

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 299

(Duly Adopted May 12, 1993)

AN ORDINANCE ESTABLISHING A SHORT TERM DISABILITY
POLICY FOR BOROUGH EMPLOYEES.

WHEREAS, under Section 1006(6) of the Borough Code, 53 PA. STAT. ANN. § 46202(37), it is the duty for the Borough Council of a Borough to fix the compensation of all Borough employees; and

WHEREAS, under Section 1101 of the Borough Code, 53 PA. STAT. ANN. § 46101, Borough employees shall receive such compensation for their services as the Borough Council shall prescribe; and

WHEREAS, Section 1202(37) of the Borough Code, 53 PA. STAT. ANN. § 46202(37), permits boroughs to make contracts of insurance insuring borough employees under policies covering life, health, hospitalization, medical and surgical service, and/or accident insurance, and appropriate moneys from the Borough treasury for such purposes; and

WHEREAS, Section 1202(74) of the Borough Code, 53 PA. STAT. ANN. § 46202(74), permits boroughs to make and adopt all such ordinances not inconsistent with or restrained by the Constitution and laws of the Commonwealth as may be expedient or necessary for the proper management, care and control of the borough and its finances, and the maintenance of peace, good government, safety and welfare of the borough and its trade, commerce and manufactures; and

WHEREAS, Borough Council has determined that it is in the best interests of the Borough, in attracting and retaining qualified employees, to provide a short-term disability benefit to all full-time employees, in the form described herein, so that the compensation of

such employees will continue for a limited period of time while the employee is unable to perform his/her duties due to disability;

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

SECTION 1. Definitions. For purposes of this Ordinance, the following terms shall have the meanings provided for them in this Section, unless the context clearly indicates otherwise:

(a) “Borough” shall mean the Borough of Alburdis.

(b) “Disability.”

(1) In General. The term “Disability” shall include both a “Total Disability” and a “Partial Disability”.

(2) Total Disability: In General. The term “Total Disability” shall mean a physical and/or mental condition which renders a person unable to perform all of the substantial duties of his/her Pre-Disability Position, and also unable to perform the duties any other position of employment with the Borough (A) which already exists or which the Borough creates for the person after taking into consideration the limitations of his/her physical and/or mental condition, (B) for which the person is reasonably fitted by training, education, or experience, and (C) which is offered to the person.

(3) Partial Disability: In General. The term “Partial Disability” shall mean a physical and/or mental condition which renders a person unable to perform all of the substantial duties of his/her Pre-Disability Position, but which does *not* prevent the person from performing the duties another position of employment with the Borough (A) which already exists or which the Borough creates for the person after taking into consideration the limitations of his/her physical and/or mental condition, (B) for which the person is reasonably fitted by training, education, or experience, and (C) which is offered to the person. Notwithstanding the previous sentence, if the other position of employment is

offered to the person at the same or greater rate of compensation and benefits as his pre-disability position, the person shall not be considered as having either a Partial Disability or a Total Disability.

(4) Medical Examinations. The existence of a Total or Partial Disability shall be confirmed, from time to time, in the discretion of the Borough, by a physician appointed by or acceptable to the Borough based on competent medical evidence. A person desiring to receive benefits under this Ordinance shall consent to all examinations required by the Borough under this paragraph (4) as a condition to the receipt of benefits. If a person refuses to consent to the first examination required by the Borough hereunder, no Disability shall be treated as having arisen; if a person refuses to consent to a subsequent examination required by the Borough hereunder, the Disability shall be treated as having ceased on the day scheduled for the subsequent examination.

(5) Exclusions. The terms “Total Disability” and “Partial Disability” shall not include any condition which is caused by chronic or excessive use of intoxicants, drugs, or narcotics, intentionally self-inflicted injury or intentionally self-induced sickness (not including pregnancy), or an unlawful act or enterprise on the part of the person asserting his/her Disability.

(6) Pregnancy and Childbirth. A person who is pregnant shall be presumed to have a Total Disability for a period of six weeks commencing on the **earlier** of (A) the date seven (7) calendar days before the “due date” assigned for the delivery of the child by the person’s obstetrician, or (B) the date the person delivers or miscarries her child; *provided* that this presumption shall not apply unless the person delivers or miscarries the child after the beginning of the third trimester of pregnancy. Any other period of Disability associated with pregnancy or childbirth shall be determined in accordance with the general rules of paragraphs (2) through (4).

(c) “Full-time Employee” shall mean an employee of the Borough of Alburtis who is employed in a position which is regularly scheduled for at least thirty (30)

hours of work each calendar week (including vacations, holidays, and other paid or unpaid leave).

