

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 435

(Duly Adopted August 31, 2005)

AN ORDINANCE AUTHORIZING THE BOROUGH OF ALBURTIS TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LEHIGH COUNTY CONSERVATION DISTRICT (“LCCD”) RELATING TO THE DELEGATION TO LCCD OF CERTAIN EROSION AND SEDIMENT POLLUTION CONTROL PLAN REVIEW ACTIVITIES IN CONNECTION WITH SUBDIVISIONS, LAND DEVELOPMENTS, AND OTHER EARTH DISTURBANCE ACTIVITIES.

**WHEREAS** the Borough of Alburdis desires to enter into a Memorandum of Understanding with the Lehigh County Conservation District (“**LCCD**”) so that LCCD will continue as a technical review agency for Erosion and Sediment Control Plans to minimize accelerated erosion and resulting steam sedimentation in connection with earth disturbance activities, under the terms and conditions set forth in the Agreement attached to this Ordinance as **Exhibit A** (the “**Agreement**”); and

**WHEREAS** the development, implementation, and enforcement of a program to reduce stormwater pollution from construction activities is necessary to satisfy permit requirements of the U.S. Environmental Protection Agency’s National Pollutant Discharge Elimination System for Municipal Separate Storm Sewer System discharges, which are applicable to the Borough of Alburdis; and

**WHEREAS** the activities undertaken by LCCD in its administration of an Erosion and Sediment Control Program for the Borough meet the Borough’s U.S. E.P.A. permit requirements;

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

**SECTION 1.** Chapter 6 of the Alburdis Codified Ordinances (relating to Inter-governmental Cooperation) is amended by adding the following new Article V after existing Section 6-401:

**Article V — Erosion and Sediment Pollution Control**

**§ 6-501 Memorandum of Understanding with Lehigh County Conservation District.**

The Borough of Alburdis shall enter into a Memorandum of Understanding with the Lehigh County Conservation District in the form attached to Ordinance 435 as **Exhibit A**, which is incorporated into this Article by reference, *provided that* the Lehigh County Conservation District shall also approve the execution of the Agreement. The President (or Vice President) of Borough Council is hereby authorized and directed to execute the Agreement on behalf on the Borough upon the approval of the Agreement by the Lehigh County Conservation District.

**SECTION 2.** The attached **Exhibit A** is incorporated into this Ordinance by reference.

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Al-  
burtis, this 31<sup>st</sup> day of August, 2005, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

\_\_\_\_\_  
Steven R. Hill, President

Attest:

\_\_\_\_\_  
Melanie Hansen, Executive Secretary

**AND NOW**, this 31<sup>st</sup> day of August, 2005, the above Ordinance is hereby AP-  
PROVED.

\_\_\_\_\_  
Russell J. Afflerbach, Mayor

## **EXHIBIT A**

**MEMORANDUM OF UNDERSTANDING**  
Between the  
**LEHIGH COUNTY CONSERVATION DISTRICT**  
and  
**THE BOROUGH OF ALBURTIS**

This Memorandum has been prepared jointly and agreed upon by each party for the following purposes:

To serve as a joint commitment by the signatory parties to control accelerated erosion and to prevent sediment pollution to the waters of the Commonwealth which may result from the conduct of earth disturbance activities in the Borough of Alburdis (“Municipality”).

To serve as a basis for stating the role of each party in administering the provisions of the Municipality’s ordinances which relate to erosion and sediment pollution control, including, without limitation, Chapters 22 (relating to Subdivision and Land Development), 24 (relating to Floodplain Management), and 25 (relating to Stormwater Management) of the Alburdis Codified Ordinances (collectively, the “Ordinance”).

I. In carrying out the intent of this Memorandum, the Lehigh County Conservation District (“District”) shall:

A. Provide to Municipality a listing of its plan review fees for inclusion or use with Municipality in the Ordinance and promptly notify Municipality of any changes in the plan review fee schedule.

B. Receive all erosion and sediment control plans (Plan) as required under the Ordinance and complete an initial review of the Plan within thirty (30) working days of its receipt. Reviews of single lot plans that do not require a National Pollutant Discharge Elimination System (NPDES) Permit will be reviewed within a maximum of twenty (20) working days.

C. Within two (2) working days of completion, notify the applicant and Municipality of the result of the Plan review. The District will also notify the applicant and Municipality that a Plan will not be further reviewed after the third Plan submission due to inadequate information and/or a failure of the applicant to develop a Plan in compliance with PA DEP Chapter 102 Erosion and Sediment Control Rules and Regulations.

D. Upon request, provide all applicants with the PA DEP Erosion and Sediment Control Program Manual and related forms, worksheets, checklists, etc., necessary to successfully prepare a Plan.

E. Upon the request of Municipality and/or upon receipt of a request from a third party, inspect ongoing earth disturbance projects and complete a standard PA DEP Earth Disturbance Inspection Report (EDIR). In conjunction with this responsibility, the District shall:

1. Advise Municipality of all third party complaints within ten (10) calendar days of their receipt. The source of the complaint shall remain anonymous in accordance with PA DEP policy.

2. Provide a copy of all EDIRs to the affected earthmover and Municipality within two (2) days calendar days of their completion.

F. Serve as the repository for all Plans, complaints, EDIRs, correspondence, etc., that involve earthmoving activities. All such information, except the complaint forms, shall be contained in a filing system which shall be available for inspection by Municipality officials at any time.

G. Commit the necessary staff time, and provide all information necessary to assist the Municipality in conducting enforcement proceedings if provided for in the Ordinance.

II. In carrying out the intent of this Memorandum, Municipality shall:

A. Retain a sufficient quantity of the District's Erosion and Sediment Control Plan Review Applications, Review Fee Schedule, and Erosion and Sediment Control Plan Guide For Small Projects and issue such forms to all parties for projects that require such a review in accordance with the provisions of the Ordinance. The Municipality shall provide instructions to have the Plans submitted to the District.

B. Forward all questions pertaining to the preparation of Plans and Applications to the District.

C. Forward all third party complaints about ongoing earth disturbance projects to the District for its inspection.

D. Upon notification by the District, withhold any subdivision and/or land development approvals and/or issuance of permits when and where it has been determined that an applicant has failed to secure an adequate Plan review from the District.

III. This Memorandum of Understanding shall become effective immediately. It shall be reviewed periodically, as the need arises by either or both parties, and may be amended by mutual consent of both parties. This Memorandum of Understanding may be terminated at any time, by either party, following a thirty (30) day written notice to the other party.

FOR THE BOROUGH OF ALBURTIS

By: \_\_\_\_\_  
Steven R. Hill, President of Borough Council

August 31, 2005  
\_\_\_\_\_  
(DATE)

Attest: \_\_\_\_\_  
Melanie Hansen, Executive Secretary

FOR THE LEHIGH COUNTY CONSERVATION DISTRICT

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
(DATE)