

TOWNSHIP OF OHIO
Commonwealth of Pennsylvania

243 #

ORDINANCE

AN ORDINANCE OF THE TOWNSHIP OF OHIO, COMMONWEALTH OF PENNSYLVANIA, ADOPTING A SCHEDULE OF ATTORNEY FEES IN CONNECTION WITH THE COLLECTION OF REAL ESTATE TAX CLAIMS AND LIENS AND OTHER MUNICIPAL CLAIMS, PURSUANT TO ACT 1 OF 1996 AND ADOPTING A SCHEDULE OF CHARGES, EXPENSES AND FEES PURSUANT TO §2, NO. 24 AND §3 OF THE ACT OF MAY 16, 1923, 53 P.S. §7103 AND §7106, WHICH ORDINANCE REPEALS ANY OTHER ORDINANCE INCONSISTENT HERewith RELATING TO A SCHEDULE OF ATTORNEY FEES PURSUANT TO ACT 1 OF 1996

WHEREAS, the Township of Ohio (hereinafter "Municipality") is required from time to time to enforce collection of delinquent real estate taxes and other municipal claims; and

WHEREAS, the expense of such enforcement and the recordkeeping and other services related to the collection, filing, satisfaction, assignment and revival of real estate tax liens when absorbed by the Municipality constitutes a further demand on the Municipality's resources; and

WHEREAS, Act 1 of 1996 amends the Municipal Claim and Lien Law (hereinafter the "Act") Act of May 16, 1923, PL 207, 33, as amended 53 P.S. §7106 (hereinafter "Act 1") to permit municipalities as defined under the Act, or their agents and assigns, to recover reasonable attorney fees in connection with the collection of municipal claims and liens (including real estate tax claims and liens) as defined under the Act (hereinafter collectively referred to as "Municipal Claims") from the persons and property owing such Municipal Claims;

WHEREAS, §2, No. 24 and §3 of the Act, as amended, 53 P.S. §7103, §7106(a), permit the Municipality to add charges, expenses and fees to Municipal Claims resulting from each person's failure to pay Municipal Claims promptly;

WHEREAS, the Municipality desires to exercise such legal authority in order to encourage timely payment of Municipal Claims and the collection of delinquent accounts, and to reduce the expense to other persons associated with servicing, recordkeeping and enforced collection;

WHEREAS, the Municipality desires to repeal any Ordinances which are inconsistent herewith.

NOW, THEREFORE, IT IS HEREBY ENACTED by the Township of Ohio, Commonwealth of Pennsylvania, as follows:

Article I. **Short Title:** This Ordinance shall be known as the Delinquent Tax and Municipal Claim and Lien Attorney Fees and Recordkeeping Charges, Expenses and Fees Ordinance.

Article II. **Attorney Fees Approved:**

Section 1. **Flat Fee - UNCONTESTED MATTERS**

The following schedule of attorney fees and services is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 of 1996 for all uncontested matters which fees shall be awarded to the municipality, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid municipal claims as defined under the Act. The property owner's obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of any proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

A. **FILING OF MUNICIPAL CLAIM.** The sum of \$150.00 shall constitute reasonable attorney fees for a short title examination, preparation and filing of Municipal Claims as defined under the Act.

- B. TITLE SEARCH. The sum of \$250.00 shall constitute reasonable attorney fees for the title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. §3129.
- C. PREPARATION AND SERVICE OF WRIT OF SCIRE FACIAS OR COMPLAINT IN ASSUMPSIT AS PROVIDED IN THE ACT. The sum of \$450.00 shall constitute reasonable attorney fees for the initiation of each proceeding including service of process and notice pursuant to Pa. R.C.P. §237 plus case close-out and the settlement and discontinuance of each proceeding.
1. Federal Tax Liens, Judgments and Mortgages. The sum of \$150.00 shall constitute reasonable attorney fees for all matters necessary to properly notify and serve the United States with all required additional notice and the presentation of related motions to Court where there are federal tax liens, federal judgments, federal mortgages or other record federal interests.
 2. Alternative Service of Legal Pleadings. In the event that a Special Order of Court is necessary to serve original process as well as any other pleading, notice, court order or any other document, the following amounts shall constitute reasonable attorney fees as follows:
 - a. Investigation of Defendant(s) whereabouts and preparation of Affidavit of Diligent Search - \$100.00
 - b. Preparation and Presentation of Motion for Alternative Service through filing of Proofs of Publication - \$200.00
- D. ENTRY OF JUDGMENT. The sum of \$ 200.00 shall constitute reasonable attorney fees for the entry of judgment whether by default, upon motion for judgment, upon award or verdict or by consent.

