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Part 1**Preliminary Provisions****§1-101. Short Title.**

The short title of this Code of Ordinances prepared and published for the Borough of Thornburg shall be the "Borough of Thornburg Code of Ordinances."

(*Ord. 387, 12/14/2009*)

§1-102. Citation of Code of Ordinances.

The Borough of Thornburg Code of Ordinances may be cited by Section number. The approved short form is "Code." Thus, "Code, §27-101" refers to §101 of Chapter 27 of this Code of Ordinances.

(*Ord. 387, 12/14/2009*)

§1-103. Arrangement of Code.

1. This Code is divided into Chapters which are subdivided as follows:
 - A. Subchapters, identified by capital letters, beginning with a Chapter title and number.
 - B. Parts, identified by Arabic numerals, beginning with a Part title and number.
 - C. Subparts, identified by Arabic numerals, beginning with a title.
2. The Sections of the Code are subdivided as follows:
 - A. Subsections, identified by Arabic numerals.
 - B. Paragraphs, identified by capital letters.
 - C. Subparagraphs, identified by Arabic numerals enclosed within parentheses.
 - D. Clauses, identified by lower case letters enclosed within parentheses.
 - E. Subclauses, identified by Arabic numerals followed by a parenthesis.
 - F. Items, identified by identified by lower case letters followed by a parenthesis.
 - G. Subitems, identified by small Roman numerals.

(*Ord. 387, 12/14/2009*)

§1-104. Headings.

Chapter, Subchapter, Part, Subpart, Section, Subsection, Paragraph, Subparagraph, Clause, and Subclause headings contained in the Code may not be deemed to govern, limit, modify or affect the scope, meaning or intent of the Code. The headings of Sections, Subsections or other divisions of this Code are intended as mere captions to indicate the contents of the Section, Subsection or other division and shall not be deemed to be taken as titles of such Section, Subsection or other division, nor as any part of said Section, Subsection or other division unless expressly so provided.

(Ord. 387, 12/14/2009)

§1-105. Tenses, Gender and Number.

Except as may be otherwise stated in any provision of this Code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural, and the plural the singular.

(Ord. 387, 12/14/2009)

§1-106. Construction.

1. Except as may be otherwise specifically provided by any provision of this Code, the Statutory Construction Act of 1972, 1 Pa.C.S.A. §1501 *et seq.*, shall be applied in construing this Code.

2. *Effect of Repeal or Expiration of Code Section.*

A. The repeal of a Code Section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

B. When any ordinance repealing a former Code Section, ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former Code Section, ordinance, clause or provision, unless it shall be expressly so provided.

3. *Saving Clause.* The provisions of this Code, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this Code, are intended as a continuation of such ordinances, resolutions and regulations and not as a new enactment. The provisions of this Code shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations. Except as specifically stated in this Code or in the ordinance adopting this consolidation, codification and revision of the ordinances and regulations, it is the intention of the Borough Council that no ordinance or regulation of the Borough be amended, revised or repealed by implication.

4. *Resolutions.* The provisions of this Code of Ordinances may contain resolutions, that is, actions of the Borough Council (in written form and designated "resolution") which did not require prior public notice in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, at the time of their passage by the Borough Council. Such "resolutions" are included herein for ease of reference and the Borough Council does not intend by their inclusion herein to require prior public notice before amending, revising or repealing such resolution or resolutions as may have been included herein in the future. It is the intention of the Borough Council that such actions of the Borough Council that may be included in this Code and specifically cited and designated as a resolution shall not become an ordinance (requiring prior public notice before amendment, revision or repeal) by the simple fact of inclusion in this Code.

(Ord. 387, 12/14/2009)

§1-107. Normal Numbering.

1. *Chapters.* Chapters are numbered sequentially in Arabic throughout this Code.
2. *Parts.* Parts are numbered sequentially in Arabic throughout this Code.
3. Whenever other divisions are necessary, Chapters shall be divided into Subchapters, Parts into Subparts and designated with the Chapter or Part number followed by a capital letter. For instance, Chapter 1 may be divided into Subchapters 1A and 1B.

4. *Sections.* Sections are numbered sequentially throughout a Chapter and a Part such that the first number or numbers is the Chapter number, followed by a hyphen, followed by the Part number, followed by the Section number within the Part. For example, "§1-101" designates Chapter 1, Part 1, Section 1. Similarly, "§27-305" designates Chapter 27, Part 3, Section 5.

5. *Internal Divisions of Sections.* Whenever internal divisions are necessary, Sections shall be divided into Subsections, Subsections into Paragraphs, Paragraphs into Subparagraphs, Subparagraphs into Clauses, and Clauses into Subclauses, and Subclauses into Items, designated as follows:

1. Subsection.
 - A. Paragraph.
 - (1) Subparagraph.
 - (a) Clause.
 - 1) Subclause.
 - a) Item.
 - i. Subitem

(Ord. 387, 12/14/2009)

§1-108. Special Numbering Problems.

