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# Chapter 14 — Cafeteria Plan

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

### **§ 14-101 Short Title.**

This Chapter shall be known, and may be cited, as the “Borough of Alburdis Cafeteria Plan.”

[Ord. 454 01-10-2007]

### § 14-102 Establishment.

The Borough of Alburytis hereby establishes a Cafeteria Plan in order to provide certain employees with a choice between cash compensation and coverages under the health and medical expense reimbursement plans maintained by the Borough of Alburytis. The Plan is intended to qualify as a “cafeteria plan” under Section 125 of the Internal Revenue Code of 1986, as it may be amended from time to time.

[Ord. 454 01-10-2007]

### § 14-103 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.

[Ord. 454 01-10-2007]

### § 14-104 Administrator.

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

[Ord. 454 01-10-2007]

### § 14-105 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.

[Ord. 454 01-10-2007]

### § 14-105.1 Dental Plan.

The term “Dental Plan” shall mean the dental plan provided from time to time under § 12-405(a) (relating to Personnel Policies—Benefits—Dental and Vision Coverage—Dental Coverage). As of January 1, 2023, the Dental Plan is the product known as Capital Blue Cross Dental PPO Plus 1500 Plan, as offered to the Borough of Alburytis and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product), but the specific plan and/or the coverages available under the plan may change from time to time.

[Ords. 568 12-08-2023, 578 02-08-2023]

### § 14-106 Effective Date.

The “Effective Date” of this Plan is February 1, 2007.

[Ord. 454 01-10-2007]

### § 14-107 Eligibility Month.

The term “Eligibility Month” means the third calendar month following the calendar month in which an employee commences employment with the Employer as a Qualified Employee, *provided* that the employee remained a Qualified Employee continuously through the beginning of the Eligibility Month. Except as provided in § 14-203 (relating to Reinstatement of Former Participant within the same Plan Year), a person who was a Qualified Employee, then ceased to be a Qualified Employee, and who again becomes a Qualified Employee, shall have a new Eligibility Month for the new period of service as a Qualified Employee.

[Ords. 454 01-10-2007, 515 12-23-2013]

### § 14-108 Employer.

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

[Ord. 454 01-10-2007]

### § 14-109 Health Plan.

The term “Health Plan” shall mean the health/medical/hospitalization coverage plan provided from time to time under § 12-403 (relating to Personnel Policies—Benefits—Health & Hospitalization). As of January 1, 2023, the Health Plan is the product known as Gold PPO 2000/0/15 Rx 0, as offered to the Borough of Alburtis and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product), but the specific plan and/or the coverages available under the plan may change from time to time.

[Ords. 454 01-10-2007, 469 12-26-2007, 501 12-28-2011, 515 12-23-2013, 524 12-29-2014, 568 12-08-2023, 578 02-08-2023]

### § 14-110 Key Employee.

The term “Key Employee” shall mean, for any Plan Year, any person who at any time during the Plan Year is a key employee, as defined in Code § 416(i)(1) and the regulations thereunder, with respect to the Employer. In general, and subject to the more specific definition provided in the Code and the regulations, the term “Key Employee” means certain officers having an annual compensation greater than \$130,000 (or such higher amount as shall be established by the Internal Revenue Service to adjust for changes in the cost of living) and certain persons having an ownership interest in any Employer. However, the term “Key Employee” does not include

any officer or employee of an entity referred to in Code § 414(d) (relating to definition of governmental plan), including the Borough of Alburdis.

[Ord. 454 01-10-2007]

### § 14-111 Medical Expense Reimbursement Plan.

The term “Medical Expense Reimbursement Plan” shall mean the Borough of Alburdis Medical Expense Reimbursement Plan under Chapter 20, as amended from time to time.

[Ord. 454 01-10-2007]

### § 14-112 Participant.

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

[Ord. 454 01-10-2007]

### § 14-113 Plan.

The term “Plan” shall mean the **Borough of Alburdis Cafeteria Plan**, as set forth in this Chapter, and as it may be amended from time to time.

[Ord. 454 01-10-2007]

### § 14-114 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 February 1, 2007 through December 31, 2007, inclusive.

[Ord. 454 01-10-2007]

### § 14-115 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 an employee (within the meaning of Code § 125 and the regulations thereunder) and not as an independent contractor, and whose customary employment is at least thirty-five (35) hours per week, *provided* such person is neither—

(a) a nonresident alien who receives no remuneration from the Employer which constitutes income from sources within the United States (within the meaning of the Code); nor

(b) a person who is included in a unit of employees covered by a negotiated collective bargaining agreement which does not expressly provide for his/her inclusion as a person eligible for participation in this Plan.

[Ords. 454 01-10-2007, 476 12-29-2008]

### § 14-116 Related Employee.

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.

[Ord. 454 01-10-2007]

### § 14-117 Sponsor.

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

[Ord. 454 01-10-2007]

### § 14-118 Vision Plan.

The term “Vision Plan” shall mean the vision plan provided from time to time under § 12-405(b) (relating to Personnel Policies—Benefits—Dental and Vision Coverage—Vision Coverage). As of January 1, 2023, the Vision Plan is the product known as Capital Blue Cross Vision 12/10 Plus Plan, as offered to the Borough of Alburdis and renamed from time to time by Capital Advantage Assurance Company (or other affiliate of Capital Blue Cross which takes over that product), but the specific plan and/or the coverages available under the plan may change from time to time.

[Ords. 568 12-08-2023, 578 02-08-2023]