

ORDINANCE NO. 2023-892

**UPPER MERION TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF UPPER MERION TOWNSHIP, MONTGOMERY COUNTY,
PENNSYLVANIA, RENAMING CHAPTER 4 AS “COLLECTION FEES” AND
PROVIDING FOR ATTORNEY FEES, COLLECTION FEES, COSTS, AND INTEREST TO
BE ADDED FOR UNPAID MUNICIPAL CLAIM COLLECTIONS
FOR DELINQUENT ACCOUNTS**

WHEREAS, the Pennsylvania Second Class Township Code authorizes the Board of Supervisors of Upper Merion Township to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care, and control of the Township and the maintenance of peace, good government, health and welfare of the Upper Merion Township (“Township”) and its citizens; and

WHEREAS, to be fair to all taxpayers and other residents of the Township, it is necessary for the Township to recover promptly unpaid, delinquent sewer fee accounts, if necessary, by legal proceedings; and

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

WHEREAS, § 7101 of the Act authorizes a municipality levying Taxes, Tax Claims, Tax Liens, Municipal Claims and/or Municipal Liens that become delinquent (each, an “Unpaid Claim”) to recover the Charges, Expenses, Commissions and Fees incurred in the collection of the Unpaid Claims (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 Township has determined after due deliberation and investigation, that it is in the best interest of the Township 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; and

WHEREAS, the Board of Supervisors has met the procedural requirements of the Second Class Township Code for the adoption of the proposed ordinance, including advertising and holding a public hearing; and

WHEREAS, the Board of Supervisors, after due consideration of the proposed ordinance at a duly advertised public hearing, has determined that the health, safety, and general welfare of the residents of Upper Merion Township will be served by this amendment of the Upper Merion Township Code to provide for certain delinquent account collections;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Upper Merion Township, Montgomery County, Pennsylvania, it is hereby enacted and ordained by the authority of same, as follows:

SECTION I. Code Amendment. Chapter 4, Attorney’s Fees, is hereby renamed “Collection Fees”, deleted in its entirety, and replaced with the following sections:

Chapter 4. COLLECTION FEES

§ 4-1. Fees to be Added to Unpaid Claims.

The fees set forth below are hereby adopted, approved and determined to be reasonable, including, without limitation, as contemplated by §7106 of the Municipal Claims and Tax Liens Act (“MCTLA”). The fees set forth below shall be included and added to applicable MCTLA unpaid claims, including, but not limited to, claims related to taxes, tax claims, tax liens, municipal claims and/or municipal liens subject to the MCTLA that become delinquent. Such fees are imposed for the Township to Township to recover its charges, expenses, commissions and fees incurred in the collection of such unpaid claims:

A. Attorney Fees.

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| 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 |

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| 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.

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| 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 |

C. **Associated Costs.** In addition to the fees set forth 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.

D. **Interest.** Interest will be assessed upon the MCTLA unpaid claims at a rate of 10% per annum and added to the MCTLA unpaid claim(s). The Township is permitted to waive any interest on any MCTLA unpaid claim when the Township 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.

§ 4-2 through § 4-5. Reserved.

SECTION II. Severability. The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part, or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, the Upper Merion Township Board of Supervisors hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance, and the remainder of the Ordinance shall remain in force.

SECTION III. Repealer. Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.


SECTION IV. Effective Date. This Ordinance shall become effective upon enactment as provided by law.

SECTION V. Failure to Enforce Not a Waiver. The failure of Upper Merion Township to enforce or delay enforcement of any provision of this Ordinance shall not constitute a waiver by Upper Merion Township of its rights to future enforcement hereunder.

ORDAINED AND ENACTED by the Board of Supervisors of Upper Merion Township, Montgomery County, Pennsylvania, this 12 day of October 2023.

ATTEST:

**UPPER MERION TOWNSHIP
BOARD OF SUPERVISORS**

By: 
Anthony Hamaday, Township Secretary

By: 
Tina Garzillo, Chair
Upper Merion Township
Board of Supervisors

Advertised Ordinance in Times Herald: 9/29/23 & 10/05/23
Proof of Publication Dated: 10/5/23
Hearing Held: 10/12/23
Ordinance Adopted 10/12/23 as Ordinance No. 2023-892
Ordinance Entered: 10/18/23