1. *Addition of New Units Between Existing Units.* If it becomes necessary to introduce a new Chapter, Part or Section between existing Chapters, Parts or Sections, the new Chapter, Part or Section shall be designated by the addition of a capital letter suffix to the preceding Chapter, Part or Section number. Thus, a Chapter introduced between Chapters 5 and 6 would be Chapter 5A and Sections in that Chapter would be numbered, for instance, "§5A-101." If it becomes necessary to introduce a Part between existing Parts 5 and 6 the new Part would be Part 5A and Sections in that Part would be numbered, for instance, "§5-5A01." A new Section introduced between existing Sections 5 and 6 would be "§5-105A." When a number of new Parts or Sections have been introduced the Chapter or Part shall be renumbered.

2. If it becomes necessary to introduce a Subsection between Subsections, for instance, Subsections .5 and .6, the new Subsection would be numbered Subsection .5-A.

3. If it becomes necessary to introduce a unit smaller than a Subsection between existing units, the entire Subsection shall be revised and renumbered.

4. *Vacated Numbers.* Whenever a number is vacated by a revocation or repeal, the remaining elements in the overall unit shall retain their old numbers until the overall unit is completely revised. Prior to revision, the vacated number may be marked:

“[Reserved].”

(Ord. 387, 12/14/2009)

§1-109. Amending Code.

1. All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed Chapters, Parts, Sections, Paragraphs, Clauses or other part or provision hereof, by subsequent ordinance, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances omitted are readopted as a new Code by the Borough Council.

2. Amendment to any provision of this Code shall be made by specific reference to the Chapter, Part, Section and/or Subsection number of this Code in the following language:

A. *Amendment or Revision.* “Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended (revised) to read as follows . . .” The amended or revised provisions may then be set out in full as desired.

B. *Addition.* “Chapter ___, Part ___, Section ___, Subsection ___, is hereby amended by the addition of the following . . .” The new provision shall then be set out in full as desired.

C. *Repeal.* “Chapter ___, Part ___, Section ___, Subsection ___, is hereby repealed in its entirety.”

3. It is the intention of the Borough Council that the numbering scheme of this Code be adhered to in enacting future ordinances. In the event that any ordinance or other enactment be adopted which does not conform to the numbering system of this Code, it is the intention of the Borough Council that such enactment be renumbered in the process of supplementing, revising or updating this Code to conform to the numbering scheme of this Code. The Borough Council hereby acknowledges and confirms that the numbering scheme herein is for ease of reference and that the renumbering of any enactment when added to this Code shall not in any manner affect the validity of said enactment.

(Ord. 387, 12/14/2009)

§1-110. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Borough Council.

(Ord. 387, 12/14/2009)

§1-111. Penalties.

1. *Penalty Where No Penalty Provided.* Whenever in this Code or in any ordinance of the Borough any act is prohibited or is declared to be unlawful, or whenever in this

Code or other ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefor:

A. *Violations of Health, Safety and Welfare Provisions.* For violations of ordinances adopting building, housing, property maintenance, health, fire or public safety codes; and for ordinances regulating water services, water pollution, air pollution and noise, the following penalty shall be provided:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

B. *Other Violations.* All other penalties, except for penalties in Chapter 15, "Motor Vehicles and Traffic" (based on the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*), penalties and ordinances adopted under the authority of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §6913, and ordinance adopted under authority of the Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, should provide, generally:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

2. The imposition of a penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the laws of the Commonwealth of Pennsylvania and the United States of America. In addition, the Borough may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Code. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(Ord. 387, 12/14/2009)

Part 2**Elected and Appointed Officers and Employees****A. Defense and Indemnification of Officers and Employees****§1-201. Intent; Presumption.**

1. This Part is intended to give each past, present and future Council member, Borough officers (elected or appointed) and Borough employee the broadest right of indemnification and defense permitted under law. This Part is intended to encourage competent individuals to serve the Borough without inordinate fear that their good-faith conduct, even if determined to be negligent, will subject them to substantial personal liability. This Part is intended to recognize that persons serving the Borough do so in reliance upon the belief that they will be indemnified and defended against any kind of liability arising from their good-faith actions and that any future diminution in the scope of indemnity and defense granted under this Part can fairly and equitably apply only to conduct occurring after such diminution takes effect.

2. In applying and interpreting the provisions of this Part, Council members, Borough officers and Borough employees shall be presumed to have acted reasonably and in good faith and in the best interests of the Borough.

(Ord. 362, 3/12/2001)

§1-202. Indemnification.

The Borough shall indemnify and defend any past, present or future Council member, Borough officer or Borough employee against all costs and expenses actually and reasonably incurred by him or imposed upon him in connection with any claim, action, suit, proceeding or investigation, instituted or threatened, of any kind including, but not limited to, matters which are civil, criminal, administrative, surcharge or investigative in nature, whenever such claim, action, suit, proceeding or investigation arises in whole or in part by reason of such Council member, Borough officer or Borough employee having served in such capacity with or for the Borough or by reason of any act or omission done or omitted or alleged to have been done or omitted by such person within the scope of such person's office or employment with the Borough or by reason of any act or omission alleged to have been done or omitted by such person, which such person in good faith reasonably believes to be within the scope of their Borough office or employment or to be in the Borough's best interest.

(Ord. 362, 3/12/2001)

§1-203. Costs and Expenses Covered.

