

BOROUGH OF BALLY
ORDINANCE #302

AN ORDINANCE OF THE BOROUGH OF BALLY, BERKS COUNTY, PENNSYLVANIA, REPEALING ORDINANCE NO. 256 DEFINING AND ESTABLISHING RATES AND REGULATIONS FOR WATER AND SEWER SERVICE TO PROPERTIES AND ESTABLISHMENTS THEREIN; REQUIRING AND REGULATING CONNECTIONS TO THE WATER AND SEWER SYSTEMS; ESTABLISHING A SCHEDULE OF WATER AND SEWER RATES AND THE TERMS OF PAYMENT; AND PROVIDING PENALTIES FOR VIOLATION.

The BOROUGH COUNCIL OF THE BOROUGH OF BALLY, Berks County, Pennsylvania hereby ORDAINS:

SECTION 1. - DEFINITIONS:

As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

RESIDENTIAL UNIT: A separate dwelling, apartment, room or group of rooms, used for separate dwelling purposes and equipped for the preparation of food. Hotels and Motels and Rooming Houses, with or without private baths, shall be considered residential units. Institutional uses such as hospitals, churches, schools, and public buildings shall be considered to be a residential unit. The determination of the Borough of Bally as to what constitutes a separate unit shall be final.

NON-RESIDENTIAL UNIT: A separate building, group of building, or room, or group of rooms on a parcel of land held in single and separate ownership and used for any purpose other than as a residential unit. The determination of the Borough of Bally as to what constitutes a separate non-residential unit shall be final.

IMPROVED PREMISES: Any parcel of property upon which a residential or non-residential unit is located.

CONNECTION FEE: A fee which shall not exceed an amount based upon the actual cost of the connection of the property extending from the Borough's main to the property line or curb stop of the property so connected.

TAPPING FEE: A fee to be paid by the owner of an improved premises, or a premises which the owner proposes to improve, which premises will be connected to the water and/or sewer system. The fee is computed as described in the "Municipalities Authorities Act of 1945" as amended.

SECTION 2. - MANDATORY CONNECTION TO WATER AND SEWER SYSTEM:

All owners of any improved premises located or to be constructed within the Borough of Bally and situated so that water service is available shall be required to connect said premises to the water system serving the Borough, owned and operated by the Borough of Bally.

All owners of any improved premises located or to be constructed within the Borough of Bally and situated so that sewer service is available shall be required to connect said premises to the sewer system serving the Borough, owned and operated by the Borough of Bally.

Where such service is temporarily not available, the Sewage Enforcement Officer shall design and enforce regulations consistent with State standards for on-site systems. At such time as water or sewer service becomes available, the owner of the improved premises shall be required to connect to the water/sewer system.

SECTION 3. - PERMIT REQUIRED FOR PRIVATE WELLS:

After the date of adoption of this Ordinance it shall be illegal for any individual, company, corporation, or other agency to drill, re-drill or otherwise enlarge; a well within the borough limits of the Borough of Bally without first making application to and receiving a permit from the Borough of Bally. Application shall be made on a form provided by the Borough. When permitted, Private Wells shall not be connected in any way with the water distribution system, or the sewer collection system. Private wells may be utilized in the Agricultural Industry, when not connected in any way to the Borough water and/or sewer systems, for the feeding and maintenance of livestock.

The Borough Engineer shall review all applications for private wells, and the Borough may use all available expertise, both public and private, in evaluating the suitability of a proposed well in meeting the Borough's interest of protecting the health of its residents and the integrity of its public water supply sources.

The Borough shall act upon all such applications within thirty days from the date the application is submitted to the Borough. The Borough shall not unreasonably withhold the issuance of such permit, provided all other aspects of this Ordinance, and all other Ordinances and/or regulations of the Borough are met. The Borough shall not issue a permit for a private well if, in the opinion of the Borough or the Pennsylvania Department of Environmental Protection, such well could inter-connect or otherwise adversely interfere with the ground water supplying Well No. 2 or Well No. 3, or any other water sources operated by the Borough of Bally, or have any adverse effect on the

remedial action being taken for the removal of the contamination connected with those wells.

