

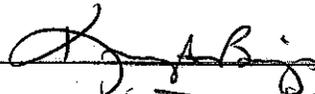
# Ellicottville Police Officers Association Agreement

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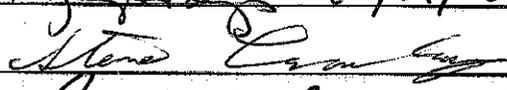
The following parties have read and agreed to the contents of this document and its appendices.

Signed and dated:

EPOA Chief Negotiator Kelly Bigos

 02/24/2020

Town Chief Negotiator Steven Crowley

 2/19/20

Police Officer In Charge Donald Auge

 2/19/20

Town Supervisor Matthew J. McAndrew

 2/19/20

# Ellicottville Police Officers Association Agreement

## INTRODUCTION

This Agreement, and the policies set forth in it, applies to all full-time, non-management police department employees of the Town of Ellicottville, including those on a probationary basis. This employee group will be referred to as the Ellicottville Police Officers Association (EPOA) throughout the rest of this document. The Officer in Charge is a management position and is not part of this Agreement.

This Agreement contains information regarding many of the policies of the Town of Ellicottville. It is in the best interest of all parties that the Town maintains a written policy that is applied fairly and impartially to all employees. It is the intent of the Town of Ellicottville to comply with all Federal and State laws regarding employment regulations for Town employees including, without limitation, the New York Town Law and, where applicable, the Cattaraugus County Civil Service Law.

The Ellicottville Town Board has adopted a Standard Operating Procedure Manual. Each Police Officer will be given a copy of this manual.

## DEFINITIONS

Except when this Agreement says otherwise, the following definitions apply in interpreting this Agreement:

- a. Employee means a full-time officer covered by this Agreement.
- b. Party means the EPOA or the Employer.
- c. Parties mean the EPOA and the Employer.
- d. Agreement means this Agreement, all appendices referred to in this Agreement, and all amendments to this Agreement.
- e. Town means the Town of Ellicottville, New York.
- f. Memorandum of Understanding means an amendment to the Agreement that was signed by the EPOA and the Employer on or after the date this Agreement was signed. Memoranda of Understanding created during the contract period may be incorporated into future contracts if needed upon agreement of all parties.
- g. Start Date: first date of active duty; the start date will be used to determine an Employee's Anniversary Date.
- h. Day: a Day is eight hours of worked time.
- i. Shift: ten or more hours worked consecutively. The first shift is the first shift started after 12:00 a.m. on any given day; the second shift is the second shift started after 12:00 a.m. on any given day, regardless of whether it ends before 12:00 a.m. of the next day.
- j. Business Day: Monday through Friday are Business Days, beginning at 8 a.m. and ending at 4 p.m.

## Interpretation

Except when this Agreement says otherwise, the following rules apply in interpreting this Agreement:

- a. A reference to either gender applies also to the other gender.
- b. A word used in the singular number applies also in the plural.

- c. This Agreement speaks as of the time it is being applied.
- d. Each provision in this Agreement is severable from every other provision.
- e. Language in this Agreement is construed as strictly against one party as against any other. It is immaterial which party suggested it.
- f. Each lettered appendix referred to in this Agreement (for example, Appendix A) is a part of this Agreement and is incorporated into and made a part of this Agreement by reference.

No provision of this Agreement shall be interpreted so as to be in conflict with any provision of law.

### **COVERAGE**

This Agreement covers each person who, at any given time, is a member of the EPOA, including those on a probationary basis.

As soon as is reasonably practicable after the signing by both parties of this Agreement, the Employer shall furnish one copy of this Agreement to each EPOA member. Thereafter, the Employer shall furnish one copy of this Agreement to each new employee at the time of his/her hire or appointment. Additional copies will be provided at EPOA expense.

### **TERM AND MODIFICATION**

The Term of the Agreement shall correspond with the Town's fiscal year, which runs between January 1 and December 31.

Each provision of this Agreement goes into effect when the term begins, and goes out of effect when the term ends, except when this Agreement or an amendment to the Agreement says otherwise or unless automatically renewed pursuant to "Negotiating Procedure (a)".

The Term of this Agreement is four (4) years: January 1, 2020 through December 31, 2023.

### **Amendments and Waivers**

No provision of this Agreement may be deleted or changed, and no provision may be added to this Agreement, by implication or by any other means except a written amendment or Memorandum of Understanding to this Agreement signed by each party.

During the term of this Agreement, either party may propose that this Agreement be amended, but the other party is not obliged to negotiate or to agree to any proposed amendment.

No provision of this Agreement may be waived by implication or by any other means except a written document signed by each party.

### **Negotiating Procedure**

- a. If either party desires to modify this Agreement, it shall give written notice thereof to the other party not later than August 1 of the final year of the term of this Agreement. If no such notice is given by either party, this Agreement shall continue for successive terms of twelve (12) months each.

- b. The Town and the EPOA shall exchange their proposals for modifying this Agreement on a mutually agreeable date. Negotiations meeting shall be held at a mutually agreeable date, time and place but not later than September 1 of the final year of the term of this Agreement, or successive term, as the case may be.
- c. The proposals of each party shall be in the form of proposed changes, additions to or deletions from the language of this Agreement, and shall be accompanied by the name, address and telephone number of the party's principal spokesperson for negotiations.
- d. Each provision of a new or modified Agreement which has been agreed to by the negotiating teams of both parties, as evidence of such Agreement, shall be reduced to writing, dated with the date upon which Agreement was reached, and initialed by the principal spokesperson of each party.
- e. The parties may by mutual consent extend any time limit set forth in paragraph b. above, provided that any such extension must be evidenced by a written memorandum signed by both parties. Consent to an extension must not be withheld unreasonably by either party.

#### **Legal Effect**

If this Agreement requires a party or a person to do anything that is prohibited by law mandated by higher authority, the obligation is invalid, but all other obligations imposed by this Agreement remain valid.

Unless this Agreement says otherwise, neither party is required to continue any past practice, provided, however, that no employee shall suffer any reduction in his/her wages or economic benefits as a result of the execution of this Agreement unless such wage or benefit is expressly modified by this Agreement.

This Agreement is complete and contains all the provisions agreed to by the parties in negotiations during which each party had a fair opportunity to raise every matter which is a proper subject of negotiations. All the Agreements which the parties have reached during negotiations are recorded in this Agreement or in Memoranda of Understanding which were signed on or after the date this Agreement was signed. From and after that date, no other document shall constitute a binding commitment between the parties unless it is (a.) dated on or after such date and (b.) signed by a duly authorized representative of each party.

Unless this Agreement says otherwise, the Employer is not required to provide or guarantee work for any period of time to any employee.

This Agreement supersedes all Town laws, rules, regulations and practices which are inconsistent with any provision of this Agreement, except such laws, rules, regulations and practices as are mandated by law of higher authority. The Employer shall take the steps

necessary to rescind or discontinue any such inconsistent law, rule, regulation or practice of the Town.

If a court of competent jurisdiction determines that a provision of this Agreement is invalid, such determination shall not affect the validity of any other provision of this Agreement. In the event that any provision of this Agreement is declared by a court of last resort to be unlawful, the parties shall meet promptly to negotiate necessary amendments to this Agreement, limited to the subject matter of the invalid provision, to the extent that they may lawfully do so.

## **EPOA-EMPLOYER RELATIONS**

### **Chain of Command**

The chain of command is as follows:

Police officers (whether they are EPOA members or not) report to the Police Officer in Charge or, if the Officer in Charge is unavailable, the Deputy Officer in Charge.

An employee wishing to bring an issue or concern before the Town Board, or a member of the Town Board, must submit a written request to the full Town Board, and so long as such issue or concern has been directed first to the OIC, or to the Deputy OIC if the OIC is not available. The Town Board has sole discretion to investigate such issue or concern.