"Costs and expenses" shall include any award, damages, restitution, judgment, fines, penalties, amounts ordered to be paid, amounts agreed to be paid in settlement, reasonable attorney's fees and other reasonable expenses and disbursements paid in connection with the defense of such person including, but not limited to, amounts ordered or agreed to be paid to the Borough itself.

(Ord. 362, 3/12/2001)

§1-204. Payment of Costs and Expenses.

The Borough shall promptly pay for such costs and expenses as they are incurred, provided that the person to be indemnified and defended has made written request to the Borough for such indemnification and defense.

(Ord. 362, 3/12/2001)

§1-205. Applicability.

The right to indemnification and defense set forth in this Part shall apply to acts or omissions which pre-date the adoption of this Part as well as those which may post-date adoption of this Part, regardless of when any claim, action, suit, proceeding or investigation in connection therewith may arise. The right to indemnification and defense as set forth in this Part at the time of its adoption is intended to be in the nature of a vested right such that, should this Part be revised or become inoperative so as to diminish the right of indemnification and defense presently set forth herein, Council members, Borough officers and Borough employees will continue to be entitled to the full right of indemnification and defense set forth in this Part at the time of its adoption with respect to any occurrence, action, omission or thing done prior to such revision in this Part or prior to this Part becoming inoperative. Any successor to the Borough shall be subject to all of the obligations of the Borough to indemnify and defend as set forth herein.

(Ord. 362, 3/12/2001)

§1-206. Insurance.

The Borough may purchase and maintain insurance on behalf of any past, present or future Council member, Borough officer or Borough employee against any liability asserted against him and incurred by him in such capacity or arising out of his status or his acts or omissions as a Council member, Borough officer or Borough employee. To the extent that insurance coverage is available for any person entitled to indemnification and a defense hereunder, the Borough will require such person to look to such insurance for indemnification and defense, and will give written notice of same to the person requesting indemnification and defense.

(Ord. 362, 3/12/2001)

§1-207. Borough's Right to Decline Defense.

The Borough may decline to provide a defense if the Borough determines, pursuant to a confidential, nonpublic local agency law proceeding, that the act or omission which gives rise to the action, suit, claim, proceeding or investigation constituted a crime, actual fraud, actual malice or willful misconduct; however, if it is judicially or administratively determined, at any time, that such act or omission did not constitute a crime, actual malice, actual fraud or willful misconduct, the Borough shall promptly reimburse such person for all costs and expenses incurred in connection with such suit, claim, proceeding or investigation and shall provide a defense from the time of such determination forward.

(Ord. 362, 3/12/2001)

§1-208. No Right to Indemnification.

Notwithstanding anything to the contrary herein, the Borough shall not indemnify a Council member, Borough officer or Borough employee where such person's acts or omissions are finally judicially determined to constitute a crime, actual fraud, actual malice or willful misconduct.

(Ord. 362, 3/12/2001)

§1-209. Reimbursement in Case of Crime, Fraud or Misconduct.

If the Borough provides indemnification or a defense hereunder, and it is subsequently judicially determined that the act or omission of the person receiving the indemnification or defense constituted a crime, actual malice, actual fraud or willful misconduct, such person shall fully reimburse the Borough for all costs and expenses paid by the Borough.

(Ord. 362, 3/12/2001)

§1-210. Control of Defense.

When the Borough provides a defense hereunder, it may assume exclusive control of the defense, keeping the person defended advised with respect thereto, and the person defended shall cooperate fully with the defense. The Borough may, and upon request of the person defended for good cause or where the interests of the person defended and the Borough conflict, shall, supply independent representation.

(Ord. 362, 3/12/2001)

§1-211. Reimbursement of Legal Expenses.

Should any person claiming rights to indemnification or a defense under this Part reasonably require the services of legal counsel in order to assert such rights, and should such person prevail to any substantial extent in asserting such rights, then the Borough shall reimburse such person for all reasonable attorneys fees and costs incurred by such person in connection with the assertion of such rights.

(Ord. 362, 3/12/2001)

Part 3**Boards and Commissions¹****A. Recreation Board****§1-301. Establishment; Vacancies; Membership.**

1. There is hereby establishment and created a Board which shall be known as and called the "Recreation Board." The Recreation Board shall consist of up to nine persons chosen by the Borough Council from the residents of the Borough who are not related by blood or affinity to any Thornburg Borough Council member. Members shall serve 1-year to 3-year terms at the discretion of the Borough Council. Vacancies on the Recreation Board occurring otherwise than by expiration of term of office shall be filled by the Borough Council of the Borough of Thornburg for the unexpired term in the same manner as original appointments.

2. The members of the Recreation Board shall be permitted to retain their positions after the end of their 3-year terms at the pleasure of Council.

(*Ord. 245, 5/12/1969*; as amended by *Ord. 257, 5/10/1971*; and by *Ord. 357, 12/13/1996, §32-1*)

§1-302. Powers and Duties.

The Recreation Board shall have the power to equip, operate and maintain recreation places for the use and benefit of residents of the Borough of Thornburg. The Recreation Board shall have the power and authority to conduct recreation programs for the use and benefit of residents of the Borough within and without the confines of the Borough and shall have such other power and authority as may be granted to it by law.