SECTION 4. - TAPPING FEE

All owners of any improved premises required to connect to the Borough of Bally water and/or sewer systems shall pay a "tapping fee". The tapping fee shall be set by Bally Borough or Bally Borough Municipal Authority via resolution. The current tapping fee shall be apportioned as follows: \$1500.00 for the water connection and \$6500.00 for the sewer connection. In the case of an existing parcel of ground held in separate ownership for which an application is filed for connection to the Borough water and sewer systems, the tapping fee shall be paid at the time of application. In the case of a Subdivision or Land Development Plan, the tapping fee shall be paid to the Borough prior to the time a Subdivision or Land Development Plan is given final approval by Borough Council. Payment of the tapping fee shall entitle the owner of the improved premises, and the owner's successors or assigns, to connect the commercial or industrial establishment(s) or dwelling units contemplated by the Subdivision or Land Development Plan on the improved premises to the water and sewer systems operated by the Borough of Bally.

SECTION 5. - CONNECTION FEE:

All owners of any improved premises required to connect to the Borough of Bally water/sewer system shall pay to the Borough or Borough Municipal Authority a "connection fee" of \$3500.00 for each water and sewer connection. The Borough of Bally, or its authorized representative shall provide and install the corporation tap into the water main or sewer main together with the pipe from the tap to a point not more than 18 inches on the owner's side of the right-of-way line or street curb line, terminating at and including the curb stop and box or valve. The connection fees shall be used to pay the costs of the above-described connection into the main and installation of the water and sewer laterals by the Borough. To the extent that the connection fee exceeds the actual cost of the connection, the unused portion of the connection fee will be refunded to the owner. If the cost of the connection exceeds the connection fee, the owner shall pay to the Borough the additional funds requested and shall make such payment to the Borough within 30 days of the Borough's written demand therefore.

The Borough may install the lateral from the water or sewer main onto the improved premises (as provided above) upon payment of the connection and tapping fees and at any time after the approval of the application for water and sewer service in the case of a single lot held in separate ownership, or at any time after the approval of the Subdivision or Land Development Plan in such a case; PROVIDED, HOWEVER, that the lateral shall be installed so as not to delay the

owner's occupancy of the improved premises. The Borough shall give the owner at least 15 days written notice of the time when the Borough proposes to make the connection and install the lateral. The connection fee shall be paid to the Borough within 15 days of the Borough's notice and prior to the connection being made to the water and/or sewer mains.

In lieu of a connection fee, the property owner may have the service lines installed by a preapproved qualified professional under the guidance of the Bally Borough sewer operator or the Borough's appointed Engineers. In such a case, the water operator and/or appointed engineers must be able to inspect the connection to the main, service line, shut off valve and curb box, and must meet the specific regulations of the Bally Borough and/or Municipal Authority. Failure of the property owner and/or qualified professional to obtain the inspection and approval of the proper authorities, and or meet the applicable requirements of the Borough/Authority, shall result in the imposition of the costs of opening the connection, inspection and closing of the connection with all costs to bring the excavation site to the standard of the surround paved and unpaved areas, on to the property owner. Such costs shall be billed, together with all necessary legal costs to obtain such payments, to the property owner and shall be collectible by lien and/or other enforcement means available to the Borough/Authority in its discretion.

SECTION 6. - METERING:

Every individual residential/non-residential unit serviced by the Borough/Authority is required to install a water meter. Upon initial service, the property owner is responsible to purchase a currently authorized meter from the Borough/Authority, or its agent, and reimburse the Borough/Municipal Authority for the actual cost of the meter. The meter shall remain the property of the Borough/ Authority and will be maintained and/or replaced by the Borough/Authority as needed.

