **Required Information.**⁵ Users described in subsections (a) and (b) shall submit the following information:

(1) **Identifying Information.** The name and address of the facility, including the name of the operator and owner.

¹ Based on City of Allentown Ordinances § 941.5.7 and § 941.5.1, last sentence (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² **Authority:** 53 PA. STAT. ANN. § 47054.

³ Based on City of Allentown Ordinances § 941.6.1(A), first portion (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.6.1(A), second portion (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

⁵ Based on City of Allentown Ordinances § 941.6.1(B) and § 941.6.2(A),(B) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and Standard Industrial Classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the Sewer System and the POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of Pollutants.

(A) The Categorical Pretreatment Standards applicable to each regulated process.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard, the Borough, or the Manager of Water Resources, of regulated Pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with the procedures set out in § 102-280.

(C) Sampling must be performed in accordance with the procedures set out in § 102-281.

(6) Statement of Compliance. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(7) Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards. No increment shall exceed nine (9) months. Major events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operations.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with § 102-253(b).

§ 102-272 Compliance Schedule Progress Reports.¹

Every User who submits a compliance schedule under § 102-271(c)(7) shall submit a progress report to the Borough and the Manager of Water Resources no later than fourteen (14) days following each date in the schedule and the final date of compliance. The progress report shall include, at a minimum, whether or not the User has complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule. In no event shall more than nine (9) months elapse between progress reports.

§ 102-273 Reports on Compliance with Categorical Pretreatment Standard Deadline.²

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of Wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Borough and the Manager of Water Resources a report containing the information described in § 102-271(c)(4)-(6). For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 102-253(b).

§ 102-274 Periodic Compliance Reports.³

(a) In General. All Significant Industrial Users shall, at a frequency determined by the Borough and the Manager of Water Resources but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of Pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 102-253(b).

¹ Based on City of Allentown Ordinances § 941.6.2(C),(D) (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.6.3 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

³ Based on City of Allentown Ordinances § 941.6.4 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(b) **Representative Samples.** All Wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(c) **Reporting of Additional Voluntary Monitoring.** If a User subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Borough and the Manager of Water Resources, using the procedures prescribed in §§ 102-280 and 102-281, the results of this monitoring shall be included in the report.

§ 102-275 Reports of Changed Conditions.¹

(a) **Notification.** Each User must notify the Borough and the Manager of Water Resources of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its Wastewater at least ninety (90) days before the change.

(b) **Submission of Information.** The Borough or the Manager of Water Resources may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under § 102-253.

(c) **New or Modified Permits.** The Borough and the Manager of Water Resources may issue a Wastewater Discharge Permit under § 102-254 or modify an existing Wastewater Discharge Permit under § 102-257 in response to changed conditions or anticipated changed conditions.

(d) **"Significant" Changes.** For purposes of this Section, "significant" changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported Pollutants.

§ 102-276 Reports of Potential Problems.²

(a) **Initial Notification.** In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a Slug Load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Borough and the Manager of Water Resources of the incident. This notification shall include the location of the discharge,

¹ Based on City of Allentown Ordinances § 941.6.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.6.6 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Written Report. Within five (5) days following such discharge, the User shall, unless waived by the Borough and the Manager of Water Resources, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Chapter.

(c) Notice to Employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a). Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

§ 102-277 Reports from Unpermitted Users.¹

All Users not required to obtain a Wastewater Discharge Permit shall provide appropriate reports to the Borough and the Manager of Water Resources as the Borough or the Manager of Water Resources may require.

§ 102-278 Notice of Violation/Repeat Sampling and Reporting.²

If sampling performed by a User indicates a violation, the User must notify the Borough and the Manager of Water Resources within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Borough and the Manager of Water Resources within thirty (30) days after becoming aware of the violation. The User is not required to resample if the Borough or the Manager of Water Resources samples between the User's initial sampling and when the User receives the results of this sampling.

