

**EMPLOYMENT AGREEMENT BETWEEN
TOWN OF SOUTHBOROUGH
AND
POLICE CHIEF**

This agreement, pursuant to Chapter 41, Section 108O of the Massachusetts General Laws, made and entered into this eleventh day of February, 2017, by and between the Town of Southborough, Commonwealth of Massachusetts, a municipal corporation in Worcester County, hereafter called the "Town," acting by and through its Board of Selectmen, with no personal liability to themselves, hereafter referred to as "the Board" and Kenneth M. Paulhus of Blackstone, Massachusetts hereafter called "Police Chief".

WHEREAS, the Town desires to employ the professional services of Kenneth M. Paulhus as Police Chief of the Town of Southborough as provided by the Bylaws of the Town contained in Article II, Section 27-2 as amended;

WHEREAS, Kenneth M. Paulhus agrees to accept employment as Police Chief of said Town and devote the necessary time, skills, education, professional services, and efforts in carrying out all of his obligations, responsibilities and duties to the Town and for this the Police Chief represents that he has, and will maintain the skills, desires and ability to perform such obligations, responsibilities and duties to the extent he is able to do so.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Board and the Police Chief agree as follows:

Section I. Functions and Duties of the Police Chief.

The Town hereby agrees to employ Kenneth M. Paulhus as Police Chief of the Town of Southborough, pursuant to and in accordance with Massachusetts General Laws, Chapter 41, Section 97A, as amended, and the Police Chief accepts said offer. The Police Chief shall act as the head of the Southborough Police Department and shall perform the duties specified in the attached job description for Police Chief [Exhibit A which is integrated herein by reference] and Town By-Laws in compliance with all other applicable laws and such other duties that shall from time to time be assigned to him. The Police Chief shall be responsible to the Board of Selectmen, through the direction of the Town Administrator,

The Police Chief shall obtain and maintain all necessary certifications and qualifications to enable him to perform the essential functions of the job of Chief of Police. Such qualifications include but are not limited to certification from the Massachusetts Municipal Police Training Committee to enable him to exercise police powers, and a license to carry a firearm.

Section II. Term.

- A. This agreement shall become effective February 12, 2017, and shall remain in full force and effect until February 11, 2020 unless sooner terminated as provided for hereunder or by law. The Agreement shall be for a term of three [3] years.

- B. Parties agree to endeavor to meet and confer approximately seven months prior to the expiration date of this agreement for the purpose of discussing whether the agreement will be extended, subject to the provisions of Section XII.
- C. The Police Chief shall establish and maintain a residence in a town whose boundaries are located within fifteen (15) miles of the boundaries of Southborough as demonstrated in the attached map and list of towns.

Section III. Termination and Severance Pay.

- A. The Board may terminate the Police Chief for just cause during the term of this agreement by majority vote.
- B. In the event the Police Chief is terminated by the Town prior to the expiration of the term of this agreement, the Town agrees that it shall pay the Police Chief a lump sum cash payment equal to five (5) months aggregate salary, which amount shall be paid to the Police Chief, on or before the effective date of termination of his employment; provided, however, that in the event the Police Chief is terminated for commission of a felony, conduct unbecoming a managerial employee or incompetence, the Town shall have no obligation to pay the base severance pay provided in this paragraph. The Police Chief shall also be paid for any accrued but unused vacation time.

The Chief may be suspended or discharged for just cause, upon proper notice and only after a hearing at which time the Chief shall have the right to be present, to be represented by counsel, and to cross-examine witnesses and to provide witnesses to speak on his behalf. The Board or its designee shall, upon notice of an alleged infraction or occurrence giving rise to possible disciplinary action of the Chief, initiate an investigation as to the facts surrounding said allegation. The Board shall endeavor to complete said investigation within a reasonable period of time. Upon completion of the investigation, the Board shall determine whether further action is warranted. The Chief shall be notified forthwith of the results of the Board's determination. If the Board finds that a hearing is required, the Chief shall be duly notified in writing of the date, time and location of the hearing, and the reasons for calling the hearing and make findings, conclusions and recommendations. To the extent allowed by law, the Chief shall have the option of choosing whether any such hearing shall be closed to the public or be held as an open hearing. The Board of Selectmen shall render decisions as soon as possible after the close of the hearing. A decision to discipline, suspend or discharge the Chief shall require a majority vote by the Board.

- C. In the event the Police Chief voluntarily terminates his position with the Town before the expiration of the term of this Agreement, the Police Chief shall give two [2] month's written notice in advance, unless the parties agree otherwise. A copy of the resignation shall be filed with the Town Clerk. The Police Chief shall not be allowed use of paid vacation leave during this time without prior approval of the Town Administrator.

Section IV. Salary.