The Police Officer in Charge reports to the Town Supervisor.

### **Employer Rights**

The EPOA recognizes that the Employer retains any and all rights vested in it by law, and further recognizes that the Employer shall continue to exercise those rights, as well as any and all rights which may hereafter be vested in the Employer by law, including, but not limited to, the following rights except as this Agreement expressly provides otherwise: to select, hire and promote employees; to determine the necessity for filling a vacancy; to create new jobs and classifications and to abolish any job or classification; to transfer employees from one job classification, or assignment to another; to demote, suspend, discharge and discipline employees for just cause; to train employees and require their participation in training programs; to subcontract work; to assign, supervise and direct employees in their work; to determine the work to be done; to lay off employees and to adjust the size of the working force; and to make reasonable rules for the conduct of the work and the maintenance of safety, order, discipline, efficiency and the protection of property.

### **EPOA Rights**

The Employer must not interfere with the right of an employee to become or to remain a member of the EPOA.

The EPOA must not interfere with the right of an employee to refuse to become or to remain a member of the EPOA.

### **Bulletin Board**

The employer will place a suitable bulletin board for the exclusive use of the EPOA in a convenient place within the police department office in the Ellicottville Village/Town Hall. The EPOA may post announcements of EPOA-related meetings, elections, social events, changes in officers, deaths and illnesses on the bulletin board. All other material must be approved by the Town Supervisor before it can be posted.

### **CODE OF CONDUCT**

All EPOA employees shall be bound by the provisions of New York State Public Officers Law §§73-78, inclusive, General Municipal Law §§800-809, inclusive, and any Code of Ethics adopted by the Town Board as required by General Municipal Law #806.

### **APPOINTMENTS AND GENERAL HIRING PRACTICES**

It is the intent of the Town of Ellicottville to comply with all Federal and State laws regarding employment regulations for Town EPOA employees including, without limitation, the New York Town Law and, where applicable, the Civil Service Law.

An advisory hiring panel shall be established to review applicants for Employee positions. The hiring panel shall consist of the Officer in Charge, Deputy Officer in Charge and the next most senior Employee. The hiring panel is advisory in nature; the hiring of any Employee is at the sole discretion of the Officer in Charge and subject to Town Board approval.

Generally, and within the parameters and limitations established by the above-referenced laws, employees are hired based on the Town of Ellicottville's personnel requirements and the qualification of each individual candidate.

### **NON-DISCRIMINATION POLICY**

Discrimination in the workplace, including, without limitation, discrimination based on an employee's or applicant's age, sex, race, creed, color, national origin, sexual orientation, military status, disability, predisposing genetic characteristics, marital status or domestic violence victim status, is prohibited.

### **MEDICAL ATTENTION**

EPOA employees are required to notify their immediate supervisor of any accident or illness within 24 hours of the occurrence, and to sign an incident report, no matter how insignificant it may seem to be.

### **SMOKE-FREE WORKPLACE**

Due to the acknowledged hazards arising from exposure of tobacco smoke, it shall be the policy of the Town of Ellicottville to provide a smoke free environment for all employees and visitors. This policy covers the smoking of any tobacco products and the use of smokeless or "spit" tobacco, vapor or electronic cigarettes and applies to both employees and non-employee visitors of the Town of Ellicottville. Therefore, there will be no smoking of tobacco products or use of smokeless tobacco within Town buildings and vehicles.

## **EMPLOYMENT AND SENIORITY**

### **Probationary Period**

An EPOA employee is on probation for a period of six (6) consecutive calendar months, which begins on the day following his/her successful completion of the required basic training course. If during such period an employee is absent (whether with or without authorization) for a total of thirty (30) or more work days, then such period shall be extended by a number of work days equal to the number of work days on which he/she was absent.

**If an employee on probation is disciplined or discharged, the discipline or discharge cannot be made the subject of a grievance.**

### **Physical Requirement**

A physical is required by all new hires or anyone resuming full-time employment and a written report shall be submitted to the Town by an examining physician prior to the employee beginning or resuming work. The report forms shall be supplied by the Town. The physical shall be at Town expense.

### **Acquisition of Seniority**

Seniority means the length of an employee's continuous service as an Employee, from the date of his/her last Start Date to the date he/she loses seniority, including both such dates. An employee while he/she is on probation does not have any seniority, but he/she acquires seniority retroactive to the date of his/her last Start Date or appointment on the day following his/her last day of probation. Seniority within the department shall be considered in the case of a layoff.

As used above, "continuous service" includes only those periods when an employee is on the Employer's active payroll and those periods when the employee is:

- a. On leave of absence,
- b. On layoff for a period not to exceed twelve (12) months,
- c. Absent from, and unable to perform the duties of, his/her position by reason of a disability resulting from occupational injury and for a period not to exceed twelve (12) months (twenty four (24) months for assault related leave),
- d. Such other periods of service, if any, as the Civil Service Law requires to be treated as part of the employee's continuous service.

### **Loss of Seniority**

Subject to any applicable provisions of the Civil Service Law, an employee loses his/her seniority and is automatically terminated on the day on which any one or more of the following occurs:

- a. He/she resigns,
- b. He/she is discharged,
- c. He/she retires,
- d. He/she fails to return to work on the working day following the day his/her leave of absence or excused absence expires, unless prevented by conditions beyond his/her control,

- e. He/she is absent without leave (no call, no show) for two (2) consecutive working days without being excused by the Employer unless prevented by conditions beyond his/her control. Documentation of such conditions must be provided to the Town.
- f. He/she refuses a recall or fails to return to work within five (5) consecutive working days after a notice of recall has been sent to him/her;
- g. He/she has been on layoff for a continuous period in excess of one (1) year, unless a longer period is mandated by Civil Service Law, or
- h. He/she has been absent from and unable to perform the duties of his/her position for a continuous period of not less than twelve (12) months by reason of disability.

#### **Adjustments in Force**

Increases and/or reductions in the number of positions in any classification and increases in the number of positions in any classification shall be made in accordance with any applicable provisions of the Civil Service Law.

Seniority is determined by an employee's time as a Town employee; layoffs are based on seniority unless New York State or Cattaraugus County Civil Service laws supersede.

A notice of recall must be sent to an employee on layoff by registered or certified mail addressed to him at his/her most recent address on the Employer's records. It is the responsibility of the employee to advise the Employer in writing of all changes in his/her address.

#### **SCHEDULES AND HOURS OF WORK**

This Agreement applies only to full time employees. The term "full time" refers to an employee whose position of employment is classified as full time by the Cattaraugus County Civil Service Commission and budgeted for a 30-hour work week or more. The following terms and conditions of employment shall be applicable to all full time employees.

Unless otherwise stated, the normal workweek for full-time EPOA employees is forty (40) hours per week. More than one part-time position does not constitute a full time position. The Town work week for payroll purposes is Monday through Sunday.

Patrolmen shall be assigned to forty (40) hours of duty during a seven (7) consecutive day period, except in an emergency as described in the laws of the State of New York.

The Officer in Charge shall establish a schedule consisting of ten (10) hour shifts. Assignment to shifts shall be selected based on a Patrolman's seniority.

The establishment of the aforesaid shift assignments shall not be construed in any manner to deprive the Officer in Charge from the exercise of reasonable and necessary discretion to adjust shift assignments in the best interest and efficient completion of the duties and obligations of the Town of Ellicottville Police Department.

Once a Patrolman has selected a shift assignment, he/she cannot ask for another shift assignment for a period of six (6) months from the date of which the Patrolman begins

working the selected shift assignment, unless a shift becomes vacant, whereas the vacant shift assignment may then be filled by the senior Patrolman upon requesting said shift assignment.

