

ORDINANCE NO. 479

Borough of Southmont

AN ORDINANCE AUTHORIZING THE REDEVELOPMENT AUTHORITY OF THE CITY OF JOHNSTOWN TO ESTABLISH RULES FOR THE OPERATION AND MAINTENANCE OF THE REGIONAL SEWAGE COLLECTION AND TREATMENT SYSTEM, A PRETREATMENT PROGRAM, CONSISTENT WITH REQUIREMENTS OF THE USEPA AND PADEP INCLUDING ADOPTING LOCAL LIMITS FOR SEWAGE INTRODUCED INTO THE REGIONAL SEWAGE COLLECTION SYSTEM, DEVELOPING A PERMITTING AND ENFORCEMENT PROGRAM FOR USERS OF THE SYSTEM AND ASSESSING FEES FOR THE SAME, AUTHORIZING THE ENFORCEMENT OF THE SAME INCLUDING PROVISIONS FOR VIOLATIONS AND PENALTIES.

Whereas, the Redevelopment Authority of the City of Johnstown owns and operates a regional sewage treatment plant serving residents and businesses in 20 municipalities including the Municipality, and

Whereas, the Federal Water Pollution Control Act, **62 Stat. 1155, 33 U.S.C. § 1251 et seq.**, requires the Redevelopment Authority of the City of Johnstown to meet permit requirements for the discharge of treated sewage to the Conemaugh River, including the adoption and operation of a pretreatment program so as to limit plant influent to constituents which can be treated at the plant, and

Whereas, the Redevelopment Authority is authorized under the Publicly Owned Treatment Works Penalty Law, **35 P. S. § 752.1 et seq.** to impose penalties for violations of an approved pretreatment program, but desires authorization from the governing body of the municipality to impose other rules and regulations and to have alternative enforcement powers.

Now therefore, the Governing Body of the Borough of Southmont hereby ordains as follows:

Section 1. Repealer

This Ordinance replaces in its entirety Ordinances Nos. 348, 368, 384, 385 and 421.

Section 2. Definitions

The terms as used hereinafter shall have the following definitions:

- A. Applicable Rules – The most current version of "Rates, Rules and Regulations for Johnstown Regional Sewage Regarding the Use of the Sewage Collection or Treatment System" which have been formally adopted by the Board of the Redevelopment Authority of the City of Johnstown, and notice of which adoption has been provided to each municipality. The Applicable Rules shall include all exhibits to the rules.

- B. Approved Pretreatment Program – A program for pretreatment of industrial waste approved by the Environmental Protection Agency or the Department of Environmental Resources in accordance with the Federal Water Pollution Control Act, **62 Stat. 1155, 33 U.S.C. § 1251 et seq.**
- C. Approval Authority – The United States Environmental Protection Agency or other governmental agency authorized to review and approve the JRS's industrial pretreatment or other source control program
- D. Enforcement Response Program – The Enforcement Response Program as approved by the US EPA and provided to the Municipality by the JRS
- E. Governing Body – The Borough of Southmont of the Municipality
- F. Local Limits – Limitation on concentrations and absolute volumes of contaminants introduced into the sewage collection system
- G. Municipality – The Borough of Southmont, Cambria County, Pennsylvania
- H. JRS – Johnstown Regional Sewage, an enterprise operation of the Redevelopment Authority of the City of Johnstown and operating as and fulfilling the functions of PWTA (Public Wastewater Treatment Authority) and POTW (Publicly Owned Treatment Works) as referred to in applicable state and federal laws and regulations

Section 3. Adoption of Generally Applicable Sewer Rules By Reference

The Governing Body of the Municipality hereby adopts by reference the "Rates, Rules and Regulations for Johnstown Regional Sewage Regarding the Use of the Sewage Collection or Treatment Systems" as currently adopted by the JRS.

At such times that it becomes necessary, revised rules will be formally adopted by the JRS and a copy of which shall be submitted to the municipality.

Every person, business or organization located within the geographic boundaries of the municipality, and connected to the JRS collection and treatment system, shall in all instances use the sewage collection and treatment system in a manner which is in complete compliance with the "Rates, Rules and Regulations for Johnstown Regional Sewage Regarding the Use of the Sewage Collection or Treatment Systems." Violation of any of the rules or requirements set forth therein, either as currently applicable or as may be adopted in the future, shall be deemed to be a violation of this ordinance.

Section 4. Specific Pollutant Limitations

All wastewater entering the sanitary sewage system shall be pre-treated to typical domestic levels unless otherwise stated in writing by the JRS by way of Significant Industrial User Permit or other permit. Typical domestic levels shall be documented in a set of local limits for pollutants, capable of effecting efficient operation of the sewage

treatment plant, in the "Rates, Rules, and Regulations" Appendix A, in a format as attached hereto. Typical domestic levels and specific pollutant limitations may be changed periodically due to changing NPDES requirements, changes in the overall characteristics of waste throughout the system, required reevaluations of the local limits analysis, or other reasons. At such times that it becomes necessary, modified local limits will be established and formally adopted by the JRS. Such revisions shall only be implemented after the modifications have been reviewed and determined to be acceptable by the Approval Authority (USEPA). Revised Pretreatment Program Local Discharge Limits will be issued as "Appendix A" to the applicable rules, and issued to all municipalities.