- A. The Town agrees to pay the Police Chief for services rendered under this agreement, an annual base salary of \$142,140 subject to applicable withholdings and deductions, effective February 12, 2017, payable in installments at the same time as other employees of the Town are paid. The foregoing total salary [\$142,140] is specifically intended to include all educational incentives, including any and all amounts due pursuant to M.G.L. c. 41, §108L, any subsequently enacted statutory educational incentive, or any internal Town educational incentive enacted through policy, bylaw or agreement with employees. To the extent that this section may be construed to modify §108L, such modification is in consideration of the total compensation and other benefits accorded to the Police Chief under this agreement.
- 1 In the second year of the Agreement, the Police Chief shall receive an increase of 3%, effective February 11, 2018, for a total annual salary of \$146,404, subject to applicable withholdings and deductions.
 - 2 In the third year of the Agreement, the Police Chief shall receive an increase of 3%, effective February 11, 2019, for a total annual salary of \$150,796, subject to applicable withholdings and deductions.

The Police Chief acknowledges that he does not have any prior service time in Massachusetts prior to July 1, 2009, and therefore is not eligible for funding under Massachusetts General Law, Chapter 41, Section 108L (“Quinn Bill”).

- C. The Town agrees to furnish at its expense professional liability insurance for the Police Chief with liability limits of One Million Dollars (\$1,000,000.00).

Section V. Police Chief Evaluation.

- A. The Town Administrator shall review and evaluate the Police Chief every year from the date of appointment. Said review and evaluation shall be based on the goals and objectives developed jointly and mutually agreed to by the Town Administrator and the Police Chief. Further, the Town Administrator shall provide adequate opportunity for the Police Chief to discuss his evaluation with the Board of Selectmen.
- B. Annually the Town Administrator and the Police Chief shall define the goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Board of Selectmen’s policy objectives, and shall further establish a general priority among those various goals and objectives, reduced to writing.
- C. The Police Chief shall conduct, at least annually, during the term of this agreement a complete assessment of his own performance in a written document approved in advance by the Town Administrator for this purpose, soliciting subjective feedback from

individuals as determined by the Town Administrator with input from the Police Chief. The results of this assessment will be made available to the Board of Selectmen.

Section VI. Hours of Work.

- A. The Police Chief's workweek shall ordinarily consist of five (5) business days, (Monday through Friday), plus whatever evening and/or weekend hours that may be necessary in order to properly respond to the demands of the position. It is understood that the Police Chief shall also generally participate in the Board of Selectmen's meetings, Town Meetings and other meetings at which his attendance would be beneficial to the orderly conduct of the Town's business. Because of the nature of the position it is also understood that the Police Chief will not be entitled to additional compensation for any hours spent beyond normal office hours.—It is recognized that the Police Chief must devote a great deal of time outside normal office hours to conduct the business of the Town. The Police Chief, therefore, shall be allowed to take compensatory time off and alter the Police Chief's schedule as the Police Chief deems appropriate during normal office hours, and at such times that will least adversely impact Department operations.
- B. The Police Chief is an exempt employee for the purpose of the Fair Labor Standards Act.
- C. The Police Chief shall notify and coordinate with the Town Administrator if he shall be absent from duty or on leave for more than a full day and who shall be responsible for the administration of the Police Department during such absence or leave.
- D. Other Employment: The Police Chief position is a full-time job. Other employment must be approved in writing by the Town Administrator. If the Employee accepts employment without prior written approval, this employment agreement may be terminated immediately by the Town.
- E. Exempt Activities: The Police Chief may engage in additional professional activities related to the position of Police Chief, such as guest lecturing and participation in professional activities, provided that such participation does not interfere with his job duties and responsibilities and with prior notice to the Town Administrator.

Section VII. Health and Dental Insurance

The Town shall provide the Police Chief health and dental insurance policies, which are consistent with the policies which other non-union Town employees are eligible.

Section VIII, Vacation, Holidays, Sick Leave, Bereavement Leave, and Personal Leave

- A. Vacation

The Police Chief shall be entitled to four (4) weeks paid vacation per fiscal year. A week shall be defined as five (5) working days. Unused vacation days may not be carried over from year to year. However, the Police Chief shall be compensated for up to five (5) unused days of vacation per year, subject to the approval of the Town Administrator.

B. Holidays

The Police Chief shall receive one day's pay at his regular rate for the following:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents' Day	Veteran's Day
Patriot's Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day
	Day before <u>or</u> after Christmas Day (as set by the Town from year to year)

In the event the Police Chief is required, due to a police emergency or other major event (e.g. Heritage Day on Columbus Day), to work more than minimal hours on a holiday, he shall be entitled to an additional day's pay under M.G.L. c. 147, §17F.

C. Sick Leave

The Police Chief shall receive 15 sick days per year, which may be accrued up to a maximum of 120 days per Section 11 (c)2 of the Salary Administration Plan. Absences on account of sickness in excess of that authorized shall be charged to vacation or other available paid leave. Sick leave shall be payable only in cases of genuine illness or non-work connected accidents.

