

City of Johnstown

Cambria, County, Pennsylvania

ORDINANCE NO. 5187

Introduced in Council
October 14, 2015

BILL NO. 18 OF 2015

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JOHNSTOWN, TITLE FOUR, CHAPTER 882, LOCAL SERVICE TAX, WITH RESPECT TO ESTABLISHING THE ANNUAL RATE FOR LOCAL SERVICES TAX AND THE EXEMPTIONS THERETO PURSUANT TO ACT 199 OF 2014 WHICH PROVIDES FOR A HIGHER RATE OF LOCAL SERVICES TAX FOR THOSE COMMUNITIES WHO HAVE BEEN DETERMINED TO BE DISTRESSED UNDER ACT 47.

IT IS HEREBY ENACTED AND ORDAINED by the Council of the City of Johnstown, Cambria County, Pennsylvania, that the Local Services Tax, Title Four, Chapter 882 of the Code of the City of Johnstown, is hereby amended as follows:

SECTION 1: Levy

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2016; upon the privilege of engaging in an occupation with a primary place of employment within the City of Johnstown during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of one hundred fifty six dollars (\$156.00), assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the City from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The City of Johnstown shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City of Johnstown. The tax shall be no more than \$156.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed.

SECTION 2: Exemptions and refunds.

A. Exemptions. The following persons are exempt from payment of the tax specified in **Section 1**. Any person whose total earned income and net profits from all sources within the City of Johnstown is less than twenty one thousand dollars (\$21,000) for any calendar year in which the tax is levied for that calendar year.

(1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

(2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

(1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the City of Johnstown and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the City of Johnstown of less than twenty one thousand dollars (\$21,000) in the calendar year for which the exemption certificate is filed. In the event the City of Johnstown utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the City of Johnstown for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the City of Johnstown or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the City of Johnstown.

(2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the City of Johnstown that the person has received earned income and net profits from all sources within the City of Johnstown equal to or in excess of twenty one thousand dollars (\$21,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twenty one thousand dollars (\$21,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the City of Johnstown may pursue collection under this article.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The City of Johnstown, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1). The City or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

SECTION 3: Duty of employers to collect.

A. Each employer within the City of Johnstown, as well as those employers situated outside the City of Johnstown but who engage in business within the City of Johnstown, is hereby charged with the duty of collecting the tax from each of its employees engaged by it or performing for it within the City of Johnstown and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee it employs, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the City of Johnstown.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the

amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section.

C. No person shall be subject to the payment of the local services tax by more than one City of Johnstown during each payroll period.

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

E. The tax shall be no more than one hundred fifty six dollars (\$156.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The City of Johnstown shall provide a taxpayer a receipt of payment upon request by the taxpayer.

F. No employer shall he held liable for failure to withhold the tax or for the payment of the withheld tax money to the City of Johnstown if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of this section and remits the amount so withheld in accordance with this article.

G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

SECTION 4: Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

SECTION 5: Interpretation.

A. Nothing contained in this article shall be construed to empower the City of Johnstown to levy and collect the tax hereby imposed on any occupation not within

the taxing power of the City of Johnstown under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

C. Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6: Effective Date

The tax imposed by this Ordinance shall be effective on January 1, 2016 and all calendar years thereafter unless repealed or modified by the Council of the City of Johnstown.

SECTION 7:

In all other respects, Title Four of the Code of the City of Johnstown, "Taxation," shall remain as heretofore enacted, ordained and amended.

PASSED FINALLY IN COUNCIL:

November 12, 2015

By the following vote:

Yeas: Mayor Janakovic, Mr. Johncola, Mr. Mickel, Mrs. Mock, Mr. Vitovich,

Mr. Vizza. (6)

Nays: None (0)

Absent: Mr. Gentile (1)

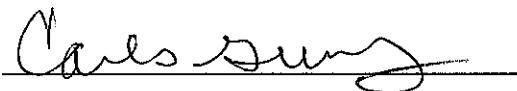


Frank J. Janakovic, Mayor

Peter Vizza, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. **5187** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



Carlos Gunby, City Manager

City of Johnstown

Cambria, County, Pennsylvania

ORDINANCE NO. 5188 of 2015

BILL NO. 27 OF 2015

Introduced in Council
November 10, 2015

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF \$2,740,000.00 FOR PURPOSES OF:

AUTHORIZING THE CITY MANAGER AND SOLICITOR TO EXECUTE ALL DOCUMENTS NECESSARY TO REFINANCE THE 2009 SERIES GENERAL OBLIGATION BONDS THROUGH CONVERSION TO A GENERAL OBLIGATION NOTE WITH FIRST NATIONAL BANK OF PA AT A RATE OF 2.08% AND TO AWARD THE NOTE NOT IN EXCESS OF \$2,740,000.

