

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 528

(Duly Adopted March 11, 2015)

AN ORDINANCE APPROVING AND IMPLEMENTING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOROUGH OF ALBURTIS AND THE ALBURTIS POLICE OFFICERS' ASSOCIATION FOR THE YEARS 2015-2017, INCLUDING PROVISIONS RELATING TO DEFINITIONS, TERM (2015-2017), BASE COMPENSATION (INCLUDING INCREASES OF 6.6% FOR THE FIRST YEAR, NO INCREASE FOR THE SECOND YEAR, AND 3.0% INCREASE FOR THE THIRD YEAR), OVERTIME (INCLUDING CHANGES TO AN EIGHTY HOUR PAY PERIOD AND NO OVERTIME FOR WORK WITHIN A REGULAR FULL-TIME SHIFT WHICH EXCEEDS EIGHT HOURS IN LENGTH), SHIFT DIFFERENTIAL (INCLUDING A TEN CENT PER HOUR INCREASE), LONGEVITY PAY, HEARINGS (INCLUDING MINIMUM PAYMENT OF FOUR HOURS FOR CALL OUTS TO DISTRICT JUSTICE HEARINGS AT CENTRAL COURT OR IN THE IMMEDIATE VICINITY OF THE LEHIGH COUNTY COURTHOUSE, CALL-OUT DUTY, HOURS WORKED, TRAINING (INCLUDING UP TO 24 HOURS PER YEAR FOR APPROVED NON-MANDATORY TRAINING REQUESTED BY A FULL-TIME OFFICER), HOLIDAYS (INCLUDING FIVE HOLIDAY FOR WHICH A PART-TIME OFFICER WILL BE PAID DOUBLE-TIME), VACATIONS (INCLUDING THREE WEEKS OF VACATION PER YEAR AFTER FIVE YEARS OF SERVICE, AND ALLOWING UP TO FIVE VACATION DAYS TO BE CARRIED INTO THE FIRST THREE MONTHS OF THE FOLLOWING YEAR FOR PERSONS WITH FIVE OR MORE YEARS OF SERVICE), PERSONAL DAYS, SICK OR INJURY LEAVE (INCLUDING NEW RULES PERMITTING AN OFFICER TO ACCUMULATE A SICK LEAVE BALANCE OF UNUSED SICK DAYS ACCRUED IN A YEAR FOR USE IN FUTURE YEARS AND FOR LIMITED CASH-OUT AT RETIREMENT; AND ELIMINATING THE FORMER WELLNESS BONUS), BEREAVEMENT LEAVE (INCLUDING ADDITIONAL LEAVE FOR THE DEATH OF A GRANDCHILD), MILITARY LEAVE, SHORT-TERM DISABILITY PLAN, LONG-TERM DISABILITY INSURANCE, LIFE INSURANCE, A NEW FUNERAL COST DONATION CAMPAIGN FOR OFFICERS WHO DIE FROM CAUSES RELATED TO THEIR EMPLOYMENT), HEALTH INSURANCE (INCLUDING A CHANGE OF HEALTH

PLAN TO THE CAPITAL BLUE CROSS HEALTHY BENEFITS PPO 2000.OPD.RX \$0 PLAN, THE PROVISION OF A HEALTH REIMBURSEMENT ARRANGEMENT TO COVER CERTAIN DEDUCTIBLES UNDER THE BLUE CROSS PLAN, SUBJECT TO AN HRA DEDUCTIBLE OF \$300 PER INDIVIDUAL AND \$600 PER FAMILY, THE PROVISION OF A DENTAL AND VISION HEALTH REIMBURSEMENT ARRANGEMENT (WITH A GENERAL ANNUAL FAMILY MAXIMUM OF \$1,500.00) INSTEAD OF VISION AND DENTAL PLANS, REQUIRED EMPLOYEE CONTRIBUTIONS FOR MEDICAL PLAN COVERAGE IN THE AMOUNT OF FIVE PERCENT OF COST TO THE BOROUGH, A REVISION TO THE TERMS AND AMOUNTS PAID FOR THE WAIVER OF MEDICAL PLAN COVERAGE BY AN OFFICER, AND DISQUALIFICATION OF SPOUSAL COVERAGE FOR CERTAIN WORKING SPOUSES), PENSION PLAN, EDUCATIONAL MERIT AWARD FOR EARNING CERTAIN EDUCATIONAL DEGREES, SCHEDULING (INCLUDING FLEXIBILITY TO SCHEDULE REGULAR SHIFTS UP TO TWELVE HOURS IN LENGTH), UNIFORMS AND EQUIPMENT (INCLUDING AN INCREASE IN THE ANNUAL UNIFORM ALLOWANCE, A CHANGE IN DOCUMENTATION REQUIREMENTS, AND THE ABILITY TO CARRY-FORWARD UNUSED AMOUNTS ACCRUED IN ONE YEAR TO FUTURE YEARS), VOLUNTARY PAYROLL DEDUCTIONS, PHYSICAL AND MENTAL EXAMINATIONS, GRIEVANCE PROCEDURE, CIVIL SERVICE, NEW PROVISIONS FOR MEET AND DISCUSS MEETINGS, RESERVATION OF RIGHTS, APPLICABLE LAW, AND SEVERABILITY; AND ALSO AMENDING THE CODIFIED ORDINANCES TO CONFORM TO THE NEW COLLECTIVE BARGAINING AGREEMENT, TO REVISE THE COMPENSATION AND BENEFITS OF THE CHIEF OF POLICE TO CONFORM TO THE INCREASES EARNED UNDER THE NEW COLLECTIVE BARGAINING AGREEMENT BY THE HIGHEST-RANKING OFFICER, AND TO REVISE THE RULES APPLICABLE TO NON-UNIFORMED EMPLOYEES TO MATCH THE RULES APPLICABLE TO POLICE EMPLOYEES UNDER THE NEW COLLECTIVE BARGAINING AGREEMENT WITH RESPECT TO THE PROVISION OF HEALTH COVERAGE FOR WORKING SPOUSES AND THE AMOUNTS PAID FOR THE WAIVER OF MEDICAL PLAN COVERAGE.

**WHEREAS**, the Borough Council of the Borough of Alburdis and the Alburdis Police Officers' Association, the collective bargaining representative of the police officers

of the Borough, have successfully completed negotiations for a collective bargaining agreement for calendar years 2015, 2016, and 2017; and

**WHEREAS**, the Alburtis Police Officers' Association has already executed the new collective bargaining agreement; and

**WHEREAS**, Borough Council approves the terms of a collective bargaining agreement for such years in the form attached hereto and desires to implement the agreement upon the full execution of the agreement; and

**WHEREAS**, the position of Chief of Police was formerly included within the collective bargaining unit; and

**WHEREAS**, upon petition of the Borough and stipulation of facts by the Borough and the Alburtis Police Officers' Association, the Chief of Police was removed from the collective bargaining unit by the Pennsylvania Labor Relations Board ("**PLRB**") by Order dated December 31, 2014 in case #PF-U-14-116-E, which became absolute and final on January 20, 2015; and

**WHEREAS**, the position of Chief of Police was formerly included within the collective bargaining unit; and

**WHEREAS**, 43 PA. STAT. ANN. § 218 provides that a Chief of Police who has been removed from the collective bargaining unit by ruling of the PLRB "shall receive not less than the same dollar increase including fringe benefits excluding overtime and festive holiday pay as received by the highest ranking police officer participating in the bargaining unit"; and

**WHEREAS**, the position of Chief of Police was formerly included within the collective bargaining unit; and

**WHEREAS**, Council desires to provide for the compensation and benefits of the Chief of Police now that they are no longer provided under the police collective bargaining agreement, and which are in accordance with 43 PA. STAT. ANN. § 218, subject to fu-

ture modifications in accordance with an employment contract with the Chief of Police;  
and

**WHEREAS**, the Chief of Police prefers to remain in the dental and vision plans still provided to non-uniformed employees rather than participate in a health reimbursement arrangement for dental and vision expenses as negotiated by the police union; and

**WHEREAS**, Council desires to revise the rules applicable to non-uniformed employees to match the rules applicable to police employees under the new collective bargaining agreement with respect to the provision of health coverage for working spouses and the amounts paid for the waiver of medical plan coverage;

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

**SECTION 1.** Article I of Chapter 11 of the Codified Ordinances (relating to Salaries and Compensation—In General) is amended by adding the following new Section 11-104.1 thereto after existing § 11-104:

**§ 11-104.1 Chief of Police.**

**(a) 2015.**

**(1) In General.** The rate of compensation of the Chief of Police for the year 2015 shall be \$31.10 per hour.

**(2) Retroactive Payment for Period Before Execution of Police Collective Bargaining Agreement.** The provisions of this subsection (a) are retroactive to January 1, 2015. Accordingly, the difference between the compensation earned under this § 11-104.1(a) from January 1, 2015 through the last pay period which ended before the enactment of Ordinance 528 (less all applicable deductions), and the amount actually paid for that period of time, shall be paid to the Chief of Police in the paycheck for the pay period which includes the date Ordinance 528 was adopted.

**SECTION 2.** Codified Ordinances § 11-105 (relating to Salaries and Compensation—In General—Police Department) is amended by amending subsection (e) thereto as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

(e) ~~2015-2017.~~ ~~Until further action by Council in accordance with a new collective bargaining agreement or final interest arbitration award, the rate of compensation for members of the Police Department for the year 2015 shall be the same as provided in 2014 under the Alburdis Police 2012-2014 Collective Bargaining Agreement. See § 11-201(d) (relating to Police Collective Bargaining Agreement).~~ The rate of compensation for members of the Police Department other than the Chief of Police for the years 2015 through 2017 shall be as provided in the Alburdis Police 2015-2017 Collective Bargaining Agreement. See § 11-201(e) (relating to Police Collective Bargaining Agreement).

**SECTION 3.** Codified Ordinances § 11-201 (relating to Salaries and Compensation—Collective Bargaining Agreements—Police) is amended by adding the following new subsection (e) thereto:

(e) **2015-2017.**

(1) **CBA Approved.** Borough Council hereby approves a collective bargaining agreement with the Alburdis Police Officers' Association for calendar years 2015-2017 in the form attached to Ordinance 528.

(2) **Execution.** The President (or Vice President) of Borough Council and the Borough Manager are hereby authorized and directed to execute a collective bargaining agreement in the form approved under paragraph (1).

(3) **Implementation.** All officers, agents, and employees of the Borough are hereby directed to implement the terms and conditions of the executed collective bargaining agreement.

(4) **Inconsistent Ordinances Superseded.** Any provision of the Alburdis Codified Ordinances or any other Ordinance or Resolution which is inconsistent with any of the terms of the executed collective bargaining agreement is superseded to the extent of the inconsistency.

**SECTION 4.** Codified Ordinances § 12-102 (relating to Personnel Policies—Title and Scope—Scope) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 12-102 Scope.**

(a) In General. This Chapter shall apply to all non-uniformed employees of the Borough of Alburdis. This Chapter shall also apply to uniformed police department employees of the Borough of Alburdis except to the extent of any conflict with Chapter 13 (relating to Police Civil Service), any applicable collective bargaining agreement, or any applicable law, regulation, or final court decision, or unless specifically stated to the contrary in this Chapter. ~~Until further action by Council in accordance with a new collective bargaining agreement or final interest arbitration award, the provisions of the Alburdis Police 2012-2014 Collective Bargaining Agreement applicable in calendar year 2014 shall continue to apply on and after January 1 2015, unless specifically stated to the contrary in this Chapter. See § 11-201(d) (relating to Police Collective Bargaining Agreement).~~

(b) Chief of Police. The following provisions of the collective bargaining agreement for police employees for 2015-2017, to the extent applicable to full-time police officers, shall apply to the Chief of Police notwithstanding the fact that the Chief of Police is not in the bargaining

unit covered by that collective bargaining agreement, and shall supersede any contradictory provisions of this Chapter:

- (1) § 4 (relating to Overtime);
- (2) § 5 (relating to Shift Differential);
- (3) § 5A (relating to Longevity Pay);
- (4) § 6 (relating to Hearings);
- (5) § 8A (relating to Training);
- (6) § 9 (relating to Holidays);
- (7) § 10(f), (g), (h), and (i) (relating to Vacations—  
scheduling and use);
- (8) § 11 (relating to Personal Days);
- (9) § 12 (relating to Sick or Injury Leave);
- (10) § 13 (relating to Bereavement Leave);
- (11) § 17 (relating to Life Insurance);
- (12) § 17A (relating to Funeral Cost Donation Campaign);
- (13) § 19A (relating to Educational Merit Award);
- (14) § 21 (relating to Uniforms and Equipment);
- (15) § 21A (relating to Voluntary Payroll Deductions); and
- (16) § 22 (relating to Physical and Mental Examinations).

**SECTION 5.** Codified Ordinances § 12-201 (relating to Personnel Policies—  
General Working Time & Pay Rules—Working Hours) is amended by adding the follow-  
ing new subsection (c):

**§ 12-201 Working Hours.**

\* \* \*

(c) **Chief of Police.** The Chief of Police shall work from 7:00 AM to 3:00 PM from Monday through Friday (including one-half hour of paid lunch when possible), except for paid time off and authorized leave. The Chief of Police shall also work additional hours as he/she deems necessary, unless explicitly directed to the contrary by the Mayor or Council.

**SECTION 6.** Codified Ordinances § 12-302 (relating to Personnel Policies—Paid or Unpaid Time Off—Vacations) is amended by adding the following new subsection (c.1) as follows:

**§ 12-302 Vacations.**

\* \* \*

**(c.1) Number of Vacation Days—Chief of Police.** Notwithstanding subsection (c), the number of vacation days available during any given calendar year to the Chief of Police shall be determined as follows:

(1) If the Chief is first hired as a full-time Borough employee during that calendar year: fifteen (15) days, *provided* that if the date the Chief first worked as a full-time Borough Employee (hereinafter, the “**First Day**”) is on or after July 1 and before October 1, the number of days shall be ten (10), and if the Chief’s First Day is on or after October 1, the number of days shall be five (5).

(2) If the first anniversary of the Chief’s First Day occurs during that calendar year: fifteen (15) days.

(3) If the second anniversary of the Chief’s First Day occurs during that calendar year: fifteen (15) days, *plus* an additional five (5) days at any time after said second anniversary if he/she is the Chief of Police on the second anniversary.

(4) If the third or fourth anniversary of the Chief’s First Day occurs during that calendar year: twenty (20) days.



(5) If the fifth anniversary of the Chief's First Day occurs during that calendar year: twenty (20) days, *plus* an additional five (5) days at any time after said fifth anniversary if he/she is the Chief of Police on the fifth anniversary.

(6) If the anniversary of the Chief's First Day which occurs during that calendar year is greater than the fifth: twenty-five (25) days.

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**SECTION 7.** Codified Ordinances § 12-403 (relating to Personnel Policies—Benefits—Health & Hospitalization) is amended 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 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, 2015, the coverage provided under this Section is the product known as Healthy Benefits PPO 2000 . 0 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 ~~2012-14~~ current collective bargaining agreement for police officers, the provisions of the collective bargaining agreement ~~as in effect for calendar year 2014~~ shall apply with respect to full-time police officers other than the Chief of Police, ~~except that the health benefit plan to be provided to full time police officers effective January 1, 2015 shall be the product known as Healthy Benefits PPO 2000 . 0 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). Full time police officers shall not be required to contribute toward the cost of this health coverage, and shall be eligible for the Health Reimbursement Arrangement for Police Employees (see § 12-403(e)).~~

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**(c) Waiver of Coverage.**

\* \* \*

**(2) Monthly Cash Payment.**

**(A) In General.** The amount to be received for a given month by a full-time Borough employee who waives the medical coverage provided under subsection (a) ~~depends on the type of the alternative medical coverage which covers the full time Borough employee:~~ shall be twenty-five percent (25.0%) of the premium which would have been charged to the Borough for that month by the carrier/organization providing the medical coverage under subsection (a) to cover that full-time Borough employee and all of his/her eligible dependents (not including a working spouse for whom coverage may not be elected pursuant to subsection (d)).

**(B) Retroactivity.** The amendments to this § 12-403(c)(2) made by Ordinance 528 are retroactive to January 1, 2015. Accordingly, the difference between the payments made for months in 2015 in paychecks for pay periods which ended prior to the enactment of Ordinance 528 under the provisions of this § 12-403(c) as in effect prior to the enactment of Ordinance 528, and the amount payable for those months under this § 12-403(c) as amended by Ordinance 528 (less all applicable deductions), shall be paid to the full-time Borough employee in the pay-

check for the pay period which includes the date Ordinance 528 was adopted.

