



**Township Council**

c/o Township Clerk  
Teaneck, NJ 07666

Meeting: 04/05/16 07:00 PM

Department: Township Clerk

Category: Amend

DOC ID: 3097

**ORDINANCE (ID # 3097)**

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**ORDINANCE NO. 4-2016 AN ORDINANCE AMENDING SECTION 2-152 OF ARTICLE XXXI OF CHAPTER 2 OF THE CODE OF THE TOWNSHIP OF TEANECK RESPECTING WAIVERS OF HEALTH INSURANCE COVERAGE BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #4-2016 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law.**

AN ORDINANCE AMENDING SECTION 2-152 OF ARTICLE XXXI OF CHAPTER 2 OF THE CODE OF THE TOWNSHIP OF TEANECK RESPECTING WAIVERS OF HEALTH INSURANCE COVERAGE

BE IT RESOLVED by the Township Council of the Township of Teaneck that Ordinance #4-2016 pass upon second and final reading and that the Township Clerk is hereby authorized and directed to advertise the same according to law.

**HISTORY:**

03/08/16          Township Council          TABLED          Next: 03/22/16

Mayor Parker recused herself from the discussion of this portion of the meeting and left the dais.

Councilman Sohn made a motion to introduce Ordinance 4-2016.

Seconded by Councilman Hameeduddin.

Councilman Schwartz made a motion for Councilman Hameeduddin to run the meeting.

Seconded by Councilman Sohn.

By way of a voice vote, all of Council was in favor of the motion.

Councilman Sohn made a motion to table Ordinance 4-2016.

Seconded by Councilman Castle.

**Roll Call**

Yes -            Councilman Castle, Councilman Schwartz, Councilman Sohn.

No -            Councilman Hameeduddin, Councilman Pruitt.

Recused -     Mayor Parker.

03/22/16          Township Council          INTRODUCED

**COMMENTS - Current Meeting:**

Councilman Schwartz asked to re-instruct the Township Attorney to modify Ordinance 4-2016 to remove the effective date of May 2008 in Ordinance 4-2016.

Councilman castle was not comfortable passing ordinance 4-2016 as is.

Councilman Castle made a motion to remove the effective date clause (paragraph E1) in Ordinance 4-2016.

Seconded by Councilman Schwartz.

Mr. Rupp advised that the provisions amended in Ordinance 4-2016 were the same ones removed on Ordinance 4-2016 on this agenda.

Deputy Mayor Katz asked for Mr. Rupp's legal opinion respecting the amendment of Ordinance 4-2016 to remove the effective date of May 2008 at tonight's meeting.

Mr. Rupp clarified that his recommendation at the March 22<sup>nd</sup> meeting was not to amend ordinances off the cuff; and reminded Council that at March 22<sup>nd</sup>, E2 (A) and (B) were omitted and E2 (D) was removed to make a reference to a prior paragraph and advised Council that they are seeking to remove a paragraph under E1. He further clarified that Council wished to only delete "effective May 6, 2008" and leave the remaining language of Section E1 intact and advised Council that the law stated that only non-substantive amendments could be made without re-publishing an ordinance.

Councilman Castle asked if Council was attempting to not allow for new health benefit waiver recipients with the removal of various clauses under Ordinance 4-2016.

Mr. Rupp advised that Ordinance 4-2016 does not prohibit new employees from participating in a waiver.

Mr. Rupp discussed case law respecting the issue of substantive and non-substantive changes to an ordinance.

### **Roll Call**

Yes - Councilman Castle, Councilman Hameeduddin, Councilman Pruitt, Councilman Schwartz, Councilman Sohn, Deputy Mayor Parker.

No - None.

Motion to amend passed.

Councilman Schwartz made a motion to adopt Ordinance 4-2016 as amended.

Councilman Sohn seconded the motion.

