

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, ADOPTING NEW ARTICLE 748 OF THE CODIFIED ORDINANCES ENTITLED WAGE EQUITY.

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1: That a new article of the Codified Ordinances of the City of Bethlehem, titled “Wage Equity” shall be established as follows:

748.01 Purpose and Declaration of Policy.

A. The City Council of Bethlehem finds that:

1. In Pennsylvania, women are paid 79 cents for every dollar a man makes, according to a United States Census Bureau 2015 report. Women of color are paid even less. African American women are paid only 68 cents to the dollar paid to a man, Latinas are paid only 56 cents to the dollar paid to men, and Asian women are paid 81 cents to the dollar paid to men.

2. The gender wage gap has narrowed by less than one-half a penny per year in the United States since 1963, when the Congress passed the Equal Pay Act, the first law aimed at prohibiting gender-based pay discrimination, according to the National Committee on Pay Equity.

3. In August of 2016, Massachusetts became the first state to enact a law prohibiting employers from seeking or requiring a prospective employee’s wage history.

4. Since women are paid on average lower wages than men, basing wages upon a worker’s wage at a previous job only serves to perpetuate gender wage inequalities and leave families with less money to spend on food, housing, and other essential goods and services.

5. The Society for Human Resource Management has found that pay transparency is a powerful vehicle to mitigate unconscious bias in making compensation decisions.

6. Nationally, women who work full-time year-round are paid on average only 80 cents for every dollar men make, resulting in a gap of \$10,469 each year. The gap exists in every state regardless of geography, occupation, education, or work patterns, and it is worse for women of color. On average Latinas are typically paid 53 cents and black women 61 cents for every dollar paid to white non-Hispanic men.

B. It is the purpose of this article:

1. to require that salary offers should be based upon the job responsibilities of the position sought, and not based upon the prior wages earned by the applicant, so as to avoid the perpetuation of gender wage inequalities; and
2. to help close punishing gender wage gaps by eliminating a harmful workplace practice that has been highlighted by Congress and human resources organizations, so as to combat the wage discrimination that has plagued our society for decades.

C. This article shall be deemed an exercise of the police power of the City of Bethlehem for the protection of the public welfare, prosperity, health and peace of the City. Wage equality in the workplace will contribute to the economic well-being and general welfare of the United States and the Commonwealth of Pennsylvania, and the citizens of the Lehigh Valley and the City of Bethlehem in particular.

748.02 Definitions

- A. The terms “City”, “City Council”, “Employee”, and “Employer” when used in this article shall have the same meanings given to them in Article 145.02.
- B. “to inquire” shall mean to ask a job applicant in writing or otherwise
- C. “wages” shall mean all earnings of an employee, regardless of whether determined on time, task, piece, commission or other method of calculation and including fringe benefits, wage supplements, or other compensation whether payable by the employer from employer funds or from amounts withheld from the employee’s pay by the employer.
- D. “gender” shall be inclusive of all gender identities.

748.03 Unlawful Practices.

A. Prohibition on Inquiries into Wage History.

1. It is an unlawful employment practice for an employer, employment agency, or employee or agent thereof:
 - a. To inquire about a prospective employee’s wage history, require disclosure of wage history, or condition employment or consideration for an interview or employment on disclosure of wage history, or retaliate against a prospective employee for failing to comply with any wage history inquiry or for otherwise opposing any act made unlawful by this article.

- b. To rely on the wage history of a prospective employee from any current or former employer of the individual in determining the wages for such individual at any stage in the employment process, including the negotiation or drafting of any employment contract, unless such applicant knowingly and willingly disclosed his or her wage history to the employer, employment agency, employee or agent thereof.
2. This Section 748.03 shall not apply to any actions taken by an employer, employment agency, or employee or agent thereof, pursuant to any federal, state or local law that specifically authorizes the disclosure or verification of wage history for employment purposes.

B. Prohibition on banning the sharing of wage information

1. It is an unlawful employment practice for an employer to:
 - a. require an employee to sign a contract or waiver that would prohibit the employee from disclosing or sharing information about the employee's wages, salary or remuneration; or in any manner to forbid the disclosure or sharing of wage, salary, or remuneration information by an employee;
 - b. retaliate in any way against an employee for disclosing or sharing wage, salary, or remuneration information.

C. Related Practices

1. It is an unlawful employment practice for an employer to:
 - a. retaliate against any employee because such individual has opposed any practice forbidden by this article, or because such employee has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this article;
 - b. aid, abet, incite, compel or coerce the doing of any act declared by this article to be an unlawful practice, or obstruct or prevent any person from complying with the provisions of this article.

D. Notice of the requirements of this article shall be given by the City as part of the City's annual Business Privilege licensing process.

748.04 Penalty

- A. A person who violates the provisions of this article commits a summary offense and, upon conviction, shall be sentenced to pay a fine of not more than \$1,000 or to imprisonment for not more than ninety (90) days, or both.
- B. An individual seeking to enforce the provisions of this article may bring a claim before a Magisterial District Judge or before a County Human Relations Commission should one be formed and have authority to hear such matters.

748.05 Effective Date

This article shall take effect one (1) year after its final passage by Council and approval by the Mayor where such approval is required.

748.06. Miscellaneous

A. Severability. The provisions of this article shall be severable and if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this article. It is hereby declared as a legislative intent of the City of Bethlehem that this article would have been enacted had such unconstitutional, illegal or invalid provision(s) not been included herein.

SECTION 2. That all Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2020.

President of Council

ATTEST:

City Clerk

This Ordinance APPROVED this _____ day of _____, 2020.

Mayor