~~(A) If the alternative medical coverage covers only the full time Borough employee and not his/her spouse or other dependents, then the amount of the monthly payment shall be—~~

<u>Year</u>	<u>Amount</u>
2013	\$120.00
2014 and subsequent years	\$130.00

~~(B) If the alternative medical coverage covers the full-time Borough employee and either the spouse of the full time Borough employee or one dependent of the full time Borough employee, but not both, then the amount of the monthly payment shall be—~~

<u>Year</u>	<u>Amount</u>
2013	\$260.00
2014 and subsequent years	\$270.00

~~(C) If the alternative medical coverage covers the full-time Borough employee and at least two other persons from among the full time Borough employee's spouse and dependents, then the amount of the monthly payment shall be—~~

<u>Year</u>	<u>Amount</u>
2013	\$400.00
2014 and subsequent years	\$450.00

\* \* \*

\* \* \*

**(d) Working Spouses.** Notwithstanding anything to the contrary in this Section, no health coverage may be elected or provided under this Section for any period after December 31, 2014 with respect to a spouse of a full-time Borough employee for any month in which such spouse is eligible to participate as an employee in a group health plan sponsored by

another employer, unless (1) no coverage for which the spouse is eligible under his/her employer's group health plan(s) provides "minimum value" within the meaning of the Patient Protection and Affordable Care Act and the regulations thereunder, or (2) the spouse is not reasonably expected to work an average of a least thirty (30) hours per week or at least one hundred twenty (120) days per year for the employer sponsoring the group health plan. A full-time Borough employee who desires to cover a spouse must provide, from time to time upon request, proof that the spouse is not employed, or, if employed, that the spouse is either not eligible for "minimum value" coverage under a group health plan of his/her employer or is not reasonably expected to work an average of at least thirty (30) hours per week or at least one hundred twenty (120) days per year for his/her employer.

**(e) Health Reimbursement Arrangements.** Certain deductibles ~~and/or co-payments~~ payable under the medical coverage provided by this Section may be reimbursable to the employee under the Health Reimbursement Arrangements provided by the Borough under Chapter 20A (relating to Health Reimbursement Arrangement for Non-Uniformed Employees) or Chapter 20B (relating to Health Reimbursement Arrangement for Police Employees).

**(f) Retired Former Chief of Police.**

**(1) In General.** If the Chief of Police retires after March 11, 2015 with entitlement to receive an immediate normal retirement benefit or disability retirement benefit under the Borough of Alburtis Police Pension Plan (Chapter 17), the Borough shall offer medical coverage for the retired former Chief of Police during his/her retirement (until terminated under paragraph (3) below) which is the same as the coverage then being provided from time to time to full-time Borough employees (cf., subsection (a)), except that the coverage shall provide benefits for the retired former Chief of Police, and, if he/she so elects, his/her spouse (if the spouse is not yet eligible to receive Medicare), but not any other dependents, and the coverage shall not include any benefits which are reimbursed directly by the Borough (whether through a health reimbursement arrangement or otherwise) rather than through an insurance carrier, health maintenance organization, paid provider organization, or other third party.

The retired former Chief of Police must elect coverage under this subsection (f) at or before the time of retirement, to take effect immediately after his/her coverage as an active employee terminates.

(2) **Payments by Former Chief.** If a retired former Chief of Police elects coverage under this subsection (f), the Borough shall contribute an amount each month equal towards the coverage which is equal to the *lesser* of—

(A) the monthly premium, under the rate structure in effect for the month in which the former Chief of Police retired, to provide the medical coverage in effect at that time under subsection (a) to a person who had no spouse or dependents, less the amount which the former Chief of Police would be required to contribute under subsection (b.1)(2) for the month in which the former Chief of Police retired if the former Chief of Police received self-only coverage for that month; or

(B) the full cost of the coverage under this subsection (f) for the given month.

However, if the former Chief of Police has become eligible to receive Medicare but coverage continues for his/her spouse who is not yet eligible to receive Medicare, the Borough shall not contribute any amount towards the spouse's coverage. Each month, the retired former Chief of Police shall pay to the Borough the difference, if any, between the amount contributed by the Borough for that month and the cost of the coverage under this subsection (f) for that month. Payment for the coverage for any given month must be received at the office of the Borough Manager on or before the first day of that month. A late fee of Twenty-five Dollars (\$25.00) shall be paid for every fifteen (15) calendar days that all or any part of any monthly payment shall remain unpaid; all payments shall be applied first to unpaid late fees.

(3) **Termination of Coverage.** The coverage provided under this subsection (f) for any given retired former Chief of Police will terminate upon the occurrence of the earliest of the following events:

(A) The date the retired former Chief of Police becomes eligible to receive Medicare, except that coverage for the spouse of the retired former Chief of Police may continue until the earliest of the date the

spouse becomes eligible to receive Medicare or the date of an event described in subparagraphs (B), (C), or (D):

(B) The date the retired former Chief of Police becomes eligible to participate in any other group medical insurance program as a result of employment:

(C) The date the retired former Chief of Police elects to terminate the coverage provided under this subsection (f):

(D) The date that any amount required to be paid by the retired former Chief of Police under paragraph (2) is more than sixty (60) days past due.

Once the coverage provided under this subsection (f) terminates, it cannot be elected again at a later time.

**SECTION 8.** Codified Ordinances § 12-405 (relating to Personnel Policies—Benefits—Dental and Vision Coverage) is amended as follows (with deletions indicated by ~~strike out~~ 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 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, 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). Effective April 1, 2015, this dental coverage is no longer provided to full-time Borough police officers, other than the Chief of Police.

**(b) Vision Coverage.** Vision coverage is provided to full-time Borough employees effective 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, 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). Effective April 1, 2015, this vision coverage is no longer provided to full-time Borough police officers, other than the Chief of Police.

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**(d) Health Reimbursement Arrangement.** Effective April 1, 2015, certain dental and vision expenses are reimbursable to full-time Borough police officers other than the Chief of Police under the Health Reimbursement Arrangement provided by the Borough under Chapter 20C (relating to Health Reimbursement Arrangement for Dental and Vision Expenses).

**SECTION 9.** Effective April 1, 2015, Codified Ordinances § 20-116 (relating to Medical Expense Reimbursement Plan—Title, Establishment, and General Definitions—Qualifying Medical Care Expenses) is amended by amending subsection (c)(1) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

**§ 20-116 Qualifying Medical Care Expenses.**

\* \* \*

**(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), including but not limited to reimbursements available under the health/medical/hospitalization plan of the Employer under § 12-403, the dental and vision plans under § 12-405, and the health reimbursement arrangements under Chapters 20A, ~~and 20B, and 20C~~. Any deductibles under these health reimbursement arrangements that are not reimbursed or entitled to reimbursement through insurance or otherwise (other than under this Plan) are not excluded under this paragraph (1);

\* \* \*

**SECTION 10.** Effective as of January 1, 2015, Article I of Chapter 20B of the Codified Ordinances (relating to Health Reimbursement Arrangement for Police Employees—Title, Establishment, and General Definitions) is amended by amending Sections 20B-112, 20B-113, 20B-119, and 20B-121(a) and (d), as follows (with deletions indicated by ~~strike outs~~ and insertions indicated by double underlining):

### **Article I — Title, Establishment, and General Definitions**

\* \* \*

#### **§ 20B-112 HRA Deductible.**

(a) **2015<sup>±</sup>.** ~~Prior to the execution of a new collective bargaining agreement for police employees and/or the issuance of a final interest arbitration award, for~~ For calendar year 2015 and subsequent calendar years, the term “HRA Deductible (Individual)” shall mean ~~Zero~~ Three Hundred Dollars (~~\$0.00~~ \$300.00), and the term “HRA Deductible (Family)” shall mean ~~Zero~~ Six Hundred Dollars (~~\$0.00~~ \$600.00).



**§ 20B-113 Maximum Coverage Amount.**

(a) ~~2015±.~~ For calendar year 2015 and subsequent calendar years, the term “Maximum Coverage Amount (Individual)” shall mean ~~Four~~ Two Thousand Dollars (~~\$4,000.00~~ \$2,000.00), and the term “Maximum Coverage Amount (Family)” ~~for calendar year 2015~~ shall mean ~~Eight~~ Four Thousand Dollars (~~\$8,000.00~~ \$4,000.00). ~~If the Qualified Reimbursable Expenses for a given Participant and his/her covered spouse and/or dependents in 2015 should exceed the Maximum Coverage Amounts prior to the execution of a new collective bargaining agreement for police employees and/or the issuance of a final interest arbitration award, the Borough will reimburse the Participant for the excess amount (plus a tax adjustment) outside of this Plan.~~

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**§ 20B-119 Prior Health Plan. [RESERVED]**

~~The term “Prior Health Plan” shall mean the health/medical/ hospitalization coverage plan provided to police employees in 2014 — the product known as Healthy Benefits PPO 0 . 0 \$10 PD . Rx \$0, as offered to the Borough of Alburdis by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross) for 2014.~~

\* \* \*

**§ 20B-121 Qualifying Medical Care Expenses.**

(a) **In General.** Except as provided otherwise in this § 20B-121, the term “Qualifying Medical Care Expenses” means expenses incurred by a Participant or his/her Covered Family Member, for Medical Care of the Participant during the time he/she is a Participant or for Medical Care of a Participant’s Covered Family Member during the time he/she is a Covered Family Member, and which are applied to a deductible under the Primary

Health Plan or a Reimbursable Copayment. Qualifying Medical Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered.

\* \* \*

~~(d) **Reimbursable Copayment.** For purposes of this Section, the term “Reimbursable Copayment” means expenses incurred by a Participant or his/her Covered Family Member, for Medical Care of the Participant or his/her Covered Family Member, and which are applied to a copayment under the Primary Health Plan, *but only to the extent* that the copayment for a particular service under the Primary Health Plan is greater than the copayment for that particular service under the Prior Health Plan. By way of summary (and subject to the actual provisions of the Primary Health Plan and the Prior Health Plan), the in-network copayments are as follows:~~

<u>Service</u>	<u>Prior Health Plan</u>	<u>Primary Health Plan</u>
PCP Office Visit	\$10	\$15
Specialist Visit	\$25	\$35
Urgent Care	\$50	\$75
Emergency Room	\$100	\$125
Retail Rx	\$4/15/45/70	\$4/15/45/70
Mail Order Rx	\$10/38/113/175	\$10/38/113/175
Specialty Rx	\$0	\$10/38/113/175

\* \* \*

**SECTION 11.** Effective as of January 1, 2015, Codified Ordinances § 20B-408 (relating to Health Reimbursement Arrangement for Police Employees—Benefits—Overpayments) is amended as follows (with deletions indicated by ~~strike outs~~ and insertions indicated by double underlining):

**§ 20B-408 Overpayments.**

(a) **In General.** If, for any reason, any benefit under this Plan is erroneously paid or exceeds the amount payable on account of a Participant's Qualifying Medical Care Expenses, the Participant shall be responsible for refunding the overpayment to the Plan. The refund shall be in the form of a lump-sum payment, a reduction of the amount of future benefits otherwise payable under the Plan, a deduction from compensation otherwise payable by the Employer to the Participant, or any other method which the ~~Administrator~~ Employer, in its discretion, may require.

(b) ~~**2015-2017 CBA or Arbitration Award.**~~ ~~This Plan is subject to any retroactive provisions of a new collective bargaining agreement or interest arbitration award for Borough police officers executed or entered after January 1, 2015. If, as a result of any such retroactive provisions, the Plan has overpaid any amount to a Participant, the overpayment shall be refunded to the Employer in accordance with subsection (a). The amendments to this Chapter 20B made by Ordinance 528 in accordance with the new police collective bargaining agreement for 2015-2017 are retroactive to January 1, 2015. Accordingly, any payments for 2015 made prior to the adoption of Ordinance 528 which are not payable for 2015 under the terms of this Chapter as amended by Ordinance 528 are overpayments. These overpayments shall be refunded to the Employer as a reduction in the amount of future benefits otherwise payable under this Plan. If the refund is not completed by December 15, 2015, then the unpaid balance shall be deducted from the final paycheck of 2015 for the affected Participants. If a Participant's employment with the Employer should terminate before December 15, 2015, any unpaid balance shall be deducted from the Participant's final paycheck.~~

**SECTION 12.** The Codified Ordinances are hereby amended by adding the following new Chapter 20C:

**Chapter 20C — Health Reimbursement  
Arrangement for Dental and Vision Expenses**

**Article I — Title, Establishment, and General Definitions**

**§ 20C-101 Short Title.**

This Chapter shall be known, and may be cited, as the “Borough of Alburdis Health Reimbursement Arrangement for Dental and Vision Expenses.”

**§ 20C-102 Establishment.**

The Borough of Alburdis hereby establishes a Health Reimbursement Arrangement in order to provide certain employees with reimbursements of certain qualifying medical care expenses that are excludable from gross income under Sections 105(b) and/or 106(a) of the Internal Revenue Code of 1986. This Plan is intended to qualify as a health reimbursement arrangement under IRS Notices 2002-45 and 2013-54, as an accident or health plan within the meaning of Code §§ 105(e) and 106, and, in part, as an employer payment plan under Rev. Rul. 61-146 and IRS Notice 2013-54, as they may be amended from time to time, and is to be interpreted in a manner consistent with the requirements of those provisions, so that the benefits provided under this Plan shall be eligible for exclusion from a participating employee’s gross income for federal income tax purposes under Code §§ 105(b) and/or 106(a).

**§ 20C-103 Definitions—In General.**

For purposes of this Chapter, the terms defined in the remaining Sections of this Article I shall have the meanings indicated therein, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning.

**§ 20C-104 Administrator.**

The term “Administrator” shall mean the Plan Administrator described in Article VI.

**§ 20C-105 [RESERVED]**

**§ 20C-106 Code.**

The term “Code” shall mean the Internal Revenue Code of 1986, as amended (Title 26, U.S. Code). Reference to a section of the Code shall mean that section as it may be amended or renumbered from time to time, or any corresponding provision of any future legislation that amends, supplements or supersedes that section.

**§ 20C-107 Covered Family Member.**

The term “Covered Family Member”, at any given time, shall mean a Participant’s Spouse or Dependent who is covered by this Plan at that time under § 20C-204.

**§ 20C-108 Dependent.**

The term “Dependent” means, with respect to any Participant for any given calendar month, 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), 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 has not attained age 26 as of the last day before the beginning of that calendar month.

**§ 20C-109 Effective Date.**

The “Effective Date” of this Plan is April 1, 2015.

**§ 20C-110 Employer.**

The term “Employer” shall mean the Sponsor, and all Related Employers which have adopted this Plan and executed a copy of this Chapter.

**§ 20C-111 HRA Account.**

The term “HRA Account” means, for a Participant for a given Plan Year, the HRA Account established for that Participant for that Plan Year under Article III.

**§ 20C-112 HRA Deductible.**

(a) **2015+.** For Plan Years beginning in 2015 or subsequent years, the term “HRA Deductible (Individual)” shall mean Zero Dollars (\$0.00), and the term “HRA Deductible (Family)” shall mean Zero Dollars (\$0.00).

**§ 20C-113 Maximum Coverage Amount.**

(a) **2015.** For the Plan Year beginning in 2015, the term “Maximum Coverage Amount” shall mean One Thousand One Hundred Twenty-five Dollars (\$1,125.00).

(b) **2016+.** For Plan Years beginning in 2016 or subsequent years, the term “Maximum Coverage Amount” shall mean One Thousand Five Hundred Dollars (\$1,500.00).

**§ 20C-114 Participant.**

The term “Participant” shall mean any person who participates in this Plan in accordance with Article II.

**§ 20C-115 Period of Coverage.**

The term “Period of Coverage” shall mean the Plan Year, except that for a person who is not a Participant during the entire Plan Year, the “Period of Coverage” shall mean the portion of the Plan Year that the person is a Participant.

**§ 20C-116 Plan.**

The term “Plan” shall mean the **Borough of Alburdis Health Reimbursement Arrangement for Dental and Vision Expenses**, as set forth in this Chapter, and as it may be amended from time to time.

**§ 20C-117 Plan Year.**

The term “Plan Year” shall mean any 12 consecutive month period beginning on January 1 and ending on the following December 31. However, the first Plan Year under this Plan shall be the period from April 1, 2015 through December 31, 2015, inclusive.

**§ 20C-118 [RESERVED]**

**§ 20C-119 [RESERVED]**

**§ 20C-120 Qualified Employee.**

The term “Qualified Employee” shall mean, as of any given date, any person who is receiving remuneration for personal services rendered to the Employer as a police officer (other than the Chief of Police) and whose customary employment is at least thirty-five (35) hours per week (including permitted paid time off).

**§ 20C-121 Qualifying Medical Care Expenses.**

(a) **In General.** Except as provided otherwise in this § 20C-121, the term “Qualifying Medical Care Expenses” means expenses incurred by a Participant or his/her Covered Family Member, for Medical Care of the Participant during the time he/she is a Participant or for Medical Care of a Participant’s Covered Family Member during the time he/she is a Covered Family Member, *provided* such Medical Care constitutes either Dental Care, Vision Care, or Qualified Insurance. Qualifying Medical Care Expenses shall be deemed to be incurred at the time the services to which the expenses relate are rendered, or, in the case of insurance premiums, during the coverage period to which those premiums relate.

(b) **Medical Care.** For purposes of this § 20C-121, 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);

(2) for transportation primarily for and essential to medical care referred to in paragraph (1); *or*

(3) amounts paid for lodging (not lavish or extravagant under the circumstances, and not more than \$50 per night per individual) while away from home primarily for and essential to medical care referred to in paragraph (1) if the medical care referred to in paragraph (1) is provided by a physician (as defined in section 1861(r) of the Social Security Act, 42 U.S.C. § 1395x(r)) in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

(c) **Dental Care.** For purposes of this § 20C-121, the term “Dental Care” shall mean expenses for dental preventive care (such as cleaning,



routine X-Rays, routine oral examinations, fluoride, and sealants), dental restorative care (such as fillings and crowns), endodontics (such as root canals), oral surgery (including tooth removal and minor surgical procedures such as tissue biopsy and drainage of minor oral infections), orthodontics (such as braces and retainers), periodontics (such as scaling, root planning, and management of acute infections or lesions), and prosthodontics (such as dentures and bridges).