(d) “Period of Disability” shall mean the period of time beginning on the first day that a person suffers from a Disability and continuing on each calendar day thereafter until the day before the first day that the person no longer suffers from a Disability (or, if earlier, the person’s death). If the person shall again suffer from a Disability at any time within ninety (90) calendar days after the last day he suffered from a Disability, the additional days of Disability through the day before the first day that the person again no longer suffers from a Disability, shall be considered a continuation of the previous Period of Disability, and not a new Period of Disability. A change in the status of a Disability from a Total Disability to a Partial Disability, or *vice versa*, shall not be deemed the commencement of a new Period of Disability, but rather the continuation of an existing Period of Disability.

(e) “Pre-Disability Position” shall mean, with respect to any given Period of Disability of a Full-Time Employee, the position of employment held by the Full-time Employee on the last day before the first day of the Period of Disability.

SECTION 2. Benefit Periods. For purposes of this Ordinance:

(a) The term “Full Benefit Period” means—

(1) The first thirty (30) working days of any Period of Disability, if the Disability in effect on the first day of the Period of Disability arose due to accidental bodily injury, or if the Period of Disability commences on the first day of a presumed Total Disability under Section 1(b)(6) (relating to pregnancy and childbirth). If the Period of Disability does not include thirty (30) working days, the “Full Benefit Period” shall only mean those working days in the Period of Disability; and

(2) The sixth (6th) through thirty-fifth (35th) working days, inclusive, of any Period of Disability, if the Disability in effect on the first day of the Period

of Disability arose due to any cause not described in paragraph 1 (including other illnesses). If the Period of Disability does not include thirty-five (35) working days, the “Full Benefit Period” shall only mean those working days in the Period of Disability other than the first five (5) working days.

(b) The term “Partial Benefit Period” means the first one hundred (100) working days of any Period of Disability after the end of the Full Benefit Period. (100 days = 20 weeks × 5 days/week). If the Period of Disability does not include one hundred (100) working days after the end of the Full Benefit Period, the “Partial Benefit Period” shall only mean those working days in the Period of Disability after the end of the Full Benefit Period.

SECTION 3. In General. Any person who commences a Period of Disability at a time when he/she is a Full-time Employee shall be entitled to receive the benefits provided under Sections 4 and 5, subject to the provisions of Section 6.

SECTION 4. Full Benefits. Subject to the provisions of Section 6—

(a) For each working day in the Full Benefit Period that a Full-time Employee suffers from a Total Disability, the Borough shall pay the Full-Time Employee the full amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, and shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

(b) For each working day in the Full Benefit Period that a Full-time Employee suffers from a Partial Disability, the Borough shall pay the Full-Time Employee the *difference* between the full amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day

during regularly-scheduled hours and the amount of compensation earned by the Full-Time Employee for that day in the position to which the Full-Time Employee was assigned, and shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

SECTION 5. Partial Benefits. Subject to the provisions of Section 6—

(a) For each working day in the Partial Benefit Period that a Full-time Employee suffers from a Total Disability, the Borough shall pay the Full-Time Employee the **lesser** of—

(1) two-thirds (2/3) of the amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, or

(2) One Hundred Fifty Dollars (\$150.00),

and shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

(b) For each working day in the Partial Benefit Period that a Full-Time Employee suffers from a Partial Disability **and** for which the Full-Time Employee earns in the position to which he/she was assigned less than two-thirds (2/3) of the amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, the Borough shall pay the Full-Time Employee the **lesser** of—

(1) the *difference* between two-thirds (2/3) of the amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, and the amount of compensation earned by the Full-Time Employee for that day in the position to which the Full-Time Employee was assigned, or

(2) One Hundred Fifty Dollars (\$150.00),

and shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

(c) For each working day in the Partial Benefit Period that a Full-Time Employee suffers from a Partial Disability **and** for which the Full-Time Employee earns in the position to which he/she was assigned at least two-thirds (2/3) of the amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, the Borough shall not pay the Full-Time Employee any additional Disability compensation under this Ordinance, but shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

SECTION 6. Insurance. The Borough may purchase insurance to cover any or all of the benefits provided hereunder. Workers' compensation and occupational disease insurance shall be considered to be insurance purchased to cover any or all of the benefits provided hereunder. If the Borough purchases such insurance and benefits thereunder are provided directly to a Full-Time Employee by the insurer(s), all payments by the insurer(s) (including workers' compensation and occupational disease insurance payments) shall be credited against the payments required to be made by the Borough under this Ordinance.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburdis, this 12th day of May, 1993, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURDIS**

Carlton R. Raines, President

Attest:

Louise Staub, Secretary

AND NOW, this 12th day of May, 1993, the above Ordinance is hereby **APPROVED**.

Ronald J. DeIaco, Mayor