

NOTICE IS GIVEN that on **Wednesday, November 21, 2018 at 7:00 p.m.**, prevailing time, Council for the Borough of West Chester, Chester County, Pennsylvania, will hold a public hearing as part of the regularly scheduled public meeting at the Borough of West Chester's temporary administrative offices located at 829 Paoli Pike, West Chester, Pennsylvania, to consider the adoption of, and if approved, Borough Council will adopt an ordinance with the following title and summary:

AN ORDINANCE AMENDING CHAPTER 15 OF THE BOROUGH CODE TITLED, "LIENS AND CLAIMS, MUNICIPAL" TO APPROVE COLLECTION PROCEDURES AND ADOPTING INTEREST AND SCHEDULE OF ATTORNEY FEES AND CHARGES TO BE ADDED TO THE AMOUNT COLLECTED AS PART OF UNPAID REAL ESTATE TAXES AND MUNICIPAL CLAIMS FOR DELINQUENT ACCOUNTS.

The full text of the Ordinance is available for inspection without charge at the Borough of West Chester temporary administrative offices located at 829 Paoli Pike, West Chester, Pennsylvania, Monday through Friday from 8:30 a.m. to 5:00 p.m. A copy of the full text of the Ordinance may be obtained for a charge not greater than the cost thereof. In addition, a certified copy of the proposed Ordinance is also on file and available for inspection by members of the public at the offices of the Daily Local News by calling (215) 648-1066 and the Chester County Law Library, Chester County Justice Center, Suite 2400, 201 West Market Street, West Chester, Pennsylvania 19380.

Kristin S. Camp, Esquire
Borough Solicitor

PLEASE ADVERTISE ON NOVEMBER 13, 2018

RESOLUTION NO. – 2018

BOROUGH OF WEST CHESTER

CHESTER COUNTY, PENNSYLVANIA

**RESOLUTION DIRECTING CHESTER COUNTY TAX CLAIM
BUREAU NOT TO COLLECT DELINQUENT REAL ESTATE
TAXES ON BEHALF OF THE BOROUGH OF WEST CHESTER**

WHEREAS, the Borough of West Chester (the "Borough") is authorized to collect delinquent taxes pursuant to the Municipal Claims and Tax Liens Act, 53 P.S. § 7101, *et seq.*, as amended (the "Act"); and

WHEREAS, the Borough has determined that it is in the best interest of all taxpayers and other residents to have vigorous enforcement of all delinquent taxes and other unpaid charges, utilizing the procedures set forth in the Act; and

WHEREAS, the Borough has contracted with a third party collector for the collection of delinquent real estate taxes, utilizing the procedures set forth in the Act; and

WHEREAS, the Chester County Tax Claim Bureau (the "Bureau") is an agent of the Borough as per 72 P.S. § 5860.208 of the Real Estate Tax Sale Law (the "RETSL").

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ENACTED BY THE BOROUGH OF WEST CHESTER AS FOLLOWS:

1. Until further notice, the Borough declares that it is collecting the delinquent 2018 real estate taxes and future delinquent real estate taxes utilizing the procedures set forth in the Act, exclusively and independently of any other statute governing the collection of taxes, including the RETSL, and independent of any county tax claim bureau.
2. Until further notice, the Borough directs the Bureau not to take any action to collect the delinquent 2018 real estate taxes and future delinquent real estate taxes, except that when the Bureau is selling any property at upset sale, private sale, judicial sale or repository sale under the procedures set forth in the RETSL, the Bureau is directed by the Borough to include tax delinquencies being collected by the Borough's third party collector. The Borough further directs the Bureau not to incur any costs or liabilities for said delinquent taxes, except as necessary for the Bureau to include said delinquent taxes when the Bureau is selling properties at the

Bureau's upset sale, private sale, judicial sale or repository sale pursuant to the RETSL.

3. The proper officials of the Borough are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Resolution.

RESOLVED AND ADOPTED on this _____ day of November, 2018.

ATTEST:

**BOROUGH COUNCIL FOR THE
BOROUGH OF WEST CHESTER**

Michael A. Perrone, Secretary

Diane C. LeBold, President

Michael Galey, Vice-President

Denise Polk, Council Member

Michael Stefano, Council Member

William J. Scott, Council Member

Donald Braceland, Council Member

Bernie Flynn, Council Member

BOROUGH OF WEST CHESTER
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 15 OF THE BOROUGH CODE TITLED, "LIENS AND CLAIMS, MUNICIPAL" TO APPROVE COLLECTION PROCEDURES AND ADOPTING INTEREST AND SCHEDULE OF ATTORNEY FEES AND CHARGES TO BE 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 property owners in the Borough of West Chester (the "Borough"), it is necessary for the Borough to recover promptly unpaid, delinquent real estate taxes, sewer fees, stream protection fees and property maintenance code violation accounts (collectively, the "Unpaid Claims"), if necessary, by legal proceedings; and

WHEREAS, the Municipal Claims and Tax Liens Act, 53 P.S. § 7101, *et seq.* (the "Act"), authorizes the addition of attorney fees, charges, costs, expenses, commissions and fees to the total payable with respect to the Unpaid Claims, but only if the municipality involved has approved by ordinance a schedule of such fees; and

