

**OFFICIAL  
BOROUGH OF FRANKLIN PARK  
ORDINANCE NO. 676-2023**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FRANKLIN PARK, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, REPEALING AND RESTATING CHAPTER 19 IN THE CODE OF THE BOROUGH OF FRANKLIN PARK, "CLAIMS, MUNICIPAL," ADOPTING A SCHEDULE OF ATTORNEY FEES IN CONNECTION WITH THE COLLECTION OF TAXES, TAX CLAIMS, TAX LIENS, MUNICIPAL CLAIMS, AND MUNICIPAL LIENS PURSUANT TO ACT 1 OF 1996 AND ACT 20 OF 2003, ADOPTING A SCHEDULE OF CHARGES, EXPENSES AND FEES PURSUANT TO THE MUNICIPAL CLAIMS AND TAX LIENS LAW, AND REPEALING ANY OTHER ORDINANCES INCONSISTENT HERewith.**

WHEREAS, the Council of the Borough of Franklin Park ("Borough") is required from time to time to recover promptly unpaid, delinquent real estate taxes, and other municipal claims; and

WHEREAS, the expense of such enforced collection, and of the recordkeeping and other services related to the collection, filing, satisfaction, assignment, and revival of Claims (hereinafter "Servicing"), when absorbed by the Borough constitutes a further demand on the Borough's resources; and

WHEREAS, the Municipal Claims and Tax Liens Law, 53 P.S. § 7101, *et seq.*, as amended, (hereinafter the "Act"; capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Act), provides a statutory framework for Municipalities to collect unpaid Tax Claims and Municipal Claims; and

WHEREAS, Act 1 of 1996 (hereinafter "Act 1") and Act 20 of 2003 (hereinafter "Act 20") amended the Act, 53 P.S. § 7106, and permits a municipality as that term is defined in the Act, to recover all costs and reasonable Attorney fees, including a commission, in connection with the collection of Claims from the persons and property owing such Claims; and

WHEREAS, the Act permits the Borough to recover as part of each unpaid Claim, among other things, various charges, expenses and fees, and Attorney fees relating to the failure to pay the Claims promptly and subsequent enforced collection of same; and

WHEREAS, the Borough desires to exercise such right in order to encourage timely payment of municipal claims including real estate taxes and the collection of delinquent accounts, and to reduce the expense to other taxpayers of enforced collection; and

WHEREAS, the Borough has appointed a law firm and/or its affiliated entity, if any, to be the Delinquent Tax Collector.

**NOW, THEREFORE**, be it ordained and enacted by the Borough Council of the Borough of Franklin Park, and it is hereby ordained and enacted by and with the authority of the same, incorporating the above recitals by reference:

**SECTION 1.** Chapter 19 in the Code of the Borough of Franklin Park, "Claims, Municipal", is hereby repealed and restated as follows:

Article I      **Attorney Fees, Servicing Charges, Expenses, and Fees**

§19-1 **Delinquent Tax Collector.**

Borough Council shall appoint by motion or resolution a law firm and/or its affiliated entity to serve as Delinquent Tax Collector. All attorney fees, servicing charges, expenses, and fees set forth in this Chapter for the services of the Delinquent Tax Collector may be amended, modified, or revised by Borough Council by ordinance or resolution from time to time and shall be in full force and effect as stated in the effective date of such ordinance or resolution.

§19-2 **Title search expenses approved.**

- A. In any enforcement proceeding, the actual cost of a title search in an amount not to exceed \$300.00 shall constitute a reasonable expense for each title search necessary for the initiation of each proceeding and compliance with Pa.R.C.P. 3129. The sum not to exceed \$75.00 shall constitute a reasonable expense for each bringdown or update of the title search in connection with entry of judgment, issuance of execution, listing for sale, or other action.
- B. Actual out-of-pocket expenses in connection with any enforcement action, such as for postage, non-Sheriff's service of process, investigation of the whereabouts of interested parties and other necessary expenses shall constitute reimbursable expenses as part of each Claim recovered.

§19-3 **Attorney fees approved.**

- A. FLAT FEE MATTERS.

