

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 540

(Duly Adopted August 9, 2017)

AN ORDINANCE AMENDING CHAPTER 65 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO SANITARY SEWER) TO CONFORM TO RECENT AMENDMENTS OF THE CITY OF ALLENTOWN SEWAGE AND INDUSTRIAL WASTES ORDINANCE REQUESTED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY (INCLUDING THE CITY'S DELEGATION OF AUTHORITY TO ADMINISTER THE INDUSTRIAL WASTE PROGRAM TO LEHIGH COUNTY AUTHORITY), SINCE CONFORMANCE WITH THE CITY ORDINANCE IS REQUIRED BY AGREEMENTS RELATING TO THE TREATMENT OF WASTES DISCHARGED INTO THE BOROUGH'S SANITARY SEWER SYSTEM AT THE CITY'S TREATMENT PLANT) AND MAKING RELATED CHANGES, INCLUDING TECHNICAL REVISIONS AND CORRECTIONS.

WHEREAS, Chapter 65 of the Alburdis Codified Ordinances provides various rules and regulations concerning the use of the Borough's public sanitary sewer system; 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 paragraphs 2 and 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 Alburdis 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 relating to the administration and operation
of the pretreatment program for the City's treatment works in accordance with 40 CFR
Part 403 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 and restated its sewage and
industrial wastes ordinances (Article 941) on January 18, 2017 (Ordinance No. 15346);
and

WHEREAS, Borough Council desires to amend its sewer ordinances to conform to
City of Allentown Ordinance No. 15346 and make related changes;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of
the Borough of Albur-tis, Lehigh County, Pennsylvania, that Chapter 65 of the Codified
Ordinances (relating to Sanitary Sewer) is hereby amended by adding a new § 65-227.2
after existing § 65-227.1 and amending §§ 65-206(d), 65-206(e), 65-208, 65-213.1, 65-
236, 65-244, 65-264, 65-502(d), 65-503(c), 65-601(c)(1), 65-601(c)(2), 65-602(f), 65-
802(c), 65-902(a)(1), 65-1001(c)(5)(B), 65-1004(c), 65-1007(a), 65-1007(b), 65-
1007(c)(a), 65-1009, 65-1011(d), 65-1202(d), 65-1210(e)(2), 65-1210(f)(1), 65-1301(a),
65-1301(c), and 65-1303(g) as follows (with deletions indicated by ~~strike-outs~~ and
insertions indicated by double underlining):

Chapter 65 — Sanitary Sewer

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Article II – Definitions

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§ 65-206 Authorized Representative of the User.

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(d) The individuals described in subsections (a) through (c) above may designate another Authorized Representative of the User 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 and the City ~~Director of Public Works~~.

(e) If the designation of an Authorized Representative of the User is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or the overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Borough and the City ~~Director of Public Works~~ prior to or together with any reports or certifications required to be signed by an Authorized Representative of the User.

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§ 65-208 Biochemical Oxygen Demand or BOD.

The term “Biochemical Oxygen Demand” or “BOD” 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.), usually expressed as a concentration (e.g., mg/L). ~~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.~~

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§ 65-213.1 City Director of Public Works.

The term “City Director of Public Works” 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 Article 941. The term also includes a duly authorized representative of the City Director of Public Works. Except as specifically provided in this Chapter or in the City’s Sewage and Industrial Wastes Ordinance, any powers granted to or duties imposed upon the City Director of Public Works shall be delegated by the City Director of Public Works to the County Authority as concessionaire under the Allentown Water and Sewer Utility System Concession and Lease Agreement between the City and the County Authority signed August 7, 2013.

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§ 65-227.2 Industrial Waste Manager.

The term “Industrial Waste Manager” means the City Director of Public Works or a person designated by the City Director of Public Works who is charged with certain duties and responsibilities under the City’s Sewage and Industrial Wastes Ordinance, City Ordinances Article 941.

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§ 65-236 ~~mg/l~~ mg/L.

The term “~~mg/l~~” “mg/L” means milligrams per liter.

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§ 65-244 pH.

The term “pH” means ~~the logarithm of the reciprocal of the weight of hydrogen ions, expressed in grams per liter of solution, and indicates the degree~~ a measure of the acidity or alkalinity of a substance solution, expressed in standard units.

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§ 65-264 Suspended Solids, Total Suspended Solids, or TSS.

The term “Suspended Solids,” “Total Suspended Solids,” or “TSS,” 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.~~

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Article V — Sewer Rental & System Usage Fees

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§ 65-502 Charges for Dwelling Units, Commercial Establishments, and Institutional Establishments.

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(d) **Exceptional Strength Charges.** The sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting a Commercial Establishment or Institutional Establishment shall be increased above the base charges set forth in the preceding subsections of this Section by an exceptional strength charge if the wastes discharged have BOD greater than 210 ~~mg/l~~ mg/L, TSS greater than 230 ~~mg/l~~ mg/L, or TKN greater than 40 ~~mg/l~~ mg/L. The exceptional strength charges shall be equal to the amount of exceptional strength charges required to be imposed by the Borough on the Improved Property under agreements relating to the Interceptor System and/or the Treatment Plant to which the Borough is bound (or, if greater, the additional charges to the Borough by the County Authority and/or the City for exceptional strength discharges from the Improved Property), 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 with the Owner of the Improved Property.

§ 65-503 Charges for Industrial Establishments.

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(c) **Exceptional Strength Charges.** The sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting an Industrial Establishment shall 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~~ mg/L, TSS greater than 230 ~~mg/l~~ mg/L, or TKN greater than 40 ~~mg/l~~ mg/L. The exceptional strength charges shall be equal to the amount of exceptional

strength charges required to be imposed by the Borough on the Improved Property under agreements relating to the Interceptor System and/or the Treatment Plant to which the Borough is bound (or, if greater, the additional charges to the Borough by the County Authority and/or the City for exceptional strength discharges from the Improved Property), 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 with the Owner of the Improved Property.

