

ORDINANCE #2009-08

AN ORDINANCE OF THE TOWNSHIP OF LACEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, DETERMINING THE POSITIONS ELIGIBLE FOR THE DEFINED CONTRIBUTION RETIREMENT PROGRAM PURSUANT TO N.J.S.A. 43:15c-1 ET SEQ.

WHEREAS, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials;

WHEREAS, N.J.S.A. 43:15C-2 requires the governing body of each county, municipality and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate on the Defined Contributions Retirement Program, subject to the provisions of law; and

WHEREAS, the Mayor and Township Committee of the Township of Lacey have considered the guidelines issued by the Local Finance Board.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of Lacey, County of Ocean, State of New Jersey, as follows:

SECTION 1. Pursuant to N.J.S.A. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:

- (a) Township Administrator;
- (b) Municipal Court Judge;
- (c) Community Development Director;
- (d) Recreation Director;
- (e) Municipal Alliance Committee Director;
- (f) Township Attorney, if appointment is made for the position as an employee and is not compensated pursuant to a professional services contract;
- (g) Township Engineer, if appointment is made for the position as an employee and is not compensated pursuant to a professional services contract;

- (h) Municipal Prosecutor, if appointment is made for the position as an employee and is not compensated pursuant to a professional services contract.

The designation of the positions delineated above apply to appointees of those positions who have not had continuous membership in the Public Employees Retirement System ("PFRS") prior to July 1, 2007, pursuant to N.J.S.A. 43:15C-1 et seq.

SECTION 2. Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S.A. 43:15C-2(a):

- (a) Township Clerk;
- (b) Chief Financial Officer;
- (c) Tax Collector;
- (d) Tax Assessor;
- (e) Construction Code Official;
- (f) All Subcode Officials;
- (g) All Uniform Construction Code Inspectors;
- (h) Municipal Court Administrator;
- (i) Certified Public Works Manager.

SECTION 3. If an individual is appointed to one of the positions listed in Section 1 and The individual is not serving in a position described in Section 2 above, the Pension Certifying Officer of the municipality may determine that the individual is not required to join the Defined Contribution Retirement Program if that individual; 1) was an active participant in the Public Employees Retirement System on July 1, 2007, and continuously since that time; or 2) has been appointed pursuant to a valid promotional process; or 3) is appointed on a temporary, interim, or "acting" basis to a position requiring State Certification as set forth in Section 2 herein, and is in pursuit of the required certification; or 4) meets such other exceptions that may be approved by the Local Finance Board or the Division of Pensions and Benefits.

SECTION 4. This ordinance shall be implemented, construed and subject to the aforesaid Chapter 92 of the Laws of 2007 (N.J.S.A. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits. Employees currently in positions that would be covered by the DCRP who have been a continuous member of the Public Employees Retirement System prior to July 1, 2007, may continue membership in the PERS.

SECTION 5. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 7. This ordinance shall take effect after second reading and publication as required by law.

SECTION 8. A certified copy of the adopted ordinance shall be filed with the Division of Pensions and Benefits and shall include the State's Employer ID Number.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Lacey held on the **12th** day of **March, 2009**, and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the **26th** day of **March, 2009**, at 7:00 p.m., at the Municipal Building located on Lacey Road in Forked River, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

VERONICA LAUREIGH, CMC, AAE
Township Clerk, Township of Lacey