The following schedule of Attorney fees is hereby adopted and approved as reasonable Attorney fees pursuant to Act 1 and Act 20 for all matters described, which fees shall be awarded to the Borough, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid Claims. 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 the proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

- 1. PREPARATION AND SERVICE OF WRIT OF SCIRE FACIAS AND CIVIL PROCESS THEREAFTER.

The sum of \$500.00 shall constitute reasonable Attorney fees for the initiation of each proceeding, and shall include preparation and filing of the Praeceptum for Writ of Scire Facias, Sheriff's direction for service, Notice pursuant to Pa.R.C.P. 237.1 and the preparation and filing of the Praeceptum to Settle and Discontinue the proceeding. An

Amended and reissued Writ of Scire Facias shall constitute a separate proceeding for attorney fee purposes.

The above does not include:

- a. Federal Tax Liens, Judgments and Mortgages. Where there are federal tax liens, federal judgments, federal mortgages or other record federal interests, the sum of \$250.00 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.
- b. Amendment of Caption. In the event that a Special Order of Court is necessary relative to the name or identification of parties, \$250.00 shall constitute a reasonable Attorney fee for the necessary research, preparation of the motion, preparation of the proposed order of court, party notices and presentation of the same.
- c. Alternative Service of Legal Pleadings. In the event that a Special Order of Court is necessary to serve original process or any other pleading, notice, court order or other document, the following amounts shall constitute reasonable attorney fees as follows:
  - i. Investigation of Defendant(s) whereabouts and preparation of Affidavit of Diligent Search - \$100.00.
  - ii. Preparation and Presentation of Motion for Alternative Service, and delivery of the Order of Court, along with appropriate directions to the Sheriff for service - \$250.00.

2. ENTRY OF JUDGMENT.

The sum of \$250.00 shall constitute reasonable Attorney fees in connection with entry of judgment which shall include preparation and filing of the Praeceptum to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praeceptum to Satisfy Judgment.

3. WRIT OF EXECUTION – SHERIFF’S SALE OF PROPERTY.

The sum of \$1,000.00 shall constitute reasonable Attorney fees for preparation of all documents necessary for each execution upon any judgment pursuant to the Act. This sum shall include the preparation and filing of the Praeceptum for Writ of Execution, all

Sheriff's documents, preparation and service of Notices of Sheriff's Sale, staying the Writ of Execution, and attendance at one (1) Sheriff's Sale.

a. Postponements. The sum of \$100.00 shall constitute reasonable attorney fees for each continuance of Sheriff's Sale at the request of the defendant.

4. SALE PURSUANT TO §31 OF THE ACT, 53 P.S. §7281.

The sum of \$700.00 shall constitute reasonable Attorney fees for the sale of property pursuant to §31 of the Act, 53 P.S. § 7281 including preparation and service of necessary documents, court appearances, attendance at Sale and preparation of proposed schedule of distribution of the proceeds realized from such Sale.

5. SALE PURSUANT TO §31.1 OF THE ACT, 53 P.S. §7282.

The sum of \$700.00 shall constitute reasonable Attorney fees for a sale of property pursuant to §31.1 of the Act, 53 P.S. § 7282, including the preparation of necessary documents, service, court appearances, and the preparation of proposed Sheriff's Schedule of Distribution.

6. INSTALLMENT PAYMENT AGREEMENT.

The sum of \$200.00 shall constitute reasonable Attorney fees for the negotiation, preparation and monitoring of each written installment payment agreement.

7. FINAL NOTICE BEFORE SHERIFF SALE.

The sum of \$50.00 shall constitute reasonable Attorney fees for the preparation, monitoring and follow-up of a Final Notice Before Sheriff Sale.

8. MOTIONS.

The sum of \$250.00 shall constitute reasonable Attorney fees for the preparation, filing, and presentation of motions, other than those otherwise stated herein, including but are not limited to, motions to reassess damages, motions to amend caption, motions to continue the Sheriff's Sale.