¹ Based on City of Allentown Ordinances § 941.6.7 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.6.8 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

§ 102-279 Notification of the Discharge of Hazardous Waste.¹

(a) **Initial Notification.** Any User who commences the discharge of—

(1) hazardous wastes greater than fifteen (15) kilograms in any calendar month; *or*

(2) any hazardous waste which is an acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e),

shall notify the Borough, the County Authority, the Manager of Water Resources, the EPA Regional Waste Management Division Director, and Pennsylvania state hazardous waste authorities, in writing, of any discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). Any notification under this subsection (a) need be submitted only once for each hazardous waste discharged. All notifications must take place no later than one hundred eighty (180) days after the discharge commences.

(b) **Additional Information for Large Quantity Dischargers.** If a User discharges more than one hundred (100) kilograms of hazardous waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and reasonably available to the User:

(1) an identification of the hazardous constituents contained in the wastes;

(2) an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and

(3) an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

(c) **Notification in the Event of New RCRA Regulations.** If any new regulations under section 3001 of RCRA identify additional characteristics of hazardous waste or list any additional substance as a hazardous waste, a User described in subsection (a) shall notify the Borough, the County Authority, the Manager of Water Resources, the EPA Regional Waste Management Division Director, and Pennsylvania state hazardous waste authorities, in writing, of any discharge into the POTW of any substance not previously reported which, if otherwise disposed of, would be a hazardous waste under the new regulations. The notification shall be in the form prescribed in subsection (a) and, if applicable, subsection (b). All notifications must take place no later than ninety (90) days after the effective date of the new regulations.

(d) **Certification of Hazardous Waste Program.** In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

¹ Based on City of Allentown Ordinances § 941.6.9 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

(e) **Notifications of Changed Circumstances.** Submission of one-time reports under this Section does not relieve a User from the obligation to submit a Notice of Changed Circumstances when required under § 102-275.

(f) **Exception.** The notification requirements in this Section do not apply to Pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of §§ 102-271, 102-273, and 102-274.

(g) **No Additional Rights Conferred.** Nothing in this Section shall be construed to create a right to discharge any substance not otherwise permitted to be discharged under this Chapter, any permit issued under this Chapter, or any applicable federal or state law.

§ 102-280 Analytical Requirements.¹

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

§ 102-281 Sample Collection.²

(a) **In General.** Except as provided in this Section, the User must collect Wastewater samples using flow proportional composite collection techniques.

(b) **Authorized Alternatives.** In the event flow proportional sampling is not feasible, the Borough and the Manager of Water Resources may authorize the use of time proportional sampling or a minimum of four (4) Grab Samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.

(c) **Instantaneous Discharge Limits.** In addition to the sampling described in subsections (a) and (b), Grab Samples may be required to show compliance with instantaneous discharge limits.

(d) **Required Grab Samples.** Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

¹ Based on City of Allentown Ordinances § 941.6.10 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.6.11 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

§ 102-282 Timing.¹

Written reports required under this Chapter will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

§ 102-283 Record Keeping.²

Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling; the name(s) of the person(s) taking the samples; the dates analyses were performed; the person(s) performing the analyses; the analytical techniques or methods use; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User, the City, or the Borough, or where the User has been specifically notified of a longer retention period by the Borough or the Manager of Water Resources.

¹ Based on City of Allentown Ordinances § 941.6.12 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.6.13 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Article X — Monitoring & Confidentiality¹

§ 102-301 Access to Improved Properties.²

(a) **In General.** The Borough and the Manager of Water Resources shall have the right to enter any part of any Improved Property connected to the POTW to determine whether a User or other Person owning, operating, or using the Improved Property is complying with all requirements of this Chapter and any Wastewater Discharge Permit or order issued under this Chapter. Users and other Persons shall allow the Borough and the Manager of Water Resources ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(b) **Security Forces.** Where a User or other Person has security measures in force which require proper identification and clearance before entry into its premises, the User or other Person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Borough's employees or agents or the Manager of Water Resources will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) **Monitoring Equipment.** The Borough and the Manager of Water Resources shall have the right to set up on the User's or other Person's property, or require the User or other Person to install, such monitoring equipment as necessary to conduct sampling and/or metering of the User's or other Person's operations. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User or other Person at his own expense. All devices used to measure Wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

(d) **Obstructions to Access.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled under this Section shall be promptly removed by the User or other Person at the written or verbal request of the Borough or the Manager of Water Resources and shall not be replaced. The costs of clearing such access shall be borne by the User or other Person.

