

CITY OF JOHNSTOWN, PENNSYLVANIA

ORDINANCE NO. 5287

Bill No. 6 of 2020

Introduced in Council

March 11, 2020

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF JOHNSTOWN, TITLE VI, CHAPTER 236 TO SET FORTH THE BIDDING PROCEDURES TO BE USED IN CONNECTION WITH THE CITY'S SALE OF REAL ESTATE AND PERSONAL PROPERTY.

WHEREAS, the City of Johnstown, Pennsylvania (the "City") is third class city; and

WHEREAS, the City is governed by the Home Rule Charter of the City of Johnstown, as adopted on May 18, 1993 and effective on January 1, 1994, as amended (the "Charter"); and

WHEREAS, pursuant to Section 302(e) of the Charter, the Council of the City (the "Council") is permitted to adopt procedures which shall provide for the sale of real estate and personal property which the City did in Part Two, Title VI, Chapter 236 of the Code of Ordinances of the City of Johnstown (the "Code"); and

WHEREAS, Section 236.14(m)(2) of the Code provides: "Council shall adopt an ordinance to provide for the purchasing of products, goods and services, the making of contracts and the sale or lease of personal or real property of the City. Such procedures shall provide for negotiated contracts, competitive bidding, detailed bidding procedures, assurance of controls on aggregate spending and safeguards against special interests."

WHEREAS, it is the intention of the Council to further describe and detail procedures that provide for the sale of real estate and personal property, as provided herein, such procedures to be codified as a new Section 236.21 of the Code;

NOW, THEREFORE, Title VI, Chapter 236 of the Code is amended to add a new section to set forth the bidding procedures to be used in connection with the City's sale of real estate and personal property.

Section 1. A new Section 236.21 of the Code is entitled "Sale of Real Estate and Personal Property" and is hereby adopted as follows:

(a) Sale of Real Estate.

- (1) No real estate owned by the City may be sold except upon approval by the Council by ordinance and no real estate owned by the City may be sold for a consideration in excess of \$10,000, except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the City.
- (2) The advertisement shall be published once not less than ten (10) days prior to the date fixed for the opening of bids or public auction and the date for opening bids or public auction shall be announced in the advertisement.
- (3) The award of contracts shall be made only by public announcement at a regular or special meeting of the Council or at the public auction.
- (4) All bids shall be accepted on the condition that payment of the purchase price in full shall be made within 60 days of the acceptance of bids or such later date as the City may determine.
- (5) The Council may reject all bids which it deems to be less than the fair market value of the real property.
- (6) In the case of a public auction, the Council may establish a minimum bid based on the fair market value of the real property.
- (7) If no compliant bids are received after advertisement, the applicable procedures in the act of October 27, 1979 (P.L.241, No.78), entitled "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," shall be followed.
- (8) Real estate owned by the City may be sold at a consideration of \$10,000 or less without advertisement or competitive bidding only after the Council estimates the value of the real estate upon receipt of an appraisal by a qualified real estate appraiser.
- (9) This Section (a) shall not apply if the Council exercises its authority to exchange real property of the City for real property of equal or greater value, provided that the property being acquired by the City is to be used for municipal purposes. If the Council chooses to exercise its power of real property exchange pursuant to this Section (a), it shall be by ordinance adopted by the Council. Notice of the ordinance, including a description of the properties to be exchanged, shall be published once in one newspaper of general circulation not more than 60 days nor fewer than seven (7) days prior to adoption.

(b) Sale of Personal Property.

- (1) No personal property of the City shall be disposed of, by sale or otherwise, except upon approval of the Council by resolution.