Seniority for scheduling vacations will be defined as the length of time a Patrolman has been employed by the Town of Ellicottville Police Department as a full-time Patrolman, based on the Patrolman's full-time Start Date.

## **COMPENSATION**

### **Wages**

Wage rates shall be determined by the Police Officer in Charge, the EPOA and the Town Board. Step advancement takes place on an Employee's start date. The Officer in Charge and the Town Board shall decide at what step an Employee starts. Once an employee has achieved step five, the employee shall receive annual increases, as determined by the Town Board.

Wage rates and steps are set forth in Appendix A for current employees. An Employee is no longer eligible for step raises once he or she has served more than fifteen years from their first Start Date.

### **Shift Differential**

In addition to their regular hourly rate, full-time police officers shall be paid a shift differential of one dollar (\$1.00) per hour for all hours worked on the second scheduled shift of any work day. Any compensation time will be paid out at the rate of the original shift worked.

### **Overtime Hours**

1. Hours worked above 40 hours per week, or over ten consecutive (10) hours in one day, will be reimbursed at a rate of one and one-half (1.5) times regular pay for such hours; as an alternative, an Employee may choose to receive compensatory time at the rate of one and one-half (1.5) hours for each hour of over time worked.
2. Overtime shall be distributed equally to all employees by location, function and other reasonable limitations established by the Employer. If an Employee in line for overtime refused to work that overtime, then such refusal will be counted as his/her turn at overtime in the rotation of Employees.
3. All overtime must be approved by the Police Officer in Charge or the Deputy Police Officer in Charge if the Police Officer in Charge is unavailable.
4. All overtime hours are to be recorded as soon as possible with the Police Officer in Charge.
5. The maximum amount of compensation time an Employee may accrue is fifty (50) hours, and compensation time must be used on or before December 31 or it will be paid to the Employee at the agreed upon rate.

### Call Out Policy

The call out protocol is made at the discretion of the Police Officer in Charge or the Deputy Police Officer in Charge. A call out shall only be made by the OIC or the Deputy OIC.

**Unexpected Call Outs:** If the Police Officer in Charge or the Deputy Police Officer in Charge calls an Employee out unexpectedly (eg. an Employee is required to finish a duty-related call past the time his or her shift ends), he/she will be paid for a minimum of three (3) hours at the overtime rate. If it takes more than three (3) hours, the employee will be paid at the overtime rate for the actual time worked. All call outs shall be documented daily.

**Expected Call Outs:** Call outs do not include any scheduled meetings or training, even if mandatory. Scheduled call outs will be paid for a minimum of one (1) hour. Any expected call outs lasting more than one hour will be paid for actual time worked.

### VACATION TIME

#### Vacation

Hereafter, one (1) vacation day shall be defined as an employee's normal work week hours divided by five (5) days. This definition shall be used for vacation time, personal time and holidays. Example: If an employee's normal work week is 40 hours, one (1) day would be 8 hours. An employee may not carry over from year to year more than 5 weeks of vacation computed as provided herein. After that, paid vacation time will be forfeited. Request for paid vacation time will require advanced notice as deemed appropriate by the employee's supervisor.

Such employees shall be entitled to annual vacation, with pay, as follows:

Completed years of continuous service	Vacation Benefit
1 year	1 week (to equal total hours of the employee's normal work week in hours)
More than 2 years but less than three years	2 weeks (to equal total hours of the employee's normal work week in hours)
More than 3 years but less than 12 years	2 weeks plus 1 day (in hours) per year for each additional year of employment
12+ years	4 weeks (maximum earned vacation in 1 year)

The first year of service is the year commencing with the employee's starting date. At the completion of the employee's first anniversary, the employee is entitled to 1 week of paid vacation. Example: Start date: June 15. On June 16<sup>th</sup> of the following year after continuous service, the employee is entitled to one (1) week of paid vacation equal to the employee's normal hours of work per week.

After the second year anniversary of employment, the employee is entitled to 2 weeks of paid vacation. Thereafter, vacation days will accumulate at the rate of one (1) day per year of employment not to exceed 4 weeks.

Vacation hours cannot be applied if the regular scheduled hours are already completed. Example: An employee working a scheduled 40 hour week cannot have vacation (benefit) time added to that week's wages.

An employee will be allowed to extend one week of vacation to the following year.

### **Scheduling Vacation Time**

The following rules apply to scheduling paid vacations:

a. Vacations may be taken at any time during the applicable year, except that where two or more employees request the same vacation period, and the Department's operations do not permit all such employees to take their vacation at the same time, preference will be given to the senior employee based on time served as a Town employee. The Police Officer in Charge has the sole authority to determine if operating conditions allow more than one person to take vacation at a time.

b. Vacation time must be scheduled prior to the date taken. Advance notice shall be given to the Police Officer in Charge of intended use of vacation. When possible, 30 days notice will be given. The Police Officer in Charge has sole discretion to grant vacation time.

c. Accrued and unused vacation will be prorated and paid the employee upon retirement or to his/her estate upon death.

## **LEAVES OF ABSENCE AND SICKNESS**

### **Leaves of Absence**

Leaves of absence may be granted at the sole discretion of the Officer in Charge.

### **Sick Leave**

Sick leave with pay may be used by an employee who is absent from work because of his/her personal illness or disability, or quarantine because of exposure to a communicable disease. Use of sick leave for any other purpose, or engaging in gainful employment while on paid sick leave is grounds for disciplinary action and denial of the paid sick leave.

The Employer may require an employee to furnish a physician's statement for any absence of three consecutive days, and in cases of frequent absences, or may require the employee in such cases to have a physical examination by a physician at the Employer's expense to determine the fact or extent of an illness or the employee's fitness to perform his/her normal duties. Light duty, as a result of an employee's illness, injury, disability, or for any other reason, may be granted and defined at the sole discretion of the OIC.

Employees do not accrue sick time during their probationary period. After an Employee's probationary period is over, full-time employees shall accumulate five (5) hours of sick leave every pay period (bi-weekly), which may accumulate to a maximum of 1,200 hours.

Employees may use such leave for their own sickness, injury or doctor and dentist appointments. Sick leave with pay after 3 consecutive days may require a certificate from a physician stating the employee is too ill to perform regular duties upon the request of the employee's supervisor.

Upon termination of employment for any reason other than retirement, unused sick time will be forfeited.

As resolved effective May 7, 2008 by the Town Board, "any employee of the Town of Ellicottville may donate any part of his or her unused sick time to any other employee." Notwithstanding the above, an Employee may donate up to thirty-two hours of his or her unused sick time to another Employee by submitting a written request to the OIC in advance of his or her termination, resignation or retirement. Whether the request is granted is the sole determination of the OIC. An employee does not accumulate additional sick, holiday or personal time while utilizing donated sick time.

#### **Bereavement Leave**

In the event of a death in his/her immediate family, the employee shall be granted three (3) consecutive work days off with pay, provided:

- a.) The employee attends the wake and funeral.
- b.) Immediate family shall include the employee's mother, father, brother, sister, spouse, child, grandparents, mother- and father-in-law, son- and daughter-in-law and stepchildren.
- c.) In the event of the death of an employee's grandchild, the employee shall be granted two (2) consecutive work days off with pay if he or she attends the wake or funeral.
- d.) In the event of the death of an employee's brother-in-law or sister-in-law, the employee shall be granted one (1) work day off with pay if he or she attends the funeral.

#### **Jury Duty**

An employee who is required to be absent from work for jury duty shall be allowed time off with pay providing he/she:

- a. Surrenders to the Town Clerk any monies received from the court for such jury duty, excluding reimbursed expenses, and
- b. Work his/her regularly scheduled hours when he/she is not required for jury duty.