(e) **Delays.** Unreasonable delays in allowing access required under this Section shall be a violation of this Chapter.

¹ **Authority:** 53 PA. STAT. ANN. §§ 47054, 46201(74).

² Based on City of Allentown Ordinances § 941.7.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

The corresponding provision of prior law, Ordinance 153 § 10 (6/7/71), as codified to 1981 Code § 102-33 by Ordinance 215 (11/11/81), read as follows:

This Borough shall have the right of access at reasonable times to any part of any Improved Property served by the Sewer System as shall be required for purposes of inspection, observation, measurement, sampling, and testing and for performance of other functions relating to service rendered by this Borough through the Sewer System.

§ 102-302 Search Warrants.¹

If the Borough or the Manager of Water Resources has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Borough or the City designed to verify compliance with this Chapter or any permit or order issued under this Chapter, or to protect the overall public health, safety, and welfare of this community, then the Borough or the Manager of Water Resources may seek issuance of a search warrant from the appropriate issuing authority.

§ 102-303 Confidentiality.²

Information and data on a User or other Person obtained from reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits, and monitoring programs, and from inspection and sampling activities conducted under this Chapter, shall be available to the public *without restriction*, unless the User or other Person specifically requests confidentiality, *and* is able to demonstrate to the satisfaction of the Borough and the Manager of Water Resources that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable law. Any such request must be asserted at the time the information or data is submitted. When requested and demonstrated by the User or other Person furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

¹ Based on City of Allentown Ordinances § 941.7.2 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.8 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Article XI — Administrative Enforcement Remedies

§ 102-311 Notification of Violation.¹

(a) **Notice.** When the Borough's enforcement official or the Manager of Water Resources finds that a User or other Person has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the official or the Manager of Water Resources may serve upon that User or other Person a written Notice of Violation.

(b) **Response.** The User or other Person receiving a written Notice of Violation shall submit a response to the Notice, including an explanation of the alleged violation and a plan for the satisfactory correction and prevention of violations (including specific required actions), to the Borough and the Manager of Water Resources within twenty (20) days after receipt of the Notice. Submission of this plan in no way relieves the User or other Person of liability for any violations occurring before or after receipt of the Notice of Violation.

(c) **Notice Not Required.** Nothing in this Section shall limit the authority of the Borough or the Manager of Water Resources to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

§ 102-312 Publication of Users in Significant Noncompliance.²

The Borough or the Manager of Water Resource shall publish annually, in the largest daily newspaper in circulation in the Borough, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and Requirements. The term "significant noncompliance" shall mean:

(a) Chronic violations of Wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of Wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same Pollutant parameter by any amount;

(b) Technical Review Criteria violations, defined as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each Pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit

¹ Based on City of Allentown Ordinances § 941.10.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.9 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

or average limit multiplied by the applicable criteria (1.4 for BOD, total Suspended Solids, fats, oils, and grease, and 1.2 for all other Pollutants except pH);

(c) Any other discharge violation that the Borough or the Manager of Water Resources believes has caused, alone or in conjunction with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of Pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the exercise of emergency authority by the Borough or the Manager of Water Resources to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge Permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s) which the Borough or the Manager of Water Resources determines will adversely affect the operation or implementation of the local pretreatment program.

§ 102-313 Consent Agreements.¹

The Borough and/or the Manager of Water Resources may enter into consent agreements, assurances of voluntary compliance, or other similar documents establishing an agreement with any User or other Person responsible for noncompliance. Such documents will include specific action to be taken by the User or other Person to correct the noncompliance within a time period specified by the document.

§ 102-314 Show Cause Meeting.²

(a) **In General.** The Borough's enforcement official or agent, or the Manager of Water Resources, may order a User which has violated, or continues to violate, any provision of this Chapter, or any other Pretreatment Standard or Requirement, to appear

¹ Based on City of Allentown Ordinances § 941.10.2 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.10.3 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

before that person or entity and show cause which the proposed enforcement action should not be taken.

(b) Notice. Notice of a meeting under subsection (a) shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice shall be served on any Authorized Representative of the User personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the meeting.