- (2) The Council shall estimate the sale value of the entire lot to be disposed of.
 - (3) If the Council estimates the sale value to be less than \$10,000, the Council may sell the property, in whole or in part, for the best price or prices obtainable.
 - (4) If the Council estimates the sale value to be \$10,000 or more, the entire lot shall be advertised for sale in at least one newspaper of general circulation in accordance with the provisions of Section 10109 of the Third Class City Code, 53 P.S. §35101 et seq. (relating to publication of notices), and sale of the property advertised shall be made to the best responsible bidder.
 - (5) The bids shall not be opened until at least ten (10) days after the newspaper advertisement is published.
 - (6) The provisions of this Section (b) shall not be mandatory where personal property of the City is to be traded in or exchanged for other personal property.
 - (7) The Council may sell any personal property of the City at auction pursuant to Section (c) hereof, but shall observe the same notice requirements as contained in this Section (b).
- (c) Online or Electronic Auction of Personal Property. In regards to the sale of personal property of the City, an auction may be conducted by means of an online or electronic auction sale subject to the following:
- (1) Bids shall be accepted electronically at the time and in the manner designated in the advertisement pursuant to the notice requirements set forth above in Section (b).
 - (2) Each bidder shall have the capability to view the bidder's bid rank or the high bid price.
 - (3) Bidders may increase their bid prices during the electronic auction.
 - (4) The record of the electronic auction shall be available for public inspection.
 - (5) The purchase price shall be paid by the high bidder immediately or at a reasonable time after the conclusion of the electronic auction, as determined by the Council.
 - (6) In the event that shipping costs are incurred, they shall be paid by the high bidder.

- (7) If the City has complied with the advertising requirements of Section (b), the City may provide additional public notice of the sale by bid or auction in any manner deemed appropriate by the Council.
 - (8) The newspaper advertisement for electronic auction sales authorized in this Section (c) shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction.
- (d) **Non-applicability.** Any requirement for advertising for bids and sale to the highest bidder imposed by this part or by the City pursuant to this Section (d) shall not apply where real or personal property of the City is sold to the following, provided that when any real property is no longer used for the purpose of the conveyance, the real property shall revert to the City:
- (1) The Federal Government, the Commonwealth, a municipality, home rule municipality, institution district or school district.
 - (2) A volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the City or providing emergency services in the City.
 - (3) A municipal authority, a housing authority created pursuant to the act of May 28, 1937 (P.L.955, No.265), known as the Housing Authorities Law, an urban redevelopment authority created pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, a parking authority created under 53 Pa.C.S. Ch. 55 (relating to parking authorities) or under the former act of June 5, 1947 (P.L.458, No.208), known as the Parking Authority Law, or a port authority created pursuant to the act of December 6, 1972 (P.L.1392, No.298), known as the Third Class City Port Authority Act.
 - (4) A nonprofit corporation engaged in community industrial development.
 - (5) A nonprofit corporation organized as a public library.
 - (6) A nonprofit medical service corporation.
 - (7) A nonprofit housing corporation.
 - (8) A nonprofit museum or historical organization.
- (e) Nominal Consideration Acceptable. When real or personal property is sold pursuant to Section (d)(5), (6) or (7), the City may accept nominal consideration as it shall deem appropriate.

Section 2. Incidental Actions. The proper officers of the City are hereby authorized, directed and empowered on behalf of the City to execute any and all papers and documents, and to do or cause to be done any and all acts and things necessary or proper for the carrying out of the provisions of this Ordinance.

Section 3. Rescinding Inconsistent Ordinances. All ordinances or parts of ordinances, passed by the Council and inconsistent herewith be and the same hereby are rescinded, cancelled and annulled.

Section 4. Severability. In the case any one or more of the provisions of this Ordinance shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance and this Ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

Section 5. Effective Date. This Ordinance shall become effective April 15, 2020.


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ORDAINED and ENACTED by the City Council of the City of Johnstown, County of Cambria, Commonwealth of Pennsylvania on this 15th day of April, 2020.

PASSED FINALLY IN COUNCIL:
by the following vote:

April 15, 2020


Yeas: Mr. Britt, Mr. Capriotti, Mayor Janakovic, Rev. King, Mrs. Mock, Mr. Vitovich,
Mr. Arnone. (7)
Nays: None (0)



Frank J. Janakovic, Mayor
Marie Mock, Deputy Mayor

ATTEST: Nancy J. Cushing, City Clerk

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. **5287** as the same was passed finally by City Council and signed by the Mayor and/or Deputy Mayor of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk