

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 530

(Duly Adopted March 25, 2015)

AN ORDINANCE AUTHORIZING THE BOROUGH OF ALBURTIS TO ENTER INTO A MUTUAL AID AGREEMENT WITH THE BOROUGH OF MACUNGIE SO THAT ONE BOROUGH MAY REQUEST AND UTILIZE POLICE AID AND ASSISTANCE SERVICES FROM THE OTHER BOROUGH WHEN NEEDED AND WHEN MADE AVAILABLE BY THE OTHER BOROUGH.

WHEREAS the Boroughs of Alburdis and Macungie desire to enter into an agreement to have available for use throughout the territorial limits of both boroughs the services of police officers employed by either borough under the terms and conditions set forth in the Agreement attached to this Ordinance as **Exhibit A**; and

WHEREAS intergovernmental cooperation between the Participants is authorized under 53 PA. CONS. STAT. §§ 2301-2316;

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

SECTION 1. Chapter 6 of the Alburdis Codified Ordinances (relating to Intergovernmental Cooperation) is amended by adding the following new Article IX after existing Section 6-801:

Article IX — Mutual Aid Agreements

§ 6-901 Police Mutual Aid Agreement with the Borough of Macungie.

The Borough of Alburtis shall enter into an Agreement with the Borough of Macungie in the form attached to Ordinance 530 as **Exhibit A**, which is incorporated into this Article by reference, *provided that* the Borough Council of the Borough of Macungie shall also approve the execution of the Agreement. The President (or Vice President) of Borough Council is hereby authorized and directed to execute the Agreement on behalf on the Borough upon the approval of the Agreement by the Borough Council of the Borough of Macungie.

SECTION 2. The attached **Exhibit A** is incorporated into this Ordinance by reference.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburtis, this 25th 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 25th day of March, 2015, the above Ordinance is hereby AP-
PROVED.

Kathleen Palmer, Mayor

EXHIBIT A

MUTUAL AID AGREEMENT

This agreement is effective _____, 2015 by and between the Borough of Albutis, Pennsylvania and the Borough of Macungie, Pennsylvania.

WHEREAS, municipalities are authorized by the Constitution and laws of the Commonwealth of Pennsylvania to enter into a joint contract for mutual police aid and assistance; and

WHEREAS, it is the desire of the Borough of Albutis and the Borough of Macungie to enter into an agreement for the purpose of having available for use throughout the territorial limits of the two boroughs, the services of police officers employed by the two boroughs under the conditions herein set forth; and

WHEREAS, the Borough of Albutis and the Borough of Macungie have determined that the provision of mutual police aid promotes the health, safety, and welfare of the citizens of the two boroughs; and

WHEREAS, the Borough of Albutis and the Borough of Macungie have determined that the provision of mutual police aid is necessary and promotes efficient and effective use of the fiscal resources of the two boroughs; and

WHEREAS, the Borough of Albutis and the Borough of Macungie have similar-sized police departments; and

WHEREAS, the Borough of Albutis and the Borough of Macungie have traditionally enjoyed close cooperation between their two police departments;

NOW, THEREFORE, the Borough of Albutis and the Borough of Macungie, intending to be legally bound hereby, do covenant and agree as follows:

SECTION 1. DEFINITIONS

- a. "Sender" or "Sending department" means the municipality receiving a request for, or sending, police aid and assistance to the other municipality.
- b. "Receiver" or "receiving department" means the municipality requesting or receiving police aid and assistance from the other municipality.
- c. "Mutual aid" means the provision of police manpower and logistical support needed by the receiving department to meet its needs when the resources of that receiving department are insufficient to cope with its needs.

SECTION 2. EXPECTATION OF MUTUAL BENEFIT

- a. It is expected that the number and duration of mutual aid situations will be roughly equal for the Borough of Albutis and the Borough of Macungie. Each borough's chief of police shall maintain records to permit an annual review of the mutual aid benefits received by each borough.

- b. It shall be the responsibility of the mayors of the two boroughs to oversee implementation of this Agreement, to ensure roughly equal benefit for the two boroughs, and to report annually to their respective Borough Councils on the costs and benefits of this Agreement for their borough.

SECTION 3. SITUATIONS COVERED

- a. The provisions of this Agreement may be invoked for any law enforcement situation occurring within the receiving department which requires the use of resources not immediately available to the receiving department.
- b. This may include, but is not limited to, situations in which a police officer handling an incident or event in one borough needs the assistance of one or more additional officers.
- c. This may also include situations in which police officers in one borough are handling an incident or event, and another incident demanding immediate attention occurs in the borough.
- d. Additionally, this may include situations in which the receiving department is unable to schedule an officer to be on duty due to sickness, injury, or other exigent circumstance, as well as situations in which a single on-duty officer of the receiving department is required to be away from the borough for court, training, or other obligation.

SECTION 4. METHOD OF REQUESTING ASSISTANCE

- a. On-duty police personnel, the chief of police, or the mayor of the receiving department may request police aid and assistance from the sending department. The request shall be made to on-duty police personnel, the chief of police, or the mayor of the sending department, either directly or via the Lehigh County Communications Center. In any event, the Lehigh County Communications Center shall be notified whenever mutual aid has been activated.
- b. It is understood and agreed that compliance with the terms of this Agreement shall be voluntary and not compulsory for the sending department. The boroughs agree to provide aid and assistance to each other whenever possible, while recognizing that the primary obligation of each borough's police department is to its own borough. Nothing contained herein shall be interpreted to require one department to send aid and assistance to the other. Neither borough shall be subject to a claim for failing to send aid or assistance to the other, or recalling such aid and assistance, and the parties hereto waive and specifically release each other from any such claims.
- c. If an on-duty police officer of one borough is requested to furnish aid and assistance to the other borough under the terms of this Agreement, but is directed by his or her superiors to refuse, said officer shall refuse to provide the requested assistance.
- d. If an on-duty police officer of one borough is requested to furnish aid and assistance to the other borough under the terms of this Agreement, but believes that the request should be refused for any reason, said officer shall notify his or her superiors as soon as possible in order to seek confirmation of the decision not to assist as requested.

- e. In emergency situations, requests for police aid and assistance should be honored unless the sending department is experiencing an emergency at the same time.

SECTION 5. COMMAND, CONTROL, AND RECALL

- a. When acting in response to a mutual aid request, personnel of the sending department shall act under the direction of personnel of the receiving department, if any such personnel are present; provided, however, that personnel of the sending department shall always act in accordance with the policies, procedures, and rules of their own department.
- b. Personnel provided to a receiving department under the terms of this Agreement may be recalled at any time by the sending department. In the event of such a recall, prompt notice shall be given to the receiving department.

SECTION 6. POWERS OF RESPONDING OFFICERS

- a. Police officers from a sending department shall have all the powers of police officers, including the power of arrest, when responding to a mutual aid request under the terms of this Agreement.
- b. All the immunities from liability and exemptions from laws, ordinances, and regulations which law enforcement officers employed by the Borough of Alburdis and the Borough of Macungie have in their own jurisdictions, as well as those applicable to the receiving department, shall be effective unless otherwise prohibited by law.

SECTION 7. FINANCIAL RESPONSIBILITY

- a. Except as provided in sub-section 7b below, the receiving department shall not be liable for salaries and incidental expenses for equipment used during a mutual aid situation. All compensation and other benefits enjoyed by police officers in their own jurisdictions shall extend to the services they perform under this Agreement. Thus, such items as sick leave, medical and death benefits, workers' compensation benefits, and heart and lung benefits, payable as a result of an officer's involvement in a mutual aid situation, will be expenses of the sending department.
- b. The receiving department shall be liable to the sending department for salary and equipment costs if such department receives funds from any outside source for the purpose of reimbursing police expenses. This would include, but would not be limited to, instances where federal or state disaster relief, or any form of insurance reimbursement, was provided to cover police or related expenses incurred during the mutual aid situation. The liability of the receiving department shall not exceed the amount of reimbursement for police or related expenses actually received.
- c. Any police officer of a borough hereto furnishing aid to the other borough shall, at all times, remain the employee of the borough for which he or she was working at the time the mutual aid situation was activated (i.e., an officer of the sending department shall remain an employee of the sending department while providing aid and assistance to the receiving department). Said borough shall, at all times, be responsible for paying all wages of such personnel, for carrying

workers' compensation upon such personnel, and for all other duties and responsibilities pertaining to the employment of such personnel.

SECTION 8. INDEMNIFICATION

The receiving department agrees to protect, defend, indemnify, and save harmless the sending department and its elected officials, appointed officials, agents and employees from and against any and all liability, damages, claims, suits, liens and judgments of whatever nature including but not limited to claims for contributions and/or indemnification for injuries to or death of any person or persons, caused by, in connection with, or arising out of any activities undertaken pursuant to this Agreement. The receiving department's obligation to protect, defend, and save harmless as set forth in this paragraph shall include any and all attorney's fees incurred by the sending department in the defense and/or handling of said suits, demands, judgments, liens, claims and the like and all attorney's fees and investigation expenses incurred by the sending department in enforcing and/or obtaining compliance with the provisions of this paragraph. However, the sending department shall remain liable for all workers' compensation claims of its employees as set forth in Section 7 above.

SECTION 9. INSURANCE

The Borough of Alburtis and the Borough of Macungie shall obtain and maintain (1) Police Professional Liability Insurance and (2) General and Automobile Liability Insurance, each in the amount of \$1 million per occurrence and \$2 million annual aggregate. Such insurance shall be maintained throughout the term of this Agreement and shall provide for sixty (60) days written notice to the other borough of the cancellation or expiration of said insurance coverage. Each such policy shall list the other borough as an additional insured for protection against claims originating from activities undertaken pursuant to this Agreement.

SECTION 10. DEATH OR INJURY

Police personnel of the sending department injured or killed while performing activities undertaken pursuant to this Agreement shall be deemed to have been on active duty for the sending department for all purposes.

SECTION 11. DURATION AND TERMINATION

The parties hereto agree that either borough may withdraw at any time from this Agreement by giving notice in writing to the other borough.

SECTION 12. ENTIRE AGREEMENT

This Agreement sets forth the entire agreement and understanding among the parties as to the subject matter hereof.

SECTION 13. PENNSYLVANIA LAW

This Agreement and the rights and obligations of the parties hereto shall be governed and construed according to the laws of the Commonwealth of Pennsylvania.

SECTION 14. ASSIGNMENT

No party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party to the Agreement.

SECTION 15. WAIVER

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. No party shall be deemed to have waived any right, power or privilege under this Agreement or any provision thereof unless such waiver shall have been duly executed in writing and acknowledged by the other party to the Agreement.

SECTION 16. MODIFICATION

This Agreement may not be released, discharged, abandoned, changed or modified in any manner except by an instrument in writing signed by duly authorized officers or representatives of each of the parties to the Agreement.

SECTION 17. HEADINGS

The article and section headings used in this Agreement are for reference purposes only and are not intended to limit or otherwise affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Borough of Alburtis and the Borough of Macungie have caused this Agreement to be executed by their respective authorized officers and intend by this writing to be legally bound.

BOROUGH OF ALBURTIS

Mayor Date

Council President Date

BOROUGH OF MACUNGIE

Mayor Date

Council President Date