#### **Personal Leave**

Employees in their first year of employment, based on the employee's Start Date, shall be granted one (1) paid leave day upon the successful completion of the employee's probationary period for the purpose of conducting personal business. In each successive year, on the anniversary of the Employee's Start Date, employees shall be granted three (3) paid personal leave days. Personal leave days not used in the twelve-month period following the anniversary date shall be forfeited.

## **BENEFITS**

### **Health Insurance**

All EPOA employees are required to carry health insurance. All full-time EPOA employees are entitled to health insurance coverage for a single employee, their family or the employee-plus-one, through the Town. The Town Board shall determine employee's contributions to the plan on a yearly basis. Newly hired employees shall be eligible for such coverage commencing on the date of hire.

Employees must enroll in Medicare Part B when eligible. In the event that both husband and wife are employees of the Town, they may obtain either one family health insurance policy, two individual policies or an employee-plus-one policy through the Town's coverage as they may elect.

In the event that an employee is eligible to be covered by his or her spouse's health insurance coverage through the spouse's employer and such coverage provides benefits that are better than or equal to the coverage available to the Town's employee, the Town's employee shall, to the extent permitted by law, opt to be covered by the spouse's health insurance and withdraw from the Town's health insurance plan and coverage. The employee must provide the Town Clerk with a written letter opting out of the Town's health insurance plan.

If an employee wants to re-enter the Town's health insurance plan, they may do so according to open enrollment schedules established by the insurance carrier.

An Employee may not be double covered through a spouse or other family member.

Pursuant to Local Law No. 2 of 2015, an Employee may opt to take a cash payment in lieu of certain health insurance benefits ("Buyout"). Attached as Appendix F.

### **Holidays**

Such employees shall be entitled to the following paid holidays:

- New Years Day
- Martin Luther King, Jr. Day
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- Day before Christmas
- Christmas Day

Holidays will be paid at the employee's normal "daily hours" and rate of pay. A "holiday" or any vacation day shall not exceed 8 hours. Employees working on a holiday shall be paid time-and-one-half per hours worked. After an Employee's successful completion of his or her probationary period, the Employee shall accrue four (4) hours of holiday time

each pay period; unused holiday time may be paid out on or before the last pay period of the year.

#### **Retirement**

Such employees are included in the New York State Police and Fire Retirement System as provided by law.

Unused vacation days will be paid at the time of retirement. Unused sick leave will be paid at the pay rate at the time of retirement up to a maximum of one thousand (1,000) hours, except if the employee selects the option below for health insurance.

If an employee retires from Town service and has worked at least twenty (20) consecutive years with the Town and is collecting New York State Retirement System payments, or an employee is permanently unable to work because of a work-related disability, such employee may apply the then current value of 100% of their accumulated sick leave at the then current cost of continued health insurance through the Town's coverage. In no event may an employee apply more than twelve hundred (1,200) hours of accumulated sick leave to the cost of health insurance coverage.

#### **Disability Insurance**

The employer agrees to provide New York State Disability Insurance for each full-time employee.

#### **Military Leave**

Military leave will be granted in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

#### **Leave Without Pay**

Leaves without pay for a period up to one (1) full day may be granted by the Police Officer in Charge and, for longer periods not to exceed one (1) year, by the Town Board upon the recommendation of the Police Officer in Charge.

#### **Infant Care Leave**

On written request received by the Town Board not less than thirty (30) days prior to the first day of the proposed leave, waived in the case of an emergency, an employee shall be granted an unpaid leave of up to six (6) months duration for the purpose of caring for an infant under the age of one (1) year who resides in the employee's home. The leave shall begin after the period of disability and end on the dates requested by the employee provided that the ending date is the last day of a payroll period. Such a leave shall not be considered to be a break in continuous service. The time of such leave shall be counted toward seniority, but shall not be counted toward earning sick leave nor shall vacation be accrued while on leave.

On return from such leave, an employee shall be entitled to return to the position the employee held prior to the commencement of the leave provided that the employee is still capable of performing the work of that position and provided that the position has not been abolished. If the position has been abolished, the employee shall be entitled to return to

whatever position the employee would have been entitled according to seniority and applicable civil service law and rules as though the employee had been on the active payroll at the time of the abolition.

On return from leave, all time-accumulated benefits (e.g., sick leave and vacation) shall be restored to the employee. An employee shall not be entitled to any paid leave, holiday or vacation benefits while on such leave. No more than one such leave shall be granted to an employee during twenty-four (24) consecutive calendar months. On written request of an employee, the Town Board may waive any requirement or limitation of this Paragraph.

#### **Worker's Compensation**

All EPOA employees are covered for employment-related injury or illness by the Town's Worker's Compensation Insurance. An employee may receive certain benefits pertaining to an employment-related injury or illness.

Any employee-related accident involving any and all injuries or property damage whatsoever must be reported to the Police Officer in Charge by each employee involved in or witnessing the accident. Such a report shall be made immediately or as soon as possible, along with proper paperwork. Failure to report any accident involving injury or property damage may result in disciplinary action up to and including discharge.

To the extent practicable, the employee will be reinstated to the employee's position upon return from leave for the employment-related injury or illness. When the operations of the Police Department permit, modified duty may also be available to facilitate a return to work by an employee.

#### **TRAINING**

Employees attending approved (by the Police Officer in Charge) meetings, conferences or educational programs as part of their jobs shall be compensated for travel time, plus reimbursement for necessary expenses including mileage, tolls, parking, meals and overnight accommodations. Actual reimbursement shall be based on following:

#### **Expense Reimbursement**

Expenses incurred when attending meetings outside of the Town on official Town business will be reimbursed as follows:

1. All Conferences and Training expenses must be pre-approved by the Police Officer in Charge. Reimbursement will be submitted using the standard Town of Ellicottville Voucher.
2. All expenses for overnight approved travel will be reimbursed when accompanied by original receipts for lodging and other reimbursable expenses.
3. Meal expenses for overnight travel will only be reimbursed up to the Board's approved per diem rates which are available at the United States General Services

Administration per diem rates which are found at:  
<http://www.gsa.gov/Portal.gsa/ep/home.do?tabid=0>.

4. IRS Standard Mileage Rates will be used to reimburse mileage incurred with personal vehicles.

### **PHYSICAL FITNESS REQUIREMENTS**

Police Officers will be encouraged to keep in good physical condition so as to be physically fit to perform their job and for all around fitness for work.

Should sufficient cause arise, the Town will require an examination with an agreed upon physician at Town expense. The employee shall be granted two (2) hours off with pay for such physical.

### **Mandatory Random Drug Testing**

An Employee shall submit to a drug test as a condition of hire. The Town Board or the Officer in Charge may require an Employee to submit to a drug test, during an Employee's shift and without notice, upon complaint or suspected abuse, or upon an Employee's involvement in an accident, whether personal injury or motor vehicle.

### **DISCIPLINE AND DISCHARGE**

It is hereby agreed between the parties hereto that all employees who have successfully completed their probation period with the Town of Ellicottville shall not be suspended without pay, discharged, receive a disciplinary demotion, a letter of reprimand or any other type of written or oral disciplinary action without just and sufficient cause.

Any employee who is suspended without pay, discharged, or receives a disciplinary demotion must be served with a written notice of such action and set forth the reason for such action. This notice is to be presented to such employee at the time the action is taken.

### **Justification for Disciplinary Action**

An EPOA employee will be subject to disciplinary action as a result of:

- a. Inability to perform to job expectations without just and sufficient cause.
- b. Negligence.
- c. Failure to report to work without just cause.
- d. Misconduct while on or off duty.
- e. Insubordination.

