

**BEFORE THE BOROUGH COUNCIL OF THE BOROUGH OF EMMAUS
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1260

**AN ORDINANCE APPROVING APPOINTMENT OF SOLICITOR, INTEREST ASSESSMENT, ATTORNEY FEES
AND COLLECTION FEES ADDED TO THE AMOUNT COLLECTED AS PART OF UNPAID REAL ESTATE TAXES
AND MUNICIPAL CLAIMS FOR DELINQUENT ACCOUNTS**

WHEREAS, to be fair to all taxpayers and other residents of the Borough of Emmaus (the "Borough"), it is necessary for the Borough to recover promptly unpaid, delinquent real estate tax accounts and unpaid, delinquent refuse, sewer, and water fee accounts, if necessary, by legal proceedings; and

WHEREAS, the Municipal Claims and Tax Liens Act, 53 P.S. §7101, *et seq.*, as amended (the "Act"), provides a statutory framework for Municipalities to collect unpaid Tax Claims and Municipal Claims; and

WHEREAS, §7101 of the Act authorizes a Municipality levying Taxes, Tax Claims, Tax Liens, Municipal Claims and/or Municipal Liens that become delinquent (each, an "Unpaid Claim") to recover the Charges, Expenses, Commissions and Fees incurred in the collection of the Unpaid Claims together with the applicable Unpaid Claim, provided that such Charges, Expenses, Commissions and Fees are approved by Legislative Action of such Municipality; and

WHEREAS, §7106 of the Act requires that the applicable Municipality adopt by Ordinance a schedule of Attorney Fees for any Attorney Fees incurred in connection with the filing, preservation, and collection of any Delinquent Account, including any Unpaid Claim; and

WHEREAS, the Borough has determined after due deliberation and investigation that it is in the best interest of the Borough to collect certain Unpaid Claims pursuant to the Act, and after careful review of the Attorney Fees and Collection Fees set forth in this Ordinance, to approve and adopt such Attorney Fees and Collection Fees pursuant to this Legislative Action in accordance with the Act.

NOW, THEREFORE, be it hereby **ORDAINED and ENACTED** in accordance with the Municipal Claims and Tax Liens Act, 53 P.S. §7106 the Attorney Fees and Collections Fees set for in this Ordinance shall be as follows:

Section 1. Attorney Fees and Collection Fees to be Added to the Unpaid Claims. The Attorney Fees and Collection Fees set forth below are hereby adopted, approved, and determined to be reasonable, including, without limitation, as contemplated by § 7106 of the Act. The Attorney Fees and Collection Fees set forth below shall be included and added to the applicable Unpaid Claims collected pursuant to the Act (such Unpaid Claims, the "MCTLA Unpaid Claims") in an amount equal to the amount set forth in this Section 1.

(a) Attorney Fees.

Initial review and sending first legal demand letter	\$175.00
File Lien and prepare Satisfaction	\$250.00

Prepare Writ of Scire Facias	\$250.00
Prepare and mail letter under Pa. R.C.P. 237.1	\$ 50.00
Prepare Default Judgment	\$175.00
Research, prepare and obtain re-issued Writ	\$175.00
Prepare Praeipce to Amend	\$100.00
Prepare Motion to Amend	\$150.00
Prepare Motion for Alternate Service	\$250.00
Prepare Motion to Consolidate Claims	\$250.00
Amend claim to add United States as defendant	\$250.00
Prepare Writ of Execution	\$800.00
Preparation for sheriff's sale; review schedule of distribution and resolve distribution issues	\$400.00
Prepare Motion to Continue Sheriff's Sale	\$ 50.00
Prepare Petition for Free and Clear Sale	\$400.00
Preparation and service of Subpoena	\$100.00
Presentation of Motion or Petition	\$ 50.00
Services not covered above	At an hourly rate between \$75.00-\$275.00 per hour

(b) Collection Fees.

Validation notice	\$ 25.00 per notice
Notice of delinquent claim and fee shifting	\$ 40.00 per notice, plus applicable postage
Bookkeeping fee for payment plan of 3 months or less	\$ 25.00
Bookkeeping fee for payment plan of more than 3 months	\$ 50.00
Handling fee for returned check	\$ 25.00

In addition to the Collection Fees set forth under Section 1(b) above, the amount of out-of-pocket charges, costs, expenses, commissions and fees incurred in connection with the filing, preservation and collection of the MCTLA Unpaid Claims, including, but not limited to, prothonotary fees and charges, sheriff fees and charges, postage expenses, title search expenses, vehicle identification number (VIN) search expenses, skip tracing and/or other investigatory service expenses, and the costs, fees, charges and/or expenses arising out of any payment by any credit card, debit card or any other payment medium, are hereby approved and shall be included, upon incurrence, together with the applicable MCTLA Unpaid Claim.

Section 2. Interest. Interest will be assessed upon the MCTLA Unpaid Claims at a rate of 10% per annum and added to the MCTLA Unpaid Claims. The Borough is permitted to waive any

interest on any MCTLA Unpaid Claim when the Borough or any attorney and/or third-party collector collecting the MCTLA Unpaid Claim believes, in its discretion, that such amount is *de minimis* or that the cost or burden of continuing collection outweighs the benefit of collecting the interest.

Section 3. Appointment of Solicitor. The Borough appoints Michelle R. Portnoff, Esquire, as Solicitor for the limited purpose of collecting the MCTLA Unpaid Claims and hereby authorizes her, and all attorneys employed by Portnoff Law Associates, Ltd., to sign any and all documents, including tax claims, municipal claims, and liens, on behalf of the Borough.

Section 4. Severability. Should any section, paragraph, clause, or phrase of this Ordinance be declared unconstitutional or invalid by legislation or a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

Section 5. Inconsistencies. All prior ordinances, resolutions and/or other official acts or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 6. Capitalized Terms. Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Act.

Section 7. Effective Date. This Ordinance shall take effect on the earliest date permitted pursuant to applicable law.

BE IT FURTHER ORDAINED AND ENACTED that existing Ordinances of the Borough or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed.

BE IT FURTHER ORDAINED AND ENACTED that if any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect the constitutionality, legality, or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal or invalid.

DULY ADOPTED this 4th day of March, 2024, in lawful session duly assembled.



Shane M. Pepe
Borough Manager



Shana Baumgartner
Council Vice President

AND NOW, this 4th day of March, 2024, the above Ordinance is hereby **APPROVED** by the Mayor of the Borough of Emmaus in due course.



Lee Ann Gilbert
Mayor

