

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 515

(Duly Adopted December 23, 2013)

AN ORDINANCE REVISING THE COMPENSATION OR COMPENSATION RANGES FOR CERTAIN POSITIONS OF EMPLOYMENT OR APPOINTMENT BY THE BOROUGH, EFFECTIVE JANUARY 1, 2014, INCLUDING CERTAIN ADMINISTRATION EMPLOYEES, MAINTENANCE EMPLOYEES, AND PROFESSIONALS; CHANGING THE HEALTH, DENTAL, AND VISION BENEFIT PLANS PROVIDED BY THE BOROUGH EFFECTIVE JANUARY 1, 2014; SUSPENDING, FOR 2014 ONLY, EMPLOYEE CONTRIBUTIONS TO THE COST OF HEALTH COVERAGE; COMMENCING HEALTH, DENTAL, VISION, CAFETERIA PLAN, AND MEDICAL EXPENSE REIMBURSEMENT PLAN COVERAGE FOR NEW EMPLOYEES ON THE FIRST DAY OF THE THIRD CALENDAR MONTH FOLLOWING THE MONTH IN WHICH THE PERSON COMMENCES EMPLOYMENT AS A FULL-TIME EMPLOYEE; REDUCING THE MAXIMUM ANNUAL COVERAGE UNDER THE MEDICAL EXPENSE REIMBURSEMENT PLAN TO \$2,500.00 EFFECTIVE JANUARY 1, 2013 AND ELIMINATING ALLOCATION OF NET EXPERIENCE GAINS TO PARTICIPANT ACCOUNTS; MAKING CONFORMING CHANGES TO THE CAFETERIA PLAN AND CONFORMING THE CAFETERIA PLAN AND MEDICAL EXPENSE REIMBURSEMENT PLANS TO REVISED STATUTES AND REGULATIONS; AND CONFIRMING THE EXISTING FIDELITY BOND REQUIREMENTS FOR CERTAIN BOROUGH EMPLOYEES.

WHEREAS, Borough Council desires to revise the compensation or compensation ranges for certain positions of employment or appointment by the Borough as set forth below, effective January 1, 2014; and

WHEREAS, Borough Council desires to change the health, dental, and vision benefit plans provided by the Borough to its employees, effective January 1, 2014; and

WHEREAS, Borough Council desires to suspend, for 2014 only, employee contributions to the cost of health coverage; and

WHEREAS, Borough Council desires to make other employee benefit changes as set forth in this ordinance; and

WHEREAS, Borough Council desires to confirm the existing fidelity bond requirements for certain Borough employees; and

WHEREAS, on December 11, 2013, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Albutis, of its intention to consider and adopt on this Ordinance on December 23, 2013;

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

SECTION 1. Codified Ordinances §§ 11-104, 11-106, and 11-108 (relating to Salaries and Compensation—In General) are amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 11-104 Administration.

(a) Executive Secretary.

* * *

(12) 2014. The annual salary of the Executive Secretary for the year 2014 shall be \$52,000.

* * *

(c) Borough Treasurer.

* * *

(11) 2014. The rate of compensation of the Borough Treasurer for the year 2014 shall be \$15.80 per hour.

* * *

§ 11-106 Maintenance Department.

* * *

(D) 2014. The rate of compensation for each member of the Maintenance Department for the year 2014 shall be established by motion or resolution of Council within the following range of compensation for the person's employment classification:

<u>Maintenance Supervisor.....</u>	<u>\$19.35 - \$25.77 / hour</u>
<u>Maintenance Full Time A</u>	<u>\$18.53 - \$22.71 / hour</u>
<u>Maintenance Full Time B</u>	<u>\$17.93 - \$19.01 / hour</u>
<u>Maintenance Full Time C</u>	<u>\$16.06* - \$17.93 / hour</u>
<u>Maintenance Part Time</u>	<u>\$ 8.33 - \$12.61 / hour</u>

* In the case of a person who has a current Class A or Class B commercial driver's license (CDL) when first hired by the Borough, the minimum hourly rate shall be \$17.30. In the case of a person who obtains such a license after being hired by the Borough, the minimum hourly rate shall be increased to \$17.30 after the later of the date the person obtains the license or the date three months after the person's first day of employment as a Borough maintenance department employee.

* * *

§ 11-108 Professionals.

(a) Borough Solicitor.

* * *

(11) 2014. The rate of compensation of the Borough Solicitor for the year 2014 shall be \$150.00 per hour.