- E. WRIT OF EXECUTION - SHERIFF'S SALE OF PROPERTY OR OTHER FORM OF EXECUTION ON ANY ENTERED JUDGMENT UPON COMPLAINT IN ASSUMPSIT. The sum of \$ 700.00 shall constitute reasonable attorney fees for preparation of all documents necessary for execution upon any judgment pursuant to the Act.
- F. SECOND SALE FREE AND CLEAR. The sum of \$700.00 shall constitute reasonable attorney fees for a Second Sale, Free and Clear of all liens, claims, mortgages, charges and estates pursuant to §7281 of the Act including preparation of necessary documents, service, court appearances, attendance at Second Sale and preparation of proposed Sheriff's distribution.
- G. INSTALLMENT PAYMENT AGREEMENT. The sum of \$150.00 shall constitute reasonable attorney fees for preparation of any written installment payment agreement.

Section 2. **CONTESTED MATTERS - HOURLY RATES**

The following schedule of attorney fees is hereby adopted and approved as reasonable attorney fees pursuant to Act 1 of 1996 which fees shall be awarded to the Municipality, its agents, counsel or assigns as compensation in all contested matters, actions in assumpsit and in all other actions, not specifically referenced in Article II, Section 1, above undertaken in connection with the collection of a delinquent account under the Act:

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| A. | Attorneys | \$160.00 per hour |
| B. | Paralegals | \$ 90.00 per hour |
| C. | Law Clerks | \$ 60.00 per hour |

each as recorded and charged in units of 1/10th of an hour for all time devoted to enforcement and collection. Counsel, whether duly employed or duly appointed by the Municipality, its agents or assigns, shall not deviate from this fee schedule plus any authorized escalation provided below absent a ordinance amending the same. Contested matters are any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any Defendant or other interested party.

Section 3. CONSUMER PRICE INDEX INCREASE

The attorney fees set forth in Article I, Sections 1 and 2 of this Ordinance shall be adjusted annually, to an amount equal to the fees set forth herein, plus a percentage amount of the fees set forth herein equal to the percentage increase in the Consumer Price Index for all Urban Consumer, Pittsburgh-Beaver Valley, (1982-84=100) (hereinafter the "CPI") published for July immediately prior to the Adjustment Date over the CPI for June, 1997 CPI. The Adjustment Date shall be January 1 of each year, commencing January 1, 1999.

Article III. PROCEDURE

A. **Required Notice:** The notice required by the Act, as amended, 53 P.S. §7106, shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or notices sent by the Municipality, its agent, counsel or assigns.

B. **Fees to be Accrued and Claims to be Filed:** Fees shall accrue for all efforts in collection after the 30th day following the Notice provided under Section 7106 of the Act or after the 10th day of any required Second Notice on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Municipality authorized to pursue collection of municipal claims pursuant to the Act, or by counsel for the Municipality's agents or assigns and, if not collected in due course with the debt as by voluntary agreement, shall be included in all Municipal Claims filed on behalf of the Municipality or by its agents or assigns in the course of enforcement including any Municipal Claim originally filed with the Prothonotary, any Municipal Claim filed with the Sheriff or in any other Municipal Claim filed or statement provided where attorney fees are due.

C. There shall be added to the above amounts, the reasonable out-of-pocket expenses of counsel in connection with each of these services, including costs, fees, and expenses associated with the Court, Prothonotary, Sheriff or other relevant office.

