

RESOLUTION NO. 2016- 13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKLAND, ARKANSAS ADOPTING SAFE HARBORS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND DELEGATING AUTHORITY TO THE MAYOR TO IMPLEMENT THE DETAILS OF THE SAFE HARBORS THROUGH AN ADMINISTRATIVE POLICY

WHEREAS, the Patient Protection and Affordable Care Act (“ACA”) was enacted on March 23, 2010; and

WHEREAS, the ACA added Section 4980 Shared Responsibility for Employers Regarding Health Care Coverage (Section 4980H) and Section 6056 Certain Employers Required to Report on Health Insurance Coverage (Section 6056) to Title 26 of the United States Code, the Internal Revenue Code; and

WHEREAS, Section 4980H imposes an assessable payment on an applicable large employer when (1) it fails to offer “substantially all” of its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage or offers coverage to “substantially all” of its full-time employees (and their dependents), but that coverage is either “unaffordable” or does not provide “minimum value” and (2) any fulltime employee is certified to the employer as having received a subsidy for coverage through the exchange (“Assessable Payment”); and

WHEREAS, Section 6056 requires the City to file with the Internal Revenue Service an annual return for each full-time employee; and

WHEREAS, the City of Brookland (“City”) is considered an applicable large employer because it employed an average of at least 50 full-time employees (including full-time equivalents) on business days during the preceding calendar year; and

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H that permit the City to adopt the Look Back Measurement Method Safe Harbor in order to determine the status of an employee as “full-time” for the purposes of reporting and calculating the Assessable Payment, if any; and

WHEREAS, the City intends to adopt provisions of the Look Back Measurement Method Safe Harbor in order to determine the full-time status of its employees for the purposes of the Assessable Payment and reporting; and

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit the City to use one of three affordability safe harbors for any reasonable category of employees as long as it is applied on a uniform and consistent basis for all employees in the category; and

WHEREAS, the City intends to use the affordability safe harbors as contemplated in the final regulations; and

WHEREAS, the City intends to use good faith efforts to comply with legal requirements under the ACA; and

WHEREAS, the City expects that further guidance and regulations may be issued regarding the ACA.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brookland as follows:

1. Establishes the Look Back Measurement Method Safe Harbor with regard to all employees for the purposes of identifying full-time employees for calculation of the Assessable Payment and IRS reporting.
2. Does not establish the Look Back Measurement Method Safe Harbor for the purpose of determining eligibility for an offer of medical coverage as to any employee. All represented and unrepresented management employees' eligibility for an offer of medical coverage shall continue to be governed by the terms of any applicable memorandum of understanding or resolution.
3. Delegates authority to the Mayor, including his designee, to create and implement an ACA Administrative Policy that establishes standard measurement, administrative and stability periods, governs the measurement and tracking of employees' hours of service, and/or otherwise establishes procedures in accordance with Section 4980H to comply with the Look Back Measurement Method Safe Harbor.
4. For each reasonable category of employees, the City in its sole discretion, but on a uniform and consistent basis for all of the employees in a reasonable category, will apply one of three affordability safe harbors (i.e. Form W-2 Safe Harbor, Rate of Pay Safe Harbor, or Federal Poverty Line Safe Harbor) to determine the affordability of the minimum value coverage that it offers its full-time employees.
5. Delegates authority to the Mayor, including his designee, to establish the Administrative Policy to comply with any of the three affordability safe harbors in accordance with and as permitted by Section 4980H.
6. Delegates authority to the Mayor, including his designee, to establish and modify as needed an Administrative Policy to ensure the City's compliance with Sections 4980 H and 6056 of the Internal Revenue Code.

Passed and adopted this 11 day of July, 2016.

Kenneth Jones
Kenneth Jones, Mayor

ATTEST:

Billy W. Dacus
Billy Dacus, City Clerk