### **Disciplinary Steps**

- a. Verbal warning with documentation or remedial training, if applicable
- b. Written warning with documentation
- c. Time off with pay or without pay with documentation
- d. Discharge with documentation

### **Justification for Discharge**

An EPOA employee will be subject to discharge as a result of:

- a. Repeated inability to perform to job expectations without just and sufficient cause.
- b. Reporting to work while under the influence of alcoholic beverages or use of illegal drugs or consuming same while on duty.
- c. Repeated acts of negligence which may damage Town property or bring harm to Town residents.
- d. Failure to report to work without just cause.
- e. Repeated acts of insubordination.
- f. Failure to report to work within two (2) weeks after being recalled from layoff without consent from the Police Officer in Charge.
- g. Any other act that the Town or Police Officer in Charge deems to be a serious offense.

### **Administrative Action**

Disciplinary action will be the responsibility of the Police Officer in Charge.

Discharge of an EPOA employee will require the approval of the Town Board upon recommendation of the Police Officer in Charge.

### **Employee Action**

Any employee alleging that he/she had been suspended without pay, discharged, received a disciplinary demotion, a letter of reprimand or any other type of written or oral disciplinary action without just and sufficient cause, shall have full recourse to the Grievance Procedure contained in this Agreement.

An employee who chooses to challenge a disciplinary measure (other than an oral warning), including discharge may do so by filing a grievance under this Agreement. Such grievance shall be processed according to the procedures set forth in Grievance section. An employee who chooses to challenge an oral or written warning may do so by submitting a written, signed and dated rebuttal of the warning, which will be attached to the file copy of the warning.

There shall be only one (1) official personnel file and only one (1) medical file concerning each EPOA employee, but this shall not be deemed to prohibit the Town from maintaining payroll records apart from the official personnel file. On not less than five (5) days written notice from an employee to the Police Officer in Charge, the employee may review the personnel file and/or medical file concerning the employee in the presence of the employee's department head or the department head's designee.

No adverse comment shall be placed in a personnel file or medical file until the employee about whom the adverse comment is made has been given a copy of the adverse comment, whereupon the employee shall initial and date the file copy of the adverse comment. Such signature shall only acknowledge receipt of the adverse comment and shall not be

construed as agreement by the employee to the content of the adverse comment. The employee may submit a written, signed and dated rebuttal to the adverse comment and, if he/she submits it to the employee's department head within ten (10) business days after receiving a copy of the adverse comment, the rebuttal shall be attached to the file copy of the adverse comment. An adverse comment may not be the basis of a disciplinary proceeding against an employee if the comment pertains to a matter which occurred more than eighteen (18) months prior to the commencement of the proceeding against the employee, but this shall not be construed to prevent the introduction of the adverse comment in such a proceeding as evidence of prior conduct to show a pattern of conduct or as pertaining to the penalty to be imposed.

This progression need not be followed for probationary employees, or where an employee has committed a serious offense.

## **GRIEVANCES**

### **General**

A grievance can be submitted, on the form shown in Appendix D, with respect to any act or failure to act of the Town which violates or misapplies a provision of this Agreement. Grievance forms shall be provided by the Employer.

A grievant is an employee or group of employees who have a grievance. In case of a group grievance, all those who are participating in the grievance must sign the grievance form.

No grievance may be submitted with respect to any matter which law mandated by higher authority requires to be handled by some procedure other than the Grievance Procedure provided in this Agreement.

As used in this section, supervisor means the Police Officer in Charge.

### **Grievance Procedures**

**Step 1** - Before submitting a written grievance, a grievant must discuss the problem with the OIC in an attempt to resolve it informally, not later than the third (3rd) business day after the date of the occurrence out of which the grievance arose. The grievant shall initiate the discussion by clearly stating that the discussion is a grievance. If the matter is not resolved informally, a grievant may submit a written grievance to the supervisor provided he/she does so not later than the second (2nd) business day after the date of the informal discussion.

If the grievant is a group or the full membership of the BPOA, it may submit a written grievance to the appropriate OIC provided it does so not later than the third (3rd) business day after the date of the occurrence out of which the grievance arose. A meeting between the grievant(s) and the OIC shall be held to discuss the grievance if either requests it. The

supervisor shall give a written answer to the grievant(s) not later than the fifth (5th) business day after the day on which the grievance was presented.

Step 2 - If the grievant(s) is not satisfied with the answer at Step 1, or does not receive a timely Step 1 response, the grievant may appeal in writing to the Town Supervisor, providing he/she does so within five (5) business days of the day on which the Step 1 answer was due. The Town Supervisor will meet with the grievant(s) not later than the fifth (5th) business day after the day on which the written grievance was presented. No later than the twentieth (20th) business day after the day on which that meeting takes place, the Town Supervisor shall present the grievant his/her written decision on the grievance.

Step 3 - If not satisfied with the decision in Step 2, the EPOA may submit a letter explaining the grievance to the New York State Public Employment Relations Board, copied to the Town Supervisor, within 10 business days.

### **NOTICE OF RESIGNATION**

Giving official notice of resignation to the Employer means giving notice in writing to the Police Officer in Charge by presenting it in person, or by mailing it to the Police Officer in Charge, Ellicottville Police Department, P.O. Box 600, 1 W. Washington Street, Ellicottville, NY 14731.

### **POLICY REGARDING SEXUAL HARASSMENT AND OTHER FORMS OF HARASSMENT**

*The following policy was adopted by the Town of Ellicottville on April 28, 2010. For more information, visit [www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm).*

#### **1. Sexual Harassment**

a. It is the policy of the Town of Ellicottville that all employees have the right to work in an environment free of discrimination, which encompasses freedom from sexual harassment. The Town prohibits sexual harassment of its employees in any form and states that all employees must avoid offensive or inappropriate behavior at work.

#### **b. Definition and Prohibited Conduct**

**Definitions** - Sexual harassment is legally defined as unwelcome sexual advances, requests for sexual favors and other verbal, non-verbal, visual or physical contact where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.

2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual.
3. Such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Prohibited Conduct includes all of the above conduct. Examples of prohibited conduct include but are not limited to the following:

- Written Forms: suggestive calendars, magazines, graffiti, suggestive or obscene letters, notes, e-mails or text messages.
- Verbal Forms: derogatory comments, slurs, jokes, requests for sexual favors
- Physical Forms: assault, unwelcome touching, impeding or blocking movements
- Visual Forms: gestures, display of sexually offensive objects, including calendars, graffiti, pictures, cartoons or posters.

## 2. Other Forms of Harassment

Harassment in any form, including, without limitation, harassment based on an employee's age, sex, race, creed, color, national origin, sexual orientation, military status, disability, predisposing genetic characteristics, marital status or domestic violence victim status, is prohibited.

## 3. Procedures

### a. General

Unlawful harassment of any kind, fashion or nature will not be tolerated. An in-depth investigation of all reported cases of harassment will be conducted, as well as on-going attempts by supervisors and department heads to work toward eliminating instances of harassment, and to create a non-hostile, non-discriminatory work environment for all employees.

### b. Complaints

1. To facilitate effective enforcement of this policy, any employee who becomes the subject of any such discriminatory harassment, by a supervisor, co-worker, vendor, customer, or anyone is encouraged to promptly report the facts of the incident to the Town Supervisor.
2. Department heads and supervisors are required to immediately report any conduct that they have knowledge of which might constitute a violation of this policy to the Town Supervisor.
3. In the event the person alleged to be committing the discriminatory harassment is in the reporting employee's chain of command, the reporting

employee may report the complaint to the department head. In the event the allegation involves the department head, the employee may report the allegations directly to the Town Supervisor.

