


Council of the City of York, PA
Session 2018
Bill No. 6
Ordinance No. 5

INTRODUCED BY:  Henry Hay Nixon

DATE: May 1, 2018

AN ORDINANCE

Amending Article 165 "Employment Provisions" of the City of York Codified Ordinances to establish a "Fair Chance Hiring Policy."

WHEREAS, The Council of the City of York finds that persons with criminal records suffer from pervasive discrimination in many areas of life – employment, housing, education, and eligibility for many forms of social benefits; and

WHEREAS, a fair hiring policy affords opportunities to individuals with past criminal records to be judged on their skills and qualifications and not solely on their criminal history, by removing the criminal history question from the non-civil service employment application; and

WHEREAS, The Council of the City of York is committed to reducing employment barriers for residents that seek the opportunity to work and contribute to the York community and recognizes that every person should have a meaningful opportunity to compete for jobs as prospective applicants for employment should be judged on their skills and qualifications, rather than solely on an arrest or conviction record; and

WHEREAS, offering opportunities to individuals with past criminal records of a nonviolent nature promotes public safety by significantly reducing the risk of recidivism and reincarceration, as steady employment is one of the best predictors of post-conviction success; and

WHEREAS, a fair-chance hiring policy will best allow prospective applicants with nonviolent criminal records to explain individualized circumstances while preserving the city's ability to appropriately screen applicants as part of the hiring process; and

WHEREAS, current Pennsylvania law prohibits private employers from considering conviction records that do not relate to an applicant's suitability for employment, and private employers must provide written notification if a denial of employment was based in whole or in part on the applicant's criminal history; and

WHEREAS, this legislation concerns a sensitive and highly controversial subject and should not be construed to require the city to hire someone with a criminal record, nor to limit an employer's ability to choose the most qualified and appropriate applicant for the employment opportunity at hand; and

WHEREAS, this legislation is intended to give the individual with a criminal record an opportunity to be judged on his or her own merit during the submission of the application and at least until the completion of one interview; and

WHEREAS, it is the intent and purpose of this Article to assist the successful reintegration of formerly-incarcerated people back into the community by removing barriers to gainful employment after their release from prison; enhance the health and security of the community by assisting people with criminal records to provide for their families and themselves; and ensure that, within the City of York, just and fair measures are implemented and practiced when screening and identifying persons who may or may not have criminal records.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 165 "Employment Provisions," be hereby amended to establish a Fair Chance Hiring Policy as follows:

SECTION ONE: That Article 165 "Employment Provisions" of the City of York Codified Ordinances is hereby amended as follows:

ARTICLE 165
Employment Provisions

- 165.01 Oath of office.
- 165.02 Contract interest; conflict of interest.
- 165.03 Conviction of crime and Fair Chance Hiring.
- 165.04 Refusal to testify.
- 165.05 Cooperation with other political subdivisions.
- 165.06 Appointment of other officers and employees.
- 165.07 Residency requirements.
- 165.08 Blanket bond.
- 165.09 Federal social security benefits.
- 165.99 Penalty.

CROSS REFERENCES

Employee provisions - see 3rd Class §901 et seq.
(53 P. S. §35901 et seq.)
Oath of office - see 3rd Class §905 (53 P. S. §35905)
Bonds of officers - see 3rd Class §906 et seq. (53 P. S.
§35906 et seq.)

165.01 OATH OF OFFICE.

All officials of the City, at the time of taking office, shall be required to take and subscribe the usual oath or affirmation before the Mayor or some other person qualified by law to administer oaths or affirmations and to file such oath with the City Clerk. (1944 Code Ch. 1 §12.)

165.02 CONTRACT INTEREST; CONFLICT OF INTEREST.

(a) No officer or employee of the City shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, to be furnished or performed for the City; and no such officer or employee shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, to be furnished or performed for any person operating any inter-urban railway, street railway, bus line, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of such City.

