

**Article XIII — Judicial Enforcement Remedies**

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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 Pre-treatment 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.

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

(c) **Injunctive Relief Not Required.** 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.

[Ords. 415 10-29-2003, 485 08-26-2009, 540 08-09-2017]

### § 65-1302 Civil Penalties and Remedies.

(a) **In General.** In addition to all other enforcement remedies provided in this Chapter, the Borough and/or the City 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, together with reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of actual damages incurred by the Borough or the City.

(b) **Court-Imposed Civil Penalty.** A User who 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 shall be liable to the Borough for a maximum civil penalty of \$25,000.00 per violation, per day. In the case of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of violation. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factors as justice requires.

(c) **Civil Action Not Required.** Filing a suit for 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 a User.

[Ords. 415 10-29-2003, 485 08-26-2009]

### § 65-1303 Criminal Penalties.

(a) **Violations of Article III.** Any Person who shall violate any provision of Article III of this Chapter shall be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure and, upon conviction, shall be sentenced to pay a criminal fine of Three Hundred Dollars (\$300.00) for each such violation.

(b) **Industrial Violators.** 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 be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure and, upon conviction, shall be sentenced to pay a criminal fine of not more than One Thousand Dollars (\$1,000) per violation, or, in default thereof, by imprisonment for not more than thirty (30) days.

(c) **Introduction of Substances Which Cause Personal Injury or Property Damage.** A Person who willfully or negligently introduces any substance into the POTW which

causes personal injury or property damage shall be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure and, upon conviction, shall be sentenced to pay a criminal fine of not more than One Thousand Dollars (\$1,000) per violation, 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.** 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 be subject to prosecution in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure and, upon conviction, shall be sentenced to pay a criminal fine of not more than One Thousand Dollars (\$1,000) per violation, or, in default thereof, by imprisonment for not more than thirty (30) days.

**(e) Costs and Attorney Fees.** In addition to the fines provided in subsections (a) through (d), any person found to have committed such a violation shall be assessed court costs and reasonable attorney fees incurred by the Borough in the proceedings.

**(f) Separate Offenses.** Each day during which any violation described in subsections (a) through (d) occurs or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Chapter, a Wastewater Discharge Permit, order issued under this Chapter, or a Pretreatment Standard or Requirement shall constitute a separate offense.

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

[Ords. 415 10-29-2003, 507 07-25-2012, 518 03-12-2014, 540 08-09-2017]

## § 65-1304 Remedies Nonexclusive.

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

[Ords. 415 10-29-2003, 485 08-26-2009]