**(d) Vision Care.** For purposes of this § 20C-121, the term “Vision Care” shall mean expenses for routine non-medical eye examinations or the refractive portion of medical eye examinations, prescription eyeglass lenses, eyeglass frames, contact lenses, and refractive surgery (such as LASIK).

**(e) Qualified Insurance.** For purposes of this § 20C-121, the term “Qualified Insurance” shall mean premiums for insurance covering only Medical Care, substantially all of whose benefits are for treatment of the eyes and/or mouth, and primarily covering Dental Care and/or Vision Care.

**(f) Exceptions.** Notwithstanding anything to the contrary in this section, “Qualifying Medical Care Expenses” shall *not* include 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), including but not limited to the Employer’s health/medical/hospitalization plan under § 12-403(a) or corresponding provisions of a collective bargaining agreement (with particular attention to pediatric vision and dental benefits under that plan), any insurance for which some or all of the premiums were reimbursed under this Plan, and any other group or individual insurance contract or self-funded arrangement.

#### **§ 20C-122 Related Employer.**

The term “Related Employer” shall mean any—

**(a)** corporation which is a member of a controlled group of corporations (as defined in Code § 414(b)) which includes the Sponsor;

(b) trade or business (whether or not incorporated) which is under common control (as defined in Code § 414(c)) with the Sponsor;

(c) member of an affiliated service group (as defined in Code § 414(m)) which includes the Sponsor; and

(d) any other entity required to be aggregated with the Sponsor pursuant to Code § 414(o) and the regulations thereunder.

**§ 20C-123 Sponsor.**

The term “Sponsor” shall mean the **Borough of Alburdis**, Lehigh County, Pennsylvania, a Pennsylvania borough and municipal corporation, and its predecessors and successors.

**§ 20C-124 Spouse.**

The term “Spouse” shall mean a person recognized as the spouse of a Participant under the rules established or recognized by the Internal Revenue Service.

**Article II — Participation**

**§ 20C-201 Commencement of Participation.**

Every Qualified Employee shall become eligible to participate in this Plan on the *later* (a) the Effective Date, or (b) the date he/she becomes a Qualified Employee.

**§ 20C-202 Cessation of Participation.**

(a) **In General.** Except as otherwise provided in this § 20C-202, a Participant will cease to be a Participant on the date he/she ceases to be a Qualified Employee.

(b) **Termination of Plan.** A Participant will cease to be a Participant in this Plan no later than the date as of which this Plan is terminated.

(c) **Expenses Incurred Prior to Cessation of Participation.** Notwithstanding anything to the contrary contained in this Section, a former Participant remains entitled to benefits under this Plan with respect to Qualifying Medical Care Expenses incurred prior to the cessation of his/her participation, under the same terms, conditions, and procedures applicable to Participants.

**§ 20C-203 Reinstatement of Former Participant.**

A former Participant may become a Participant in this Plan again in accordance with the provisions of § 20C-201.

**§ 20C-204 Covered Family Members.**

A Spouse or Dependent of a Participant shall be a Covered Family Member for such period of time as the person is a Spouse or Dependent, and the Participant is a Participant under this Plan.

**§ 20C-205 Waiver of Coverage.**

(a) **Annual Option.** A Qualified Employee may permanently opt-out of and waive coverage under this Plan in any December, effective on the immediately following January 1. If the Qualified Employee had been a Participant, he/she shall cease to be a Participant on that January 1.

(b) **On Request.** A Qualified Employee may decline and waive coverage under this Plan at any time upon request. If the Qualified Employee had been a Participant, he/she shall cease to be a Participant on the date the request is filed with the Employer. A person who declines coverage under this subsection (b) may request to receive coverage in the future if he/she is a Qualified Employee at that time. In that event, he/she shall become a Participant on the date the request is filed with the Employer.

(c) **Termination of Employment.** Upon termination of employment, if any remaining amounts in a Participant's HRA Account are not

forfeited under the terms of this Plan, the Participant may permanently opt out of and waive future reimbursements from this Plan for expenses incurred after the date of the termination.

**§ 20C-206 Continuation of Coverage.**

(a) **COBRA.** The Employer is not obligated to provide federal COBRA continuation coverage under this Plan because it normally employs fewer than twenty employees. 42 U.S.C. § 300bb-1(b)(1); 29 U.S.C. § 1161(b); Treas. Regs. § 54.4980B-2 (Q&A 5). However, if the number of employees should increase or the legal requirements change such that the federal COBRA continuation coverage rules do apply to this Plan, this Plan shall provide such coverage to the extent required by law and elected by the qualified beneficiaries, subject to the payment of monthly premiums in an amount described in subsection (d).

(b) **Pennsylvania Mini-COBRA.** The Employer is also not obligated to provide the shorter-duration Pennsylvania mini-COBRA continuation coverage under this Plan because it is a self-insured plan and not group policy issued by an “insurer”, and because it is a dental-only and vision-only plan. 40 PA. STAT. ANN. § 764j(g)(4), (5). However, if the legal requirements change such that the Pennsylvania mini-COBRA continuation coverage rules do apply to this Plan, this Plan shall provide such coverage to the extent required by law and elected by the covered employee and/or eligible dependent, subject to the payment of monthly premiums in an amount described in subsection (d).

(c) **[RESERVED]**

(d) **Premiums.**

(1) **In General.** The amount of the monthly premium to be paid by each qualified beneficiary (or by an employee or former employee qualified beneficiary for coverage for himself/herself and his Spouse and Dependents) for continuation coverage under this Plan for any month in a given calendar year shall be equal to one hundred two percent (102%) of the Maximum Coverage Amount for that calendar year, divided by twelve

(12), and multiplied by the Applicable Percentage for that calendar year as described below.

(2) **2015.** The Applicable Percentage for calendar year 2015 shall be twenty-five percent (25%).

(3) **Other Years.** The Applicable Percentage for calendar years after 2015 shall be determined as of December 31 of the preceding year, and shall be the percentage equivalent of the fraction whose numerator is the total amount of reimbursements paid by the Plan for expenses incurred during the preceding year, and whose denominator is equal to the number of Participants participating in the Plan during the preceding year multiplied by the Maximum Coverage Amount for the preceding year.

### **Article III — HRA Accounts**

#### **§ 20C-301 Establishment of Accounts; Contributions and Funding.**

The Employer will establish and maintain on its books an HRA Account for each Plan Year with respect to each person who is a Participant in the Plan at any time during the Plan Year. The Employer does not maintain actual, separate, and discrete accounts for Participants under this Plan. All payments under this Plan shall be made from the general assets of the Employer, and no assets shall be earmarked or segregated for purposes of providing benefits under this Plan. The HRA Accounts are strictly bookkeeping records. All amounts credited to an HRA Account shall be and remain the property of the Employer until paid out pursuant to this Plan.

#### **§ 20C-302 Crediting of Accounts.**

As of the first day of each Plan Year or, if later, the first day in a Plan Year that a Participant becomes a Participant in this Plan, the HRA Account for that Plan Year of each Participant shall be credited with an amount equal to the Maximum Coverage Amount for such Plan Year.

**§ 20C-303 Debiting of Accounts.**

A Participant's HRA Account for a given Plan Year shall be debited from time to time in the amount of any payment under Article IV to or for the benefit of the Participant for Qualifying Medical Care Expenses incurred during such Plan Year.

**§ 20C-304 Forfeiture of Accounts.**

(a) **Unused Balance for Plan Year.** If any balance remains in a Participant's HRA Account for any Plan Year after all permissible reimbursements under this Plan—

(1) such balance shall *not* be carried over to reimburse the Participant for any Qualifying Medical Care Expenses incurred during a subsequent Plan Year;

(2) such balance shall not be available to the Participant in any other form or manner;

(3) the Participant shall forfeit all rights with respect to such balance; *and*

(4) such balance shall remain the property of the Employer.

(b) **Termination of Employment.** As provided in § 20C-202, following a termination of employment, all rights of a Participant to receive reimbursement of Qualifying Medical Care Expenses incurred after the date of termination are forfeited.

**Article IV — Benefits**

**§ 20C-401 Claims for Reimbursement.**

Subject to the procedures and limitations set forth in this Article IV and in Article V, a person who is a Participant in any given Plan Year

shall be entitled to receive reimbursement of Qualifying Medical Care Expenses which are incurred during that Plan Year and submitted to the Plan for reimbursement during that Plan Year or within three (3) months after the close of that Plan Year. An expense is incurred on the date services are rendered, regardless of when the services are billed or paid, or in the case of insurance premiums, during the coverage period to which those premiums relate.

**§ 20C-402 Application for Reimbursement.**

(a) **Application Form.** All applications for reimbursement of Qualifying Medical Care Expenses under this Plan shall be filed with the Administrator on such forms as the Administrator may require. Each application shall include, with respect to each expense for which reimbursement is requested:

- (1) the amount and nature of the expense;
- (2) the name and address of the person, organization, or entity to which the expense was paid;
- (3) the date(s) on which the services covered by the expense were provided, or in the case of insurance premiums, the coverage period to which those premiums relate;
- (4) the name of the person for whom the expense was incurred, together with an identification of that person as the Participant or a Covered Family Member;
- (5) the amount recovered or expected to be recovered with respect to the expense under any insurance arrangement or other plan;
- (6) a statement that the expense (or the portion thereof for which reimbursement is sought under this Plan) has not been reimbursed and is not reimbursable under any insurance or other health plan coverage (other than this Plan); *and*
- (7) such other information as the Administrator may, from time to time, require.

**(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 (such as an explanation of benefits, a provider's invoice, or an invoice and receipt for payment of insurance premiums); *and*

(2) such other bills, invoices, receipts, cancelled checks, or other statements or documents which the Administrator may request to prove that a Qualifying Medical Care Expense has been incurred.

**(c) Time of Application.**

**(1) Earliest Submission of Reimbursement Applications.**

An application for reimbursement of Qualifying Medical Care Expenses under this Plan may not be filed until after all services covered by the application have been rendered, or in the case of insurance premiums, until the premiums have been paid.

**(2) Latest Submission of Reimbursement Applications.**

All applications for reimbursement of Qualifying Medical Care Expenses for services rendered or coverage provided during any given Plan Year shall be submitted no later than three (3) calendar months after the end of the Plan Year.

**§ 20C-403 Time of Reimbursement.**

Reimbursements under this Plan shall be made at such time and in such manner as the Administrator may prescribe. The Administrator need not make any particular reimbursement until an administratively reasonable period after a Participant submits an appropriate application and documentation under § 20C-402. Payments shall be made following final approval by Borough Council at a public meeting.



**§ 20C-404 Limitation Based on Amount in Participant's HRA Account.**

No reimbursement under this Article IV of Qualifying Medical Care Expenses incurred during a Plan Year shall at any time exceed the balance of the Participant's HRA Account for the Plan Year at the time of the reimbursement.

**§ 20C-405 HRA Deductibles.**

(a) **Individual Deductible.** Notwithstanding anything to the contrary contained in this Plan (except as provided in this Section), this Plan shall *only* provide reimbursements for the Qualifying Medical Care Expenses incurred in a Plan Year for medical care for any given Participant or Covered Family Member which are in *excess* of the HRA Deductible (Individual) for that Plan Year.

(b) **Family Deductible.** Notwithstanding subsection (a), if the total Qualifying Medical Care Expenses incurred in a Plan Year for medical care for a Participant and all the Participant's Covered Family Members exceeds the HRA Deductible (Family) for that Plan Year, the excess amount shall be reimbursable by this Plan (subject to the procedures and limitations of this Chapter other than subsection (a)).

**§ 20C-406 Death of Participant.**

In the event of the Participant's death, the Participant's surviving Spouse (or, if none, the Participant's personal representative) may apply on the Participant's behalf for reimbursements permitted under this Article IV.

**§ 20C-407 Responsibility for Payment.**

It is the Participant's (and/or Covered Family Member's) responsibility to pay for all Qualifying Medical Care Expenses. Any payments under this Plan made directly to a Participant or the Participant's repre-

sentative for Qualifying Medical Care Expenses shall completely discharge all liability of this Plan, the Administrator, and the Employer with respect to such expenses.

**§ 20C-408 Overpayments.**

If, for any reason, any benefit under this Plan is erroneously paid or exceeds the amount payable on account of a Participant's Qualifying Medical Care Expenses, the Participant shall be responsible for refunding the overpayment to the Plan. The refund shall be in the form of a lump-sum payment, a reduction of the amount of future benefits otherwise payable under the Plan, a deduction from compensation otherwise payable by the Employer to the Participant, or any other method which the Administrator, in its discretion, may require.

**§ 20C-409 Fraudulent Claims.**

If any person is found to have falsified any document in support of a claim for benefits or coverage under this Plan, the Employer may, without anyone's consent, terminate that person's coverage under this Plan without any right to future reinstatement, and the Administrator may refuse to honor any claims by such person under this Plan.

**Article V — Claims Procedure**

**§ 20C-501 Filing a Claim.**

A Participant or his/her authorized representative shall make a claim for benefits under this Plan by filing a written request with the Administrator in accordance with the provisions of § 20C-402. The claims procedure set forth in the remainder of this Article shall be interpreted in accordance with the provisions of 45 CFR § 147.136 (including the incorporated provisions of 29 CFR § 2560.503-1). It is not expected that this Plan will involve any claims involving urgent care, any pre-service claims, or any

concurrent care claims, as described in those regulations, and so provisions applicable to such claims are not included explicitly in this Article. However, this Plan incorporates by reference the provisions of those regulations applicable to such claims in the event any of them should arise.

**§ 20C-502 Notice of Denial.**

If the Administrator denies a request for benefits under § 20C-402 or § 20C-501 in whole or in part, it shall notify the claimant of the same in writing within 30 days of the date the request was filed with the Administrator (or earlier, if required by applicable law). (However, this 30-day period may be extended one time by the Administrator for up to 15 days, provided that the Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the claimant, prior to the expiration of the initial 30-day period, of the circumstances requiring the extension of time and the date by which the Administrator expects to render a decision. If such an extension is necessary due to a failure of the claimant to submit the information necessary to decide the claim, the notice of extension shall specifically describe the required information, and the claimant shall be afforded at least 45 days from receipt of the notice within which to provide the specified information. In that event, the time period for processing the claim shall not begin to run again until the information is received from the claimant or his/her authorized representative.) Any notice of denial shall contain, in a manner calculated to be understood by the claimant—

(a) the reason for the denial, including the denial code and its corresponding meaning, as well as a description of the Plan's standard, if any, that was used in denying the claim;

(b) specific references to the Plan provisions on which the denial is based;

(c) a description of any additional information needed to perfect the claim and an explanation of why such information is necessary;

(d) an explanation of the Plan's claim procedure, including the opportunity for appeal and review, applicable time limits, and how to initiate an appeal and review under the following provisions of this Article;

(e) in the event an internal rule, guideline, protocol, or similar criterion was relied upon in making the determination, a copy of such rule or guideline, etc. shall be attached;

(f) if the determination was based on a medical necessity, experimental, or a similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination applying the terms of the Plan to the claimant's medical circumstances shall be attached;

(g) a statement indicating that the claimant shall be provided, upon request and free of charge, with reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;

(h) information sufficient to identify the claim involved (including the date of service, the health care provider, and the claim amount, if applicable);

(i) a statement that, upon request and free of charge, the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning will be provided; *and*

(j) contact information for the office of health insurance consumer assistance or ombudsman.

If such notification is not given within the above 30 day (or shorter) period, the claimant may consider the claim denied as of the last day of such period.

### **§ 20C-503 Internal Appeal of Denial.**

(a) **Petition.** A claimant or his/her authorized representative may petition the Administrator in writing for an internal appeal of the denial of any claim within 180 days after the receipt of a notice of denial under § 20C-502, or at any time after the claimant may consider his claim denied under § 20C-502 and before the claimant receives a formal notice from the

Administrator under § 20C-502. A claimant should submit written comments, documents, records, and all other information relating to the claim for benefits. A claimant may request reasonable access to and copies of all documents, records, and other information relevant to the claim, which shall be provided to the claimant free of charge. The appeal before the Administrator will take into account all comments, documents, records and other information that is submitted, regardless of whether such information was submitted and considered in the initial determination of the claim. The claimant will also be provided an internal appeal that does not afford deference to the initial adverse determination, and which is conducted by someone who is neither the individual who made the initial determination, nor the subordinate of such individual. If any new or additional information is considered, relied upon, or generated by or at the direction of the Plan or the Administrator in connection with the internal appeal, such evidence must be provided, free of charge, to the claimant as soon as possible and sufficiently in advance of the date by which the notice of final internal appeal determination is required to give the claimant a reasonable opportunity to respond prior to that date.