<b>RESULT:</b>	<b>ADOPTED BY CONSENT VOTE [UNANIMOUS]</b>
<b>MOVER:</b>	Mark J. Schwartz, Councilman
<b>SECONDER:</b>	Alan Sohn, Councilman
<b>AYES:</b>	Katz, Castle, Hameeduddin, Pruitt, Schwartz, Sohn
<b>ABSENT:</b>	Lizette P. Parker

TOWNSHIP OF TEANECK  
BERGEN COUNTY, NJ

**ORDINANCE NO. 4-2016 AN ORDINANCE AMENDING SECTION 2-152  
OF ARTICLE XXXI OF CHAPTER 2 OF THE CODE OF THE  
TOWNSHIP OF TEANECK RESPECTING WAIVERS OF HEALTH  
INSURANCE COVERAGE BE IT RESOLVED BY THE TOWNSHIP  
COUNCIL OF THE TOWNSHIP OF TEANECK THAT ORDINANCE #4-  
2016 PASS UPON SECOND AND FINAL READING AND THAT THE  
TOWNSHIP CLERK IS HEREBY AUTHORIZED AND DIRECTED TO  
ADVERTISE THE SAME ACCORDING TO LAW.**

WHEREAS, the State of New Jersey established the State Health Benefits Program (SHBP) pursuant to P.L. 1961, c. 49 (N.J.S.A. 52:14-17.25 et seq.); and

WHEREAS, municipalities were first permitted to participate in SHBP pursuant to P.L. 1964, c. 125 (N.J.S.A. 52:14-17.34); and

WHEREAS, pursuant to the foregoing statute, the Township of Teaneck adopted an ordinance which elected participation in SHBP effective October 1, 1965; and

WHEREAS, the aforesaid ordinance was later codified as part of Chapter 2, Charter/Administrative Code, of the Code of the Township of Teaneck pursuant to Ordinance No. 3158, adopted July 26, 1988, following voter approval of the charter change to the Council-Manager Form of Government pursuant to N.J.S.A. 40:69A-1 et seq.; and

WHEREAS, Section 2-31.4 of Ordinance 3158 (now Section 2-152(e) of Chapter 2) provided that participation in the SHBP “insurance program shall not entitle any employee or other person hereunder to receive remuneration in lieu of accepting the benefits of this program;” and

WHEREAS, the statutory authorization for the payment of remuneration to an employee for the waiver of coverage under SHBP was first authorized under P.L. 1995, c. 259 (N.J.S.A. 52:14-17.31a) effective November 13, 1995, as amended by P.L. 2007, c. 92 and provided that “notwithstanding the provisions of any other law to the contrary, a municipality which participates in the State Health Benefits Program ... may allow any employee who is eligible for other health care coverage to waive coverage under the State health Benefits Program to which the employee is entitled by virtue of employment with the municipality...(and) inconsideration of filing such a waiver, a municipality may pay to the employee annually an amount, to be established at the sole discretion of the municipality, which shall not exceed 50% of the amount saved by the municipality because of the employee’s waiver of coverage;” and

WHEREAS, pursuant to the foregoing statutory authority, the Township Council adopted Resolution 148-08 on May 6, 2008, which authorized the payment of 50% of the saving based on the type of the plan for which the employee waived coverage; and

WHEREAS, N.J.S.A. 52:14-17.31a was further amended by P.L. 2010, c. 2, effective May 21, 2010, which provided that “in consideration of filing a waiver as permitted in subsections a. and b. of this section, an employer may pay to the employee annually an amount, to be calculated at the sole discretion of the employer, which shall not exceed 50% of the amount saved by the employer because of the employee’s waiver of coverage, and for a waiver filed on or after the effective date of P.L. 2010, c. 2, which shall not exceed 25%, or \$5,000, whichever is less, of the amount saved by the employer because of the employee’s waiver of coverage;” and

WHEREAS, the decision of the employer to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Teaneck, Bergen County, New Jersey, as follows:

SECTION 1. Paragraph (e) of Section 2-152, Hospitalization and major medical insurance, of Article XXXI, Miscellaneous Provisions, of Chapter 2, Charter/Administrative Code, of the Code of the Township of Teaneck is hereby amended to read as follows:

(e) Waivers of coverage

- (1) ~~Effective May 6, 2008,~~ (deleted by voice vote on April 5, 2016) employees who are eligible for other health care coverage may waive coverage under the State Health Benefits Program to which the employee is entitled by virtue of employment with the Township of Teaneck by the filing of a waiver in such form as the Director of the Division of Pensions and Benefits shall prescribe with the division. After such waiver has been filed and for so long as that waiver remains in effect, no premium shall be required to be paid by the Township for the employee or the employee's dependents. (N.J.S.A. 52:14-17.31a)
- (2) In consideration of filing a waiver as permitted in subparagraph 1 above, the Township shall pay to the employee annually an amount equal to
  - A. (intentionally omitted)
  - B. (intentionally omitted)
  - C. On and after the effective date of this amendatory ordinance, any eligible employee who waives coverage, regardless of the date of the filing of the waiver of coverage, shall receive 25%, or \$5,000, whichever is less, of the amount saved by the Township because of the employee’s waiver of coverage
  - D. For the purposes of computing the payments under Paragraph C above, the amount saved by the Township as a result of an employee’s waiver of coverage shall be reduced by the amount of any required contribution by the employee toward the cost of health insurance coverage, either pursuant to state statute or regulation, ordinance, or collective bargaining agreement, as if the

employee was receiving coverage.

- E. Eligibility for payment of an incentive for a waiver of health care coverage shall be determined in accordance with the applicable provisions of the State Health Benefits Act and any regulations promulgated thereunder or Local Finance Notices issued interpreting same. Employees who have other health coverage under either the State Health Benefits program (SHBP) or the School Employee Health Benefits Program (SEHBP) shall not be eligible for the payment of a waiver incentive.
- F. On and after the effective date of this amendatory ordinance, the health insurance premium shall be based on the employee's coverage eligibility (family, married, parent/child or single) under the Direct 15 Plan under SHBP, or the equivalent thereof should such plan no longer be provided in the future.
- G. During the month of October of each year, employees who have filed a waiver and are receiving a payment in consideration therefor shall be required to submit the following information:
- i. the other health care coverage provider from which they are receiving health care coverage and whether such coverage is being provided under SHBP, SEHBP or through a private health care provider.
  - ii. the plan under which such health care coverage is being provided.
  - iii. the type of coverage being provided (e.g. family, single, parent/child, married)
  - iv. the cost of such health care coverage for which the employee or the employee's spouse is responsible.
  - v. the name of the employee's spouse and the names and date of birth of any dependent children included under such health insurance coverage.
- Failure to provide the foregoing information, shall result in the suspension of the payment for each month or part thereof such information is incomplete.
- H. The foregoing payments shall be pro-rated and payable monthly for each full month the employee waives coverage based upon the total cost to the Township for the current calendar year and the type of coverage for which the employee would have been eligible.
- I. Payments in consideration for the waiver of coverage shall be

treated as wages subject to all employment taxes and shall not affect the taxability of other employees who remain in the State Health Benefits Program.

- (3) Any employee who waives coverage shall be permitted to immediately resume coverage if the employee ceases to be eligible for other health care coverage for any reason, including, but not limited to, the retirement or death of the spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received from the Township which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall notify the Township in writing within 60 days of the loss of other coverage, provide the Township with proof of loss of that coverage and file a declaration with the Division of Pensions and Benefits, in such form as the Director of the Division shall prescribe, that the waiver is revoked.
- (4) The decision of the Township to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

SECTION 2. Severability

If any section, sentence, clause or other portion of this ordinance, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

SECTION 3. Inconsistency

All ordinances or parts thereof inconsistent with the provisions hereof, are hereby repealed to the extent of such inconsistency.

SECTION 4. Effective Date

This ordinance shall take effect twenty (20) days following passage and publication as required by law or July 1, 2016, whichever is later.

ATTEST:

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Issa A. Abbasi, MPA  
Township Clerk

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Lizette P. Parker,  
Mayor