**Enforcement Provisions**

Employees who violate these policies and procedures will be subject to disciplinary action, up to and including discharge. Disciplinary action will be taken promptly against any employee by management if such employee has engaged in any prohibited conduct in violation of this policy. The Town prohibits any form of retaliation against any employee for filing a complaint under this policy, or for assisting in an investigation. If after investigating any complaint, the Town determines that an employee has knowingly provided false information, disciplinary action may be taken against the individual who knowingly filed a false complaint or who knowingly provided false information. Questions concerning the application of this policy should be directed to your supervisor.

Adoption Date:

**APPENDIX A**

This Appendix reflects an agreed upon 2% cost of living increase each year for years 2020, 2021, 2022 and 2023, increases beginning January 1 of each year. This cost of living increase is subject to change upon contract renewal for the year beginning January 1, 2024.

**Wage Rates by Classification**

Jan. 1, 2020 - Dec. 31, 2020

Job Title	START	Year One	Year Two	Year Three	Year Four	Year Five
Officer	\$24.59	\$25.76	\$26.98	\$28.26	\$29.66	\$31.15

Deputy Officer in Charge will receive \$2.00 per hour increase to base pay.

**Wage Rates by Classification**

Jan. 2, 2021 - Dec. 31, 2021

Job Title	START	Year One	Year Two	Year Three	Year Four	Year Five
Officer	\$25.08	\$26.28	\$27.52	\$28.83	\$30.25	\$31.77

Deputy Officer in Charge will receive \$2.00 per hour increase to base pay.

**Wage Rates by Classification**

Jan. 1, 2022 - Dec. 31, 2022

Job Title	START	Year One	Year Two	Year Three	Year Four	Year Five
Officer	\$25.58	\$26.81	\$28.07	\$29.41	\$30.86	\$32.41

Deputy Officer in Charge will receive \$2.00 per hour increase to base pay.

**Wage Rates by Classification**

Jan. 1, 2023 - Dec. 31, 2023

Job Title	START	Year One	Year Two	Year Three	Year Four	Year Five
Officer	\$26.09	\$27.35	\$28.63	\$30.00	\$31.48	\$33.06

Deputy Officer in Charge will receive \$2.00 per hour increase to base pay.

## APPENDIX B

### Police Officer Clothing, Equipment, Policies

In addition to the benefits provided in the body of this Agreement, the following terms and conditions of employment shall apply to all full-time police officers:

Employees shall receive a clothing allowance of \$1,000. The uniform maintenance and replacement allowance will be available on the first pay period of January of each year. All clothing allowance expenditures must be approved by the Police Officer in Charge.

Any damages to replaceable personal property damaged as a result of performing official duties (e.g. personal eyeglasses, wrist watches, radio scanners, portable radios, weapons) must be reported immediately to the Police Officer in Charge. Such items shall be subject to repair or replacement only upon approval of the Police Officer in Charge. Personal property shall only be carried on duty with the express approval of the Police Officer in Charge.

The following is a list of items provided by the Town of Ellicottville Police Department to an Employee upon hire.

- 1- Stetson
- 2- Long sleeve uniform shirts
- 2- Short sleeve uniform shirts
- 1- Set of department collar brass
- 1- Department uniform badge
- 1- Bulletproof vest
- 2- Pairs of uniform pants
- 1- Department issued firearm w/ magazines
- 1- 50 round box of department issued ammunition
- 1- Can of pepper spray

## APPENDIX C

### A LOCAL LAW ENACTING A CODE OF ETHICS FOR THE TOWN OF ELLICOTTVILLE

BE IT ENACTED by the Town Board ("Board") of the Town of Ellicottville ("Town") as follows:

Article I. Title of Local Law.

This Local Law shall be entitled "A Local Law Enacting a Code of Ethics for the Town of Ellicottville" ("Local Law").

Article II: Authorization.

The Local Law is enacted pursuant to Gen. Mun. Law § 806 and Mun. Home Rule Law § 10. The ethical standards and prohibited conduct established by the Local Law are in addition to, and are not meant to condone by exclusion, any provisions prescribed by the statutes and common law of New York.

Article III. Statement of legislative intent.

The Board recognizes that New York enacted statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees, which, if observed, can enhance public confidence in local government. The purpose of the Local Law is to implement this objective through the establishment of high standards of ethical conduct for Officers and Employees of the Town, to afford Officers and Employees of the Town guidance on such standards, to provide a means to enforce such standards, and to provide for the fair and effective administration of the Local Law.

Article IV. Definitions.

*Officer:* shall mean a member of any board, commission, district, council or other agency, department or unit of the government of the Town.

*Employee:* shall mean any officer or employee of the Town, whether paid or unpaid, including members of any administrative board, commission or other agency thereof, whether serving in a full-time, part-time or advisory capacity. The term "Employee" does not include a person who is a member of a volunteer emergency services organization or a person who serves without compensation on a temporary Town committee and who is not otherwise an employee or officer of the Town.

*Interest*: shall mean a pecuniary or material benefit accruing to an Officer or Employee, a member of his or her household, his or her customer or client, or a significant contributor to his or her campaign.

Article V. Rules With Respect to Conflicts of Interest and Ethical Conduct.

- a) An Officer or Employee shall not have any Interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties.
- b) An Officer or Employee shall not have an Interest in any contract with the Town, whether individually or as a member of a board, nor shall Officers and Employees have the power or duty to negotiate, prepare, authorize or approve such contract or payments thereunder, audit bills or claims under such contract, or appoint any person who would have any of the powers or duties set forth herein.
- c) An Officer or Employee having Town fiscal responsibilities shall not have an Interest in a bank or trust company designated as a depository of Town funds. This subsection does not prohibit ownership of up to five percent of the outstanding shares of such bank or trust company.
- d) An Officer or Employee shall not accept other employment which will impair his independence of judgment in the exercise of his official duties.
- e) An Officer or Employee shall not accept employment or engage in any business or professional activity which will require the disclosure of confidential information gained by reason of his official position or authority. An Officer or Employee, or former Officer or Employee, shall not disclose any confidential information acquired by him in the course of his official duties or use it to further personal interests.
- f) An Officer or Employee shall not use, or attempt to use, his official position to secure unwarranted privileges or exemptions for himself or others.

- g) An Officer or Employee shall not engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- h) An Officer or Employee shall not make personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- i) An Officer or Employee shall pursue a course of conduct which will not raise suspicion, or give the impression, among the public that he is likely to be engaging in acts that are in violation of his trust.
- j) An Officer or Employee shall disclose any interest of which he is aware in any matters pending before any board of the Town.
- k) An Officer or Employee shall not directly or indirectly solicit any gift or accept or receive any gift having a significant value, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form under such circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him in the performance of his official duties, or was intended as a reward for any official action on his part.
- l) Town resources may not be used by an Officer or Employee in furtherance of his campaign activities, including, but not limited to, mass mailings, telephones, office supplies, postage, copying machines, computers or support staff.
- m) An Officer or Employee shall not knowingly act contrary to a lawful resolution or motion duly adopted by the Board.

Article VI. Disclosure of Interest.

Any municipal officer or employee who has, will have, or later acquires an interest in an actual or proposed contract with the municipality or other matter pending before any board or agency thereof, shall publicly disclose the nature and extent of such interest in writing to the governing body thereof as soon as he has knowledge of such actual or prospective interest.

Article VII. Recusal.

An Officer or Employee shall promptly recuse himself from acting on a matter before the Town where acting on the matter may financially benefit any of the following persons: (i) the Officer or Employee; (ii) his employer or business; (iii) a member of his household; (iv) his customer or client; or (v) a person from whom the officer or employee has received significant election campaign contributions during the most recent election cycle.

Article VIII. Violations.

In the event that the Board determines that an Officer or Employee violated a provision of the Local Law, the Board may subject him to removal or any sanction or damages authorized by law.

