

BOROUGH OF MODENA

Ordinance No. 164-2022

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

WHEREAS, to be fair to all taxpayers and other residents of the Borough of Modena (the "Borough"), it is necessary for the Borough to recover promptly unpaid, delinquent municipal 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"; 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, § 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 (the "Collection Expenses") as Charges, Expenses and Fees included together with the applicable Unpaid Claim; *provided*, that such Collection Expenses are approved by Legislative Action of such municipality; and

WHEREAS, § 7106(a.1) 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 (such Unpaid Claims, "MCTLA Unpaid Claims") 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 AND IT IS HEREBY ORDAINED, ENACTED AND ADOPTED BY THE COUNCIL OF THE BOROUGH OF MODENA AS FOLLOWS:

Section 1. Attorney Fees and Collection Fees to be Added to the MCTLA 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 MCTLA Unpaid Claim 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 Praecipe 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 Subsection 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 Unpaid Claims at a rate of 10% per annum and added to the Unpaid Claims. The Borough is permitted to waive any interest on any Unpaid Claim when the Borough or any attorney and/or third party collector collecting the 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 Unpaid Claims and hereby authorizes her, and all attorneys employed by Portnoff Law Associates, Ltd., to sign any and all documents, including 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. Effective Date. This Ordinance shall take effect on the earliest date permitted pursuant to applicable law.

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DULY ORDAINED, ENACTED AND ADOPTED BY THE COUNCIL OF THE
BOROUGH OF MODENA THIS 7th DAY OF November, 2022

BOROUGH OF MODENA

By: [Signature]
Name: Jennifer Stewart
Title: President of Council

Attest:

Victoria Cloud, Secretary
Name:
Title:

[Seal]

**AMENDMENT TO AGREEMENT FOR COLLECTION OF
DELINQUENT MUNICIPAL CLAIMS
ON BEHALF OF BOROUGH OF MODENA**

Borough of Modena (the "Borough") and Portnoff Law Associates, Ltd. ("Portnoff") have heretofore entered into an Agreement for Collection of Delinquent Municipal Claims on Behalf of Borough of Modena (the "Agreement"), executed by the Borough on September 3, 2013 and by Portnoff on September 10, 2013. The parties wish to amend the Agreement as follows:

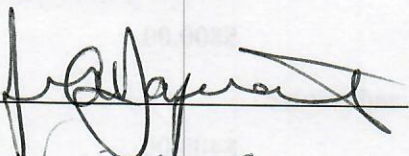
1. Any and all fees listed in the Agreement shall hereby be replaced with the updated fee schedule set forth on Exhibit "A" attached hereto.
2. All other terms and conditions of the Agreement shall remain in full force and effect.

Borough of Modena

By: _____

Attest: _____

Date: _____



Victoria Cloud

Nov. 7, 2022

Portnoff Law Associates, Ltd.

By: _____

Attest: _____

Date: _____

EXHIBIT "A"

Legal 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
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Handling fee for returned check	\$ 25.00

Payoff Fee

Providing guaranteed payoff to third parties	\$ 25.00
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