* * *

SECTION 2. Alburdis Codified Ordinances § 12-203 (relating to Personnel Policies—General Working Time & Pay Rules—Overtime and Compensatory Time Off) is amended by adding the following new subsection (e) thereto:

(e) **Salaried Employees.** Notwithstanding anything to the contrary in this Section, salaried employees shall not be paid overtime pay or credited with compensatory time off.

SECTION 3. Effective January 1, 2014, Codified Ordinances § 12-403 (relating to Personnel Policies—Benefits—Health & Hospitalization) is amended by amending subsection (a), amending paragraph (1) of subsection (b.1), and by adding a new paragraph (2.1) to subsection (b.1), as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 12-403 Health & Hospitalization.

(a) **In General.** Subject to the payment of employee premium contributions as set forth in subsection (b.1), medical coverage is provided to full-time Borough employees effective ~~sixty (60) days after initial employment~~ the first day of the third calendar month following the calendar month in which the person commences employment as a full-time Borough employee. The employee may elect, from time to time, whether this coverage is to be provided to the employee alone or to the employee and the employee's spouse and/or one or more of the employee's eligible family members, except as otherwise provided in subsection (d). The terms, conditions, limitations, restrictions, deductibles, co-payments, scope of coverage, as well as the persons eligible for coverage, are described in the summary plan descriptions distributed from time to time to employees and in the health policies and contracts obtained by the Borough from time to time. Nothing in this Chapter shall provide any specific medical benefits; all such benefits shall be provided by policies as authorized from time to time by action of Council. ~~As of January 1, 2012, the coverage provided under this Section is the Keystone Health Plan Central HMO 10/10/50 Direct Access with Rx Option 8.~~ As of January 1, 2014, the coverage provided under this Section is the product known as Healthy Benefits PPO 0.

0 \$10 PD . Rx \$0, as offered and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product). To the extent this Section is inconsistent with the provisions of the current collective bargaining agreement for police officers, the provisions of the collective bargaining agreement shall apply with respect to full-time police officers.

* * *

(b.1) Employee Contributions to Premiums.

(1) In General. Except as provided in subsection (c), each full-time Borough employee must contribute each calendar month towards the premium cost for the medical coverage provided for that month under subsection (a) as elected by the employee ~~from among the options offered by the insurance carrier/organization (e.g., single, employee & child, employee & spouse, employee & children, family coverage~~ for the employee alone or for the employee and the employee's spouse and/or one or more of the employee's eligible family members). The monthly amount shall be a percentage of the premium charged to the Borough by the carrier/organization for the medical coverage option selected by the employee as set forth in paragraph (2). One-half of the monthly employee contribution shall be deducted from the first paycheck in the month, and one-half of the monthly employee contribution shall be deducted from the second paycheck in the month.

* * *

(2.1) Contributions Suspended for 2014. Notwithstanding paragraphs (1) and (2), the monthly employee contributions shall be suspended for calendar year 2014, so that no full-time Borough employee must contribute any amount towards coverage under the new Healthy Benefits PPO plan in 2014.

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* * *

SECTION 4. Effective January 1, 2014, Codified Ordinances § 12-405 (relating to Personnel Policies—Benefits—Dental and Vision Coverage) is amended by amending subsections (a) and (b) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 12-405 Dental and Vision Coverage.

(a) **Dental Coverage.** Dental coverage is provided to full-time Borough employees effective ~~sixty (60) days after initial employment~~ the first day of the third calendar month following the calendar month in which the person commences employment as a full-time Borough employee. The employee may elect, from time to time, whether this coverage is to be provided to the employee alone or to the employee and one or more of the employee's eligible family members. ~~As of January 1, 2012, the coverage provided under this subsection is the Keystone Health Plan Central Dental Plus Plan 100/80/50/50 Multi Coverage Credit. As of~~ January 1, 2014, the coverage provided under this subsection is the product known as Healthy Dental PPO Classic Enhanced, as offered and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product).

(b) **Vision Coverage.** Vision coverage is provided to full-time Borough employees effective ~~sixty (60) days after initial employment~~ the first day of the third calendar month following the calendar month in which the person commences employment as a full-time Borough employee. The employee may elect, from time to time, whether this coverage is to be provided to the employee alone or to the employee and one or more of the employee's eligible family members. ~~As of January 1, 2012, the coverage provided under this subsection is the Keystone Health Plan Central Vision Plan 12/10 Plus Multi Coverage Credit. As of~~ January 1, 2014, the coverage provided under this subsection is the product known as Healthy Vision 12/10 Plus, as offered and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product).