As a sworn police officer, the Police Chief shall be entitled to injured-on-duty benefits as provided in Chapter 41, Section 111F of the Massachusetts General Laws.

D. Bereavement Leave

In the event of the death of a spouse, father, mother, child, father-in-law, mother-in-law, brother, sister, grandparent, or of any other person then residing with the Police Chief, he shall be entitled to receive three days' leave for the purpose of the funeral and disposition of the deceased. If out-of-state travel is required, the Town Administrator may authorize up to two additional days of travel time.

E. Personal Leave

The Police Chief shall be entitled to three personal days per year, which shall be approved by the Town Administrator. Personal days shall not accumulate from year to year.

Section IX. Professional Development, Dues and Subscriptions.

The Town agrees to budget and to pay, subject to appropriation and Town Administrator approval in advance for the professional dues, subscriptions and conference expenses of the Police Chief necessary for his continuation and full participation in one national, regional, state and local association, necessary and desirable for his continued professional participation, growth and advancement, and for the good of the Town.

Section X. Expenses.

- A. The Police Chief shall be reimbursed for any normal and reasonable expenses incurred in the performance of his duties, or as an official representative of the Town, including attendance by him at civic or social events.
- B. The Police Chief's duties require that he be on duty and available 24 hours a day. The Police Chief will be provided a vehicle by the Town of Southborough in connection with the performance of his duties. Recognizing that the Police Chief resides very close to the Rhode Island border, he shall be allowed to use the town vehicle outside of the state borders.

The Town shall pay for all attendant operating and maintenance expenses and insurance. It may be used by the Police Chief for personal reasons, since the Police Chief is "on-call" in the event of emergency. The vehicle will not be used for out of state vacations without the permission of the Town Administrator. The Police Chief will be responsible for any retirement contributions resulting from the availability and use of such vehicle. The value of said authorized personal use has been taken into account in setting the Police Chief's salary.

- C. The Town shall also provide and pay for a cell phone for use by the Police Chief.
- D. The Police Chief's clothing allowance will match the amount contained within the police officer's collective bargaining agreement.

Section XI. Indemnification.

The Town shall defend, save harmless and indemnify the Police Chief against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as Police Chief, even if said claim has been made following his termination from employment, provided that the Police Chief acted within the lawful scope of his duties. The Town shall pay the amount

of any settlement or judgment rendered thereon, subject to M.G.L. Chapter 258 Section 13. The Town may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the Police Chief.

This section shall survive the termination of this Agreement.

Section XII. Non-Renewal of Agreement.

If the Board decides not to renew this Agreement, the Board shall give the Police Chief written notice a minimum of six (6) months before the expiration of this Agreement. The Police Chief has an affirmative obligation to notify the Board in writing of the renewal provision, at least six (6) months before the last day of this contract. If the Board fails to give such written notice of non-renewal, this Agreement shall be extended for an additional one year period.

Should the Police Chief decide not to renew this agreement, the Police Chief will provide written notice to the Board a minimum of six [6] months in advance of the expiration of the contract.

Section XIII. No Reduction in Benefits.

The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other benefits of the Police Chief, except to the degree such a reduction is consistent with the reduction for all other management employees of the Town.

Section XIV. Death During Term of Employment

If the Police Chief dies during the term of his employment, and is enrolled in the Town's health insurance and benefit program, the Town shall pay to the Police Chief's estate all the compensation which would otherwise be payable to the Police Chief up to the date of the Police Chief's death, including accrued unused vacation and sick leave. The Town shall continue to contribute its share of the health insurance premiums to the Police Chief's surviving spouse and family, if they are otherwise eligible under Chapter 32B and such other benefits as are available to other Town non-union employees.

Section XV. General Provisions.

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Police Chief.
- C. This agreement shall prevail over any conflicting provisions of the Town by-laws or rules and regulations.
- D. If any provision or any portion thereof, contained in this Agreement is held, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force. This agreement shall be

interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts.

E. Any prior discussions or verbal agreements between the parties made prior, to this agreement shall not be binding upon the agreements unless reduced to writing, dated and signed by both parties.

F. This Agreement shall become effective when executed by both parties.

IN WITNESS WHEREOF, the Town of Southborough, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and duly attested by its Town Clerk, and the Police Chief has signed and executed this Agreement, both in duplicate.

TOWN OF SOUTHBOROUGH
Acting by and through its Board of Selectmen

POLICE CHIEF

Brian E. Shea, Chairman, Board of Selectmen

Kenneth M. Paulhus

Bonnie J. Phaneuf, Selectman

John F. Rooney, III, Selectman

Daniel L. Kolenda, Selectman

Paul M. Cimino, Selectman

DATE: _____

DATE: _____