D. The amount of fees determined as set forth above shall be added to the Municipal Claim in each proceeding.

Article IV. **Recordkeeping Service Charges, Expenses and Fees Approved:** The following schedule of charges, expenses and fees is hereby approved and adopted by the Municipality pursuant to §2, No. 24 and §3 of the Act of May 16, 1923, as amended, 53 P.S. §7103 and §7106, which recordkeeping services are necessary and are the direct result of each person's failure to pay Municipal Claims in a timely manner.

Section 1. Schedule

The following schedule of charges, expenses and fees shall constitute reasonable and appropriate charges, expenses and fees for each indicated recordkeeping service. The charges, expenses and fees shall be added to each Municipal Claim and become part of the Municipal Claim in addition to the principal, together with all penalties, interest, costs and attorney fees and shall be payable in full for each Municipal Claim before the discharge or satisfaction of any Municipal Claim. The below schedule of charges, expenses, and fees is separate and distinct from any costs or fees imposed by the Sheriff, Prothonotary, Court or any other public office in connection with the collection of Municipality's Municipal Claims.

- A. Assignments \$ 3.00 per lien;
- B. Lien Satisfactions \$ 5.00 per lien;
- C. Lien Revivals (i.e. S&A) \$10.00 per lien;
- D. Tax Certifications (for
liened delinquent real
estate taxes only) \$10.00 per year;
- E. Servicing including
staffing, computers, office space, telephones,
equipment, materials and postage

5% of Gross Collections \$100.01 & over
10% of Gross Collections \$100.00 & under

Article V. Effective Date and Retroactivity: This Ordinance shall take effect on the date of enactment set forth below and with respect to attorney fees pursuant to Articles II and III shall apply to Municipal Claims filed in 1990 and thereafter, or as otherwise required by law. In no event shall the Municipality or its assigns' right to charge and assess reasonable attorney fees under Act 1 of 1996 or charges, fees and expenses pursuant to §7103 and §7106 of the Act be impaired by the fact that any Municipal Claim may also include any amounts for claims filed prior to 1990. The charges, expenses and fees set forth in Article IV of this Ordinance relate to all unpaid Municipal Claims in favor of the Municipality, its agents and assigns, and shall be retroactive to the date of each Municipal Claim.

Article VI. Assignment: The Municipality assigns the provisions of this Ordinance to any assignee of its Municipal Claims. Assignee shall have and hold all rights of the Municipality to recover reasonable attorney fees as well as expenses, charges and fees in the amounts set forth in this Ordinance incurred in the collection of each Municipal Claim assigned and in all future assignments and transfers of Municipal Claims by the Municipality. The Municipality and the duly authorized agents shall retain all rights to charge reasonable attorney fees, expenses, charges and fees in accordance with the provisions of this Ordinance in actions commenced under the Act and for recordkeeping services for Municipal Claims

retained by the Municipality.

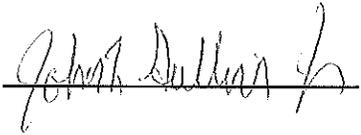
Article VII. **Severability.** If any one or more of the provisions or terms of this Ordinance shall be held invalid for any reason whatsoever, then, unless such provision or term is material to this Ordinance as to render this Ordinance impracticable to perform, such provision or terms shall be deemed severable from the remaining provisions or terms of this Ordinance and shall in no way affect the validity or enforceability of any other provisions hereof.

Article VIII. **Repealer:** All prior Ordinances are hereby repealed in whole or in part to the extent inconsistent herewith.

RESOLVED AND ENACTED THIS 14th day of May, 2000.

ATTEST:

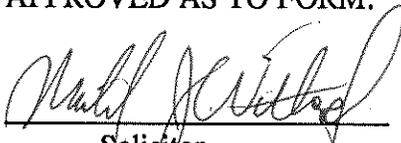
TOWNSHIP OF OHIO





Chairman of the Board

APPROVED AS TO FORM:



Solicitor