* * *

SECTION 5. Effective January 1, 2014, Codified Ordinances § 14-107 (relating to Cafeteria Plan—Title, Establishment, and General Definitions—Eligibility Month) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-107 Eligibility Month.

The term “Eligibility Month” means the ~~month following the month in which an employee of the Employer first completes thirty (30) days of service~~ third calendar month following the calendar month in which an employee commences employment with the Employer as a Qualified Employee, ~~including intervening weekends, holidays, other nonscheduled days, and permitted leave as days of service~~ provided that the employee remained a Qualified Employee continuously through the beginning of the Eligibility Month. Except as provided in § 14-203 (relating to Reinstatement of Former Participant within the same Plan Year), a A person who was a Qualified Employee, then ceased to be a Qualified Employee, and who again becomes a Qualified Employee, ~~and who is treated as a new employee under the provisions of this Plan~~ shall have a new Eligibility Month for the new period of service as a Qualified Employee.

SECTION 6. Effective January 1, 2014, Codified Ordinances § 14-109 (relating to Cafeteria Plan—Title, Establishment, and General Definitions—Health Plan) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-109 Health Plan.

The term “Health Plan” shall mean the health/medical/hospitalization coverage plan provided from time to time under § 12-403 (relating to Personnel Policies—Benefits—Health & Hospitalization). As of January 1, ~~2012~~ 2014, the Health Plan is ~~the HMO 10/10/50 Direct Access with Rx Option 8,~~ the product known as Healthy Benefits PPO 0 . 0 \$10 PD . Rx \$0, as offered to the Borough of Alburdis and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product), as provided for the Borough of Alburdis under applicable documents with Keystone Health Plan Central, but the specific plan and/or the coverages available under the plan may change from time to time.

SECTION 7. Effective January 1, 2014, Codified Ordinances § 14-301(a) (relating to Cafeteria Plan—Election of Optional Benefits—The Health Plan) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-301 Coverage Options.

* * *

(a) **The Health Plan.** If the Health Plan is selected, the Participant must also elect whether the coverage will be for the Participant only, or the coverage will be for the Participant and one or more additional persons specifically identified (by name and date of birth) by the Participant from among the Participant’s spouse and his/her eligible children. ~~one of the coverage options available under the Health Plan must be selected as well. The options available as of January 1, 2012 are:~~

- ~~(1) Single (coverage for the Participant only);~~
- ~~(2) Employee/Spouse (coverage for the Participant and his/her spouse);~~

~~(3) Employee/Child(ren) (coverage for the Participant and one or more of his/her eligible children);~~

~~(4) Family (coverage for the Participant, his/her spouse, and his/her eligible children).~~

* * *

SECTION 8. Effective January 1, 2014, Codified Ordinances § 14-304(c)(2) (relating to Cafeteria Plan—Election of Optional Benefits—Election Procedure—Failure to Return Proper Election Forms—Health Plan Coverage) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-304 Election Procedure.

* * *

(c) Failure to Return Proper Election Forms.

* * *

(2) Health Plan Coverage. A Participant's failure to return a completed election form to the Administrator relating to coverage under the Health Plan (or submission of an election form that selects an option or waiver that the Participant is not permitted to make) on or before the due date for any Plan Year after the first Plan Year of this Cafeteria Plan shall constitute—

(A) if the Participant is eligible to make an election under § 12-403(c) (relating to Personnel Policies—Benefits—Health & Hospitalization—Waiver of Coverage) or corresponding provisions of the current collective bargaining agreement for police officers: a re-election of the same coverage or coverages, if any, as was in effect just prior to the end of the preceding Plan Year (to the extent such coverage(s) remain available to the Participant under the Health Plan, § 12-403(e) or corresponding provisions of the current collective bargaining agreement for police officers, and this Cafeteria Plan), and a re-election of any election

to waive Health Plan coverage and receive cash in lieu of coverage which was in effect just prior to the end of the Preceding Plan Year. If the Participant had coverage under the Health Plan just prior to the end of the preceding Plan Year but the coverage option is no longer available to the Participant, then there shall be a deemed election of ~~Single~~ coverage (~~for only the Participant only~~) under the Health Plan;

(B) if the Participant is not eligible to make an election under § 12-403(c) or corresponding provisions of the current collective bargaining agreement for police officers: a re-election of the same coverage or coverages, if any, as was in effect just prior to the end of the preceding Plan Year (to the extent such coverage(s) remain available to the Participant under the Health Plan, § 12-403(e) or corresponding provisions of the current collective bargaining agreement for police officers, and this Cafeteria Plan), but if there is no such coverage or coverages, then an election of ~~Single~~ coverage (~~for only the Participant only~~) under the Health Plan.

SECTION 9. Effective September 23, 2010, Codified Ordinances § 14-305(m) (relating to Cafeteria Plan—Election of Optional Benefits—Revocation or Change of Election by the Participant During the Plan Year—Dependent) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-305 Revocation or Change of Election by the Participant During the Plan Year.

* * *

(m) **Dependent.** For purposes of this § 14-305, the term “dependent” ~~has the same meaning as under~~ means a person who is either—

(1) a “dependent” of the Participant as defined in Code § 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof), except that any child to whom Code § 152(e) applies is treated as a dependent of both parents; or

(2) a child (as defined in Code § 152(f)(1)) of the Participant who as of the end of the Plan Year has not attained age 27.

SECTION 10. Effective January 1, 2013, Codified Ordinances § 14-310 (relating to Cafeteria Plan—Election of Optional Benefits—Maximum Elective Contributions) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 14-310 Maximum Elective Contributions.

The maximum amount of elective contributions (*i.e.*, salary reductions) under the Plan for any Participant for any Plan Year shall be the maximum coverage amount which the Participant may select for the Plan Year under the Medical Expense Reimbursement Plan (~~\$2,600.00~~ \$2,500.00 for persons eligible under that plan), plus the Participant's share of the cost of the most expensive coverage(s) available to the Participant under the Health Plan for the Plan Year, plus the maximum amount of cash payments available to the Participant if the Participant were to waive coverage under the Health Plan.

SECTION 11. Effective September 23, 2010, Codified Ordinances § 20-108 (relating to Medical Expense Reimbursement Plan—Title, Establishment, and General Definitions—Dependent) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-108 Dependent.

The term “Dependent” means, with respect to any Participant, any individual who is either—

(a) a dependent of the Participant within the meaning of Code § 152 (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).—~~In addition,~~ except that any child to whom Code § 152(e) applies (relating to special rule for divorced parents) shall be treated as a “Dependent” of both parents; or

(b) a child (as defined in Code § 152(f)(1)) of the Participant who as of the end of the Plan Year has not attained age 27.

SECTION 12. Effective January 1, 2011, Codified Ordinances § 20-116 (relating to Medical Expense Reimbursement Plan—Title, Establishment, and General Definitions—Qualifying Medical Care Expenses) is amended by amending subsections (b)(1) and (c) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-116 Qualifying Medical Care Expenses.

* * *

(b) Medical Care. For purposes of this § 20-116, the term “Medical Care” shall mean amounts paid (within the meaning of Code § 213(d) and the regulations and rulings thereunder):

(1) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (~~including medicine and drugs purchased without a physician’s prescription, but not dietary supplements that are merely beneficial to general health, see Rev. Rul. 2003-102~~);

* * *

(c) Exceptions. Notwithstanding anything to the contrary in this section, “Qualifying Medical Care Expenses” shall *not* include—

(1) any expenses to the extent that the Participant or other person incurring them is reimbursed or entitled to reimbursement for the expense through insurance or otherwise (other than under this Plan); ~~or~~

(2) any premium paid for other health coverage, including but not limited to employee contributions toward the coverage provided under a health/medical/hospitalization plan of the Employer, such as the payments required under § ~~12-403(e)(2), (3)~~ 12-403(b.1) (relating to Personal Policies—Benefits—Health & Hospitalization—Employee Contributions to Premiums);

(3) any expenses for qualified long-term care services (as defined in Code § 7702B(c));

(4) any expenses for cosmetic surgery (any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease) or other similar procedure, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease; or

(5) any expenses for a medicine or drug, unless the medicine or drug is a prescribed drug (determined without regard to whether such drug is available without a prescription) or is insulin.

SECTION 13. Effective January 1, 2013, Codified Ordinances § 20-204 (relating to Medical Expense Reimbursement Plan—Participation and Level of Coverage—Level of Coverage) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-204 Level of Coverage.

A Participant may elect to receive coverage under this Plan for any Plan Year in any Coverage Amount up to ~~Two Thousand Six Hundred Dollars (\$2,600.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00).

Except as otherwise provided in this Chapter, all rules concerning elections by a Participant to receive, modify, or terminate coverage under this Plan are as stated in the Cafeteria Plan, which is incorporated herein by reference.

SECTION 14. Effective January 1, 2014, Codified Ordinances § 20-305 (relating to Medical Expense Reimbursement Plan—Medical Expense Reimbursement Accounts—Application of Forfeitures) is amended by amending subsection (b) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-305 Application of Forfeitures.

* * *

(b) Application of Net Experience Gains. If there is a net experience gain for any Plan Year, the amount of the net experience gain shall be used to reimburse claims incurred in the following Plan Year above the amounts elected by Participants for that Plan Year. ~~(Cf., Prop. Treas. Regs. § 1.125-2 Q&A 7(b)(7); ERISA Tech. Rel. 92-01, final paragraph).~~ All forfeitures for a given Plan Year (the “**Forfeiture Year**”) shall be effective as of April 1 of the following Plan Year (the “**Application Year**”). If there are any net experience gains for the Forfeiture Year, the Medical Expense Reimbursement Account for the Application Year of each person who is a Participant on April 1 of the Application Year shall be credited with an amount equal to: retained by the Employer in accordance with Treas. Regs. § 1-125-5(o)(1)(i).

~~(1) the net experience gains for the Forfeiture Year; multiplied by~~

~~(2) a fraction—~~

~~(A) whose numerator is the Coverage Amount under this Plan elected by the particular Participant for the Application Year (as modified by any permitted changes effective on or before April 1 of the Application Year); and~~

~~(B) whose denominator is the total of the Coverage Amounts under this Plan elected by all Participants for the Application Year (as modified by any permitted changes effective on or before April 1 of the Application Year).~~

~~These additional credits shall be effective as of April 1 of the Application Year.~~

SECTION 15. Effective January 1, 2011, Codified Ordinances § 20-402 (relating to Medical Expense Reimbursement Plan—Benefits—Application for Reimbursement) is amended by amending subsection (b) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-402 Application for Reimbursement.

* * *

(b) Required Documentation. All applications for reimbursement of Qualifying Medical Care Expenses under this Plan shall be accompanied by the following documents for each expense for which reimbursement is requested:

(1) a written statement from an independent third party, ~~stating that the expense has been incurred and the amount of the expense~~ providing information describing the service or product, the date of the service or sale, and the amount (including, but not limited to, statements from a provider, and an explanation of benefits from an insurance company); and

(2) such other bills, invoices, prescriptions or other documentation showing that a prescription has been issued for the item purchased, receipts, cancelled checks, or other statements or documents which the Administrator may request to prove that a Qualifying Medical Care Expense has been incurred and has been paid.

* * *

SECTION 16. Effective January 1, 2014, Codified Ordinances §§ 20-906 and 20-907 (relating to Medical Expense Reimbursement Plan—Miscellaneous—Interpretation and Construction) are amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 20-906 Interpretation.

This Plan is designed to satisfy the requirements of Code § 105(b) for a medical expense reimbursement program, Code § 106(a) for an employer-provided accident or health plan, and ~~Proposed Treasury Regulations § 1.125-2 (Q&A 7) (except as it may be superseded by later proposed or final regulations)~~ the regulations under Code § 125 for a qualified health flexible spending arrangement offered through a cafeteria plan. Unless a contrary intent shall appear herein, all terms used in this Plan shall be interpreted in the same manner as corresponding terms are used in those provisions and the regulations, rulings, and interpretations issued thereunder.

§ 20-907 Construction.

This Plan shall be construed and administered according to the laws of the United States of America and the Commonwealth of Pennsylvania. Further, this Plan shall be construed and administered so as to conform to the requirements for qualification under Code §§ 105(b) and 106(a), and the regulations thereunder, and ~~Prop. Treas. Regs. § 1.125-2 (Q&A 7) (except as it may be superseded by later proposed or final regulations)~~ the regulations under Code § 125 for a qualified health flexible spending arrangement offered through a cafeteria plan, and shall be deemed amended automatically to conform to such legal requirements as in effect from time to time to the extent necessary.

SECTION 17. Codified Ordinances § 3-101 (relating to Fidelity Bonds) is ratified and confirmed for calendar year 2014.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 23rd day of December, 2013, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 23rd day of December, 2013, the above Ordinance is hereby
APPROVED.

Kathleen Palmer, Mayor