Article IX. Administration.

Upon the adoption of the Local Law, the Town Supervisor shall cause a copy to be distributed to every Officer or Employee of the Town and to keep a copy posted conspicuously in each public building under the jurisdiction of the Town. Failure to distribute or post the Local Law shall have no effect on its enforcement provisions or on an Officer or Employee's duty of compliance.

Article X. Severability Clause.

If any clause, sentence, paragraph, section or part of this local law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Article XI. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Motion By: Steve Crowley

Seconded By: Greg Fitzpatrick

Motion Carried.

Voting Record:

Supervisor John A. Burrell	Aye
Deputy Supervisor Kenneth D. Hinman	Aye
Councilman Steven J. Crowley	Aye
Councilman Gregory J. Fitzpatrick	Aye
Councilman John D. Northrup	Aye

Dated: June 20, 2012

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Robyn A. George, Town Clerk

Effective Date: 05/15/2010

**APPENDIX D**

**EPOA EMPLOYEE GRIEVANCE FORM**

It is the purpose of the Grievance Procedure to establish a method whereby grievances of employees will be resolved fairly and effectively. The filing of a grievance will in no way prejudice the status of the employee.

EMPLOYEE: \_\_\_\_\_ DATE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

JOB TITLE: \_\_\_\_\_

STATEMENT OF GRIEVANCE (Background/activity leading to complaint, including dates):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

REMEDY REQUESTED:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EMPLOYEE'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

Date the Officer in Charge was notified: \_\_\_\_\_  
(Please attach response)

Date the Town Supervisor was notified: \_\_\_\_\_  
(Please attach response)

**APPENDIX E**

Previous Policy Number S 1323446	Policy Number S 1323446
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**POLICE PROFESSIONAL LIABILITY COVERAGE DECLARATIONS**

Policy Effective Date: OCTOBER 1, 2013	Coverage Effective Date: OCTOBER 1, 2013
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**SCHEDULE**

- |                           |             |                  |
|---------------------------|-------------|------------------|
| 1. Limit of Liability     | \$1,000,000 | Each Person      |
| 2. Limit of Liability     | \$1,000,000 | Each Occurrence  |
| 3. Annual Aggregate Limit | \$1,000,000 | Each Policy Year |
| 4. Deductible             | \$2,500     | Each Claim       |

Forms and Endorsements:  (Refer to "Commercial Policy Forms and Endorsement Schedule")	Total Advance Premium  \$7,735.00  (This premium may be subject to adjustment.)
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INSURED'S COPY

# POLICE PROFESSIONAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under SECTION II — WHO IS AN INSURED.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION V — DEFINITIONS.

## SECTION I — COVERAGES

### COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement.

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS — COVERAGES A AND B. This insurance applies only to "bodily injury" and "property damage" which occurs during the policy period. The "bodily injury" and "property damage" must be caused by an "occurrence" and arise out of the performance of the insured's law enforcement duties or out of the ownership, maintenance or use of the premises designated in the Declarations (including the ways immediately adjoining such premises on land) and all necessary and incidental operations. The "occurrence" must take place in the "coverage territory." We will have the right and duty to defend any "suit" seeking those damages. But:
- (1) The amount we will pay for damages is limited as described in SECTION III — LIMITS OF INSURANCE;
  - (2) We may investigate and settle any claim or "suit" at our discretion; and
  - (3) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements under Coverages A or B.
- b. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

- c. "Property damage" that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the "occurrence" that caused it.

#### 2. Exclusions.

This insurance does not apply to:

- a. "Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
- (1) Assumed in a mutual law enforcement assistance agreement or contract between political subdivisions; or
  - (2) That the insured would have in the absence of the contract or agreement.
- b. Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law, including acts arising out of class action suits.
- c. "Bodily injury" or "property damage" to:
- (1) An employee of the insured or an auxiliary or volunteer law enforcement officer arising out of and in the course of employment by the insured; or
  - (2) The spouse, child, parent, brother or sister of that employee, auxiliary or volunteer law enforcement officer, as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the "bodily injury" or "property damage".

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Page 1 of 8

INSURED'S COPY

d. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

e. "Property damage" to:

- (1) Property you own, rent, or occupy;
- (2) Property loaned to you;
- (3) Personal property in your care, custody or control, except property of persons in custody by virtue of arrest or detention;

f. Claims or "suits" for damages arising out of the willful violation of any federal, state or local statute, ordinance, rule or regulation committed by or with the knowledge or consent of any insured.

g. Claims or "suits" for damages arising out of acts of fraud committed by or at the direction of the insured with affirmative dishonesty or actual intent to deceive or defraud;

h. To claims or "suits" arising out of the performance of any law enforcement activity for anyone other than the "Named Insured". This exclusion shall not apply if the act or service arises as the result of a mutual law enforcement assistance agreement or contract between political subdivisions, nor does it apply to any departmentally approved activities.

i. Any claims or "suits" seeking relief or redress in any form other than compensatory damages. Nor shall we have any obligation to indemnify the insured for any costs, fees or expenses which the insured shall become obligated to pay as a result of an adverse judgment for injunctive or declaratory relief; however, we will afford defense to the insured for such claims or "suits", if not otherwise excluded, where compensatory damages are requested.

j. Claims or "suits" against the insured for acts of another officer or employee unless said officer or employee is also insured for said acts in a policy of insurance issued by us.

k. "Bodily injury" arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;

(3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions; or

(4) Consequential "bodily injury" as a result of (1) through (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or to repay someone else who must pay damages because of the injury.

l. Any claim or "suit" seeking punitive or exemplary damages. If a suit shall have been brought against the insured for a claim falling within the coverage provided by this policy, seeking both compensatory and punitive or exemplary damages, we will afford a defense to such action, but we shall not have an obligation to pay for any cost, interest, or damages attributed to punitive or exemplary damages.

m. Any claim or "suit" arising out of the actual or alleged transmission of any communicable disease.

n. Any loss, cost, or expense arising, in whole or part, out of any of the following: (1) the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time; or (2) any request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or (3) any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**COVERAGE B. PERSONAL INJURY LIABILITY**

**1. Insuring Agreement.**

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal injury" to which this insurance applies. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS — COVERAGES A AND B**. We will have the right and duty to defend any "suit" seeking those damages. But:

- (1) The amount we will pay for damages is limited as described in **SECTION III — LIMITS OF INSURANCE**;
- (2) We may investigate and settle any claim or "suit" at our discretion; and
- (3) Our right and duty to defend and when we have used up the applicable Limit of Insurance in the payment of judgments or settlements under Coverages A or B.

b. This insurance applies to "personal injury" only if caused by an offense:

- (1) Committed in the "coverage territory" during the policy period; and
- (2) Arising out of the conduct of your law enforcement activities.

**2. Exclusions.**

This insurance does not apply to:

a. "Personal injury":

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of any federal, state or local statute, ordinance, rule or regulation committed by or with the knowledge or consent of any insured;
- (4) Arising out of acts of fraud committed by or at the direction of the insured with affirmative dishonesty or actual intent to deceive or defraud; or

(5) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (a) Assumed in a mutual law enforcement assistance agreement or contract between political subdivisions;
- (b) That the insured would have in the absence of the contract or agreement.

b. "Personal injury" to:

- (1) An employee of the insured or an auxiliary or volunteer law enforcement officer arising out of and in the course of employment by the insured; or
- (2) The spouse, child, parent, brother or sister of that employee, auxiliary or volunteer law enforcement officer, as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

c. To claims or "suits" arising out of the performance of any law enforcement activity for anyone other than the "Named Insured". This exclusion shall not apply if the act or service arises as the result of a mutual law enforcement assistance agreement or contract between political subdivisions, nor does it apply to any departmentally approved activities.

d. "Personal injury" arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, policies, acts or omissions; or
- (4) Consequential "personal injury" as a result of (1) through (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or to repay someone else who must pay damages because of the "personal injury".