**(b) Medical Judgment.** If the internal appeal before the Administrator involves a determination based in whole or in part on a medical judgment (including determinations with regard to whether a particular treatment or other item is experimental, investigational, or not medically necessary or appropriate), a health care professional with the appropriate training and experience in the field of medicine at issue in the review will be appointed. The health care professional consulted will be an individual who is neither an individual who was consulted in connection with the initial determination that is the subject of the appeal, nor the subordinate of any such individual. Upon request, the claimant will be provided with the identification of any medical or vocational experts whose advice was sought in connection with the appeal.

**(c) Final Decision by Administrator.** If the Administrator still denies the claim following an appeal under subsection (a), the Administrator shall so notify the claimant in writing in accordance with the same procedures set forth in § 20C-502 for the initial determination of the Administrator (except that the 30 day period for making a decision shall not be

extended). In addition, the denial shall include the following statement: “You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency.”

**(d) New or Additional Rationale.** Notwithstanding subsection (c), if a claim denial under subsection (c) is based on a new or additional rationale from that stated in the initial determination under § 20C-502, the claimant must be provided, free of charge, with the rationale; and the rationale must be provided as soon as possible and sufficiently in advance of the date on which the notice of final internal appeal determination is required to give the claimant a reasonable opportunity to respond prior to that date.

**(e) Avoiding Conflicts of Interest.** In addition to the other requirements of this Section, the Plan and the Administrator must ensure that all claims and appeals are adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Accordingly, decisions regarding hiring, compensation, termination, promotion, or other similar matters with respect to any individual (such as a claims adjuster or medical expert) must not be made based upon the likelihood that the individual will support the denial of benefits.

#### **§ 20C-504 External Review.**

**(a) State Procedure.** If this Plan is subject to a Pennsylvania external review procedure that applies to and is binding on this Plan, which includes at a minimum the consumer protections in the NAIC Uniform Model Act (within the meaning of 45 CFR § 147.136), then this Plan must comply with the applicable Pennsylvania external review process and is not required to comply with the Federal external review process under subsection (b).

**(b) Federal Procedure.** If this Plan is not subject to a Pennsylvania external review procedure under subsection (a), then it must provide an effective Federal external review process under 45 CFR § 147.136(d) (except with respect to a denial, reduction, termination, or failure to pro-

vide payment for a benefit based on a determination that a person fails to meet the requirements for eligibility under the terms of the Plan). Until further information is provided by the regulatory agencies, a Federal external review must be filed by the claimant or his/her authorized representative with the external reviewer within four (4) months of the date the claimant was served with the decision under § 20C-503, or the claimant shall lose the right to an external review and appeal. The Plan must complete a preliminary review within five (5) business days upon receipt of the external review request to determine if the claimant was covered under the Plan, the claimant provided all of the necessary information to process the external review, and that the claimant has exhausted the internal appeals process. The Plan must provide the claimant written notice of its preliminary review determination within one (1) business day after completing its review. If the request is complete, but not eligible for external review, the notice must state the reasons for the ineligibility and provide EBSA contact information. If the request is incomplete, the notice must describe the information or materials needed to complete the request. The Plan will permit the claimant to perfect the external review request within the four (4) month period or, if later, 48 hours after receipt of the notice. The Plan must assign an accredited Independent Review Organization (IRO) to perform the external review. The external reviewer must notify the claimant and the Plan Administrator of its decision within 45 days after its receipt of the request for external review. The external reviewer's decision is binding on the parties unless other State or Federal law remedies are available. The Plan must provide any benefits (including making payment on the claim) pursuant to the final external review decision without delay, regardless of whether the Plan intends to seek judicial review of the external review decision and unless or until there is a judicial decision otherwise. Notwithstanding anything to the contrary in this subsection (b), until further requirements by the regulatory agencies, this Plan shall comply with the U.S. Department of Labor's private accredited independent review organization (IRO) process described in EBSA Technical Release 2010-01, dated August 23, 2010, as modified, under U.S. Department of Health and Human Services Technical Guidance issued July 22, 2011. The Administrator, on behalf of the Plan, shall contract with at least three IROs and must rotate assignments among the IROs.

**§ 20C-505 Adverse Benefit Determinations.**

The provisions of this Article V with respect to the denial, appeal, and review of a claim shall also apply to all other adverse benefit determinations as defined in 29 CFR § 2560.503-1, as well as any rescission of coverage, as described in 45 CFR § 147.128, whether or not, in connection with the rescission, there is an adverse effect on any particular benefit at that time.

**Article VI — Administration**

**§ 20C-601 In General.**

The Plan Administrator of this Plan shall be Equinox Agency, 1275 Glenlivet Drive, Suite 340, Allentown, Pennsylvania, or such successor as shall be appointed by the Borough Council of the Borough of Alburdis. The Employer shall make payments of benefits approved by the Administrator.

**§ 20C-602 Powers and Duties.**

(a) **In General.** The Administrator shall administer the Plan in accordance with its terms, and shall have all powers necessary to carry out the provisions of the Plan. The Administrator shall have absolute and exclusive discretion to decide all issues arising in the administration, interpretation, and application of the Plan (including, but not limited to, the power to supply omissions, correct defects, and resolve inconsistencies and ambiguities). The Administrator may from time to time set forth rules of interpretation and administration, subject to modification as appropriate in the light of experience. Decisions and rules established by the Administrator shall be conclusive and binding on all persons. The Administrator shall act without discrimination among persons similarly situated at any given time, although it may change its policies from time to time, and



shall always act in the exclusive interest of Plan Participants and Covered Family Members.

**(b) Delegation.** The Administrator may delegate to any person or group of persons its authority to perform any act under this Plan, including those matters involving the exercise of discretion, *provided* that such delegation shall be in writing and subject to revocation at any time at the Administrator's discretion.

**(c) Employment of Professionals and Others.** The Administrator may appoint such accountants, counsel, specialists, consultants, and other persons as it may deem necessary or desirable in connection with the administration of this Plan, including persons who may also be engaged by the Employer. The Administrator shall be entitled to rely exclusively upon, and shall be fully protected in any action taken in good faith by it in relying upon, any opinions or reports which shall be furnished to it by any such accountant, counsel, specialist, or other consultant.

**(d) Records.** The Administrator shall keep a record of all its proceedings and acts, and shall keep all such books of account, records, and other data as may be necessary for the proper administration of the Plan in accordance with applicable law.

**(e) Reports, Documents, and Communications.** The Administrator shall prepare and file all reports and documents required to be filed with a governmental agency, shall prepare and provide or make available all reports and documents required to be provided or made available to Participants or persons with an interest under the Plan, and shall communicate with employees and other persons with respect to all matters relating to the Plan, including rights and benefits under this Plan.

#### **§ 20C-603 Indemnification.**

The Employer hereby agrees to indemnify any officer, director, or employee of the Employer for any expenses, penalties, damages, or other pecuniary losses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) which such person may suffer as a result of the good faith exercise of his responsibilities, obligations, or du-

ties in connection with the Plan or fiduciary activities actually performed in connection with the Plan, *but only* to the extent permitted by law and fiduciary liability insurance or bond is not available to cover the payment of such item.

**§ 20C-604 Benefits Solely From General Assets.**

Except as may otherwise be required by law—

(a) nothing herein will be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant or Covered Family Member; and

(b) no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account, or asset of the Employer for which any payment under the Plan may be made.

**§ 20C-605 Spendthrift Provisions.**

Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for support of a spouse, former spouse, or any other relative or dependent of the Participant before actually being received by the Participant or his representative or beneficiary under the terms of this Plan. Any attempt to anticipate, alienate, transfer, assign, pledge, encumber, change, or otherwise dispose of any right to benefits payable under this Plan shall be void. The Administrator and the Employer shall not be liable for or subject to, in any manner, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under this Plan.

**§ 20C-606 Facility of Payment.**

Whenever the Employer determines that a person entitled to receive any payment of a benefit or installment is under a legal disability or is incapacitated in any way so as to be unable to manage his financial affairs,

the Employer may make payments to such person, to his legal representative, to a relative, or to a friend of such person for his benefit. Any payment of a benefit or installment in accordance with the provisions of this Section shall be a complete discharge from any liability for the making of such payment under the provisions of the Plan.

## **Article VII — Amendment and Termination**

### **§ 20C-701 Amendment of Plan.**

The Employer reserves the right to amend this Plan to any extent and in any manner that it may deem advisable at any time by ordinance of the Sponsor, so long as it does not interfere with benefits which have accrued with respect to Qualifying Medical Care Expenses incurred prior to the *later* of the ordinance's adoption date or effective date.

### **§ 20C-702 Termination of Plan.**

Although the Employer has established this Plan with the bona fide intention and expectation to continue this Plan indefinitely, the Employer will have no obligation whatsoever to maintain the Plan for any given length of time, and the Employer reserves the right to terminate this Plan at any time by ordinance of the Sponsor, without liability. Following termination of the Plan, the Plan will continue to reimburse Qualifying Medical Care Expenses incurred prior to the date of termination in accordance with the provisions of this Chapter as in effect immediately before the Plan's termination.

## **Article VIII — Tax Implications**

### **§ 20C-801 No Guarantee of Tax Consequences.**

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under this Plan is excludable from his gross income for federal and state income tax purposes, and to notify the Employer if he has reason to believe that any such payment is not so excludable.

### **§ 20C-802 Indemnification of Employer by Participants.**

If any Participant receives one or more payments or reimbursements under this Plan that are not for Qualifying Medical Care Expenses or are not excludable from federal, state, or local income or Social Security taxes, and such taxes were not withheld from such payments or reimbursements, the Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold such taxes from such payments or reimbursements, and shall indemnify and reimburse the Plan for any payments made which were not for Qualifying Medical Care Expenses.

## **Article IX — HIPAA Privacy and Security Practices**

### **§ 20C-901 In General.**

This Plan, the Administrator, and the Employer shall comply in all respects with the applicable requirements of HIPAA, including the administrative simplification provisions as set forth in 45 CFR Part 160 and Part 162, the provisions that govern the privacy of Protected Health Infor-

mation as set forth in 45 CFR Part 160 and Part 164, Subparts A and E, the provisions that govern notification in the case of breach of unsecured Protected Health Information as set forth in 45 CFR Part 160 and Part 164, Subparts A and D, and the provisions that govern the security of Protected Health Information as set forth in 45 CFR Part 160 and Part 164, Subparts A and C. All of these provisions are incorporated into this Article by reference as if set forth in full. The HIPAA privacy and security official of the Employer is the Borough Manager.

### **§ 20C-902 Definitions.**

For purposes of this Article IX, the terms defined in this Section shall have the meanings indicated herein, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning:

(a) **Covered Individual.** The term “Covered Individual” shall mean a Participant or Covered Family Member.

(b) **Electronic Protected Health Information.** The term “Electronic Protected Health Information” shall have the same meaning as described in 42 CFR § 160.103, and generally includes Protected Health Information that is transmitted by electronic media or maintained in electronic media. Unless otherwise specifically noted, Electronic Protected Health Information shall not include enrollment/disenrollment information and Summary Health Information.

(c) **HIPAA.** The term “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder from time to time,

(d) **Protected Health Information.** The term “Protected Health Information” shall have the same meaning as described in 45 CFR § 160.103, and generally includes individually identifiable health information held by, or on behalf of, the Plan.

(e) **Summary Health Information.** The term “Summary Health Information” means information (1) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a

plan sponsor has provided health benefits under a health plan; and (2) from which the information described at 42 CFR § 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR § 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.

**(f) Other Terms.** Other terms used in this Article which are not defined in this Chapter but which have a definite meaning under HIPAA shall have the same meaning as when used in HIPAA, unless the context in which they are used clearly indicates a different meaning.

#### **§ 20C-903 Employer's Certification of Compliance.**

The Employer hereby certifies to the Plan and the Administrator that the Plan document (this Chapter 20C) incorporates the provisions of 45 CFR § 164.504(f)(2)(ii), and the Employer hereby agrees to the conditions of disclosure set forth in this Article.

#### **§ 20C-904 Permitted Disclosures to the Employer for Plan Administration Purposes.**

**(a) In General.** Unless otherwise permitted by law, the Plan may disclose a Covered Individual's Protected Health Information to the Employer if the Employer will use or disclose such Protected Health Information only for Plan Administration Purposes.

**(b) Plan Administration Purposes.** For purposes of this Section, the term "Plan Administration Purposes" means administrative functions performed by the Employer on behalf of the Plan, such as making payment of claims as certified to the Employer by the Plan Administrator, payment of administrative fees, quality assurance, auditing, monitoring, and investigation of fraud, abuse, or unlawful acts related to the Plan, and reporting, disclosure, and other obligations that are required by law or specifically authorized by HIPAA or other applicable law, and contemplated by the notice of privacy practices distributed by the Plan in accordance with 45 CFR § 164.520. Plan Administrative Purposes do not include functions performed by the Employer in connection with any other

benefit or benefit plan of the Employer, and they do not include any employment-related functions. Any disclosure to and use by the Employer of a Covered Individual's Protected Health Information will be subject to and consistent with the provisions of this Article (including but not limited to § 20C-905) and the specifications and requirements of the applicable portions of the HIPAA implementing regulations at 45 CFR Parts 160 through 164.

**§ 20C-905 Restrictions on the Employer's Use and Disclosure of Protected Health Information.**

(a) Employer will neither use nor further disclose a Covered Individual's Protected Health Information, except as permitted or required by this Chapter or as required by law.

(b) Employer will ensure that any agent, including any subcontractor, to which it provides a Covered Individual's Protected Health Information received from the Plan, agrees to the same restrictions, conditions, and security measures of this Chapter that apply to Employer with respect to the Protected Health Information.

(c) Employer will not use or disclose a Covered Individual's Protected Health Information for employment-related actions or decisions, or in connection with any other benefit or employee benefit plan of Employer.

(d) Employer will report to the Plan and the Plan Administrator any use or disclosure of a Covered Individual's Protected Health Information that is inconsistent with the uses and disclosures allowed under this Chapter of which the Employer becomes aware.

(e) Employer will make Protected Health Information available to the Plan and the Plan Administrator or to the Covered Individual who is the subject of the information in accordance with 45 CFR § 164.524.

(f) Employer will make a Covered Individual's Protected Health Information available for amendment, and will on notice amend a Covered Individual's Protected Health Information, in accordance with 45 CFR § 164.526.

(g) Employer will track disclosures it may make of a Covered Individual's Protected Health Information that are accountable under 45 CFR § 164.528 so that it can make available the information required for the Plan to provide an accounting of disclosures in accordance with 45 CFR § 164.528, and will make available such information.

(h) Employer will make its internal practices, books, and records relating to its use and disclosure of a Covered Individual's Protected Health Information received from the Plan available to the Plan, the Administrator, and the U.S. Department of Health and Human Services to determine compliance with the HIPAA Privacy Rule at 45 CFR Part 164, Subpart E.

(i) Employer will, if feasible, return or destroy all Protected Health Information of a Covered Individual, in whatever form or medium, received from the Plan, including all copies thereof and all data, compilations, or other works derived therefrom that allow identification of any Covered Individual who is the subject of the Protected Health Information, when the Covered Individual's Protected Health Information is no longer needed for the plan administration functions for which the disclosure was made. If it is not feasible to return or destroy all such Protected Health Information, Employer will limit the use or disclosure of any Covered Individual's Protected Health Information that cannot feasibly be returned or destroyed to those purposes that make the return or destruction of the information infeasible.

(j) Employer will ensure that the adequate separation between the Plan and the Employer (*i.e.*, the "firewall") required in § 20C-907 and 45 CFR § 504(f)(2)(iii), is satisfied.

**§ 20C-906 Other Disclosures to the Employer.**

Nothing in this Article shall prohibit or in any way limit the Plan from disclosing a Covered Individual's Protected Health Information to the Employer where HIPAA permits such disclosure in the absence of the requirements of §§ 20C-904 and 20C-905, including, to the extent permitted by HIPAA, the disclosure of Protected Health Information:



(a) that is Summary Health Information, upon the request of the Employer for the purpose of modifying, amending, or terminating this Plan;

(b) on whether an individual is participating in the Plan; or

(c) pursuant to and in accordance with a valid individual authorization under the HIPAA Privacy Rule.

#### **§ 20C-907 Adequate Separation Between the Employer and the Plan.**

(a) **Employees of the Employer to be Given Access to Information.** Only the Borough Manager and the Borough Treasurer may be given access to a Covered Individual's Protected Health Information received by the Employer from the Plan or a business associate servicing the Plan, except that members of Borough Council may be given access to the information described in § 20C-906(a) or (b).

(b) **Purposes of Use.** The persons identified in subsection (a) will have access to a Covered Individual's Protected Health Information only to perform the plan administration functions specified in § 20C-904 that Employer provides for the Plan, or in accordance with permitted disclosures made under § 20C-906.

(c) **Disciplinary Action.** The persons identified in subsection (a) will be subject to disciplinary action and sanctions pursuant to the Employer's employee discipline and termination procedures, for any use or disclosure of a Covered Individual's Protected Health Information in breach of or violation of or noncompliance with the provisions of this Article. Such disciplinary action may include one or more of the following to the extent not inconsistent with other applicable disciplinary policies: written or oral warning or reprimand, required additional training and education, limitations on or revocation of access to Protected Health Information, diminution of duties, suspension, probation, disqualification for bonus or other pay or promotion, demotion in pay or status, referral for criminal prosecution, a requirement to reimburse the Plan or Employer for damages, removal from position, or discharge.