(c) Meeting Not Required. A meeting under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

§ 102-315 Compliance Orders.¹

(a) In General. When the Borough's enforcement official or agent, or the Manager of Water Resources, finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the Borough's enforcement official or agent, or the Manager of Water Resources may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time.

(b) Restrictions. A Compliance Order under this Section may not extend the deadline for compliance established for a Pretreatment Standard or Requirement.

(c) Effect. A Compliance Order does not relieve a User of liability for any violation, including any continuing violation.

(d) Order Not Required. A Compliance Order under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

§ 102-316 Cease & Desist Orders.²

(a) In General. When the Borough's enforcement official or agent, or the Manager of Water Resources, finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Borough's enforcement official or agent, or the Manager of Water

¹ Based on City of Allentown Ordinances § 941.10.4 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.10.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Resources may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(b) **Order Not Required.** Issuance of a Cease and Desist Order under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

§ 102-317 Performance Bonds.¹

The Borough or the Manager of Water Resources may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of this Chapter, a previous Wastewater Discharge Permit, or order issued under this Chapter, or any other Pretreatment Standard or Requirement, *unless* such User first files a satisfactory bond, payable to the Borough or its designee, in a sum not to exceed a value determined by the Borough or the Manager of Water Resources to be necessary to achieve consistent compliance.

§ 102-318 Liability Insurance.²

The Borough or the Manager of Water Resources may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of this Chapter, a previous Wastewater Discharge Permit, or order issued under this Chapter, or any other Pretreatment Standard or Requirement, *unless* such User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

¹ Based on City of Allentown Ordinances § 941.12.1 (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.12.2 (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

§ 102-319 Contractor Listing.¹

Users who have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the Borough.

§ 102-320 Administrative Civil Penalties.²

(a) In General. When the Borough’s enforcement official or agent finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any Pretreatment Standard or Requirement, the enforcement official or agent may fine such User in an amount not to exceed \$25,000, regardless of jurisdictional boundaries. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. The penalties may be assessed whether or not the violation was willful or negligent.

(b) Relationship to City Administrative Penalties. The authority granted in subsection (a) is in addition to the separate authority of the Manager of Water Resources or other City officials to impose administrative civil penalties under City ordinances. However, in no case shall the total of the penalties imposed under subsection (a) and the administrative civil penalties imposed by the City exceed \$25,000 per violation, per day.

(c) Amount of Penalty. The amount of the civil penalty shall be assessed in accordance with the following official Borough assessment policy, considering damage to air, water, land, or other natural resources, cost of restoration and abatement, savings resulting to the User for the violation, history of past violations, deterrence of future violations, and other relevant factors:

(1) Damage to Environment. The User shall be assessed between 1 and 5 points depending on the degree of damage to the environment, according the following table:

<u>Damage</u>	<u>Points</u>
Extreme	5
Severe	4
Moderate	3
Slight	2
None	1

¹ Based on City of Allentown Ordinances § 941.12.3, first sentence (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

² All except subsection (b) based on City of Allentown Ordinances § 941.10.5 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

Authority: 35 PA. STAT. ANN. § 752.1 *et seq.*

(2) Cost of Restoration/Abatement. The User shall be assessed between 1 and 5 points depending on the cost of restoration or abatement due to the violation, according to the following table:

<u>Cost</u>	<u>Points</u>
Over \$10,000.....	5
\$7,000 to \$10,000	4
\$5,000 to \$6,999	3
\$2,500 to \$4,999	2
\$0 to \$2,500.....	1

(3) Savings to Violator. The User shall be assessed between 1 and 5 points depending on the amount of savings resulting to the User due to the violation, according to the following table:

<u>Savings</u>	<u>Points</u>
Over \$10,000.....	5
\$7,000 to \$10,000	4
\$5,000 to \$6,999	3
\$2,500 to \$4,999	2
\$0 to \$2,500.....	1

(4) Recent Past Violations. The User shall be assessed between 1 and 5 points depending on the number of past violations in the 365 days before the violation in question, according to the following table:

<u>Damage</u>	<u>Points</u>
5 or more	5
4.....	4
3.....	3
2.....	2
1.....	1

(5) Other Factors. The User shall be assessed between 1 and 5 additional points based on the severity of other factors, including, without limitation, damage to the POTW, willfulness, and concealment of the violation.