- e. Any claims or "suits" seeking relief or redress in any form other than compensatory damages. Nor shall we have any obligation to indemnify the insured for any costs, fees or expenses which the insured shall become obligated to pay as a result of an adverse judgment for injunctive or declaratory relief, however, we will afford defense to the insured for such claims or "suits", if not otherwise excluded, where compensatory damages are requested.
- f. Claims or "suits" against an insured for acts of another officer or employee unless said officer or employee is also insured for said acts in a policy of insurance issued by us.
- g. Any claim or "suit" seeking punitive or exemplary damages. If a suit shall have been brought against the insured for a claim falling within the coverage provided by this policy, seeking both compensatory and punitive or exemplary damages, we will afford a defense to such action, but we shall not have an obligation to pay for any cost, interest, or damages attributed to punitive or exemplary damages.
- h. A claim or "suit" arising out of any communicable disease.

#### SUPPLEMENTARY PAYMENTS — COVERAGES A AND B

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. The cost of bonds to release attachments and appeal bonds required in any "suit" we defend, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to \$100 a day because of time off from work. Such expenses, do not include salaries of officials or employees of the named insured.
4. All costs taxed against the insured in the "suit."

5. Pre-judgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
7. Expenses incurred by the insured for first aid to others at the time of an "occurrence", for "bodily injury" to which this policy applies.

These payments will not reduce the Limits of Insurance.

#### SECTION II — WHO IS AN INSURED

1. Each of the following is an insured:
  - a. The insured named in the Declarations.
  - b. Your employees; but only for acts within the scope of their employment by you.
  - c. Volunteers or reserves while performing law enforcement activities for you at your request.  
However, none of these employees, volunteers or reserves is an insured for:
    - (1) "Bodily injury" or "personal injury" to you or to a co-employee while in the course of his or her employment; or
    - (2) "Bodily injury" or "personal injury" arising out of his or her providing or failing to provide professional health care services; or
    - (3) "Property damage" to property owned or occupied by or rented or loaned to that employee, volunteer or reserve or any of your other employees, volunteers or reserves.
2. The political subdivision in which you are located is an insured, but only with respect to liability of the political subdivision for which an insured, as defined in paragraph 1.a., 1.b., or 1.c. above, is also liable.

#### SECTION III — LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;

- b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits."
2. The Annual Aggregate Limit is the most we will pay for the sum of damages under Coverage A and Coverage B.
  3. Subject to 2. above, the Each Occurrence Limit is the most we will pay for the sum of damages under Coverage A and Coverage B because of all "bodily injury", "property damage" and "personal injury" arising out of any one "occurrence."
  4. Subject to 3. above, the Each Person Limit is the most we will pay under Coverage A and Coverage B because of all "bodily injury", "property damage" and "personal injury" to any one person.

- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement or defense of the claim or "suit;" and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insureds will, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

### 3. Legal Action Against Us.

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us under this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 4. Other Insurance.

- a. The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of our liability under this policy shall not be reduced by the existence of such other insurance.

When this insurance is excess, we will have no duty under Coverage A to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

The limits of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## SECTION IV — POLICE PROFESSIONAL LIABILITY CONDITIONS

### 1. Bankruptcy.

Bankruptcy or insolvency of the insured or of the insured's successor will not relieve us of our obligations under this policy.

### 2. Duties In The Event Of "Occurrence", Claim Or "Suit".

- a. You must see to it that we are notified promptly of an "occurrence" which may result in a claim. Notice should include:
  - (1) How, when and where the "occurrence" took place; and
  - (2) The names and addresses of any injured persons and witnesses.
- b. If a claim is made or "suit" is brought against any insured, you must see to it that we receive prompt written notice of the claim or "suit."
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit;"

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When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all such other insurance.

b. When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, we shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable Method of Sharing provision below:

c. Method of Sharing

- (1) If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this method each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.
- (2) If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.

The insurance afforded by this policy for the ownership, maintenance or use of the premises designated in the Declarations (including the ways immediately adjoining such premises on land) and all necessary and incidental operations thereto shall be in excess of any other valid and collectible premises liability insurance available to the insured, whether such premises liability is stated to be primary, contributing, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the limits of liability provided in this policy.

5. Premium Audit.

- a. We will compute all premiums for this policy in accordance with our rules and rates.

b. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. The final premium shall be based on the average number of all paid law enforcement officers of the Named Insured, full and part time, during the policy period determined as follows:

1. The Named Insured shall maintain records and report, within thirty days after the end of the policy period, the highest number of paid law enforcement officers on any one day in each month for each month this policy was in effect.
2. The average number of such officers shall be determined by dividing the sum of the number of such officers determined above by the number of months the policy was in effect.

Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations.

By accepting this policy, you agree that:

- a. The application for insurance completed in solicitation of this insurance is made a part of this policy as though set forth in full herein;
- b. The statements in the Declarations and Application for insurance are accurate and complete;
- c. Those statements are based upon representations you made to us; and
- d. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each Insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us.**

If the Insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The Insured must do nothing after loss to impair them. At our request, the Insured will bring "suit" or transfer those rights to us and help us enforce them.

**9. Deductible.**

- a. Our obligation under Section I Coverage A, and Coverage B, to pay damages on behalf of the Insured applies only to the amount of damages in excess of any deductible amount stated in the Declarations.
- b. The deductible amount stated in the Declarations, if any, applies to all damages because of "bodily injury," "property damage" and "personal injury" sustained by one person or organization as the result of any one "occurrence."
- c. The deductible amount stated in the Declarations applies to each "occurrence" and includes loss payments and adjustment, investigative and legal fees and costs, whether or not loss payment is involved.
- d. The terms of this insurance, including those with respect to (1) our right and duty to defend any "suits" seeking damages, and (2) your duties in the event of an "occurrence," claim or "suit" apply irrespective of the application of the deductible amount.
- e. We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

**SECTION V — DEFINITIONS**

- 1. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

- 2. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

3. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
- c. All parts of the world if:

(1) The injury or damage arises out of the activities of a person whose home is in the territory described in a. above, but is away for a short time on your law enforcement activities; and

(2) The Insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.

4. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto;"
- b. While it is in or on an aircraft, watercraft or "auto;" or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."

5. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;

## LEAD-HAZARDOUS PROPERTIES — EXCLUSION

### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

#### POLICE PROFESSIONAL LIABILITY COVERAGE FORM

The Company shall not make any payment nor defend any suit in connection with any CLAIMS made against the INSURED:

1. For any damages arising out of, resulting from, caused by or contributed to by the toxic or pathological properties of lead, lead compounds or lead contained in any materials;
2. For any cost or expense to abate, mitigate, remove or dispose of lead, lead compounds or materials containing lead;
3. For any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts (1) or (2) above; or
4. For any obligation to share damages with or repay someone else who must pay damages in connection with parts (1), (2) or (3) above.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions or limitations of the policy to which this endorsement is attached other than as above stated.

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## RULES

- 1) Each party shall have one representative to participate in negotiations; one additional member from each party is permitted to attend negotiations but shall not participate vocally. OIC Don Auge shall also be permitted to attend and participate in negotiations.
- 2) September 20, 2019: Parties shall exchange changes in writing and set the next negotiation date.
- 3) Once changes are exchanged on September 20, 2019, no new changes shall be considered unless agreed to by both Parties.
- 4) All negotiations must be complete and changes agreed upon at the second scheduled negotiation date, unless agreed upon by the Parties.

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EPOA Representative

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Supervisor Matthew J. McAndrew