**§ 20C-908 Investigation of Incidents of Noncompliance.**

If the Employer becomes aware of any issues relating to noncompliance with the requirements of this Article, the Employer shall undertake an investigation to determine the extent, if any, of such noncompliance; the individuals, policies, practices, or procedures responsible for the noncompliance; and, to the extent feasible, appropriate means for curing or mitigating the effects of noncompliance and preventing such noncompliance in the future.

**§ 20C-909 Security Measures for Electronic Protected Health Information.**

The Borough Manager will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that the Employer creates, receives, maintains, or transmits on behalf of the Plan.

**§ 20C-910 Notification of Security Incidents.**

The Employer will report to the Plan and the Administrator any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in the Employer's information systems, of which the Employer becomes aware.

**Article X — Miscellaneous**

**§ 20C-1001 Acquittance.**

This Plan is purely voluntary on the part of the Employer. Except as provided in this Chapter, neither the establishment of the Plan, any modification thereof, nor the payment of any benefits under the Plan shall be

construed as giving to any Participant or any other person any legal or equitable right against the Employer, any officer or employee of the Employer, or the Administrator.

**§ 20C-1002      Limitation of Liability.**

Each person who becomes a Participant under this Plan expressly agrees and understands that neither the Employer, the Administrator, nor any of their officers and agents shall be subject in any way to any suit or litigation, or to any personal liability for any reason whatsoever in connection with this Plan or its operation, *except* for their willful neglect or fraud.

**§ 20C-1003      Employment Rights.**

Nothing contained in this Plan shall be construed or interpreted as giving any employee of the Employer the right to be retained in the service of any Employer or shall affect or impair any terms of employment with any Employer, the right of any Employer to control its employees, and the right of any Employer to terminate the service of any employee at any time, subject to applicable provisions of law and applicable collective bargaining agreements.

**§ 20C-1004      Information to be Furnished.**

Participants shall provide the Employer and the Administrator with such information and evidence, and shall sign such documents, as may reasonably be requested from time to time for the purpose of administering the Plan.

**§ 20C-1005      Delegation of Authority by Employer.**

Whenever any Employer is permitted or required to do or perform any act, matter, or thing under this Plan, it shall be done or performed by any officer duly authorized to perform same by the Employer.

**§ 20C-1006 Interpretation.**

This Plan is designed to satisfy the requirements for a health reimbursement arrangement under IRS Notices 2002-45 and 2013-54, an accident or health plan within the meaning of Code §§ 105(e) and 106, and, in part, an employer payment plan under Rev. Rul. 61-164 and IRS Notice 2013-54, as they may be amended from time to time, in order to qualify for exclusion from gross income for federal income tax purposes under Code §§ 105(b) and/or 106(a). 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.

**§ 20C-1007 Construction.**

This Plan shall be construed and administered according to the laws of the United States of America and the Commonwealth of Pennsylvania.

**§ 20C-1008 Gender and Number.**

Whenever any words are used in this Plan in the masculine gender, they shall be construed as though they were also used in the feminine gender in all appropriate cases. Whenever any words are used in either the singular or plural form, they shall be construed as though they were also used in the other form in all appropriate cases.

**§ 20C-1009 Headings.**

Article, section, subsection, paragraph, subparagraph, clause, subclause, and other headings are included in this Chapter for convenience only and shall not be taken into account in construing the provisions of this Chapter.

**§ 20C-1010 Severability.**

Any provision of this Chapter which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Chapter, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Employer hereby waives any provision of law which renders any provision of this Chapter prohibited or unenforceable in any respect.

**§ 20C-1011 USERRA and Other Statutes.**

Notwithstanding anything to the contrary in this Chapter, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act and the regulations thereunder, and contributions and benefits shall also be provided in accordance with the applicable requirements of any other federal or Pennsylvania law or regulation.

**SECTION 13.** The attached form of collective bargaining agreement is incorporated into this Ordinance by reference.

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Albur-  
tis, this 11<sup>th</sup> day of March, 2015, in lawful session duly assembled.

BOROUGH COUNCIL  
BOROUGH OF ALBURTIS

---

Steven R. Hill, President

Attest:

---

Sharon Trexler, Borough Manager

**AND NOW**, this 11<sup>th</sup> day of March, 2015, the above Ordinance is hereby AP-  
PROVED.

---

Kathleen Palmer, Mayor

**ALBURTIS POLICE  
2015-2017 COLLECTIVE BARGAINING AGREEMENT**

**This Agreement**, is made this 11<sup>th</sup> day of March, 2015 by and between:

The **Borough of Alburtis**, a Pennsylvania municipal corporation, with offices at 260 Franklin Street, Alburtis, Lehigh County, Pennsylvania (the “**Borough**”); and

The **Alburtis Police Officers’ Association**, a Pennsylvania unincorporated association which maintains an address at 5426 Doris Drive, Allentown, Lehigh County, Pennsylvania (the “**Association**”).

**Whereas**, under the Collective Bargaining Act of 1968, the parties have entered into collective bargaining concerning the terms and conditions of employment of police officers in the Borough (other than the Chief of Police); and

**Whereas**, the parties have reached an agreement pertaining to said terms and conditions of their employment for calendar years 2015 through 2017.

**Now, Therefore**, the parties agree as follows, intending to be legally bound:

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**§ 1 Definitions.**

When used in this Agreement, the words and phrases defined in this Section shall have the following meaning, unless the context clearly indicates otherwise:

(a) **Association.** The Albury Police Officers’ Association, the collective bargaining representative selected by the majority of the Officers.

(b) **Borough.** The Borough of Albury, Lehigh County, Pennsylvania.

(c) **Chief.** The Chief of Police of the Borough.

(d) **Council.** The Borough Council of the Borough.

(e) **Day.** For all purposes of this Agreement, a day shall be considered to begin at 7:00 a.m. of the given calendar day and end at 6:59 a.m. of the following calendar day.

(f) **First Day.** A Full-Time Officer’s “First Day” shall mean the first day that the Full-Time Officer worked for the Borough as a Full-Time Officer.

(g) **Full-Time Officer.** An employee of the Borough, other than the Chief, who devotes his/her normal working hours to police duty for the Borough and is regularly scheduled to work at least 35 hours as a Borough police officer in a typical work week.

(h) **Hearing.** A criminal trial, criminal pre-trial hearing, grand jury proceeding, sentencing proceeding, civil court proceeding, coroner’s inquest, A.R.D. hearing, plea bargaining session, miscellaneous court proceeding, preliminary court hearing, proceeding before a district justice, hearing before a Pa. Department of Revenue,

Department of Transportation, or Pennsylvania Liquor Control Board hearing examiner, or any other proceeding before an agency or court of the Commonwealth or the United States. Any two proceedings which are separated in time by less than two (2) hours (from the end of the first proceeding to the beginning of the next proceeding) shall be treated as a single Hearing.

(i) **Mayor.** The Mayor of the Borough.

(j) **Officer.** A Part-Time Officer or a Full-Time Officer.

(k) **Part-Time Officer.** A person employed by the Borough as a police officer who is not a Full-Time Officer, but serves from time to time on an hourly or daily basis when needed by the Borough. The term shall not include any special police appointed by the Mayor to act in emergencies, any person appointed solely for parking meter enforcement duties, any special school police, or any auxiliary policemen appointed under 53 PA. STAT. ANN. § 731 *et seq.*

(l) **Pay Period.** A pay period consists of two consecutive Weeks, in accordance with the Borough's existing payroll practices.

(m) **Week.** A week shall be considered to begin at 7:00 a.m. Sunday morning and end at 6:59 a.m. on the following Sunday morning.

## § 2 **Term.**

This Agreement shall be in effect for a period of three (3) years from January 1, 2015 through December 31, 2017.

**§ 3 Base Compensation.**

(a) **2015 and 2016.** The base hourly compensation to be paid to Officers during calendar years 2015 and 2016 shall be as follows:

**Full-Time Officers**

|                                                                                                                                    |            |                                  |
|------------------------------------------------------------------------------------------------------------------------------------|------------|----------------------------------|
| Lieutenant .....                                                                                                                   | \$27.62/hr | ( = \$ 57,499.60 for 2080 hours) |
| Sergeant.....                                                                                                                      | \$26.46/hr | ( = \$ 55,036.80 for 2080 hours) |
| Corporal .....                                                                                                                     | \$25.04/hr | ( = \$ 52,083.20 for 2080 hours) |
| Sr. Patrol Officer (after 2 <sup>nd</sup><br>anniversary of full-time<br>employment) .....                                         | \$23.86/hr | ( = \$ 49,628.80 for 2080 hours) |
| Patrol Officer (after 1 <sup>st</sup> anni-<br>versary of full-time<br>employment and before<br>2 <sup>nd</sup> anniversary) ..... | \$22.32/hr | ( = \$ 46,425.60 for 2080 hours) |
| Patrol Officer (after 6 months<br>of full-time employment<br>and before 1 <sup>st</sup> anni-<br>versary) .....                    | \$21.15/hr | ( = \$ 43,992.00 for 2080 hours) |
| Patrol Officer (first 6 months<br>of full-time employ-<br>ment) .....                                                              | \$19.97/hr | ( = \$41,537.60 for 2080 hours)  |

**Part-Time Officers**

|                                                                                                                                    |            |
|------------------------------------------------------------------------------------------------------------------------------------|------------|
| Part-Time Officer (after 10 <sup>th</sup><br>anniversary of Borough<br>employment) .....                                           | \$18.11/hr |
| Part-Time Officer (after 1 <sup>st</sup><br>anniversary and before 10 <sup>th</sup><br>anniversary of Borough<br>employment) ..... | \$17.39/hr |

Part-Time Officer (before 1<sup>st</sup>  
anniversary of Borough  
employment) .....\$16.67/hr

(b) **2017.** The base hourly compensation to be paid to Officers during  
calendar year 2017 shall be as follows:

**Full-Time Officers**

Lieutenant .....\$28.45/hr ( = \$ 59,176.00 for 2080 hours)

Sergeant.....\$27.25/hr ( = \$ 56,680.00 for 2080 hours)

Corporal .....\$25.79/hr ( = \$ 53,643.20 for 2080 hours)

Sr. Patrol Officer (after 2<sup>nd</sup>  
anniversary of full-time  
employment) .....\$24.58/hr ( = \$ 51,126.40 for 2080 hours)

Patrol Officer (after 1<sup>st</sup> anni-  
versary of full-time  
employment and before  
2<sup>nd</sup> anniversary) .....\$22.99/hr ( = \$ 47,819.20 for 2080 hours)

Patrol Officer (after 6 months  
of full-time employment  
and before 1<sup>st</sup> anni-  
versary) .....\$21.78/hr ( = \$ 45,302.40 for 2080 hours)

Patrol Officer (first 6 months  
of full-time employ-  
ment) .....\$20.57/hr ( = \$ 42,785.60 for 2080 hours)

**Part-Time Officers**

Part-Time Officer (after 10<sup>th</sup>  
anniversary of Borough  
employment) .....\$18.65/hr

Part-Time Officer (after 1<sup>st</sup>  
anniversary and before 10<sup>th</sup>  
anniversary of Borough

employment) .....\$17.91/hr

Part-Time Officer (before 1<sup>st</sup>  
anniversary of Borough  
employment) .....\$17.17/hr

(c) **Retroactivity.** This Agreement is retroactive to January 1, 2015. Accordingly, the difference between all compensation earned under this Agreement from January 1, 2015 through the last pay period which ended before the date the Borough executes this Agreement (less all applicable deductions), and the amount actually paid for that period of time, shall be paid to the Officers in the paycheck for the pay period which includes the date the Borough executes this Agreement.

(d) **Positions of Rank.** Although the compensation schedules in subsections (a) and (b) include rates for the positions of Lieutenant, Sergeant, and Corporal, there are no Lieutenants, Sergeants, or Corporals at the execution of this Agreement and it is not anticipated that there will be any Lieutenants, Sergeants, or Corporals at any time during the term of this Agreement. These positions are indicated in subsections (a) and (b) solely as an agreement of the parties as to the rates which would be paid if the Borough, in its sole discretion, chooses to create any such position of rank and fill that position. Nothing in this Agreement constitutes a waiver of the Borough's sole and absolute managerial prerogative to establish ranks within the police department and to retain its current rank structure without any Lieutenants, Sergeants, or Corporals.

#### § 4 **Overtime.**

(a) **Long Shift.** Any Full-Time Officer who works (*i.e.*, actually performs police services for the Borough) a continuous period which includes the time of a regular shift scheduled under Section 20(a), and which is longer than the scheduled duration of the regular shift, shall be paid Overtime Pay for each hour worked in excess of the scheduled duration of the regular shift in an amount equal to the applicable base hourly amount set forth in Section 3 *multiplied by* one and one-half (1.5). Any Part-Time Officer who works (*i.e.*, actually performs police services for the Borough) more than



eight (8) hours in any Day shall be paid Overtime Pay for each hour worked in excess of eight (8) hours in that Day in an amount equal to the applicable base hourly amount set forth in Section 3 *multiplied by* one and one-half (1.5).

**(b) Eighty Hour Pay Period.** Any Officer who works (*i.e.*, actually performs police services for the Borough) more than eighty (80) hours in any Pay Period shall be paid Overtime Pay for each hour worked in excess of eighty (80) hours in that Pay Period (other than hours for which Overtime Pay is provided under subsection (a) or Working Holiday Pay is provided under Section 9(c)) in an amount equal to the applicable base hourly amount set forth in Section 3 *multiplied by* one and one-half (1.5).

**(c) No Duplication.** If Overtime Pay is applicable to any period of work, the Overtime Pay is paid *in lieu* of base hourly compensation.

## **§ 5 Shift Differential.**

The compensation of an Officer shall be increased by sixty cents (\$0.60) for each hour actually worked by the Officer between 1500 hours (3:00 p.m.) and 2300 hours (11:00 p.m.), and by seventy cents (\$0.70) for each hour actually worked by the Officer between 2300 hours (11:00 p.m.) of one day and 0700 hours (7:00 a.m.) of the subsequent day. The shift differential provided by this Section 5 shall *not* be multiplied by a factor of one and one-half (1.5) in the case of overtime or holiday work, and no shift differential shall be paid in the case of compensation under this Agreement for hours *not* worked (*e.g.*, Holiday Pay, Vacation Pay, Personal Day Pay, Sick Pay, and Bereavement Pay).

## **§ 5A Longevity Pay.**

In addition to all other compensation to be paid to Officers under this Agreement, each qualifying Full-Time Officer shall be paid Longevity Pay during the term of this Agreement in accordance with the following terms and conditions:

(a) **Eligibility for Payment.** Each Full-Time Officer shall be paid Longevity Pay with respect to each anniversary of the Officer's First Day on which he/she is employed by the Borough as a Full-Time Officer.

(b) **Time of Payment.** Longevity Pay with respect to any given anniversary shall be paid no later than the pay day for the pay period which includes the anniversary date.

(c) **Amount of Payment.** The amount of Longevity Pay for any given Full-Time Officer with respect to any given anniversary shall be equal to the number of years since the Officer's First Day multiplied by fifty dollars (\$50.00), up to a maximum Longevity Pay of one thousand dollars (\$1,000.00).

## § 6 Hearings.

The following rules shall apply to the appearance of an Officer as a witness or prosecutor in a Hearing related to his employment as a Borough police officer, pursuant to a subpoena from a court of competent jurisdiction:

(a) **Time Treated as Having Been Worked.** Time spent in a Hearing, or in the courtroom, hearing room, or waiting room of the tribunal while waiting to testify and until released, or traveling to or from the tribunal, shall be considered as time worked for the purpose of pay.

(b) **Nonscheduled Hours.** If an Officer is required to attend a Hearing during any hours in which he/she was *not* scheduled to work, the Officer shall be treated as having worked the **greater** of—

(1) the number of such hours treated as worked under subsection (a); or

(2) (A) two (2) hours, in the case of a Hearing before a District Justice (other than a central court Hearing or a Hearing in the immediate vicinity of the Lehigh County Courthouse); or

(B) four (4) hours, in the case of any other Hearing, *provided* that if the Hearing is continued to a later date before testimony commences, this paragraph (2) shall not apply.

(c) **Witness Fees.** Witness fees shall be turned over to the Borough.

## § 7 **Call-Out Duty.**

(a) **Availability.** The Full-Time Officers shall make arrangements among themselves so that at any given time at least one Full-Time Officer who is not then scheduled to work is available to be called out for active duty within the response time and in the condition described in subsection (c). In the event the arrangements so made prove inadequate, in the reasonable opinion of the Chief and the Mayor, the Chief and the Mayor shall establish an On-Call Duty Schedule under which at least one Full-Time Officer is scheduled to be on call at all times. A person may not be “on call” at any time he/she is regularly scheduled to work. All Full-Time Officers shall be so scheduled that each person receives the same number of on-call hours over the course of a calendar year (except for adjustments due to injuries), and so that the hours assigned to each such person during any period of time greater than or equal to two weeks is roughly equivalent (taking into account vacations, injuries, and other contingencies for which adjustments are appropriate). The On-Call Duty Schedule for any given calendar week shall be established at least seven (7) calendar days before the beginning of that week, but may be adjusted thereafter if necessary to maintain coverage due to reasonable absences or periods of unavailability not foreseen when the On-Call Duty Schedule was established. At any time when there are at least three (3) persons available for assignment on the On-Call Duty Schedule, no person shall be placed in “on-call” status during all or any portion of five (5) consecutive days.