(*Ord. 245, 5/12/1969*)

§1-303. Officers of Board.

The members of the Recreation Board shall elect their own Chairperson and Secretary and such other officers as to them may seem necessary and appropriate, such officers to serve for a period of 1 year.

(*Ord. 245, 5/12/1969*)

§1-304. Expenditure of Funds.

The Recreation Board may employ such persons as may be needed and expend such sums as may be appropriate to further its purposes herein established, all within the budget or appropriations provided by the Borough Council.

(*Ord. 245, 5/12/1969*)

¹Editor's Note: For creation of the Borough of Thornburg Planning Commission see §27-1708, "Planning Commission."

§1-305. Gifts, Donations and Fees.

The Recreation Board may accept and receive from individuals, corporations and partnerships such gifts, fees or donations as may be made or given to it and shall turn over such sums to the Borough Treasury.

(Ord. 245, 5/12/1969)

§1-306. Rules and Regulations.

The Recreation Board is hereby authorized to adopt rules and regulations for the conduct of all business within its jurisdiction.

(Ord. 245, 5/12/1969;)

Part 4**Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien
Attorney's Fees and Servicing Charges, Expenses and Fees****§1-401. Short Title.**

This Part shall be known as the "Tax, Tax Claim, Tax Lien, Municipal Claim and Municipal Lien Attorney Fees and Servicing Charges, Expenses and Fees Ordinance." (Ord. 397, 3/11/2013, §1-401)

§1-402. Expenses Approved.

1. *Title Search.* In any enforcement proceeding, the actual cost of a title search in an amount not to exceed \$250 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 \$50 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.

2. Actual out-of-pocket expenses in connection with any enforcement action, such as for postage, non-Sheriffs service of process, investigation of the whereabouts of interested parties and other necessary expenses shall constitute reimbursable expenses as part of each delinquent claim recovered.

(Ord. 397, 3/11/2013, §1-402)

§1-403. Attorney Fees Approved.

1. *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 delinquent 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.

A. *Filing of Municipal Claim.* The sum of \$150 shall constitute reasonable attorney fees for the preparation and filing of a municipal claims defined under the Act.

B. *Preparation and Service of Writ of Scire Facias or Complaint in Assumpsit as Provided in the Act.* The sum of \$450 shall constitute reasonable attorney fees for the initiation of each proceeding and shall include preparation and filing of the Praecipe for Writ of Scire Facias or Complaint in Civil Action, Sheriff's direction for service, notice pursuant to Pa.R.C.P. §237.1 and the preparation and filing of the Praecipe to Settle and Discontinue the proceeding. The above does not include:

(1) *Federal Tax Liens, Judgments and Mortgages.* Where there are Federal tax liens, Federal judgments, Federal mortgages or other record Federal interests, the sum of \$200 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.

(2) *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:

(a) Investigation of defendant(s) whereabouts and preparation of Affidavit of Diligent Search—\$100.

(b) Preparation and Presentation of Motion for Alternative Service, and delivery of the Order of Court, along with appropriate directions to the Sheriff for service—\$200.

C. *Amicable Scire Facias or Consent Judgment.* The sum of \$400 shall constitute reasonable attorney fees for the preparation, filing, monitoring and conclusion of an amicable scire facias or consent judgment, including negotiation, preparation and filing of the pleading, acceptance of service, installment payment and/or forbearance agreement and satisfaction. See 53 P.S. §7185. Borough may, in its sole and absolute discretion, hold the amicable scire facias or consent judgment and file only in the event of a default in the terms and conditions of the amicable scire facias or consent judgment or any related installment or forbearance agreement. If a consent judgment is entered following the filing of Writ of Scire Facias or Complaint in Assumpsit, then the flat fee for entry of the consent judgment shall be the same as that amount provided for in paragraph .D, “Entry of Judgment,” below.

D. *Entry of Judgment.* The sum of \$225 shall constitute reasonable attorney fees in connection with entry of judgment which shall include preparation and filing of the Praecepto to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praecepto to Satisfy Judgment.

E. *Writ of Execution; Sheriff’s Sale of Property or Execution upon Assumpsit Judgment.* The sum of \$700 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 Praecepto for Writ of Execution, all Sheriffs documents, preparation and service of Notices of Sheriffs Sale, staying the writ of execution, and attendance at one Sheriffs Sale.

(1) *Postponements.* The sum of \$100 shall constitute reasonable attorney fees for each continuance of Sheriff’s Sale at the request of the defendant.

F. *Sale Pursuant to §31 of the Act, 53 P.S. §7281.* The sum of \$700 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.

G. *Sale Pursuant to §31.1 of the Act, 53 P.S. §7282.* The sum of \$500 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 Sheriffs Schedule of Distribution.

H. *Installment Payment Agreement.* The sum of \$150 shall constitute reasonable attorney fees for the preparation of each written installment payment

agreement.

I. *Motions.* The sum of \$200 shall constitute reasonable attorney fees for the preparation, filing, and presentation of motions, other than for alternative service, which shall include, but are not limited to, motions to reassess damages, motions to amend caption, motions to continue the Sheriffs Sale.