9. DELINQUENCY LETTERS/NOTICES.

A sum of \$10.00 per letter shall constitute reasonable Attorney fees and/or Cost for the preparation of miscellaneous letters, notices or

other correspondence to taxpayers and/or their designated legal counsel that is not associated with the transmission of pleadings, motions or similar civil process following an Act 20 Notice.

10. ASSUMPSIT ACTIONS.

If an assumpsit action is initiated in lieu of a Writ of Scire Facias, the sum of \$500.00 shall be applied for the preparation of filings, notices and appearances at the Magisterial District Justice. Transfer of judgment(s) and execution thereof shall be treated in a similar manner as a Writ of Execution with associated fees.

B. HOURLY RATE MATTERS

The following schedule of Attorney fees is hereby adopted and approved as reasonable Attorney fees pursuant to Act 1 and Act 20, which fees shall be awarded to the Borough, its agents, counsel or assigns as compensation in all contested matters, and in all other matters not specifically referenced in Section 19-3(A), above, undertaken in connection with the collection of Claims:

|    |                  |                   |
|----|------------------|-------------------|
| A. | Senior Attorneys | \$195.00 per hour |
| B. | Junior Attorneys | \$165.00 per hour |
| C. | Paralegals       | \$95.00 per hour  |
| D. | Law Clerks       | \$95.00 per hour  |

These fees will be recorded and charged in units of 1/10<sup>th</sup> of an hour for all time devoted to enforcement and collection of the Borough's Claims. Counsel, whether duly employed or duly appointed by the Borough, its agents or assigns, shall not deviate from this fee schedule absent a subsequent resolution amending the same. Hourly rate matters include, but are not limited to, 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.

§19-4 **Procedures.**

A. REQUIRED NOTICES

The Notice required by the Act, as amended, 53 P.S. § 7106, or other relevant law shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or notices sent by the Borough, 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 30<sup>th</sup> day of the Notice, or after the 10<sup>th</sup> day of any required Second Notice under the Act, as amended, 53 P.S. § 7106, 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 Borough authorized to pursue collection of Claims pursuant to the Act, or by counsel for the Borough's agents or assigns and, if not collected in due course with the debt as by voluntary payment, shall be included in any Claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement including any Claims originally filed with the Department of Court Records, any Claims filed with the Sheriff or in any other Claims filed or statements provided where attorney fees are due.

- C. The amount of fees determined as set forth above shall be added to and become part of the Claim or Claims in each proceeding as provided by the Act and as provided herein.

**§19-5 Servicing charges, expenses, and fees approved.**

- A. This schedule of charges, expenses, and fees (hereinafter collectively referred to as "Servicing Fees") is hereby approved and adopted by the Borough pursuant to §1, §2, and §3 of the Act of May 16, 1923, as amended, 53 P.S. §§ 7101, 7103 and 7106, which amounts are the direct result of each person's or property's failure to pay Claims promptly. The Servicing Fees established, assessed, and collected hereunder shall be in addition to the record costs, Section 19-3 Attorney fees and Section 19-2 title search expenses associated with legal proceedings initiated by or on behalf of the Borough to collect its Claims.
- B. Servicing of a Claim or Claims may result in voluntary payment without initiation of enforcement proceedings. It is the intent of this Section to pass the cost of service on to the delinquent person or property as part of each Claim. The recovery of Servicing Fees established herein shall not be contingent upon the initiation of enforcement proceedings. However, such Servicing Fees are due even where enforcement proceedings are initiated. The purpose of this section is to pass the cost and expense associated with delinquent collection on to the delinquent person or property and to make the Borough whole on all Claims collected.
- C. SCHEDULE

The following schedule of Fees shall constitute reasonable and appropriate Service Fees for each indicated service. The Servicing Fees shall be added to and become part of the Borough's Claims, together with the face, penalties, interest, costs and Attorney fees and shall be payable in full before the discharge or satisfaction of any Claim. The schedule of Fees is separate and distinct from any amounts imposed by the Sheriff,

Department of Court Records, Court, or any other public office in connection with the collection of the Borough's Claims.

