

# ALBURTIS CODIFIED ORDINANCES

## Chapter 16

### Disability Benefits

---

## Chapter 16 — Disability Benefits

---

### Article I — Title and General Provisions

§ 16-101	Short Title.....	16-3
§ 16-102	Full-time Employee.....	16-3
§ 16-103	Pre-Disability Position.....	16-3
§ 16-104	Insurance.....	16-3

### Article II — Disability

§ 16-201	In General.....	16-3
§ 16-202	Total Disability—In General.....	16-4
§ 16-203	Partial Disability—In General.....	16-4
§ 16-204	Medical Examinations.....	16-4
§ 16-205	Exclusions.....	16-5
§ 16-206	Pregnancy and Childbirth.....	16-5
§ 16-207	Period of Disability.....	16-5

### Article III — Benefit Periods

§ 16-301	Full Benefit Period.....	16-6
§ 16-302	Partial Benefit Period.....	16-6

### Article IV — Short-Term Disability Benefits

§ 16-401	In General.....	16-6
§ 16-402	Full Benefits.....	16-7
	(a) Total Disability.....	16-7
	(b) Partial Disability.....	16-7
§ 16-403	Partial Benefits.....	16-7
	(a) Total Disability.....	16-7
	(b) Partial Disability.....	16-7

### Appendix

¶ 16-A	Disposition of Ordinance 299.....	16-8
¶ 16-B	Source Ordinances.....	16-8

## **Article I — Title and General Provisions**

### **§ 16-101 Short Title.**

This Chapter shall be known, and may be cited, as the “Alburtis Short Term Disability Ordinance.”

### **§ 16-102 Full-time Employee.**

For purposes of this Chapter, the term “Full-time Employee” shall mean an employee of the Borough who is employed in a position which is regularly scheduled for at least thirty (30) hours of work each calendar week (including vacations, holidays, and other paid or unpaid leave).

### **§ 16-103 Pre-Disability Position.**

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

### **§ 16-104 Insurance.**

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

## **Article II — Disability**

### **§ 16-201 In General.**

For purposes of this Chapter, the term “Disability” shall include both a Total Disability and a Partial Disability.

### **§ 16-202 Total Disability–In General.**

For purposes of this Chapter, the term “Total Disability” shall mean a physical and/or mental condition which renders a person unable to perform all of the substantial duties of his/her Pre-Disability Position, and also unable to perform the duties any other position of employment with the Borough—

- (a) which already exists or which the Borough creates for the person after taking into consideration the limitations of his/her physical and/or mental condition,
- (b) for which the person is reasonably fitted by training, education, or experience, and
- (c) which is offered to the person.

### **§ 16-203 Partial Disability–In General.**

For purposes of this Chapter, the term “Partial Disability” shall mean a physical and/or mental condition which renders a person unable to perform all of the substantial duties of his/her Pre-Disability Position, but which does *not* prevent the person from performing the duties another position of employment with the Borough—

- (a) which already exists or which the Borough creates for the person after taking into consideration the limitations of his/her physical and/or mental condition,
- (b) for which the person is reasonably fitted by training, education, or experience, and
- (c) which is offered to the person.

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

### **§ 16-204 Medical Examinations.**

The existence of a Total or Partial Disability shall be confirmed, from time to time, in the discretion of the Borough, by a physician appointed by or acceptable to the Borough based on competent medical evidence. A person desiring to receive benefits under this Chapter shall consent to all examinations required by the Borough under this § 16-204 as a condition to the receipt of benefits. If a person refuses to consent to the first examination required by the Borough hereunder, no Disability shall be treated as having arisen; if a person refuses to consent to a subsequent examination required by the Borough hereunder, the Disability shall be treated as having ceased on the day scheduled for the subsequent examination.

### § 16-205 Exclusions.

Notwithstanding § 16-202 and § 16-203, the terms “Total Disability” and “Partial Disability” shall not include any condition which is caused by chronic or excessive use of intoxicants, drugs, or narcotics, intentionally self-inflicted injury or intentionally self-induced sickness (not including pregnancy), or an unlawful act or enterprise on the part of the person asserting his/her Disability.

### § 16-206 Pregnancy and Childbirth.

A person who is pregnant shall be presumed to have a Totally Disability for a period of six (6) weeks commencing on the **earlier** of—

(a) the date seven (7) calendar days before the “due date” assigned for the delivery of the child by the person’s obstetrician, or

(b) the date the person delivers or miscarries her child;

*provided* that this presumption shall not apply unless the person delivers or miscarries the child after the beginning of the third trimester of pregnancy. Any other days of Disability associated with pregnancy or childbirth shall be determined in accordance with the general rules of §§ 16-202, 16-203, and 16-204.

### § 16-207 Period of Disability.

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

## **Article III — Benefit Periods**

### **§ 16-301 Full Benefit Period.**

For purposes of this Chapter, the term “Full Benefit Period” means—

(a) The first thirty (30) working days of any Period of Disability, if the Disability in effect on the first day of the Period of Disability arose due to accidental bodily injury, or if the Period of Disability commences on the first day of a presumed Total Disability under § 16-206 (relating to pregnancy and childbirth). If the Period of Disability does not include thirty (30) working days, the “Full Benefit Period” shall only mean those working days in the Period of Disability; and

(b) The sixth (6<sup>th</sup>) through thirty-fifth (35<sup>th</sup>) working days, inclusive, of any Period of Disability, if the Disability in effect on the first day of the Period of Disability arose due to any cause not described in subsection (a) (including other illnesses). If the Period of Disability does not include thirty-five (35) working days, the “Full Benefit Period” shall only mean those working days in the Period of Disability other than the first five (5) working days.

### **§ 16-302 Partial Benefit Period.**

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

## **Article IV — Short-Term Disability Benefits**

### **§ 16-401 In General.**

Any person who commences a Period of Disability at a time when he/she is a Full-time Employee shall be entitled to receive the benefits provided under this Article, subject to the provisions of § 16-104 (relating to insurance).

## § 16-402 Full Benefits.

Subject to the provisions of § 16-104 (relating to insurance)—

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

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

## § 16-403 Partial Benefits.

Subject to the provisions of § 16-104 (relating to insurance)—

(a) **Total Disability.** For each working day in the Partial Benefit Period that a Full-time Employee suffers from a Total Disability, the Borough shall pay the Full-Time Employee two-thirds (2/3) of the amount of compensation he/she would have received from the Borough if he/she had performed the duties of his/her Pre-Disability Position on that day during regularly-scheduled hours, and shall continue to provide all benefits the Full-Time Employee would have received in his/her Pre-Disability Position.

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

## Appendix

### ¶ 16-A Disposition of Ordinance 299.

Ordinance 299 was never codified to the 1981 Code.

<u>Ordinance 299</u>	<u>2003 Codified Ordinances</u>
§ 1 (intro) and (a)	Not included.
§ 1(b)(1)	§ 16-201
§ 1(b)(2)	§ 16-202
§ 1(b)(3)	§ 16-203
§ 1(b)(4)	§ 16-204
§ 1(b)(5)	§ 16-205
§ 1(b)(6)	§ 16-206
§ 1(c)	§ 16-102
§ 1(d)	§ 16-207
§ 1(e)	§ 16-103
§ 2(a)	§ 16-301
§ 2(b)	§ 16-302
§ 3	§ 16-401
§ 4	§ 16-402
§ 5	§ 16-403
§ 6	§ 16-104

### ¶ 16-B Source Ordinances.

Ordinance 299	05-12-1993
Ordinance 332	03-27-1996
Ordinance 415	10-29-2003