(b) **Cell Phone.** Each Full-Time Officer shall carry with him/her at all times a cell phone so that the Officer can be reached in the event he/she is to be called out for emergency duty or to assist the on-duty officer. The cell phone and cell phone service shall be provided by the Full-Time Officer at his/her own expense. The Borough shall not be obligated to provide or pay for the cell phone, or to reimburse the Full-Time Officer any amount for the Full-Time Officer's acquisition and/or use of the cell phone.

(c) **Response Time.** When a Full-Time Officer is scheduled to be "on-call" (or is being made available to be called out for active duty), he/she shall be prepared to telephone Borough Police Headquarters within fifteen (15) minutes after being called, and, if necessary, to be able to report to Borough Police Headquarters or the scene of an emergency in an alert and sober condition as soon as possible, and in no event more than sixty (60) minutes after the Officer has been directed to report for duty.

(d) **Call-Out Pay.** Each time an Officer is called out for active duty under this Section, the Officer shall be treated as having worked the **greater** of—

(1) the number of such hours actually worked from the time of the initial page or call until the Officer punches out; or

(2) two (2) hours.

## **§ 8 Hours Worked.**

No time shall be recognized in excess of eight (8) hours for a continuous period of work unless the Officer works more than eight (8) hours and fifteen (15) minutes during the continuous period of work. Except as provided in the preceding sentence or in Section 6(b), the time worked by any Officer shall be measured from the time the Officer punches in through the time the Officer punches out.

## **§ 8A Training.**

All Officers shall be paid for all time spent receiving mandatory or other approved training in the same manner as for other working hours. In addition to the mandatory training time required to satisfy state municipal police officer education and training requirements and Borough firearms qualifications, a Full-Time Officer shall be entitled to attend classes or seminars which pertain exclusively to law enforcement training for up to twenty-four (24) hours per calendar year for attendance and travel. All such training must be approved at least thirty (30) calendar days in advance by the Chief and the Mayor for content useful to the performance of police services in the borough, reasonableness of location, and convenience in scheduling Officers for work. The Chief and the Mayor shall endeavor to schedule Officers for work during a Pay Period which includes such training time so that the Full-Time Officer's training time is included within the Full-Time Officer's regular eighty (80) hours of scheduled work that Pay Period.

## **§ 9 Holidays.**

(a) **Holidays.** For purposes of this Agreement, the term "Holiday" shall mean each of the following ten (10) days, and the term "Part-Time Holiday" shall mean those Holidays identified by an asterisk (\*) below. Each Holiday shall be deemed to begin at 7:00 a.m. of the calendar day of the holiday and end at 6:59 a.m. of the following calendar day, except that New Year's Day shall be deemed to begin at 11:00 p.m. on December 31<sup>st</sup>, and end at 10:59 p.m. on January 1<sup>st</sup>.

- (1) New Year's Day \*
- (2) Good Friday
- (3) Memorial Day
- (4) Independence Day \*
- (5) Labor Day
- (6) Thanksgiving Day \*
- (7) The Day after Thanksgiving

- (8) The day before Christmas \*
- (9) Christmas Day \*
- (10) The Full-Time Officer's Birthday

(b) **Holiday Pay for Full-Time Officers.** A Full-Time Officer shall receive Holiday Pay, in an amount equal to his/her base hourly compensation (*see* Section 3) multiplied by eight (8), for each Holiday that he/she is employed by the Borough as a Full-Time Officer, regardless of whether he/she performs any duties that day, *provided* that the Full-Time Officer worked at least one hour as a Full-Time Officer during the thirty (30) calendar days before the Holiday or is being compensated under the Heart and Lung Act as of the Holiday. Thus, if a Full-Time Officer is assigned regular duty on a Holiday, he shall receive Holiday Pay for the Holiday *plus* all other compensation due under this Agreement for the actual hours worked (*cf.*, Section 3—regular hourly compensation; Section 4—Overtime Pay; Section 9(c)—Working Holiday Pay).

(c) **Working Holiday Pay.** A Full-Time Officer who works on a Holiday shall receive Working Holiday Pay, in an amount equal to his/her base hourly compensation (*see* Section 3) *multiplied by 1.5* and multiplied by the number of hours worked during the Holiday. Working Holiday Pay is in addition to any Holiday Pay under subsection (b). A Part-Time Officer who works on a Part-Time Holiday shall receive Working Holiday Pay, in an amount equal to his/her base hourly compensation (*see* Section 3) *multiplied by 2.0* and multiplied by the number of hours worked during the Part-Time Holiday, and a Part-Time Officer who works on a Holiday which is not a Part-Time Holiday shall receive Working Holiday Pay, in an amount equal to his/her base hourly compensation (*see* Section 3) *multiplied by 1.5* and multiplied by the number of hours worked during the Holiday.

(d) **Payment in Lieu of Other Compensation.** If Working Holiday Pay is paid with respect to an hour of work, the Working Holiday Pay is paid *in lieu* of base hourly compensation and Overtime Pay. A Full-Time Officer shall not receive or be charged with Sick Pay, Vacation Pay, or Bereavement Pay for any Holiday.

**§ 10 Vacations.**

(a) **In General.** During each calendar year during the term of this Agreement, each Full-Time Officer shall be entitled to paid vacations for the number of days indicated in subsections (b) and (c). For each vacation day granted to and taken by a Full-Time Officer, the Full-Time Officer shall be paid Vacation Pay in an amount equal to the applicable hourly amount set forth in Section 3 *multiplied by eight* (8).

(b) **Number of Vacation Days—Officers Hired Before January 1, 1996.** The number of vacation days available during any given calendar year to the Full-Time Officer who was first hired by the Borough as a Full-Time Officer before January 1, 1996 shall be thirty (30) days.

(c) **Number of Vacation Days—Officers Hired After December 31, 1995.** The number of vacation days available during any given calendar year to a Full-Time Officer who was first hired by the Borough as a Full-Time Officer after December 31, 1995 shall be determined as follows:

(1) If the Full-Time Officer is first hired as a Full-Time Officer during that calendar year: zero (0) days.

(2) If the first anniversary of the Full-Time Officer's First Day occurs during that calendar year: zero (0) days until said first anniversary, and five (5) days thereafter, if he is a Full-Time Officer on the first anniversary.

(3) If the second anniversary of the Full-Time Officer's First Day occurs during that calendar year: five (5) days, *plus* an additional five (5) days at any time after said second anniversary if he is a Full-Time Officer on the second anniversary.

(4) If the third or fourth anniversary of the Full-Time Officer's First Day occurs during that calendar year: ten (10) days.

(5) If the fifth anniversary of the Full-Time Officer's First Day occurs during that calendar year: ten (10) days, *plus* an additional five (5) days at any time after said fifth anniversary if he is a Full-Time Officer on the fifth anniversary.

(6) If the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, or fourteenth anniversary of the Full-Time Officer's First Day occurs during that calendar year: fifteen (15) days.

(7) If the fifteenth anniversary of the Full-Time Officer's First Day occurs during that calendar year: fifteen (15) days, *plus* an additional five (5) days at any time after said fifteenth anniversary if he is a Full-Time Officer on the fifteenth anniversary.

(8) If the sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, or twenty-fourth anniversary of the Full-Time Officer's First Day occurs during that calendar year: twenty (20) days.

(9) If the twenty-fifth anniversary of the Full-Time Officer's First Day occurs during that calendar year: twenty (20) days, *plus* an additional five (5) days at any time after said twenty-fifth anniversary if he is a Full-Time Officer on the twenty-fifth anniversary.

(10) If the anniversary of the Full-Time Officer's First Day which occurs during that calendar year is greater than the twenty-fifth: twenty-five (25) days.

(d) [RESERVED]

(e) **Requirement that Vacation Time Be Earned.** Notwithstanding subsections (b) and (c), no vacation days shall be available to a Full-Time Officer for any calendar year (other than the first calendar year after the Full-Time Officer was hired as a Full-Time Officer) unless the Full-Time Officer worked at least one thousand (1000) hours as a Full-Time Officer (and/or would have so worked except for a period of compensable injury under the Heart and Lung Act) during the preceding calendar year. Further, no vacation days shall be available to a Full-Time Officer for the first calendar year after the Full-Time Officer was hired as a Full-Time Officer unless the Full-Time Officer worked at least one thousand (1000) hours as a Full-Time Officer (and/or would have so worked except for a period of compensable injury under the Heart and Lung Act) from his/her First Day to the first anniversary of his/her First Day.



**(f) Use During Calendar Year.** All vacation days granted to a Full-Time Officer for any calendar year must be used within that calendar year, or they are forfeited, *except* that—

**(1)** if vacation time has been approved and scheduled for any time during the months of November or December, and any of that time is revoked under subsection (i) or the Full-Time Officer is recalled to duty during any of that time under subsection (i), such vacation time (up to a maximum of ten (10) days) may be rescheduled during that calendar year or the months of January, February, or March of the succeeding calendar year;

**(2)** a Full-Time Officer hired as a Full-Time Officer after December 31, 1995 whose First Day was during the months of November or December may use any vacation days which only become available for a calendar year after the anniversary of his First Day, during that calendar year or the months of January or February of the succeeding calendar year; **and**

**(3)** in addition, up to five (5) vacation days for a given calendar year may be scheduled in the months of January, February, or March of the succeeding calendar year if the Full-Time Officer has at least fifteen (15) new vacation days for that calendar year.

**(g) Scheduling—Priority Scheduling.** On or before January 15 of each calendar year, each Full-Time Officer, in order of seniority, may schedule up to five (5) vacation days during that calendar year. A vacation day may only be scheduled for a calendar day which has not been previously selected and scheduled as a vacation day by another Full-Time Officer. Vacation days may not be scheduled for any time before they are earned and available under subsection (b) or (c). After all Full-Time Officers have had the opportunity to participate in the first selection round, the process shall be repeated for a second, third, and subsequent rounds; in each round, each Full-Time Officer, in order of seniority, shall be given the opportunity to schedule up to an additional five (5) vacation days, subject to the same procedures and restrictions which applied in the first selection round. The selection process shall continue until each Full-Time Officer has scheduled as many available vacation days as he/she desires.

(h) **Scheduling—Additional Days.** Each Full-Time Officer must give at least two (2) weeks written notice to the Mayor and Chief of any request to schedule vacation days not scheduled under subsection (g). Unless required by extenuating circumstances, the Mayor shall grant any request to use a day as a vacation day if no other Full-Time Officer has previously scheduled vacation for that day. After priority scheduling under subsection (g), all vacation days shall be available on a first-come, first-served basis, and once scheduled, no other Full-Time Officer may “bump” a vacation day granted to a Full-Time Officer.

(i) **Uninterrupted Use of Vacation Time.** Once scheduled, no approval for the use of vacation time may be revoked, and no Full-Time Officer shall be recalled to duty during an approved vacation day, *except* as follows:

(1) approval for the use of vacation time may be revoked before the last regularly-scheduled meeting of Council before the scheduled vacation time *only* in the case of operational necessity which cannot be satisfied with the use of other Officers, **and** only if the action is approved by both the Mayor and Council; **and**

(2) approval for the use of vacation time may be revoked after the last regularly-scheduled meeting of Council before the scheduled vacation time, or a Full-Time Officer may be recalled to duty during an approved vacation day, *only* in the event of an emergency declared by the Mayor, **and** only if the necessary complement of police officers cannot be completed with other Officers.

## **§ 11 Personal Days.**

During each calendar year during the term of this Agreement, each Full-Time Officer shall be entitled to four (4) personal days. Except in the case of an emergency, a Full-Time Officer must give the Chief sufficient notice of the Full-Time Officer’s intention to take a personal day to permit the Chief to re-schedule the shift. For each personal day granted to and taken by a Full-Time Officer, the Full-Time Officer shall be paid Personal Day Pay in an amount equal to the applicable hourly amount set forth in Section 3 *multiplied by* eight (8).

## § 12 Sick or Injury Leave.

(a) **In General.** Subject to the other provisions of this Agreement, in the event a Full-Time Officer shall be unable to work due to accident or illness (other than accidents or illnesses compensable under the Workers' Compensation Law or the Heart and Lung Act) and is not compensated for such lost work time under the Borough's short-term disability plan, the Full-Time Officer shall be paid Sick Pay in an amount equal to the applicable base hourly compensation under Section 3 *multiplied by* the number of hours that he/she otherwise would have worked, *up to a maximum of* the number of hours remaining in the Full-Time Officer's sick leave balance as of the time of the lost work. On January 1, 2015, each Full-Time Officer's sick leave balance shall be set at fifty-six (56) hours, and on January 1<sup>st</sup> of each succeeding calendar year during the term of this Agreement each Full-Time Officer's sick leave balance shall be credited with an additional fifty-six (56) hours. A Full-Time Officer's sick leave balance shall be debited one (1) hour for each hour of Sick Pay paid to the Full-Time Officer, effective as of the time the Full-Time Officer would have worked that hour but for the accident or illness. Sick or injury leave shall be taken for just cause only. The Borough reserves the right to inquire into the validity of any absence for sickness or injury.

(b) **Commencement of Employment.** No Full-Time Officer shall receive Sick Pay for any work time missed during the ninety (90) calendar day period beginning with the Full-Time Officer's First Day. Notwithstanding subsection (a), a Full-Time Officer's sick leave balance shall be set at fifty-six (56) hours on the ninetieth (90<sup>th</sup>) calendar day after the Full-Time Officer's First Day, and no time shall be credited to the Full-Time Officer's sick leave balance as of any day before the ninetieth (90<sup>th</sup>) calendar day after the Full-Time Officer's First Day.

(c) **Accumulation of Sick Leave.** Any unused sick leave in a Full-Time Officer's sick leave balance as of the end of a calendar year shall remain available for use in succeeding years, *provided that* the maximum sick leave balance for a Full-Time Officer on any January 1<sup>st</sup> after additional hours are credited that day under subsection (a) shall be One Thousand (1,000) hours (which equals 125 days at 8 hours per day).

**(c.1) Cash-Out on Retirement.** If a Full-Time Officer separates from service with the Borough at a time he/she is entitled to receive an immediate Normal Retirement Benefit or Disability Retirement Benefit under the Borough of Alburdis Police Pension Plan, the Full-Time Officer shall be paid an amount equal to Six Dollars and Twenty-Five Cents (\$6.25) *multiplied by* the number of hours remaining in the Full-Time Officer's sick leave balance, *up to a maximum of* Five Thousand Dollars (\$5,000.00) (which equals 100 days at 8 hours per day). The parties agree that this payment shall *not* be considered part of the Full-Time Officer's "compensation" for purposes of determining the amount of the Full-Time Officer's benefits under the Borough of Alburdis Police Pension Plan, and that the Police Pension Plan shall be amended accordingly.

**(d) Sick or Injury Leave In Excess of Three Days or Two Occurrences; Questionable Usage.** Sick or injury leave in excess of three (3) consecutive days, or sick or injury leave for any day after two previous periods of one or more consecutive days of sick or injury leave during the same calendar year, and Sick Pay or other compensation for such days, shall be granted to a Full-Time Officer only upon presentation of a signed certification from the Full-Time Officer's attending physician. The Mayor or Council may also require a Full-Time Officer to present a signed medical certification from his/her attending physician any time there is any type of questionable usage, such as repeated Mondays and/or Fridays or where Sick Leave is taken immediately preceding and/or following holidays and/or vacations. Council may require a signed certification from the Full-Time Officer's attending physician or a physician designed by the Borough stating that the Full-Time Officer is physically and/or mentally able to perform the essential functions of his job before permitting the Full-Time Officer to return to work.

**(e) Extended Sick or Injury Leave.**

**(1) Examination by Borough Physician.** If any single period of sick leave persists for more than five (5) consecutive calendar days, the Mayor or Council may require the Full-Time Officer who is requesting additional sick leave to undergo a medical examination by a physician designated by Council, at Borough expense. If the Council-designated physician shall report and certify to the Mayor and Council that the

Officer is capable of performing police duties, the Mayor or Council may require an additional medical examination by a physician selected by mutual agreement, and at the mutual expense, of the Borough and the Full-Time Officer (or the Association). If such physician confirms the certification, then his Sick or Injury Leave and Sick Pay shall be discontinued and he/she shall be directed to report for active duty.

(2) **Re-Examinations.** After the initial medical examination set forth in paragraph (1), the Mayor or Council may require such periodic re-examinations as may be appropriate under the circumstances, at Borough expense. If, after any such re-examination, the Council-designated physician shall report and certify to the Mayor and Council that the Officer is capable of performing police duties, the procedures described in paragraph (1) shall apply.

(f) **Failure to Comply With Requirements.** If an Officer fails or refuses to undergo any required examination under this Section, fails or refuses to report for active duty when so directed under this Section, or fails or refuses to produce any medical certification required under this Section, all Sick Pay and benefits under the Short-Term Disability Plan shall be discontinued. The provisions of this subsection shall not restrict the Mayor and/or Council from also taking any other disciplinary action.

### § 13 **Bereavement Leave.**

(a) **Immediate Family.** In the event of the death of a Very Close Relative of a Full-Time Officer, the Full-Time Officer shall be entitled to three days of Bereavement Leave and shall be paid Bereavement Pay in an amount equal to the applicable base hourly compensation under Section 3 *multiplied by* twenty-four (24) hours.