2. *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 subsection .1, above, undertaken in connection with the collection of delinquent claims:

- A. Senior Attorneys (practicing law for 10 years or more)—\$185 per hour.
- B. Junior Attorneys (practicing law for less than 10 years)—\$160 per hour.
- C. Paralegals—\$100 per hour.
- D. Law Clerks—\$65 per hour.

Each as recorded and charged in units of $\frac{1}{10}$ of an hour for all time devoted to enforcement and collection of the Borough's delinquent 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 ordinance 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.

(Ord. 397, 3/11/2013, §1-403)

§1-404. Procedure.

1. *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 Borough, its agent, counsel or assigns.

2. *Fees to Be Accrued and Delinquent Claims to Be Filed.* Fees shall accrue for all efforts in collection after the 30th day after the notice, or after the 10th 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 delinquent 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 delinquent claims filed on behalf of the Borough or by its agents or assigns in the course of enforcement including any delinquent claims originally filed with the Department of Court Records, any delinquent claims filed with the Sheriff or in any other delinquent claims filed or statements provided where attorney fees are due.

3. The amount of fees determined as set forth above shall be added to and become part of the delinquent claim or delinquent claims in each proceeding as provided by the Act and as provided herein.

(Ord. 397, 3/11/2013, §1-404)

§1-405. Servicing Charges, Expenses and Fees Approved.

1. Pursuant to §1, §2 and §3 of the Act of May 16, 1923, as amended, 53 P.S. §§7101, 7103 and 7106, and specifically in the schedule found in accordance with Act 83 of 2004, the Borough does hereby authorize the recovery of charges, expenses and fees set forth in subsection .4 below, that are incurred by the Borough or charged to the Borough by collectors retained by the Borough in connection with efforts to collect delinquent claims as a result of any persons' failure to promptly pay delinquent claims.

2. The following schedule of charges, expenses and fees (hereinafter referred to as "servicing expenses," "out-of-pocket expenses," and "postage expenses") is hereby approved and adopted by the Borough pursuant to Act 83 of 2004 which amends §§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 delinquent claims promptly. The servicing expenses, out-of-pocket expenses and postage expenses established, assessed, and collected hereunder shall be in addition to the record costs, §§1-402, "Expenses," and 1-403, "Attorney Fees," associated with legal proceedings initiated by or on behalf of the Borough to collect its delinquent claims.

3. Servicing of a delinquent claim or delinquent claims may result in voluntary payment without the initiation of enforcement proceedings. It is the intent of this Section to pass the cost of servicing on to the delinquent person or property as part of each delinquent claim. The recovery of servicing expenses, out-of-pocket expenses and postage expenses established herein shall not be contingent upon the initiation of enforcement proceedings. However, such servicing expenses, out-of-pocket expenses and postage expenses are due even where enforcement proceedings are initiated. The purpose of this Section is to pass the entire cost and expense associated with delinquent collection on to the delinquent person or property and to make the Borough whole on all delinquent claims collected.

4. *Schedule.* The following schedule of servicing expenses, out-of-pocket expenses and postage expenses shall constitute reasonable and appropriate charges, expenses and fees for each indicated category. The servicing expenses, out-of-pocket expenses and postage expenses shall be added to and become part of the Borough's delinquent claims, together with the face, penalties, interest and costs, if any, and title search expense, attorney fees and out-of-pocket expenses in connection with enforcement proceedings, if any, and shall be payable in full before the discharge or satisfaction of any delinquent claim. The below schedule of servicing expenses, out-of-pocket expenses and postage expenses 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 delinquent claims.

A. *Out-of-Pocket Expenses.* The expenses of postage, title searches, investigators, process servers and other necessary expenses incurred in servicing shall constitute reasonable out-of-pocket expenses as part of each delinquent claim recovered.

B. *Municipal No Lien Letter and Tax Certification.* The sum of \$25 shall constitute a reasonable servicing expense for the preparation and issuance of each Municipal No Lien Letter relating to the Borough's delinquent municipal claims. The sum of \$10 per year certified shall constitute a reasonable servicing expense for the preparation and issuance of each delinquent tax claim certification.

C. *Postage Expense.* Out-of-pocket expenses shall include the actual cost of postage related to the collection of the Borough's delinquent claims.

D. *Servicing Expense.*

(1) A servicing expense of 10 percent of gross collections shall constitute a reasonable servicing expense for all servicing related to the collection of the Borough's delinquent claims. Servicing expenses shall accrue on the first of the month for the entire month, or part thereof. There is no per diem servicing expense. Gross collections for the purpose of calculating servicing expenses shall include the face together with penalty, interest and lien costs, if any, for each delinquent claim collected. Lien costs shall mean charges imposed by the Department of Court Records and/or by the Borough's collector for the filing, satisfaction, revival, amendment and transfer of delinquent claims. Gross collections shall not include any record costs, attorney fees, or out-of-pocket expenses related to the collection of the Borough's delinquent claims.