(6) Fractional Points. The assessment of points may include numbers which are not whole, such as 1.5, to allow flexibility and discretion by the enforcement official or agent in arriving at a fair and appropriate penalty.

(7) Computation of Penalty. The amount of the civil penalty shall be equal to the total number of points assessed under this subsection (c) *multiplied by* \$1,000.

(d) Notice of Assessment and Appeal Process.

(1) In General. A notice of the assessment of a civil penalty under this Section shall be served personally on the violator or shall be sent by certified mail to the address of the permit holder as noted on the permit, and shall contain—

- (A) the date(s) of violation;
- (B) the permit requirement(s) that was/were violated;
- (C) the amount of the civil penalty assessed;

(E) the time frame in which an appeal may be filed; and

(E) a description of the appeal process to be followed, including the name, address, and telephone number of the person responsible for accepting such appeal.

(2) **Address for Service.** Each permit holder shall keep the Borough apprised in writing of any change in mailing address. The address on the permit may be used to send correspondence and notices of civil penalty assessment to permit holders. The sending of a notice of civil assessment to a permit holder's address as stated on the permit shall be conclusively presumed to be valid service. If the certified mail sent to such address is not accepted or picked up by the permit holder, the date of service shall be the date that the certified mail was rejected or returned unclaimed.

(e) **Appeal.**

(1) **In General.** Any Person seeking to appeal the assessment of a civil penalty under this Section shall do so by filing a Notice of Appeal with the Borough Secretary (with a copy to the Borough's enforcement official or agent who assessed the civil penalty) within thirty (30) days after receipt or service of the notice under subsection (d).

(2) **Hearing.** Borough Council shall hear all appeals under this Section in accordance with the Local Agency Law, 2 PA. CONS. STAT. § 551 *et seq.* A transcript shall be made of the hearing at the sole expense of the appellant. Appellant shall pay an estimate of the stenographic costs at the time the appeal is filed, and shall pay any balance when billed. Failure to pay an estimate of the costs at the time the appeal is filed shall render the appeal void. Borough Council shall either affirm, reverse, or modify the penalty assessed by the Borough's enforcement official or agent based on the evidence received at the hearing and in accordance with the Borough's official civil penalty assessment policy under subsection (c).

(3) **Further Appeals.** Appeals from the decision of Borough Council shall be made in accordance with applicable law.

(f) **Use of Penalties.** All civil penalties collected under this Section shall be placed in a restricted account and shall only be used by the Borough (or any owner or operator of any portion of the POTW)—

(1) for the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed;

(2) to pay any penalties imposed on the Borough (or any owner or operator of any portion of the POTW) by the federal or state government for violation of Pretreatment Standards;

(3) for the costs incurred by the Borough (or any owner or operator of any portion of the POTW) to investigate and take the enforcement action that resulted in a penalty being imposed;

(4) for monitoring of discharges in the pretreatment program; and

(5) for capital improvements to the POTW, including Sewage collection lines, which may be required by the pretreatment program.

(g) **Civil Penalty Procedure Not Required.** Assessment of Civil Penalties under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

Article XII — Judicial Enforcement Remedies

§ 102-331 Injunctive Relief.¹

(a) **In General.** When the Borough's enforcement official or agent or the Manager of Water Resources finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the enforcement official or agent, or the Manager of Water Resources, may petition the Lehigh County Court of Common Pleas for the issuance of a temporary or permanent injunction, as appropriate, which restrains the violation and/or compels the specific performance of the Wastewater Discharge Permit, order or other requirement imposed by this Chapter on the activities of the User. The petitioner may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation.

(b) **Solicitor.** Borough officers or employees shall utilize the Borough Solicitor in taking any action under subsection (a).

(c) **Injunctive Relief Not Required.** Petitioning for injunctive relief under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

§ 102-332 Civil Penalties and Remedies.²

In addition to all other enforcement remedies provided in this Chapter, the Borough may file an action in a court of competent jurisdiction against any Person for any and all costs, expenses, damages, and penalties for which the Person may be liable under this Chapter or applicable law.