(b) No officer or employee of the City shall accept or receive, directly or indirectly, from any person operating within the territorial limits of a City, any inter-urban railway, bus line, street railway, gas works, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange or other business using or operating under a public franchise any frank, free pass, free ticket or free service or accept or receive, directly or indirectly, from any person any other service upon terms more favorable than is granted to the public generally, except that such prohibition of free transportation shall not apply to policemen or firemen in uniform. Nor shall any free service to the City officials heretofore provided by any franchise or ordinance be affected by this section.

(c) No candidate for office, appointment or employment and no officer, appointee or employee of the City shall directly or indirectly give or promise any person any office, position, employment, benefit or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person, under the penalty of being disqualified to hold the office or employment to which he may be or may have been elected or appointed.

(d) No officer or employee of the City, personally or by a partnership, firm or association of which he is a member, shall, except in the performance of his duties as such officer or employee or except with respect to matters of a ministerial nature, represent or accept employment from or be retained by any person in relation to any matter pending before or involving the City or any board or commission thereof; nor shall he, or any partnership, firm or association of which he is a member, following termination of his service with the City, represent any person adverse to the City in relation to any matter which he personally participated during his period of City service or employment. (Ord. 2-1962 §601.)

165.03 CONVICTION OF CRIME AND FAIR CHANCE HIRING.

(1) CONVICTION OF A CRIME.

Any person convicted of a crime or offense involving moral turpitude may be ineligible to assume any City office, position or employment and, upon conviction thereof while in office, may have to forfeit his office. In determining whether a person who has been convicted of a crime or offense involving moral turpitude is eligible to hold a City office, position or employment, or whether a person must forfeit his office pursuant to this provision, the City shall take the following factors into consideration:

- (a) The temporal proximity of the crime or offense in question to the date the person has applied for or been appointed to any City office, position or employment;
- (b) The duties and responsibilities of the City office, position or employment in question;
- (c) The nature and elements of the crime or offense involving moral turpitude for which the person has been convicted; and
- (d) Any other factors based on the crime or offense involving moral turpitude that weigh on the ability of the person to perform the duties and responsibilities of the office, position or employment.
(Ord. 8-2010. Passed 3-2-10.)

(2) FAIR CHANCE HIRING.

(a) The City of York hereby establishes a fair chance hiring policy that removes the criminal history question from the City of York employment application.

- (1) In making hiring decisions, the city shall consider the public interest of ensuring access to employment for former offenders.
- (2) The City of York may still consider a past conviction as part of an applicant's background check in making hiring decisions.

(b) The City of York encourages all businesses in the City to remove the criminal history question from their applications to allow applicants the opportunity to stand on their own merits.

165.04 REFUSAL TO TESTIFY.

If any person hereafter elected or appointed to any office or position in the City shall, after lawful notice or process, willfully refuse or fail to appear before any court, any legislative committee or the Governor or, having appeared, refuses to testify or to answer any question regarding the property, government or affairs of the City which fall within the scope of his duties or the conduct of his office or regarding his nomination, election, appointment or official conduct or refuses to execute a waiver of immunity from prosecution on account of any such matter in relation to which he may be asked to testify, he may be removed from office by Council in its discretion. Any person removed from office pursuant shall not thereafter be eligible for election or appointment to any office or employment in the City.
(Ord. 2-1962 §603)

165.05 COOPERATION WITH OTHER POLITICAL SUBDIVISIONS.

The City recognizes that, under modern conditions of metropolitan growth, the boundary lines of governmental subdivisions rarely reflect the boundary lines of governmental services and activities. Therefore, all officers and employees of the City shall take all action desirable and necessary to establish and carry out cooperative programs with other governmental subdivisions in the area and vicinity of the City to the end that greater efficiency and economy of operation and improved quality of service will result. (Ord. 2-1962 §606.)