(2) In addition, the following schedule of fees shall constitute a reasonable and appropriate fee for each indicated service:

- (a) Assignments—\$5 per delinquent claim.
- (b) Preparing/filing tax liens—\$5.50 per item.
- (c) Satisfactions—\$10 per delinquent claim; (for no consideration passing receipts).
- (d) Tax claim revivals (i.e., S&A)—\$20 per delinquent claim.
- (e) Act 1/Act 20 Compliance—\$35 per case.
- (f) Preparing/filing municipal claims and claim revivals (S&A)—\$25 per delinquent claim.
- (g) S&As (tax or municipal) prepared but not filed—\$10 per S&A.
- (h) Municipal claim/short title examination—\$40 per delinquent claim.
- (i) Sheriff sale claim certificates—\$60 per case.

(3) Liability for payment of charges, expenses and fees, including servicing expenses, out-of-pocket expenses and postage expenses, shall be for those delinquent claims identified in §1-406 below, regardless of whether the delinquent claims are filed as claims in the Allegheny County Department of Court Records Office.

(Ord. 397, 3/11/2013, §1-405)

§1-406. Effective Date and Retroactivity.

1. This Part shall take effect on the date of enactment set forth below (“effective date”) and with respect to attorney fees pursuant to §§1-403 and 1-404 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.

2. Liability for payment of servicing expenses, out-of-pocket expenses and postage expenses authorized in §§1-402, 1-405 and listed in subsection .4.A–D, above, shall accrue as follows:

A. Immediately upon the effective date for all of the Borough's unpaid delinquent tax claims for calendar years 2011 and prior.

B. January 15th of each year beginning January 15, 2013, for all of the Borough's delinquent tax claims for calendar years 2012, and thereafter if not paid-in-full on or before January 14th of the year after which the taxes first became payable.

C. Immediately upon the effective date for all of the Borough's delinquent municipal claims due in 2012, and prior years originally billed more than 30 days from the effective date.

D. On the 31st day from the initial billing date for all of the Borough's unpaid delinquent claims for calendar years 2012, and thereafter not paid-in-full within 30 days after the date of the initial billing for the delinquent claims.

E. For delinquent tax claims following tax bills resulting from additional assessments:

(1) By December 31st of the current year or on the 121st day from the initial billing date, whichever is later, for a current year's additional assessment, billed in the current year.

(2) On the 121st day from the initial billing date for a prior year's additional assessment, billed in a later year.

(3) In no event shall the Borough's right to charge and collect reasonable attorney fees pursuant to §1-403 of this Part be impaired by the fact that any delinquent claim may also include an attorney commission of 5 percent for delinquent claims filed prior to December 19, 1990. Any attorney fees assessed and collected under this or any prior ordinances pursuant to Act 1 shall be in addition to any 5 percent commission previously included in any delinquent claim or judgment thereon.

(4) Attorney fees, servicing expenses and out-of-pocket expenses incurred in pending enforcement proceedings prior to the effective date of this Part, pursuant to a prior ordinance adopted under Act 1 or Act 20, but not collected, shall remain due and owing in accordance therewith, and shall be incorporated in any future statement, delinquent claim, pleading, judgment, or execution. Attorney fees, servicing expenses and out-of-pocket expenses in any pending or new action incurred after the effective date of this Part shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Part.

(5) The charges, expenses and fees set forth in §1-405 of this Part relate to all unpaid delinquent claims in favor of the Borough, its agents and assigns, and shall be retroactive to the date of each delinquent claim.

(Ord. 397, 3/11/2013, §1-406)

§1-407. Assignment.

The Borough assigns the provisions of this Part to any assignee of its delinquent claims unless the assignment limits the assignee's ability to collect such amounts. The Borough and its duly authorized agents and their counsel shall retain all rights to charge reasonable attorney fees, charges, expenses, and fees in accordance with the provisions of this Part in actions commenced under the Act and for servicing any delinquent claims retained by the Borough.

(Ord. 397, 3/11/2013, §1-407)

Part 5**Thornburg Community Center****§1-501. Intent; Purpose.**

The intent, purpose and scope of this Part to regulate activities within the municipal and public purpose building of the Borough of Thornburg known as the “Thornburg Community Center” (hereinafter called “center”) consistent with the enjoyment of such facilities and to prevent nuisances to the residents of the Borough in the use of such center or in the enjoyment of private property adjacent to or in the vicinity of such areas.

(Ord. 299, 7/14/1980)

§1-502. Tampering Prohibited.

No person, except those authorized by the Borough and conducting Borough business, shall injure, deface, disturb, befoul or in any manner destroy or cause to be destroyed any part of the center.

(Ord. 299, 7/14/1980)

§1-503. Operating Policy; Fees.

1. *Permitted Uses.* The center shall be used exclusively for public uses, including use as a senior citizen center, the Thornburg library, the activities of the Thornburg Community Club, the Village Players and the Thornburg nursery and kindergarten and as a polling place. Group activities shall be limited to groups, a majority of which are residents of Thornburg, pursuant to the procedures contained in this Part.

2. *Group Activity.* The Borough Council shall have the authority to require a permit for the use of designated facilities by any Thornburg group, association or organization which desires to use the center for a particular purpose. The Borough Council may adopt an application form to be used by the applicant which may require an indemnity bond or other security to protect the Borough from any liability of any kind or character and to protect Borough property from damage. The Borough Council or its designated representative shall grant the permit if it appears that the group, association or organization meets all of the conditions contained in the application. [Ord. 357]

3. *Fees.* The Borough Council shall have the authority to issue a fee schedule for permits, set the amount of deposits and prescribe conditions under which deposits are collected or forfeited. Such revenue shall be used for center purposes within the general fund.