(b) **Other Relatives.** In the event of the death of a Close Relative of a Full-Time Officer, the Full-Time Officer shall be entitled to one day of Bereavement Leave and shall be paid Bereavement Pay in an amount equal to the applicable base hourly compensation under Section 3 *multiplied by* eight (8) hours.

(c) **Other Funerals.** Bereavement Leave, without pay, to attend the funeral of other persons with whom the Full-Time Officer had a close relationship may be granted at the discretion of the Mayor, without precedent.

(d) **Definitions.** For purposes of this Section, a Very Close Relative shall mean a Full-Time Officer's spouse, child, brother, sister, parent, parent-in-law, grandparent, or grandchild, and a Close Relative shall mean a Full-Time Officer's uncle, aunt, niece, nephew, brother-in-law, or sister-in-law, or the grandparent, uncle, or aunt of the Officer's spouse. A person in one of the above-relationships by the half-blood, by adoption, or by a "step" relationship shall be treated the same as a person in a full-blood relationship.

#### **§ 14 Military Leave.**

Military leave shall be granted as provided by law.

#### **§ 15 Short-Term Disability Plan.**

During the term of this Agreement, the Borough shall continue to maintain a short-term disability plan and policy as provided in Chapter 16 of the Alburts Codified Ordinances as in effect on the date of this Agreement.

#### **§ 16 Long-Term Disability Insurance.**

During the term of this Agreement, the Borough shall provide and maintain, at its own expense, long-term disability insurance protection for each Full-Time Officer hired by the Borough as a Full-Time Officer before January 1, 1996. The insurance shall be in the form of the policies in effect on December 31, 2014 (which are incorporated herein by reference), or substantially equivalent or superior coverage offered by other

insurance carrier(s). The Borough shall not be obligated to provide long-term disability insurance for any person first hired as a Full-Time Officer after December 31, 1995.

## **§ 17 Life Insurance.**

The Borough shall provide and maintain during the term of this Agreement life insurance protection for each insurable Full-Time Officer in the amount of One Hundred Thousand Dollars (\$100,000.00), without double indemnity, under a policy(ies) issued by company(ies) rated A+ or better by A.M. Best, and subject to the requirements, limitations, and other restrictions of such policies. The insurance shall be in the form of the policies in effect on December 31, 2014 (which are incorporated herein by reference), or substantially equivalent or superior coverage offered by other insurance carrier(s).

## **§ 17A Funeral Cost Donation Campaign.**

In the event an Officer is killed in the line of duty or dies from causes related to his/her employment as a Borough police officer, the Borough shall initiate, organize, and coordinate a donation campaign within the borough and surrounding areas. The proceeds of the campaign shall be used to assist in defraying the costs of the Officer's funeral. The Borough shall not be obligated to contribute towards these costs.

## **§ 18 Health Insurance.**

### **(a) Medical Coverage—Active Full-Time Officers.**

**(1) In General.** During the term of this Agreement, the Borough shall make available to each of the Full-Time Officers a program of medical coverage for Full-Time Officers and their eligible dependents. The program shall consist of the product known as Healthy Benefits PPO 2000 . 0 PD . Rx \$0, as offered/amended and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital

Blue Cross which takes over that product), or substantially equivalent or superior coverage selected by the Borough which is offered by an affiliate of Capital Blue Cross or by other insurance carrier(s) or health maintenance organizations/paid provider organizations. Each Full-Time Officer may elect which of his/her eligible dependents will be covered by this medical coverage (if any) and which will not be so covered (if any).

**(2) Employee Contributions to Premiums.** Except as provided in paragraph (3), each Full-Time Officer shall contribute each calendar month to the cost of the coverage provided for that month by the Borough under paragraph (1) as elected by the Officer. The amount for any given month shall be five percent (5.0%) of the premium charged to the Borough for that month by the carrier/organization for the medical coverage elected by the Officer. 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.

**(3) Waiver of Coverage.**

**(A) In General.** Except as provided in subparagraph (C), a Full-Time Officer may elect to waive the medical coverage provided under paragraph (1) if he/she has alternative medical coverage and provides written proof of such coverage to the Borough at the time of the election and from time to time thereafter whenever requested by the Borough. A Full-Time Officer who so waives medical coverage shall not be required to make the premium contributions described in paragraph (2), and shall receive a monthly cash payment for each calendar month that medical coverage is waived in the amount set forth in subparagraph (B). Payment for any given month shall be made with the first paycheck in that month.

**(B) Monthly Cash Payment.** The amount to be received for a given month by a Full-Time Officer who waives the medical coverage provided under paragraph (1) shall be twenty-five percent (25.0%) of the premium which would have been charged to the Borough for that month by the carrier/organization providing the medical coverage under paragraph (1) to cover the Full-Time Officer and all of his eligible dependents (subject to paragraph (5) below, relating to working spouses).



**(C) Preference Rules.** A Full-Time Officer may not elect to waive medical coverage if his/her election would cause the Borough to fail any minimum participation requirements established by the insurance carrier/health maintenance organization/paid provider organization for the Borough to be able to offer the coverage provided in paragraph (1). It is understood that the minimum participation requirements of the carrier/organization providing medical coverage may require a certain minimum number or percentage of Borough employees to be covered, and that certain employees might not be counted for purposes of that calculation (such as a rule that would not count employees who decline coverage because they are covered under the plan of their spouse's employer). If the minimum participation requirements would permit an election under this paragraph 3 for some, but not all, of the Full-Time Officers who must be counted for purposes of such a calculation and who desire to make the election, then as among those Officers, Full-Time Officers shall have preference in order of seniority (based on their First Day). No other Borough employees shall be permitted to elect no health coverage or any different health coverage if such an election would prevent a Full-Time Officer from making an election under this paragraph 3.

**(4) Cafeteria Plan.** The benefits under paragraph (1) shall be provided through the Borough's Cafeteria Plan (Chapter 14 of the Codified Ordinances) so that persons who receive medical coverage under paragraph (1) are not subject to federal income tax under current law on the amount of cash which they otherwise could have received if they had waived medical coverage (*i.e.*, cash payments under paragraph (3) and cash not deducted from their paychecks to pay employee contributions under paragraph (2)). Any election under this subsection (a) to elect a medical coverage option, to waive medical coverage, or to reinstate medical coverage, shall be made in accordance with the provisions of the Cafeteria Plan. The Cafeteria Plan shall be amended to conform to the benefit changes made in this subsection (a).

**(5) Working Spouses.** Notwithstanding anything to the contrary in this subsection (a), no health coverage may be elected or provided under this subsection (a) for any period after April 1, 2015 with respect to a spouse of a Full-Time Officer for any month in which such spouse is eligible to participate as an employee in a group health plan sponsored by another employer, *unless* (1) no coverage for which the spouse

is eligible under his/her employer's group health plan(s) provides "minimum value" within the meaning of the Patient Protection and Affordable Care Act and the regulations thereunder, *or* (2) the spouse is not reasonably expected to work an average of at least thirty (30) hours per week or at least one hundred twenty (120) days for the employer sponsoring the group health plan. A Full-Time Officer who desires to cover a spouse must provide, from time to time upon request, proof that the spouse is not employed, or, if employed, that the spouse is either not eligible for "minimum value" coverage under a group health plan of his/her employer or is not reasonably expected to work an average of at least thirty (30) hours per week or at least one hundred twenty (120) days for his/her employer.

**(6) Health Reimbursement Arrangement for Health Coverage.**

**(A) In General.** In addition to the health benefit plan under paragraph (1), effective January 1, 2015, the Borough shall provide a Health Reimbursement Arrangement which benefits each Full-Time Officer enrolled in the plan under paragraph (1) (the "**Primary Health Plan**"), and provides reimbursements for qualifying medical care expenses that are **(i)** incurred by the Full-Time Officer or an eligible dependent who is enrolled in the Primary Health Plan, **(ii)** during the time the person is enrolled in the Primary Health Plan and during the term of this Agreement, and **(iii)** which are applied to a deductible under the Primary Health Plan. The HRA Deductible for each calendar year shall be Three Hundred Dollars (\$300) per person and Six Hundred Dollars (\$600) per family, and the Maximum Coverage Amount for each calendar year shall be Two Thousand Dollars (\$2,000) per person and Four Thousand Dollars (\$4,000) per family. No contributions shall be made by Full-Time Officers for the coverage provided under the Health Reimbursement Arrangement.

**(B) Retroactivity.** For the period from January 1, 2015 until the execution of this Agreement by the Borough, the Health Reimbursement Arrangement under this paragraph (6) tentatively provided for partial reimbursement of certain co-payments under the Primary Health Plan. This Agreement is retroactive to January 1, 2015, and thus any co-payment reimbursements that have been made, and any reimbursements that have been made which are now subject to and within the amount of

the HRA deductibles, are overpayments from the Health Reimbursement Arrangement. These overpayments shall be refunded to the Borough as a reduction in the amount of future benefits otherwise payable under the Health Reimbursement Arrangement. If the refund is not completed by December 15, 2015, then the unpaid balance shall be deducted from the final paycheck of 2015 for the affected Full-Time Officers. If a Full-Time Officer's employment with the Borough should terminate before the end of 2015, any unpaid balance shall be deducted from the Full-Time Officer's final paycheck.

**(C) Plan Document.** The Health Reimbursement Arrangement under this paragraph (6) shall be in the form of Chapter 20B of the Codified Ordinances of the Borough of Alburdis as in effect on the date of this Agreement, but as modified to conform to the provisions of this paragraph (6).

**(b) Medical Coverage—Retired Former Officers.**

**(1) In General.** For any Officer who retires during the term of this Agreement with entitlement to receive an immediate normal retirement benefit or disability retirement benefit under the Borough of Alburdis Police Pension Plan, the Borough shall offer medical coverage for the retired former Officer during his/her retirement (until terminated under paragraph (3) below) which is the same as the coverage then being provided from time to time to active Full-Time Officers, *except* that the coverage shall provide benefits for the retired former Officer, and, if he/she so elects, his/her spouse (if the spouse is not yet eligible to receive Medicare), but *not* any other dependents, and the coverage shall *not* include any benefits which are reimbursed directly by the Borough (whether through a health reimbursement arrangement or otherwise) rather than through an insurance carrier, health maintenance organization, paid provider organization, or other third party. The retired former Officer must elect coverage under this subsection (b) at or before the time of retirement, to take effect immediately after his/her coverage as an active Full-Time Officer terminates.

**(2) Payments by Former Officer.** If a retired former Officer elects coverage under this subsection (b), the Borough shall contribute an amount each month towards the coverage which is equal to the *lesser* of—

(A) the monthly premium, under the rate structure in effect for the month in which the former Officer retired, to provide the medical coverage in effect at that time under subsection (a)(1) to a person who had no dependents, *less* the amount which the former Officer would be required to contribute under subsection (a)(2) for the month in which the former Officer retired if the Officer received self-only coverage for that month; or

(B) the full cost of the coverage under this subsection (b) for the given month.

However, if the former Officer has become eligible to receive Medicare but coverage continues for his/her spouse who is not yet eligible to receive Medicare, the Borough shall not contribute any amount towards the spouse's coverage. Each month, the retired former Officer shall pay to the Borough the difference, if any, between the amount contributed by the Borough for that month and the cost of the coverage under this subsection (b) for that month. Payment for the coverage for any given month must be received at the office of the Borough Manager on or before the first day of that month. A late fee of Twenty-five Dollars (\$25.00) shall be paid for every fifteen (15) calendar days that all or any part of any monthly payment shall remain unpaid; all payments shall be applied first to unpaid late fees.

**(3) Termination of Coverage.** The coverage provided under this subsection (b) for any given retired former Officer will terminate upon the occurrence of the earliest of the following events:

(A) The date the retired former Officer becomes eligible to receive Medicare, *except* that coverage for the spouse of the retired former Officer may continue until the earliest of the date the spouse becomes eligible to receive Medicare or the date of an event described in subparagraphs (B), (C), or (D);

(B) The date the retired former Officer becomes eligible to participate in any other group medical insurance program as a result of employment;

(C) The date the retired former Officer elects to terminate the coverage provided under this subsection (b);

(D) The date that any amount required to be paid by the retired former Officer under paragraph (2) is more than sixty (60) days past due.

Once the coverage provided under this subsection (b) terminates, it cannot be elected again at a later time.

(c) **Dental and Vision Coverage.**

(1) **Prior to April 1, 2015.**

(A) **Dental Coverage.** For the period from January 1, 2015 through March 31, 2015, the Borough shall make available to each of the Full-Time Officers, at the Borough's cost, a program of dental coverage for Full-Time Officers and their eligible dependents consisting of the product known as Healthy Dental PPO Classic Enhanced, as offered by Capital Advantage Assurance Company.

(B) **Vision Coverage.** For the period from January 1, 2015 through March 31, 2015, the Borough shall make available to each of the Full-Time Officers, at the Borough's cost, a program of vision care coverage for Full-Time Officers and their eligible dependents consisting of the product known as Healthy Vision 12/10 Plus, as offered by Capital Advantage Assurance Company.

(2) **Health Reimbursement Arrangement.**

(A) **In General.** Effective April 1, 2015, the Borough shall provide a Health Reimbursement Arrangement which benefits each Full-Time Officer, and provides reimbursements for qualifying medical care expenses that are (i) incurred by the Full-Time Officer or an eligible dependent as defined in subparagraph (B), (ii) for a covered expense described in subparagraph (C), (iii) during the period from April 1, 2015 through December 31, 2017. There shall be no deductible under this Health Reimbursement Arrangement. The Maximum Coverage Amount for 2015 shall be a total of One Thousand One Hundred Twenty-five Dollars (\$1,125.00) for each Full-Time Officer and his/her eligible dependents, and the Maximum Coverage Amount for each other calendar year during the term of this Agreement shall be a total of One Thousand Five Hundred Dollars (\$1,500.00) for each Full-Time Officer and his/her eligible dependents. No

contributions shall be made by Full-Time Officers for the coverage provided under the Health Reimbursement Arrangement.

**(B) Eligible Dependents.** For purposes of this paragraph (2), an Officer’s “eligible dependents” shall mean each of the following—

(i) the Officer’s spouse (under the rules established or recognized by the Internal Revenue Service);

(ii) a dependent of the Officer within the meaning of Internal Revenue 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 (relating to special rule for divorced parents) shall be treated as a dependent of both parents; and

(iii) a child (as defined in Internal Revenue Code § 152(f)(1)) of the Officer who has not attained age 26 as of the last day before the calendar month in which given expenses are incurred.

**(C) Covered Expenses.** For purposes of this paragraph (2), the term “covered expenses” means expenses for Medical Care (within the meaning of Internal Revenue Code § 213(d) and the regulations and rulings thereunder) that is either Dental Care, Vision Care, or Qualified Insurance, and for which neither the Officer nor his eligible dependents are reimbursed or entitled to reimbursement for the expense through insurance or otherwise (such as under the Primary Health Plan under subsection (a)(1), the dental plan under subsection (c)(1)(A), the vision plan under subsection (c)(1)(B), or a health, dental, or vision plan of another employer), other than under this Health Reimbursement Arrangement. For purposes of this subparagraph (C)—

(i) the term “Dental Care” means expenses for dental preventive care (such as cleaning, routine X-Rays, routine oral examinations, fluoride, and sealants), dental restorative care (such as fillings and crowns), endodontics (such as root canals), oral surgery (including tooth removal and minor surgical procedures such as tissue biopsy and drainage of minor oral infections), orthodontics (such as braces and retainers), periodontics (such as scaling, root planning, and management of acute infections or lesions), and prosthodontics (such as dentures and bridges);

(ii) the term “Vision Care” means expenses for routine non-medical eye examinations or the refractive portion of medical eye examinations, prescription eyeglass lenses, eyeglass frames, contact lenses, and refractive surgery (such as LASIK); and

(iii) the term “Qualified Insurance” means premiums for insurance covering only Medical Care, and primarily covering Dental Care and/or Vision Care.

**(D) Plan Document.** The Health Reimbursement Arrangement under this subsection (c)(2) shall be in a form similar to Chapter 20B of the Codified Ordinances of the Borough of Albury as in effect on the date of this Agreement, but as modified to conform to the provisions of this paragraph (2).

## **§ 19 Pension Plan.**

(a) **In General.** Except as provided in this Agreement, the Borough shall maintain throughout the term of this Agreement the Borough of Albury Police Pension Plan and Trust as described in Chapter 17 of the Albury Codified Ordinances as in effect on the date of this Agreement, which is incorporated herein by reference. It is agreed that such Plan shall govern all rights, duties and responsibilities of the Borough and the Full-Time Officers relating to the police pension.

(b) **Charges, Challenges, etc.** The Association shall not hereafter challenge the validity or propriety of the Borough of Albury Police Pension Plan as provided under subsection (a), or the adoption of ordinances establishing or amending the Borough of Albury Police Pension Plan as provided under this Agreement in any proceeding in any forum (except with respect to changes or clarifications in the law legislatively adopted, administratively promulgated, or judicially determined after the date of this Agreement).