¹ Based on City of Allentown Ordinances § 941.11.1 (as amended by City Ordinance 13248, 2/3/94). Added by Ordinance 316 (5/10/95).

² Section added by Ordinance 316 (5/10/95).

§ 102-333 Criminal Penalties.¹

(a) Violations of Article II

(1) **Penalties.**² Any Person who shall violate any provision of Article II of this Chapter shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not less than fifteen dollars (\$15.) nor more than twenty-five dollars (\$25.), together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such.

(2) **Recovery of Fines and Costs.**³ Fines and costs imposed under paragraph (1) shall be enforceable and recoverable in the manner and at the time provided by applicable law.

(b) **Industrial Violators.**⁴ A User who willfully or negligently violates any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a summary offense, punishable by a fine of not more than One Thousand Dollars (\$1,000) per violation, per day, or, in default thereof, by imprisonment for not more than thirty (30) days.

(c) **Introduction of Substances Which Cause Personal Injury or Property Damage.**⁵ A Person who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a summary offense, punishable by a fine of not more than One Thousand Dollars (\$1,000) per violation, per day, or, in default thereof, by imprisonment for not more than thirty (30) days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under applicable law.

(d) **Falsifications.**⁶ A Person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained pursuant to this Chapter, or a Wastewater Discharge Permit or order issued under this Chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be guilty of a summary offense, punishable by a fine of

¹ **Authority:** 53 PA. STAT. ANN. §§ 48307, 48308

² Paragraph (1) derived from Ordinance 152 § 5.01 (6/7/71), as codified to 1981 Code § 102-21 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

³ Paragraph (2) derived from Ordinance 152 § 5.02 (6/7/71), as codified to 1981 Code § 102-22 by Ordinance 215 (11/11/81). Recodified by Ordinance 316 (5/10/95).

⁴ Based on City of Allentown Ordinances § 941.11.3(A) (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

⁵ Based on City of Allentown Ordinances § 941.11.3(B) (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

⁶ Based on City of Allentown Ordinances § 941.11.3(C) (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

not more than One Thousand Dollars (\$1,000) per violation, per day, or, in default thereof, by imprisonment for not more than thirty (30) days.

§ 102-334 Remedies Nonexclusive.¹

The remedies provided for in this Chapter are not exclusive. The Borough, the Borough's enforcement official or agent, or the Manager of Water Resources may take any, all, or any combination of these actions against a noncompliant Person.

Article XIII — Affirmative Defenses to Discharge Violations

§ 102-351 Upset.²

(a) **Definition.** For purposes of this Section, “*upset*” means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An “*upset*” does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(b) **Affirmative Defense.** An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the User shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that—

- (1) An upset occurred and the User can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The User has submitted the following information to the Borough and the Manager of Water Resources within twenty-four (24) hours of becoming aware of the Upset. If this information is provided orally, a written submission must be provided within five (5) calendar days:

¹ Based on City of Allentown Ordinances § 941.11.4, first sentence (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.13.1(A)-(E) (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

(A) A description of the Indirect Discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) **Burden of Proof.** In any enforcement action, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(d) **Limitation.** Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

§ 102-352 Prohibited Discharge Standards.¹

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 102-201(b) or the specific prohibitions in § 102-201(c)(1)-(3),(6)-(22), if the User can prove that it did not know, or have reason to know, that its discharge, alone or in combination with discharges from other sources, would cause Pass Through or Interference, *and* that either—

(a) A local limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

§ 102-353 Bypass.²

(a) **Definitions.** For purposes of this Section—

(1) “*Bypass*” means the intentional diversion of wastestreams from any portion of a User's treatment facility; and

(2) “*Severe Property Damage*” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to

¹ Based on City of Allentown Ordinances § 941.13.2 (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

² Based on City of Allentown Ordinances § 941.13.3 (as amended by City Ordinance 13248, 2/3/94), but with the restrictions applicable under the Borough Code. Added by Ordinance 316 (5/10/95).

occur in the absence of a Bypass. Severe Property Damage does not mean economic loss caused by delays in production.