The water meter shall be installed inside the serviced building, with a remote reading device, which conforms to the Authorities standards at the time of installation. Alternate installation in a suitable protective pit directly opposite the point at which the tap is made into the water main, may only be used with pre-authorization of the Borough/Authority and will only be granted when proof of undue hardship exists for interior installation.

The Borough/Authority shall, maintain and/or replace such meter at its own expense, except that any meter damaged in service through the negligent act or omission, of the property owner or his tenant or agent, shall be replaced by the Borough at the expense of the property owner. Meter damage resulting from freezing or back-flow of hot water shall be considered to be the result of negligence of the owner or tenant.

The accuracy of the water meter shall be determined in accordance with the Rules and Regulations of the Public Utilities Commission of the Commonwealth of Pennsylvania. Upon request of any owner, the Borough/Authority will remove the meter from the owner's premises and test the accuracy thereof, through a third-party testing firm. If the said meter is found to register a greater quantity of water than passed through it, to a degree exceeding the tolerance of accuracy prescribed by the Public Utility Commission for such cases, no charge shall be made for such test, and the bills for water rendered on the basis of the registration of said meter, for a period of time of not more than three months preceding the removal thereof, may be adjusted on an equitable basis. If said meter is found to register an equal or smaller quantity of water than passed through it, or to be within the prescribed tolerances of accuracy, a charge equal to the costs incurred by the Borough/Authority in having the meter removed, replaced and tested shall be paid by the owner. Upon request, copies of all testing reports will be provided to the customer.

SECTION 7. - LATERAL INSTALLATION:

- A. No water and/or sewer lateral shall be covered until it has been inspected and approved by the Borough/Authority or its Agent of appointed Engineers. If any part of a water/sewer lateral is covered before so being inspected and approved, it shall be uncovered for inspection, at the cost and expense of the owner of the improved property to be connected to the water and sewer mains.
- B. Every water and/or sewer lateral of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- C. Every excavation for a water and/or sewer lateral shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Any street, sidewalk or other public property disturbed in the course of installation of a water and/or sewer lateral shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to the Borough/Authority, and/or Washington Township if applicable.
- D. The owner of an improved premise shall, at his expense, be responsible to repair, replace, and maintain the water and/or sewer lines on the owner's property from the point at least 18 inches on the owner's side of the street curb line or the right-of-way line where the lateral constructed by the Borough/Authority or agent terminates.
- E. If any person shall fail or shall refuse, upon receipt of a notice in writing of the Borough/Authority, its agent or

appointed engineer, to remedy any unsatisfactory condition with respect to a building lateral within sixty (60) days of receipt of such notice, the Borough/Authority may refuse to permit such person to be served by the water system until such unsatisfactory condition shall be remedied by the property owner, to the satisfaction of the Borough/Authority, or, in the case of a leaking line, the Borough/Authority, or its agent may make the necessary repairs at the property owner's expense, including all costs of the repair, engineering fees, and legal fees to correct the situation.

- F. The Borough/Authority reserves the right to adopt, from time to time, additional rules and regulations it shall deem necessary and proper, relating to connections with a main and with the water and sewer systems, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as part of the Resolution/Ordinance.

SECTION 8. - WATER CHARGES:

The Borough/Authority shall impose fees or charges for municipal water service as may be established from time to time by resolution of the Borough/Authority upon the owners of improved premises within the service area of Borough of Bally and sections of Washington Township, at which a water meter or meters have been installed.

SECTION 9. - SEWER CHARGES:

The Borough/Authority shall impose fees or charges for public sewer service as may be established from time-to-time by resolution of the Borough upon the owners of improved premises within the Borough of Bally at which a water meter or meters have been installed. The fees or charges for public sewer shall be based upon metered water consumption at the improved premises. Fees for sewer processing service outside the Borough may be established by signed agreements with other municipalities, as needed.