## **§ 19A Educational Merit Award.**

(a) **In General.** Except as provided in subsection (b), in the event a Full-Time Officer is awarded an Associate's Degree, Bachelor's Degree, or Master's Degree, in criminal justice, a social science(s), or a forensic science(s) from an accredited college or university during his/her employment with the Borough and during the term of this Agreement, the Borough shall provide the Full-Time Officer with a one-time payment in recognition of the Degree in the following amount:

- (1) \$500.00 for an Associate's Degree;
- (2) \$750.00 for a Bachelor's Degree;
- (3) \$1,000.00 for a Master's Degree.

(b) **Limitation.** An Officer shall only receive a payment under this Section for a given Degree if that Degree is first Degree of its type (*i.e.*, Associate's, Bachelor's, or Master's) awarded to the Officer in criminal justice, a social science(s), or a forensic science(s). Thus, for example, if an Officer was awarded an Associate's Degree in forensic sciences in 2013 but had no other Degrees as of the effective date of this Agreement, that Officer shall not be entitled to receive a payment under this Section for any Associate's Degree received during this term of this Agreement, but shall be entitled to receive a payment if he is awarded a Bachelor's Degree which satisfies the requirements of subsection (a). Similarly, if an Officer had no Degrees as of the effective date of this Agreement, and then is awarded two Associate's Degrees during the term of this Agreement (both of which were in criminal justice, a social science(s), or a forensic science(s)), the Officer shall only be entitled to receive a payment under this Section for the first of such Associate's Degrees.

## **§ 20 Scheduling.**

(a) **Pay Period.** Each Full-Time Officer shall be scheduled for eighty (80) hours of work during each Pay Period, except to the extent the Officer has taken



authorized leave (such as vacations, sick time, injury leave, holidays, and bereavement leave). Scheduling of all Officers shall be performed by the Chief and the Mayor in their discretion, and the Chief and the Mayor may utilize shifts of various lengths in order to provide twenty-four (24) hour continuous police coverage, double-coverage during times when the need is greatest, and Full-Time Officers at the busiest times, and/or to satisfy other needs of the police department or the best interests of the Borough. The pattern of shifts and shift durations, and the regular 80-hour schedule of work shifts for a Full-Time Officer may change from Pay Period to Pay Period in the Chief's and the Mayor's discretion to accommodate these priorities, needs, and interests. However, no scheduled regular shift for a Full-Time Officer shall be less than eight (8) hours nor more than twelve (12) hours without the consent of the affected Officer, The Borough shall not be required to bargain over the impact of any scheduling patterns or scheduling changes implemented pursuant to this Agreement. In accordance with these general rules, and without being limited in any way to these specific examples, the Chief and the Mayor may decide to schedule all Full-Time Officers for ten (10) regular shifts of eight (8) hours each during a Pay Period, or to schedule one or more Full-Time Officers for six (6) regular shifts of twelve (12) hours and one (1) regular shift of eight (8) hours during a Pay Period if they determine that is in the best interests of the Borough.

**(b) Minimum Time-off Between Shifts.** Except in the event of an emergency, the extension of a scheduled shift for one or more hours, or the case of an Officer who is called out for duty, no Full-Time Officer shall be scheduled to work at any time less than eight (8) hours after the end of a previous scheduled work shift.

**(c) Extra Duty.** Notwithstanding any practice prior to the execution of this Agreement, extra duty for Full-Time Officers shall be assigned based on directives from the Chief and the Mayor, from time to time, and need not be assigned based on seniority or any particular pattern.

## **§ 21 Uniforms and Equipment.**

(a) **Maintenance Obligation.** All Officers shall maintain their uniforms in proper condition.

(b) **Damage in the Line of Duty.** The Borough shall reimburse Officers for the cost of repairs to or replacement of all or part of any uniform damaged in the line of duty (including footwear), following the presentation of an incident report documenting the damage and receipts documenting the nature and amount of the expenses incurred. Officers shall not incur any such expenses until the Chief determines they are reasonable and necessary.

(c) **Full-Time Officers.**

(1) **Initial Uniform.** Each newly-employed Full-Time Officer shall be provided by the Borough with five (5) winter uniform sets and five (5) summer uniform sets at the expense of the Borough. All uniforms so provided shall remain the property of the Borough, and be returned to the Borough upon the termination of a Full-Time Officer's employment with the Borough.

(2) **Uniform Maintenance, Repair, and Replacement.**

(A) **Routine Maintenance.** Except as provided in paragraph (3), each calendar year during the term of this Agreement, the Borough shall provide each Full-Time Officer with the sum of Two Hundred Dollars (\$200.00) to reimburse him/her for the ordinary cleaning and maintenance of his/her uniform. The parties agree that the Full-Time Officer need not substantiate this amount of expenses since they are inevitable, occur frequently and in small amounts throughout the year, and may include at-home expenditures. This amount shall be paid in the Officer's first paycheck of the calendar year (except that the amount for 2015 shall be paid in the paycheck for the first pay period which ends on the date this Agreement is executed by the Borough).

(B) **Uniform Allowance.** Except as provided in paragraph (3), each Full-Time Officer shall be granted a uniform allowance of Two Hundred Twenty-five Dollars (\$225.00) in each calendar year, to be used towards the maintenance of

uniforms and the routine repair and replacement of uniform parts as necessary (including footwear). Officers shall not incur any such expenses until the Chief determines they are reasonable and necessary. Expenses so incurred shall be reimbursed by the Borough (up to the remaining balance of the Officer's uniform allowance) following the presentation of receipts documenting the nature and amount of the expenses incurred. Any amount of the uniform allowance not used as of the end of a calendar year shall be carried forward and made available for use in the following year together with the new amount added to the uniform allowance for the following year. The new additional uniform allowance for a given calendar year may not be used to reimburse any expenses incurred in a previous calendar year. Any amount of the uniform allowance not used as of the time the Officer separates from service with the Borough shall be forfeited.

**(3) First Year of Service.** For the calendar year in which the Full-Time Officer is hired as a Full-Time Officer, the amounts under paragraphs (2)(A) and (2)(B) shall be multiplied by a fraction whose numerator is the number of months to be worked by the Officer during that calendar year as a Full-Time Officer (rounded up if the Full-Time Officer was hired on or before the 15<sup>th</sup> day of a month and rounded down if the Full-Time Officer was hired after the 15<sup>th</sup> day of a month), and whose denominator is twenty-four (24).

**(d) Part-Time Officers.**

**(1) Purchase of Uniforms.** Each Part-Time Officer shall purchase at least two (2) sets of winter and two (2) sets of summer uniforms, of the type and style designated by the Borough. A Part-Time Officer may purchase such uniforms directly, or reimburse the Borough for the purchase of such uniforms through payroll deductions. If the Part-Time Officer shall work at least one hundred sixty (160) hours during the one-year period beginning on the first day the Part-Time Officer works as such, then the Borough shall reimburse the Part-Time Officer for the cost of one (1) set of winter uniforms and one (1) set of summer uniforms. If the Part-Time Officer purchased the uniforms directly, he/she shall provide receipts documenting the cost of the uniforms. The reimbursement shall be paid in the first paycheck following the first anniversary of the first day the Part-Time Officer works as such.

**(2) Routine Maintenance.** Except as provided in paragraph (3), each calendar year during the term of this Agreement, the Borough shall provide each Part-Time Officer who worked at least one hundred sixty (160) hours as such in the preceding calendar year with the sum of One Hundred Fifty Dollars (\$150.00) to reimburse him/her for the ordinary cleaning and maintenance of his/her uniform. The parties agree that the Part-Time Officer need not substantiate this amount of expenses since they are inevitable, occur frequently and in small amounts throughout the year, and may include at-home expenditures. This amount shall be paid in the Officer's first paycheck of the calendar year (except that the amount for 2015 shall be paid in the paycheck for the first pay period which ends on the date this Agreement is executed by the Borough)..

**(3) First and Second Calendar Years of Service.** For the calendar year in which the Part-Time Officer is hired, there shall be no payment under paragraph (2). For the following calendar year, the payment under paragraph (2) shall only be made if the Part-Time Officer works at least at least one hundred sixty (160) hours during the one-year period beginning on the first day the Part-Time Officer works as such, and the payment shall be made in the first paycheck following the first anniversary of the first day the Part-Time Officer works as such..

**(e) Changes to the Uniform.** The Borough shall provide all Officers with additional or changed parts of the uniform, at Borough expense, whenever changes are made to the uniform by the Borough. This subsection shall apply only at the time the change is made, and not to uniform purchases, replacements, or repairs which occur thereafter.

**(f) Use of Uniform.** The police uniform shall only be worn in connection with police work as approved by the Mayor, unless otherwise authorized by Council and the Mayor.

**(g) Vests.** The Borough shall provide a bullet-proof vest to all Officers at no charge to the Officer or the Officer's uniform allowance. The Borough shall replace such vests, at Borough expense, upon the expiration of the manufacturer's warranty.

## § 21A Voluntary Payroll Deductions.

(a) **In General.** Each Officer may request and authorize the Borough, from time to time during the term of this Agreement, to make payments of the type described in subsection (b) on behalf of the Officer through payroll withholding. The request and authorization shall be in writing in such form as may be satisfactory, from time to time, to the Borough, and shall include the name of the Officer, the payee(s) and their remittance address(es) together with such other identifying information as may be necessary for the payee(s) to properly credit payment to the account of the Officer, the amount(s) to be deducted for each payee from each paycheck or from specified paychecks (*e.g.*, the first paycheck of each month), the Officer's signature, and such other information or statements as may be required by the Borough. Any such request and authorization, any revised request and authorization, and any revocation of a request and authorization, shall take effect as of the first paycheck that is processed for payment at least one (1) business day after receipt of the request, revision, or revocation. If there is sufficient gross compensation available to pay the amount(s) so authorized for any given paycheck of the Officer, the Borough shall deduct the amount(s) from that paycheck for the Officer, and shall remit all such deductions to the designated payee(s) in accordance with the Officer's then-current request and authorization within three (3) business days after the payday. The Borough has no responsibility to the Officer other than to make payments as and when required under this Section, which are made on behalf of the Officer and not as the agent or representative of any payee. The Borough does not guarantee that any such payments provide any membership, coverage, rights, or benefits to the Officer.

(b) **Permitted Payees.** The following types of payroll withholding and payments may be made under this Section 21A:

- (1) Membership dues to Le-Hampton Lodge 35, Fraternal Order of Police;
- (2) Membership dues to the Alburdis Police Officers' Association.
- (3) Individual insurance coverage.

(4) Contributions to an Internal Revenue Code § 529 Plan.

(c) **Voluntary and Individual Program.** All payroll deductions and payments under this Section 21A are voluntary for each Officer and may be revoked at any time. It is not necessary to authorize any such deductions as a condition of employment with the Borough. The deductions and payments are made on an individual basis and not as part of any group program or benefit plan of the Borough, and are made solely from the funds of the authorizing Officer without any contribution from the Borough.

**§ 22 Physical and Mental Examinations.**

Each Officer shall undergo physical or mental examinations whenever required by the Borough. All examinations under this Section shall be at the expense of the Borough. Each Officer shall remain in sufficient physical and mental condition to properly perform his/her required duties.

**§ 23 Grievance Procedure**

(a) **Definition of “Grievance”.** For purposes of this Agreement, the term “grievance” shall mean a dispute concerning the meaning or application of any of the express terms or provisions of this Agreement or the reprimand, suspension, demotion, or termination of Officers for cause.

(b) **Initial Submission of Grievance.** If an Officer has a grievance with the Borough, he shall submit this grievance, in writing, to the Chair of the Public Safety Committee of Council, with a copy to the Mayor, Council, and the Association. The grievance shall be submitted within twenty-one (21) calendar days after the date the Officer knew or should have known of the grievance, or it shall be forever barred.

(c) **Response by Chair of Public Safety Committee.** The Chair of the Public Safety Committee shall respond, in writing, to the grievance within five (5)

business days after it was submitted. The response shall either accept, deny, or partly accept and partly deny the relief requested by the grieving Officer.

**(d) Presentation to Borough Council.**

**(1) Submission.** If the Association or the aggrieved Officer is not satisfied with the decision of the Chair of the Public Safety Committee, the Association or the aggrieved Officer may request the opportunity to present the grievance to Council. The request must be submitted, in writing, to the Borough Manager (or his/her designate) within five (5) business days after receipt of the decision of the Chair of the Public Safety Committee, or it shall be forever barred. Council shall then schedule a time to permit the aggrieved Officer, the Association, and representatives of the Borough to present the grievance to the Council, which shall not be later than the first regular meeting of Council which occurs at least fourteen (14) calendar days after the Borough Manager (or his/her designate) receives the request for a presentation. Council shall send the aggrieved Officer and the Association notice of the time for the presentation within two (2) business days after the date it is scheduled, but in all cases at least five (5) business days before the date of the presentation.

**(2) Position of Borough Council.** Council shall notify the aggrieved Officer and the Association of its position no later than one (1) business day after the first regular Council meeting following any presentation/meeting under paragraph (1).

**(e) Failure of Borough to Make a Timely Response.** If the Chair of the Public Safety Committee or Council shall fail to respond within any time limitation established under this Section, and the Association shall not grant an extension of such time limitation, the Chair or Council shall be deemed to have denied the grievance.

**(f) Submission to Arbitration.** If the aggrieved Officer or the Association shall not be satisfied with Council's position on the grievance, the aggrieved Officer or the Association shall so notify the Council within five (5) business days after the date of the Council's determination or deemed determination. Thereafter, Council may choose either to submit the grievance to arbitration or to reconsider its position. If Council does not accept the Officer's or Association's position within twenty-one (21) calendar days

after the Officer's or Association's notice under this subsection (f), the Officer or the Association may submit the grievance to arbitration. All submissions to arbitration must be made within thirty-five (35) calendar days after the Officer's or Association's notice under this subsection (f), and must be in writing to the Borough Manager, the President of the Association, and (if applicable) the Officer.

**(g) Arbitration.**

**(1) The Arbitrator.** In all arbitrations under this Agreement, there shall be one (1) arbitrator, selected by agreement of the Borough and the Association. If the parties fail to agree on an arbitrator, either party may request the Pennsylvania Bureau of Mediation to submit a list of three (3) potential arbitrators. Within five (5) business days after receipt of this list, the Borough shall strike the name of one of the three persons designated. Within five (5) business days after the Borough strikes one name, the Association shall strike the name of one of the persons designated. The individual remaining on the list shall be the arbitrator. The arbitrator shall be requested to issue his decision within thirty (30) days after the conclusion of the arbitration hearing.

**(2) Scope of Arbitration.** The arbitrator shall neither add to, subtract from, nor modify the provisions of this Agreement, or of any previous arbitration awards, but shall confine himself to the precise issues submitted for arbitration and no others. The decision of the arbitrator shall be final, subject to appeal only as provided by law.

**(3) Expenses.** All fees and expenses of the arbitrator shall be divided equally between the Borough and the Association. Each party shall bear the cost of preparing and presenting its own case.

**(h) Extension of Time Limitations.** The Borough and the Association may extend any of the time limitations set forth in this Section by agreement in writing.



**§ 24 Civil Service Rules and Regulations.**

The Association consents to the Civil Service Rules and Regulations set forth in Chapter 13 of the Alburdis Codified Ordinances as in effect on the date of this Agreement.

**§ 25 Meet and Discuss.**

Representatives of the Borough and the Association may meet during the term of this Agreement. Such meetings shall occur not more frequently than twice a year, and either party may initiate the request for any particular meeting. The purpose of a meeting shall be to discuss questions and issues that may arise during the implementation and ongoing administration of this Agreement. Such discussion shall not be construed as negotiations, and at no time should any such discussion result in changes, additions, or modification to part or parts of this Agreement.

**§ 26 Reservation of Rights.**

Unless otherwise specifically provided in this Agreement, the Borough reserves and retains, solely and exclusively, all of its inherent rights to manage the Police Department, as such rights existed prior to the execution of this Collective Bargaining Agreement. The sole and exclusive rights of management which are not abridged by this Agreement shall include, without limitation, its right to establish or continue policies, practices and procedures for the conduct of the business of the Police Department and, from time-to-time, to change or abolish such policies, practices or procedures; the right to determine the methods, processes, and procedures to be utilized by Officers, the right to determine the duties to be assigned to Officers; to hire, promote, and transfer Officers; to select and to determine the assignment and reassignment of Officers in accordance with requirements determined by the Borough, including the total number of hours of work to be performed and the number of Officers on duty at any given time; to establish and change work schedules; and, otherwise to take such measures as the Borough may

determine to be necessary for the orderly and efficient operation of the Police Department.

**§ 27 Applicable Law.**

This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania.

**§ 28 Severability.**

This Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be held to be prohibited or invalid under such applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**In Witness Whereof**, the parties have hereunto affixed their hands and seals the day and year first above written, intending to be legally bound.

Attest:

BOROUGH OF ALBURTIS

\_\_\_\_\_  
Sharon Trexler, Borough Manager

By: \_\_\_\_\_  
Steven R. Hill, President of Borough  
Council

Witness:

ALBURTIS POLICE OFFICERS'  
ASSOCIATION

\_\_\_\_\_

By: \_\_\_\_\_  
Raymond Bulger, Authorized  
Representative

\_\_\_\_\_

By: \_\_\_\_\_  
Christopher Lubenetski, Authorized  
Representative