

ORDINANCE NO. 231

AN ORDINANCE OF THE BOROUGH OF BALLY, BERKS COUNTY, PENNSYLVANIA TO AUTHORIZE RECOVERY OF ATTORNEYS' FEES INCURRED IN THE COLLECTION OF DELINQUENT ACCOUNTS IN ACCORDANCE WITH ACT 1 OF 1996.

IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Bally, Berks County, Pennsylvania, as follows:

SECTION 1. LEGISLATIVE INTENT.

By Act 1 of 1996, the General Assembly amended the Municipal Claim and Tax Lien Law, Act of May 16, 1923, P.L. 207, No. 153, as amended, to specifically authorize inclusion of attorneys' fees incurred in the collection of delinquent accounts as part of a municipal lien. Act 1 requires that municipalities by ordinance adopt a schedule of attorneys' fees. Act 1 further requires that, prior to imposing attorneys' fees, a municipality must notify the owner of the property with the delinquent account by certified mail of the municipality's intent to recover these fees and the manner by which assessment of the fees may be avoided by payment of the delinquent account. It is the intention of the Borough Council in enacting this Ordinance to comply with the requirements of Act 1 of 1996.

SECTION 2. DEFINITIONS.

Unless otherwise stated, the following words shall, for the purpose of this Ordinance, have the meanings herein indicated:

BOROUGH - The Borough of Bally, Berks County, Pennsylvania.

BOROUGH COUNCIL - The governing body of the Borough.

BOROUGH SOLICITOR - The person or law firm appointed by Borough Council to serve as legal counsel to the Borough in accordance with Section 1005 of the Borough Code.

DELINQUENT ACCOUNT - Any sums due and owing to the Borough which have not been paid within the time required by the Borough's rules, regulations or policies, including, but not limited to, charges for water and sewer service, removal of nuisances, or any other charge which may lawfully be imposed by the Borough and for which a municipal claim may be filed.

HOURLY RATE - The hourly fee charged by the Borough Solicitor to the Borough consistent with the ordinary and customary charges by the Borough Solicitor for similar services in the community, but in no event shall the hourly rate exceed the rate charged by the Borough Solicitor to the Borough when fees are not reimbursed by or otherwise imposed upon delinquent customers of the Borough.

SECTION 3. IMPOSITION OF ATTORNEYS' FEES FOR COLLECTION OF DELINQUENT ACCOUNTS.

The Borough Council specifically authorizes the recovery of attorneys' fees incurred by the Borough in the collection of delinquent accounts from the person or persons who are responsible for the payment of such delinquent accounts. Borough Council authorizes the Borough Manager to take all actions required by applicable law to enable the Borough to recover attorneys' fees incurred from the persons responsible for this expense and to include such attorneys' fees in municipal claims. This authorization includes, but is not limited to, sending notification to such persons of the intention of the Borough to impose attorneys' fees incurred in collection efforts upon such persons.

SECTION 4. SCHEDULE OF ATTORNEYS' FEES FOR SERVICES RELATED TO COLLECTION OF DELINQUENT ACCOUNTS.

The Borough shall impose attorneys' fees upon persons who have delinquent accounts in accordance with the following schedule of the minimum time required by the Borough Solicitor for the listed services times the hourly rate of the Borough Solicitor in effect at the time the Borough Solicitor performed the service on behalf of the Borough:

<u>SERVICE</u>	<u>MINIMUM TIME</u> <u>(hours)</u>
Prepare collection warning letter, including review of Borough information:	0.5
Obtain and review deed for property	0.2
Prepare certification of amount owing to Borough and transmit certification to Borough	0.3
Prepare Municipal Lien	0.5
File Municipal Lien	0.5

Forward copy of Municipal Lien to Borough	0.2
Prepare civil action complaint before District Justice for collection of account	0.7
Prepare for and attend hearing before District Justice concerning civil action to collect delinquent account	2.5
Prepare and file Satisfaction of Municipal Lien	0.5

SECTION 5. RECOVERY OF ADDITIONAL ATTORNEYS' FEES IN SPECIFIC CIRCUMSTANCES.

The services and minimum times expended by the Borough Solicitor for the services set forth in Section 4 of this Ordinance are based upon the experience of the Borough Solicitor and upon standard collection practices. Should the person or persons responsible for payment of a delinquent account take action which will require the Borough Solicitor to perform additional or more time-consuming services than contemplated by Section 4, it is the intention of the Borough to recover all of its attorneys' fees so incurred. Such actions include, but are not limited to, filing of counterclaims, challenging the legal power of the Borough to impose and collect the fee, rate, charge or other cost or similar actions.

SECTION 6. SEVERABILITY.

The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision hereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of Borough Council that this Ordinance would have been enacted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect and be in force after its enactment by the Borough Council of the Borough of Bally as provided by law.

DULY ORDAINED the 4th day of March , 1997, by the Borough Council of the Borough of Bally, Berks County, Pennsylvania, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF BALLY

ATTEST:


Secretary

BY: 
Clarence L. Emerich, President

Approved as an Ordinance this 4th day of March, 1997.


Philip D. Ferrizzi, Mayor