WHEREAS, it is necessary that the indebtedness of the City of Johnstown, Cambria County, Pennsylvania ("Local Government Unit") be increased for the following purpose; to execute all documents necessary to refinance the 2009 Series General Obligation Bonds through conversion to a General Obligation Note with First National Bank of PA at a rate of 2.08% and to award the note not in excess of \$2,740,000.

WHEREAS, the Local Government Unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$2,740,000.00 will be needed to convert the 2009 Series General Obligation bonds to a General Obligation Note with First National Bank;

WHEREAS, the First National Bank ("FNB") has approved funding for the conversion, subject to the approval of debt proceedings.

WHEREAS, the Local Government Unit shall file debt proceedings with the Department of Community and Economic Development to qualify the indebtedness hereafter authorized as self- liquidating debt; and

WHEREAS, provided the debt related to the project qualifies as self-liquidating, as aforesaid, the proposed increase of debt, together with the Local Governmental Unit's non-electoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the Local Governmental Unit's debt incurring power, pursuant to constitutional and statutory authority, to be exceeded.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the City of Johnstown City Council, Cambria County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. It is necessary that the indebtedness of the City of Johnstown, Cambria County, Pennsylvania, be increased for the purpose of converting the General Obligation Bonds of 2009 to a General Obligation Note with First National Bank ;

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is set forth as a maturity date of March 1, 2020.

SECTION 3. Said indebtedness shall be incurred as non-electoral debt and shall be evidenced by one general obligation note, in fully registered form, in a sum not to exceed \$2,740,000.00 (the "General Obligation Note") bearing interest at a rate of 2.08% per annum for the years 1-5 during the interest only period and the first five years of principal amortization and 2.08% for the remainder of the five or more year term for a total of twenty years. The form of the General Obligation Note is set forth in EXHIBIT A.

SECTION 4. The Local Government Unit reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payments dates thereof, without notice or penalty.

SECTION 5. The General Obligation Note is hereby declared to be a general obligation of the Local Government Unit. The Local Government Unit hereby covenants that it shall include the amount of debt service on the General Obligation Note for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the General Obligation Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Local Government Unit is hereby irrevocably pledged.

SECTION 6. The General Obligation Note shall be executed in the name and under the corporate seal of the Local Government Unit by the City of Johnstown City Council and attested to by the Secretary. The City of Johnstown City Council hereby authorizes and directs the Treasurer to deliver the General Obligation Note to First National Bank, and receive payment therefor on behalf of the Local Government Unit. The Solicitor and the Secretary of the Local Government Unit are authorized and directed to prepare, verify and file the debt statement required by Section 8110 of the Act and to take other necessary action, including filing any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. In compliance with Section 8161 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best financial interest of the Local Government Unit. Therefore, the General Obligation Note in the amount not to exceed \$2,740,000.00, herein authorized to be issued and sold is hereby awarded and sold to First National Bank (Lender) in accordance with its proposal to purchase the Note at par; provided it is dated the delivery thereof to the (Lender) and is in the form set forth in this Ordinance as well as EXHIBIT A; and further provided that the proceedings have been approved by the Department of Community and Economic Development if such approval is required under the provisions of the Act; and subject to such further terms and conditions as set forth.

SECTION 8. The action of the proper officers and the advertising of a summary of this Ordinance as required by law in the Johnstown Tribune Democrat, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 9. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED THIS 10th day of November, 2015.

PASSED FINALLY IN COUNCIL:

November 10, 2015

By the following vote:

Yeas: Mr. Vizza, Mayor Janakovic, Mr. Johncola, Mr. Mickel, Mrs. Mock,

Mr. Vitovich. (6)

Nays: None (0)

Absent: (1)

ATTEST: City of Johnstown City Council

Judene B. Michel

Maria A. Noel

David K. Stank

[Signature]

William Gentile

Kingia J. Jacob

Frank J. [Signature]

Secretary Nancy J. Cushing

Approved this 10th day of Nov., 2015.

Mayor of City of Johnstown: [Signature]

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. 5188 as the same adopted by the City Council of the City of Johnstown, Pennsylvania.

[Signature]
Carlos Gunby, City Manager