(Ord. 299, 7/14/1980; as amended by Ord. 357, 12/13/1996, §105-3)

§1-504. Authorization of Council.

The Borough Council or its designated representative is hereby authorized:

A. To designate the areas and the time during which the various recreational activities and uses of the center shall be conducted.

B. To prescribe regulations for the use of the center, which regulations shall be publicly displayed.

C. To prescribe regulations for the granting of permits or reservations for the use of the center.

D. To establish and set from time to time such schedule of permit and activity fees as it may reasonably determine to be necessary to defray the costs of issuing permits, use and monitoring the particular activity involved, subject to review and approval by the Borough Council.

(Ord. 299, 7/14/1980)

§1-505. Prohibited Acts.

1. *Gambling.* Gambling is prohibited on the premises or in the center.

2. *Merchandising, Advertising and Signs.* No person shall, in the center:

A. Offer for sale any article or thing, nor place any stand, cart or vehicle for the display of any such article or thing except under the authority of the Borough Council or its designated representative by application and permit.

B. Announce, advertise or call the public attention in any way to any article or service for sale or hire.

3. *Personal Conduct.* It shall be unlawful for any person in the center to:

A. Disturb the peace or use profane or obscene language.

B. Endanger the safety of any person by any conduct or act.

C. Commit any assault or battery or engage in fighting.

D. Carry, possess or drink any alcoholic beverage, including beer.

E. Violate any rule for the use of the center made or approved by the Borough Council.

F. Prevent any person from using the center or interfere with such use in compliance with this Part and the rules applicable to such use.

(Ord. 299, 7/14/1980; as amended by Ord. 357, 12/13/1996, §105-5)

§1-506. Administration of Provisions.

The Borough Council and agents designated by it shall administer the provisions of this Part, including the establishment and collection of fees, preparation of application forms, issuance and revocation of permits, promulgation of rules and regulations to implement the provisions of this Part and all other decisions relative thereto. The Borough Police and/or the Mayor shall have the authority to cause acts in violation of this Part to be terminated or to expel the perpetrators of such acts from the area or to call the Borough Police to arrest and detain such violators or to file a complaint for such violation with a magisterial district judge.

(Ord. 299, 7/14/1980; as amended by Ord. 387, 12/14/2009)

§1-507. Compliance with Other Provisions.

Conduct and activity on the premises on the Borough property outside the center shall be subject to and regulated by Ord. 273, 6/10/1974, as amended [Chapter 16, Part

1].

(*Ord. 299, 7/14/1980*)

§1-508. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. Where such violator has removed, destroyed, damaged or defaced or befouled the center or the contents thereof, the cost of maintenance, repair or replacement shall be charged to such person or group in addition to any fine or penalty. Further use of such recreation and park facilities may be denied to violators of this Part, in addition to the imposition of fine and costs.

(*Ord. 299, 7/14/1980; as amended by Ord. 387, 12/14/2009*)

Part 6**LTEA Cost of Collection****§1-601. Short Title.**

This Part shall be known as the “LTEA Costs of Collection Ordinance.”
(*Ord. 398, 3/11/2013, §1-601*)

§1-602. Defined Terms.

When used herein, the following terms shall have the following meanings:

Costs of collection—the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent employer taxes and delinquent taxes from delinquent employers and delinquent taxpayers, including the initial delinquent collection fee, the delinquent collection fee and expenses.

Current year—the calendar year in which taxes are levied.

Delinquent collection fee—a cost of collection recovered by Tax Officer from delinquent employers and delinquent taxpayers. Liability for the delinquent collection fee shall commence in accordance with §1-604 of this Part.

Delinquent employer—an employer owing delinquent employer taxes and/or fines and penalties.

Delinquent employer taxes—any taxes not paid on or before the due date by an employer having a duty to withhold and pay taxes pursuant to the LTEA. Delinquent employer taxes shall include all applicable penalties, interest, costs of collection and fines and penalties in accordance with applicable law.

Delinquent taxes—any taxes, other than taxes subject to withholding, not paid on or before the due date by any taxpayer. Delinquent taxes shall include all applicable penalties, interest, costs of collection and fines and penalties in accordance with applicable law.

Delinquent taxpayer—a taxpayer owing delinquent taxes and/or fines and penalties.

Employer—a person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation and having a duty to withhold taxes from its employees, file a return and pay the Tax Officer pursuant to the provisions of the LTEA.

Expenses—all actual out-of-pocket expenses paid or incurred by Tax Officer to collect delinquent employer taxes and delinquent taxes, including, but not limited to, court costs, Sheriffs fees and postage expenses.

Fines and penalties—those fines and penalties imposed by a court of competent jurisdiction pursuant to the LTEA and any other applicable law.

Gross collections—all taxes due, including the tax principal plus accumulated penalties and interest and fines and penalties.

Initial delinquent collection fee—a cost of collection recovered by Tax Officer

from delinquent employers and delinquent taxpayers. Liability for the initial delinquent collection fee shall commence in accordance with §1-604 of this Part.