- |     |  |                             |
|-----|--|-----------------------------|
| 1.  | Assignments  | \$5.00 per Claim            |
| 2.  | Letters and Notices  | \$10.00 per letter          |
| 3.  | Filing Tax Liens   | \$5.00 per item             |
| 4.  | Satisfactions  | \$5.00 per Claim            |
| 5.  | Tax Claim Revivals<br>(i.e. S&A)   | \$10.00 per Claim           |
| 6.  | Tax Certifications   |                             |
|     | a. Regular Delivery  | \$50.00 per Parcel          |
|     | b. Rush (1-2 Business Day)   | \$100.00 per Parcel         |
| 7.  | Sheriff Sale Claim<br>Certificates   | \$50.00 per Case            |
| 8.  | Servicing including staffing,<br>computers, office space,<br>telephones, equipment and<br>materials:                       |                             |
|     | For <b>all</b> delinquent and<br>liened taxes, tax liens,<br>municipal claims (filed<br>or unfiled) and municipal<br>liens | 10% of gross<br>collections |
| 9.  | Postage and Court costs  | Actual Cost                 |
| 10. | Payment Plan Before Act 20 Notice  | \$100.00                    |

**§19-6 Effective date and retroactivity.**

- A. This Chapter shall take effect on the date of enactment set forth below and with respect to Attorney fees pursuant to Sections 19-3 and 19-4 shall apply to all taxes, tax claims, tax liens, municipal claims, municipal liens, Writs of Scire Facias, Judgments, or Executions filed on or after December 19, 1990, or as otherwise provided by law.
- B. In no event shall the Borough's right to charge and collect reasonable Attorney fees pursuant to Sections 19-3 and 19-4 of this Chapter be impaired by the fact that any Claim may also include an attorney commission of five percent (5%) for Claims filed prior to December 19,

1990. Any attorney fees assessed and collected under this or any prior resolutions pursuant to Act 1 shall be in addition to any five percent (5%) commission previously included in any Claim or judgment thereon.

- C. Attorney fees and expenses incurred in pending enforcement proceedings prior to the effective date of this Chapter, pursuant to prior resolutions or ordinances adopted under Act 1, but not collected, shall remain due and owing in accordance therewith, and shall be incorporated in any further statement, Claim, pleading, judgment, or execution, Attorney fees and expenses in any pending or new action incurred after the effective date of this Resolution shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Resolution.
- D. The charges, expenses, and fees set forth in Section 19-5 of this Chapter relate to all unpaid Claims in favor of the Borough, its agents and assigns, and shall be retroactive to the date of each Claim.

**SECTION 2. *Assignment.*** The Borough assigns the provisions of this Ordinance to any assignee of its Claims unless the assignment limits the assignee's ability to collect such amounts. The Borough and its current duly authorized agent and Delinquent Tax Collector, Weiss Burkardt Kramer, LLC, shall retain all rights to charge reasonable Attorney fees, charges, expenses, and fees in accordance with the provisions of this Ordinance in actions commenced under the Act and for Servicing any Claims retained by the Borough. Weiss Burkardt Kramer, LLC may contract with qualified affiliated entities and/or individuals to provide services herein described who shall be similarly bound by this Ordinance. All attorney fees, servicing charges, expenses, and fees set forth in this Ordinance for the services of the Delinquent Tax Collector may be amended, modified, or revised by Borough Council ordinance or resolution from time to time and shall be in full force and effect as stated in the effective date of such ordinance or resolution.

**SECTION 3. *Severability.*** If any one or more of the provisions or terms of this Ordinance shall be held invalid for any reason whatsoever, then such provision or terms shall be deemed severable from the remaining provisions or terms of this Ordinance to the maximum extent possible and shall in no way affect the validity or enforceability of any other provisions hereof.

**SECTION 4. *Repealer.*** All prior resolutions or ordinances are hereby repealed in whole or in part of the extent inconsistent herewith.

**SECTION 5. *Effective Date.*** The effective date of this Ordinance shall be retroactive to January 1, 2023.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Franklin Park at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

**BOROUGH OF FRANKLIN PARK**

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
President

\_\_\_\_\_  
Mayor