(b) Bypass Permitted for Certain Maintenance. A User may allow any Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These Bypasses are *not* subject to the provisions of subsections (c) and (d).

(c) Notice.

(1) If a User knows in advance of the need for a Bypass, it shall submit prior notice to the Borough and the Manager of Water Resources at least ten (10) days before the date of the Bypass, if possible.

(2) A User shall submit oral notice to the Borough and the Manager of Water Resources of an unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours after the time the User becomes aware of the Bypass. A written submission shall also be provided within five (5) calendar days after the time the User becomes aware of the Bypass, unless the oral report was received within twenty-four (24) hours and the written report is waived by the Borough and the Manager of Water Resources on a case-by-case basis.

(3) The written submission shall contain—

(A) a description of the Bypass and its cause;

(B) the duration of the Bypass, including exact dates and times, and if the Bypass has not been corrected, the anticipated time it is expected to continue; and

(C) steps taken or planned to reduce, eliminate, and prevent recurrence of the Bypass.

(d) Prohibition; Justification.

(1) Bypass is prohibited, and the Borough or the Manager of Water Resources may take enforcement action against a User for a Bypass, *unless*—

(A) Bypass was unavoidable to prevent loss of life, personal injury, or Severe Property Damage;

(B) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The User submitted notices as required under subsection (c).

(2) The Borough and the Manager of Water Resources may approve an anticipated Bypass, after considering its adverse effects, if the Borough and the Manager of Water Resources determines that it will meet the three conditions listed in paragraph (1).

Article XIV — Administration of Pretreatment Program

§ 102-371 Delegation by Borough.¹

(a) **In General.** Borough Council may, by agreement, resolution, motion, or policy, delegate some or all of the administrative and enforcement powers assigned to the Borough in the Industrial Waste Pretreatment Program described in Articles V through XIII of this Chapter to one or more employees, officers, appointees, the County Authority, and/or the City.

(b) **Review by Council.**

(1) **Appeal.** Any Person aggrieved by a decision of any delegate under subsection (a) may appeal that decision to Borough Council by filing a Notice of Appeal with the Borough Secretary (with a copy to the delegate) within ten (10) days after service of notice of the delegate's decision, *unless* the delegate has authority to render such decision independent of the grant from the Borough under this Section.

(2) **Hearing.** Borough Council shall hear all appeals under this Section in accordance with the Local Agency Law, 2 PA. CONS. STAT. § 551 *et seq.* A transcript shall be made of the hearing at the sole expense of the appellant. Appellant shall pay an estimate of the stenographic costs at the time the appeal is filed, and shall pay any balance when billed. Failure to pay an estimate of the costs at the time the appeal is filed shall render the appeal void. Borough Council shall either affirm, reverse, or modify the decision of the delegate.

(3) **Further Appeals.** Appeals from the decision of Borough Council shall be made in accordance with applicable law.

§ 102-372 Powers, Rights, Privileges, and Obligations Relating to the City or the Manager of Water Resources.²

(a) **Waiver or Delegation.** The City or the Manager of Water Resources, as the case may be, may, by agreement, resolution, motion, or policy, waive or delegate to the Borough and/or the County Authority some or all of the administrative and enforcement powers, rights, privileges assigned to the City or the Manager of Water Resources in the Borough's Industrial Waste Pretreatment Program as described in Articles V through XIII of this Chapter.

(b) **Review by Borough Council.** Any Person aggrieved by a decision of the City or the Manager of Water Resources under this Chapter may appeal that decision to Borough Council by filing a Notice of Appeal with the Borough Secretary (with a copy to the City or the Manager of Water Resources, as the case may be) within ten (10) days

¹ Added by Ordinance 316 (5/10/95).

² Added by Ordinance 316 (5/10/95).

after service of notice of the City's or Manager's decision, *unless* the City or Manager of Water Resources has authority to render such decision independent of the grant of authority from the Borough under this Chapter.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 10th day of May, 1995, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Carlton R. Raines, President

Attest:

Louise Stahley, Secretary

AND NOW, this 10th day of May, 1995, the above Ordinance is hereby APPROVED.

Ronald J. DeIaco, Mayor