

Chapter 4

ATTORNEYS' FEES AND SERVICING CHARGES FOR TAX AND MUNICIPAL CLAIMS

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[HISTORY: Adopted by the Borough Council of the Borough of Edgewood 9-19-2011 by Ord. No. 1037. Amendments noted where applicable.]

§ 4-1. Short title.

This Chapter shall be known and may be cited as the "Attorneys' Fees and Servicing Charges for Tax and Municipal Claims Ordinance."

§ 4-2. Expenses approved.

- A. 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.
- 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.

§ 4-3. Attorneys' fees approved.

- A. Flat fee matters. The following schedule of attorneys' fees is hereby adopted and approved as reasonable attorneys' 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 or complaint in assumpsit as provided in the Act. The sum of \$450 shall constitute reasonable attorneys' 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:

- (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 \$200 shall constitute reasonable attorneys' 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) 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 attorneys' fees as follows:
 - [1] Investigation of defendant(s) whereabouts and preparation of Affidavit of Diligent Search—\$100.
 - [2] 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.
- (2) Entry of judgment. The sum of \$225 shall constitute reasonable attorneys' fees in connection with entry of judgment which shall include preparation and filing of the Praecipe to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praecipe to Satisfy Judgment.
- (3) Writ of execution; Sheriff's sale of property or execution upon assumpsit judgment. The sum of \$700 shall constitute reasonable attorneys' 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 Praecipe 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 Sheriff's sale.
 - (a) Postponements. The sum of \$100 shall constitute reasonable attorneys' 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 shall constitute reasonable attorneys' 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 \$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 Sheriff's schedule of distribution.
- (6) Installment payment agreement. The sum of \$150 shall constitute reasonable attorneys' fees for the preparation of each written installment payment agreement calling for full repayment within 6 months. For repayment agreements of over 6 months the sum of

\$300 shall constitute reasonable attorney's fees.

- (7) Motions. The sum of \$200 shall constitute reasonable attorneys' 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 Sheriff's sale.
- B. Hourly rate matters. The following schedule of attorneys' fees is hereby adopted and approved as reasonable attorneys' 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 addition to all other matters not specifically referenced in Subsection A, above, undertaken in connection with the collection of claims:
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| (1) Senior attorneys (practicing law for 10 years or more) | \$185 per hour |
| (2) Junior attorneys (practicing law for less than 10 years) | \$160 per hour |
| (3) Paralegals | \$100 per hour |
| (4) Law clerks | \$65 per hour |

each as recorded and charged in units of 1/10th 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 or 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.

§ 4-4. Procedure.

- A. Required notice. The notice required by 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.
- B. Fees to be accrued and 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, at 53 R.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 Allegheny County Director of Court Records, any claims filed with the Sheriff or in any other claims filed or statements provided where attorneys' 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.

§ 4-5. Servicing charges, expenses and fees approved.

- A. The following 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, § 4-3 attorneys’ fees and § 4-2 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 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 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 onto 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 servicing 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 attorneys’ fees and shall be payable in full before the discharge or satisfaction of any claim. Such fees may be paid by the Borough and will be reimbursed after monies are paid by person owing on claims, The schedule of fees is separate and distinct from any amounts imposed by the Sheriff, Prothonotary, Court or any other public office in connection with the collection of the Borough’s claims.

(1) Assignments	\$6 per claim
(2) Filing tax liens	\$6 per item
(3) Satisfactions	\$6 per claim
(4) Tax claim revivals	\$10 per claim
(5) Act 1, Act 20 compliance	\$35 per case
(6) Filing municipal claims and municipal claim revivals	\$15 per claim
(7) Municipal claim/short title examination	\$35 per claim
(8) Docket Service fees	\$1.75 per item
(9) Sheriff sale claim certificates	\$50 per case
(10) Claim certifications	\$10 per year
(11) Postage and Court costs	Actual cost
(12) Statements/tax certification letters for client	\$6 for client; \$30 for third party
(13) First delinquent notice	\$14 per parcel

(14) Second delinquent notice	\$17 per parcel
(15) Final notice prior to lien	\$24 per notice
(16) Certified notice	\$40 per parcel
(17) NSF check	\$30 per item
(18) Servicing including staffing, computers, office space, tele- phones, equipment, and materials for all delinquent and liened taxes, tax liens, municipal claims (filed or unified) and municipal liens	5% of gross collections

§ 4-6. Effective date and retroactivity.

- A. This Chapter shall take effect on the date of enactment set forth below and with respect to attorneys' fees pursuant to §§ 4-3 and 4-4 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 attorneys' fees pursuant to §§ 4-3 and 4-4 of this Chapter be impaired by the fact that any claim may also include an attorney commission of 5% for claims filed prior to December 19, 1990. Any attorneys' fees assessed and collected under this or any prior ordinances or resolutions pursuant to Act 1 shall be in addition to any 5% commission previously included in any claim or judgment thereon.
- C. Attorneys' fees and expenses incurred in pending enforcement proceedings prior to the effective date of this Chapter, pursuant to a prior ordinance or resolution adopted under Act 1, but not collected, shall remain due and owing in accordance therewith, and shall be incorporated in any future statement, claim, pleading, judgment, or execution. Attorneys' fees and expenses in any pending or new action incurred after the effective date of this Chapter shall be incurred, charged and collected in accordance with the schedules and procedures set forth in this Chapter.
- D. The charges, expenses and fees set forth in § 4-5 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.

§ 4-7. Assignment.

The Borough may assign the provisions of this Chapter to any assignee of its 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 attorneys' fees, charges, expenses, and fees in accordance with the provisions of this Chapter in actions commenced under the Act and for Servicing any claims retained by the Borough.