165.06 APPOINTMENT OF OTHER OFFICERS AND EMPLOYEES.

(a) All City officers and employees not otherwise specifically provided for shall be appointed, as provided in Section 121.03. No such appointment shall be made unless funds therefor are contained in the current budget, or are provided for by supplemental appropriations, and it shall be the responsibility of the Mayor to determine what other officers and employments are necessary for the proper governance of the City.

(b) Department heads shall employ to the fullest extent possible, people who are City residents and shall exercise all possible recruitment efforts to employ such residents, including advertising in newspapers and contacting employment agencies. (Ord. 2-1962 §333; Ord. 30-1962 §1; Ord. 82-1966 §1; Ord. 7-1968 §1; Ord. 98-1968 §1.)

165.07 RESIDENCY REQUIREMENTS.

(a) "Employee" means any person appointed to any position of employment by the City, whether such employment be full or part-time provided such person receives financial compensation from the City subject to withholding taxes by the State or Federal government.

(b) "Residence" means the actual domicile where the employee normally eats and sleeps and maintains a normal household.

(c) All persons who shall become employed by the City (other than department heads who remain subject to the provisions of Section 121.03(b)) on or after the effective date of this section shall be or become residents of the City within six months from the first date the employee achieves permanent employment status.

(d) All new employees, once their residence in the City is established, shall be required to maintain residence within the City during their employment. Failure to do so shall be determined to be a forfeiture of employment.

(e) Effective February 1, 1994, and thereafter annually, every employee of the City shall file, with the City Controller, a certificate stating the employee's name and place of residence. Such a residence certificate shall be signed under penalty of perjury. The City Controller may also, from time to time, require proof of the bona fide residence of any employee of the City, to determine such employee's eligibility to receive financial compensation from the City.

(f) Officials and employees of the City shall be subject to such residency requirement as may now or in the future be imposed by the laws of the Commonwealth of Pennsylvania or by any contract or agreement resulting from the collective bargaining process. (Ord. 3-1994 §1. Passed 2-1-94.)

165.08 BLANKET BOND.

Any officer or employee of the City who is or may be required to give bond to the City conditioned for the faithful performance of his duties, except such officers and employees who are required by law to give individual bonds, may be covered by public employees blanket bond, the amount and coverage thereof to be determined by the Mayor. (Ord. 2-1962 §334.)

165.09 FEDERAL SOCIAL SECURITY BENEFITS.

(a) The Mayor and the City Clerk are authorized to execute and deliver to the State Agency a plan and agreement required under the provisions of the Federal Social Security Act and the State Enabling Act to extend coverage to:

- (1) Employees who express a preference for social security, previously excluded from coverage by reason of their membership in a retirement system; and
- (2) Employees with whom such membership is optional and who express a preference for social security.

(b) The City Treasurer is hereby authorized to make all required payments into the contribution fund established by the Enabling Act and to establish such system of payroll deductions from salaries of officers and employees as may be necessary to their coverage under the Social Security Program.

(c) Council hereby appropriates from the proper funds the amounts necessary to pay into the contribution fund as provided in the Enabling Act and in accordance with the plan and agreement.

(d) The proper City officials shall do all things necessary to the continued implementation of the Social Security Program in accordance with the provisions contained in the plan and agreement and the authorizing laws.

(e) Coverage of the groups included in this section commences July 1, 1960. (Res. Passed 6-17-60.)

165.99 PENALTY.

Any officer or employee who violates any provisions of Section 165.02 shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) and costs of prosecution and, in default of payment thereof shall be imprisoned for not more than ninety days, or both. (Ord. 1-2009. Passed 1-6-09.)


SECTION TWO: This ordinance shall become effective in accordance with the law.

PASSED FINALLY: **May 16, 2018**


BY THE FOLLOWING VOTE:

YEAS: Washington, Ritter-Dickson, Buckingham, Walker, Nixon - 5

NAYS: None


Henry Hay Nixon, President of Council

ATTEST:


Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor this 21st day of May 2018 for approval.

APPROVED:  Mayor 5/22/18 Date

VETOED: _____ Mayor _____ Date