Section 5. Authorization to Adopt Rules and Issue Permits

Consistent with the rules adopted by the Authority and due process rights to administrative hearings and adjudication before the governing body of the JRS or their duly designated hearing officer, pursuant to provisions of the Pennsylvania Local Government Public Agency Law, 2 Pa C. S. § 551 et seq., the municipality specifically authorizes the JRS to establish general and individual controls on users of the system as required by the Federal Water Pollution Control Act of 1977 as amended and the implementing regulations adopted by the Approval Authority found at **40 CFR Part 403**, and specifically authorizes the JRS to:

- A. Deny on condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.
- B. Required compliance with applicable Pretreatment Standards and Requirements by Industrial Users.
- C. Where necessary for the efficient operation of the system or as required by the approved pretreatment program, to control through Permit, order, conditions or similar means, the contribution to the JRS by each User to ensure the efficient operation of the sewage collection and treatment system and compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under **40 CFR Sec. 403.3(v)**, this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User except as exempted by current Federal regulations.
- D. Assess and collect fees for permits and permit related activities.

The authorization to establish rules and issue and enforce permits shall include, but not be limited to, the adoption of general and individual control mechanisms, as those are defined in **40 CFR Section 403.8(f)**. Rules shall at all times contain the minimum necessary standards set forth in **40 CFR Part 403**. Any violation of order, rule or permit condition, issued hereunder, general or individual, shall be deemed to be a violation of this ordinance.

Section 6. Inspections

The JRS is hereby authorized to carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the JRS shall be authorized to enter any premises of any Industrial user, in which a Discharge source or treatment system is located or in which records are required to be kept under **40 CFR Sec. 403.12(o)**, to assure compliance with Pretreatment Standards.

Section 7. Enforcement Authority (Pretreatment Program)

- A. Delegation – The JRS is hereby designated as the responsible party and agent of the Municipality for purpose of enforcing the provisions of this ordinance. The JRS is hereby authorized to initiate actions in its own name or acting in the name of the municipality for violation of this ordinance, or to bring civil actions in equity or law to ensure compliance or prevent violation of the applicable rules. The JRS is designated as the responsible party for carrying out any hearings which may be required under the Pennsylvania Local Government Public Agency Law, **2 Pa C. S. § 551, et seq.**
- B. Enforcement Response Plan – The JRS is hereby authorized to impose civil penalties for violations of its rules as set forth in the Enforcement Response Plan. At such times that it becomes necessary, modifications to the Enforcement Response Plan will be established and formally adopted by the JRS after the modifications have been approved by the Approval Authority (USEPA). After formal adoption by the JRS, the new modifications become automatic in this municipality. A revised Enforcement Response Plan will be issued by the JRS to all municipalities for inclusion in their ordinance as a replacement. No formal adoption process by this governmental body is necessary for the revisions to the Enforcement Response Plan to become effective and part of this ordinance.
- C. Injunctions and Termination of Service – The JRS is also specifically authorized to obtain remedies for noncompliance by any Industrial User with any Pretreatment Standard and Requirement. The JRS is also authorized to terminate service to violators or seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements.

Section 8. Penalties (Pretreatment Program)

- A. Penalties Under Municipal Authorization

The JRS shall also have authority to seek or assess civil penalties for violation of this ordinance, in the amount of \$1,000 a day, as permitted by **53 P.S. § 66601** of the Second Class Township Code as amended, **53 P.S. § 58301 et seq.** of the First Class Township Code, as amended, **53 P. S. § 48301** of the Borough Code, as amended, and **53 P. S. § 41303** of the

Optional Third Class City Code, as amended.

Enforcement shall be as provided for in the organic law of the municipality with the JRS bringing the action in the name of the municipality. Each violation for each separate day shall constitute a separate and distinct offense. This authorization to assess penalties is in addition to authority already granted to the JRS under provisions of Publicly Owned Treatment Works Penalty Law, **35 P. S. § 752.1 et seq.**

B. Penalties under Publicly Owned Treatment Works Penalty Law

For Penalties assessed under authority of the Publicly Owned Treatment Works Penalty Law, **35 P. S. § 752.1 et seq.**, Notice of Assessment of Civil Penalties shall include as part of the notice of an assessment of civil penalties a description of the applicable appeals process under the Pennsylvania Local Government Public Agency Law, **2 Pa C. S. § 55, et seq.**, to be followed, including the name, address and telephone number of the person responsible for accepting such appeal.

ENACTED AND ORDAINED THIS 19th day of October 2009, effective in five (5) days.

By: *Richard Rodgers*
President

ATTEST:

Janet Ulzyski (seal)
Secretary

(For Boroughs only)

Approved this 19th day of October, 2009

By: *James J. Wood*
Mayor