WHEREAS, the Borough has determined that it is in the best interest of all taxpayers, property owners and other residents to have vigorous enforcement of all delinquent and other unpaid charges, utilizing the procedures set forth in the Act, except in cases of serious hardship, which the Borough will address on a case-by-case basis pursuant to uniform policies; and

WHEREAS, the Borough has reviewed the subject of interest and attorney fees for collection matters, and has determined that the fees set forth in the schedule hereby adopted are reasonable in amount for the services herein described.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted by authority of the Council of the Borough of West Chester, as follows:

SECTION 1. Chapter 15 of the Borough Code, titled, "Liens and Claims, Municipal" shall be amended as follows:

§ 15.1. Fees to be Added to the Unpaid Claims. The Borough hereby approves the following fee schedule for the collection of the Unpaid Claims, which fees shall be added to the Unpaid Claims.

(a) Notice of Fee Shifting Expense. A charge of \$40.00 plus applicable postage shall be added to the Unpaid Claims for providing notice of fee shifting pursuant to § 7106 of the Act. The Borough may hire a private company to perform this service and add the amount of this charge to the Unpaid Claims.

(b) Legal Fees.

Initial review and sending first demand letter	\$175.00
File Lien and prepare Satisfaction	\$250.00
Prepare Writ of Scire Facias	\$250.00
Research, prepare and obtain Re-issued Writ	\$ 75.00
Prepare and mail letter under Pa. R.C.P. 237.1	\$ 50.00
Prepare Motion for Alternate Service	\$250.00
Prepare Praecipe to Amend	\$ 50.00
Prepare and present Motion to Amend	\$200.00
Obtain vehicle identification number (VIN) for mobile home	\$100.00
Prepare Motion to Consolidate Claims	\$250.00
Prepare Motion to Add United States as Defendant	\$175.00
Prepare Pre-Trial Memorandum	\$150.00
Prepare Petition for Judgment for Want of Sufficient Affidavit of Defense pursuant to 53 P.S. § 7271	\$150.00
Prepare Default Judgment	\$175.00
Prepare Writ of Execution	\$800.00
Attendance at sale; review schedule of distribution and resolve distribution issues	\$400.00
Continue sheriff sale	\$ 50.00
Prepare and present Petition for Free and Clear Sale	\$400.00

Services not covered above At an hourly rate between \$60.00-\$275.00 per hour

(c) Collection Fees.

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 Bank charge, if any

(d) Payoff Fee.

Providing guaranteed payoff to third parties \$ 25.00

§ 15.2. Costs to be Added to the Unpaid Claims. In addition to the fees set forth in section 1 above, the reasonable and necessary out-of-pocket charges, costs, expenses, commissions and fees incurred in collection, including, but not limited to, postage, title searches, VIN searches, prothonotary fees and charges, county tax claim bureau commissions, fees and charges, and sheriff fees, shall be added to the Unpaid Claims.

§ 15.3. Credit Card and Debit Card Charges. The Borough authorizes any attorney or private collector collecting the Unpaid Claims on behalf of the Borough to accept payment of the Unpaid Claims by credit card or debit card. Where payment is made by credit card or debit card, any fees charged by the credit card or debit card company and/or the credit card or debit card servicing agent shall be charged immediately to the credit card or debit card used to make payment. This applies to credit card or debit card payments made by mail, telephone, over the internet, or in person.

§ 15.4. Interest. Interest will be assessed upon the Unpaid Claims at a rate of 10% per annum and added to the Unpaid Claims.

§ 15.5. Collection Procedures. The following collection procedures are hereby established in accordance with the Act:

(a) At least thirty (30) days prior to assessing or imposing attorney fees in connection with the collection of an Unpaid Claim account, the Borough or its designee shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the property owner or other entity liable for the account (the "Property Owner").

(b) If the certified mail notice is undelivered, then, at least ten (10) days prior to assessing or imposing such attorney fees, the Borough or its designee shall mail or cause to be mailed, by first class mail, a second notice to the Property Owner.

(c) All notices required by this Ordinance shall be mailed to the Property Owner's last known post office address as recorded in the records or other information of the Borough or such other address obtained by the Borough from the county tax assessment office.

(d) Each notice as described above shall include the following:

(i) The type of tax, municipal claim or other charge, the year that it became due and the amount owed, including penalty and interest;

(ii) A statement of the Borough's intent to impose or assess attorney fees no earlier than thirty (30) days after receipt of the first notice, or no earlier than ten (10) days after receipt of the second notice;

(iii) The manner in which the assessment or imposition of attorney fees may be avoided by payment of the account; and

(iv) The place of payment for accounts and the name and telephone number of the Borough's representative designated as responsible for collection matters.

§ 15.6. Related Action. The proper officials of the Borough are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Ordinance.

§ 15.7. 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 2. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts hereof. It is hereby declared as the intent of Council of the Borough of West Chester that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

SECTION 3. REPEALER. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective upon enactment as provided by law.

ENACTED AND ORDAINED THIS _____ DAY OF _____, 2018.

ATTEST:

**COUNCIL FOR THE BOROUGH
OF WEST CHESTER**

Michael A. Perrone, Secretary

By: _____
Diane C. LeBold, President

APPROVED THIS _____ DAY OF _____, 2018.

Dianne T. Herrin, Mayor