Succeeding year—the calendar year following the current year.

Tax Officer—shall include its owners, shareholders, directors, employees, agents and legal counsel, their owners, shareholders, partners, employees and agents.

Tax or taxes—2011 and prior years' earned income taxes, net profits taxes, and local services taxes. This term shall also include local services taxes for tax years 2012 and thereafter.

Taxpayer(s)—any individual, including self-employed individuals, required under the LTEA to file a return of a tax or to pay a tax.

(Ord. 398, 3/11/2013, §1-602)

§1-603. Costs of Collection Approved.

1. *Expenses.* Expenses shall be recovered by Tax Officer as part of delinquent employer taxes and delinquent taxes collected.

2. *Initial Delinquent Collection Fee.* The initial delinquent collection fee shall be 10 percent of gross collections calculated on the first of the month for the entire month, or part thereof, in which delinquent employer taxes and delinquent taxes are paid-in-full.

3. *Delinquent Collection Fee.* The delinquent collection fee shall be 20 percent of gross collections calculated on the first of the month for the entire month, or part thereof, in which delinquent employer taxes and delinquent taxes are paid-in-full.

4. *Fines and Penalties.* Fines and penalties shall be in the amounts approved by a court of competent jurisdiction.

(Ord. 398, 3/11/2013, §1-603)

§1-604. Effective Dates Approved.

1. This Part shall take effect on the date of enactment.

2. Costs of collection and fines and penalties shall apply to delinquent employer taxes and delinquent taxes relating to taxes for the 2011 tax year and for all prior tax years still due and owing as of the effective date of this Part.

3. Costs of collection and fines and penalties shall apply to delinquent local services taxes relating to taxes for the 2012, tax year and subsequent tax years on the first day of the succeeding year.

4. Expenses shall be recovered from delinquent employers and delinquent taxpayers from the date on which taxes became delinquent employer taxes and delinquent taxes.

5. The initial delinquent collection fee shall accrue as follows:

A. *Delinquent Employers.*

(1) The initial delinquent collection fee shall commence for all delinquent taxes still due and owing for tax years 2011 and prior on the effective date of this Part and shall continue through the last day of the required notice described in §1-605.1, of this Part, at which time the initial delinquent

collection fee shall cease.

(2) The initial delinquent collection fee shall commence for all delinquent local services tax due and owing for tax year 2012 and subsequent tax years on the first day of the succeeding year, and shall continue through the last day of the required notice described in §1-605.1, of this Part, at which time the Initial delinquent collection fee shall cease.

B. *Delinquent Taxpayers.*

(1) The initial delinquent collection fee shall commence for all delinquent taxes still due and owing for tax years 2011 and prior on the effective date of this Part and shall continue through the last day of the required notice described in §1-605.1, of this Part, at which time the initial delinquent collection fee shall cease.

(2) The initial delinquent collection fee shall commence for all delinquent local services taxes due and owing for tax year 2012 and subsequent tax years on the first day of the succeeding year, and shall continue through the last day of the required notice described in §1-605.1, of this Part, at which time the initial delinquent collection fee shall cease.

6. *Delinquent Collection Fee.* For both delinquent employers and delinquent taxpayers, the delinquent collection fee shall commence on the first day following the last day of the required notice described in §1-605.1, of this Part and shall continue until the end of the month in which the delinquent employer taxes and delinquent taxes are paid-in-full.

7. *Fines and Penalties.* Fines and penalties shall be recoverable from the date awarded by a court of competent jurisdiction.

(Ord. 398, 3/11/2013, §1-604)

§1-605. Procedures Approved.

1. *Required Notice.* Tax Officer shall mail, by first-class mail, a written notice to each delinquent employer and delinquent taxpayer known to Tax Officer advising them of the balance due for delinquent employer taxes and delinquent taxes, including costs of collection (“required notice”). The required notice shall be deemed received on the next date following the mailing date and shall provide the delinquent employer and delinquent taxpayer 30 days in which to pay the delinquent employer taxes and delinquent taxes in full.

2. Any balance due for delinquent employer taxes and delinquent taxes remaining following the 30th day after the required notice shall no longer be subject to the initial delinquent collection fee, but shall be subject to the delinquent collection fee regardless of whether there exists an agreement to pay the delinquent employer taxes or delinquent taxes in installments or following any forbearance.

3. Costs of collection shall be recoverable as part of the delinquent employer taxes and delinquent taxes, as well as in any legal proceeding initiated by counsel for Tax Officer, including claims filed in Federal Bankruptcy Court proceedings.

4. Tax Officer shall assess and collect costs of collection in accordance with the LTEA and as otherwise authorized by applicable law. Tax Officer shall retain costs of collection and one-half of any fines and penalties recovered. The remaining one-half of

any fines and penalties recovered shall be paid to the Borough.

(*Ord. 398, 3/11/2013, §1-605*)

§1-606. Miscellaneous Provisions.

Fines and penalties shall be in addition to any costs of collection due. Tax Officer shall charge and recover costs of collection from any delinquent employer or delinquent taxpayer even after a court awards fines and penalties, unless otherwise provided by applicable law.

(*Ord. 398, 3/11/2013, §1-606*)