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Article VI — General Sewer Use Requirements

§ 65-601 Prohibited Discharge Standards.

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(c) **Specific Prohibitions.** 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 two hundred ten (210) ~~mg/l~~ mg/L, TSS greater than two hundred thirty (230) ~~mg/l~~ mg/L, or TKN greater than forty (40) ~~mg/l~~ mg/L, unless specifically authorized by the Borough in writing;

(2) Waste having BOD greater than three hundred (300) ~~mg/l~~ mg/L, TSS greater than three hundred sixty (360) ~~mg/l~~ mg/L, or TKN greater than eighty-five (85) ~~mg/l~~ mg/L, whenever the City Director of Public Works shall deem it necessary for the protection and safe, economical, and efficient management of the POTW that the User or other Person provide at its own expense such facilities for preliminary treatment and processing of Sewage and/or Industrial Wastes as may be necessary to satisfy this requirement;

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§ 65-602 National Categorical Pretreatment Standards

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(f) Documentation of Equivalent Limits. The City Director of Public Works must document how the equivalent limits under subsections (b), (c), and (d) were derived and make this information publicly available. (See 40 CFR 403.6(c)(7)).

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Article VIII — Pretreatment of Wastewater

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§ 65-802 Additional Pretreatment Measures.

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(c) Combustible Gas Detection Meters. Users with the potential to discharge flammable substances may be required by the Borough or the City Director of Public Works to install and maintain an approved combustible gas detection meter.

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Article IX — Wastewater Discharge Permits

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§ 65-902 Wastewater Discharge Permit Requirement.

(a) Users Required to Obtain Permit.

(1) Significant Industrial Users. No Significant Industrial User shall discharge Wastewater into the Sewer System or the POTW without first obtaining a Wastewater Discharge Permit ~~permit~~ from the Borough and the City Director of Public Works, *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.

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Article X — Reporting Requirements

§ 65-1001 Baseline Monitoring Reports.

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

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(5) Measurement of Pollutants.

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(B) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph ~~(2)~~ (5).

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§ 65-1004 Periodic Compliance Reports

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(c) **Reporting of Additional Voluntary Monitoring.** If a User subject to the reporting requirement in this Section monitors any Pollutant at the appropriate sampling location more frequently than required by the Borough and the City Director of Public Works, using the procedures prescribed in §§ 65-1010 and 65-1011, the results of this monitoring shall be included in the report.

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§ 65-1007 Reports and Certifications from Users Not Required to Obtain a Permit.

(a) **Reports.** All Users not required to obtain a Wastewater Discharge Permit shall provide appropriate reports to the Borough and the City Director of Public Works as the Borough or the City Director of Public Works may require from time to time. All such reports must be accompanied by a certification statement in accordance with subsection (c), signed by an Authorized Representative of the User.

(b) **Annual Certification.** A facility determined to be a Non-Significant Categorical Industrial User by the Borough and the City Director of Public Works pursuant to ~~§ 65-620(b)~~ § 65-260(b) must annually submit the certification statement set forth in subsection (c), signed by an Authorized Representative of the User. Such a signed certification statement must also accompany an alternative report required by the Borough or the City Director of Public Works.

(c) **Form of Certification Statement.** The certification statements required by this Section shall be in the following form:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR ____, I certify, to the best of my knowledge and belief, that during the period from _____ to _____ {months, days, year}:

(a) The facility described as _____ {facility name} met the definition of a Non-Significant Categorical Industrial User as described in Alburdis Codified Ordinances § 65-~~620(b)~~ 260(b);

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§ 65-1009 Notification of the Discharge of Hazardous Wastes.

Although discharges of hazardous wastes are specifically prohibited in § 65-601(c)(22), if any User accidentally discharges a hazardous waste, the User shall adhere to the reporting requirements set forth in 40 CFR 403.12(p)(1).

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§ 65-1011 Sample Collection.

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(d) Compositing. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and fats, ~~oil~~ oils and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved

EPA methodologies may be authorized by the Borough and the City, as appropriate.

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Article XII — Administrative Enforcement Remedies

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§ 65-1202 Publication of Uses in Significant Noncompliance.

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(d) Any discharge of ~~Pollutants~~ a Pollutant 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 City Director of Public Works to halt or prevent such a discharge;

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§ 65-1210 Administrative Civil Penalties.

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(e) Appeal.

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(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. Failure to pay any additional stenographic costs within ten (10) days after receipt of a bill for the same shall render the appeal null and void ab initio. 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).

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(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~~ incurred as a result of the violation for which the penalty was imposed;

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Article XIII — Judicial Enforcement Remedies

§ 65-1301 Injunctive Relief.

(a) In General. When the Borough's enforcement official or agent or the City Director of Public Works 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 City Director of Public Works, may petition the Lehigh County Court of Common Pleas for the issuance of a restraining order, 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.

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(c) **Injunctive Relief Not Required.** ~~Petitioning~~ A Petition 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

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§ 65-1303 Criminal Penalties.

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(g) **Court.** An enforcement action under this Section shall be brought before a magisterial district judge or, where applicable under Borough Code § ~~3321(5)~~ 3321(b)(4), ~~53 PA. STAT. ANN. § 48321(5)~~ 8 PA. CONS. STAT. § 3321(b)(4), the Lehigh County Court of Common Pleas.

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DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 9th day of August, 2017, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURDIS

Ronald J. DeIaco, President

Attest:

Sharon Trexler, Borough Manager

AND NOW, this 9th day of August, 2017, the above Ordinance is hereby APPROVED.

Kathleen Palmer, Mayor