SECTION 10. - BILLING AND PAYMENT PROCEDURES:

- A. Bills for water and sewer service furnished for all purposes shall be rendered on a quarterly basis, a quarter to consist of any period of approximately ninety-one (91) days. Upon request of any owner, if an improved premises is anticipated to be vacant for any substantial period of time, the Borough of Bally may remove the water meter from the property, discontinue water service to the property, and discontinue the minimum charges requested, the Borough will, upon payment of a re-connection charge of \$100.00 and any back balance owed, will re-establish service to the property. In the event that such reconnection requires, in the judgment of the Borough/Authority, through its designated agents or engineers, the performance of any additional labor and/or improvement to

the equipment and materials providing the means of service, such costs shall be paid by the property owner upon demand by the Borough/Authority.

- B. Usage, service, and minimum charges shall be payable at the Borough Municipal Office or any other appointed agent of the Borough/Authority, on a gross basis at any time up until 30 days after the date of the bill. Thereafter, a late payment penalty equal to 10% of the net amount of the bill PLUS optionally, interest calculated at the rate 10.00% per annum from 30 days after the date of the bill shall be added to the bill and shall be due and payable to the Borough/Authority or its appointed agent. Failure to receive a bill shall not entitle an owner or user to an extension of time for payment. Provided, however, that a ratepayer who has maintained a record of timely payments for a period of five years, confirmed by a review of the records maintained by the Borough and BBMA, may file a request for the one-time abatement of such late fees as have been assessed for late payments, and upon such request submitted in writing together with an averred reason for such requested abatement, receive such abatement, at the sole discretion of Borough Council in the event that a member of council moves such action, which is seconded and carried by majority vote.
- C. Failure to pay the amount owed on a quarterly water and/or sewer bill by the time the next succeeding quarterly water and/or sewer bill goes into its late payment penalty period, shall be cause for termination of water service until payment is made of all outstanding charges for water and/or sewer service. PROVIDED, HOWEVER, in no case shall the water supply be shut off until ten (10) days after written notice of an intention so to do has been mailed to the person liable for payment and a written notice has been posted at a main entrance to the premises where the water supply is to be shut off. If during such ten (10) day period, the person liable for payment delivers to the Borough/Authority or its agent, a written statement which states under oath or affirmation that such statement is not executed for purpose of delay and that he has a just defense to the claim for payment or to part of such claim, the water supply shall not be shut off until such claim has been judicially determined. In the case of a rental unit, notification must be posted at least twenty-one (21) days, or current rental rights law in Pennsylvania, prior to water shut off.
- D. If service is terminated under the conditions set forth in paragraph C, above, a re-connection charge of \$100.00 shall be paid, as well as any balance due, before service is restored. Further, any cost of improvement and/or repair as described in subparagraph A above shall be paid by the property owner to the Borough/Authority upon demand.

E. The owner of the property served shall be responsible to the Borough/Authority for payment for all water furnished and/or sewer services provided to the property irrespective of any agreement between the property owner and a third party, and the bill in all cases be rendered to the owner of the property unless the Borough/Authority is notified in writing by said owner to render the bill to some other person, and the Borough/Authority agrees to such arrangements, in which case the owner of the property shall nevertheless remain liable for the payment of all water and/or sewer bills.

SECTION 11. - EMERGENCY CONDITIONS:

The Borough/Authority shall have the authority in the event of any emergency affecting the adequacy of the supply of water to all users of the municipal water system or the adequacy of the fire-fighting capacity of the system, either actual or imminent, to require any or all users to curtail or discontinue the use of water. Such curtailment or discontinuance shall remain in effect for the duration of such emergency. Verbal or other notice by the Borough/Authority to the user or his agent, or public advertisement in a newspaper circulated locally shall be deemed sufficient for the purposes of this ordinance.

Any such curtailment may apply to all use of water for washing the car and watering the lawn or garden, and if the degree of the emergency shall warrant, include any or all uses without limitation.

SECTION 12. - ACCESS:

As long as water and/or sewer services are provided to any building, the proper officials of the Borough /Authority shall at all reasonable times have free access to the meters or service pipes to inspect, test, read, repair, remove, or replace the same, whether or not the occupant of the building is a water user, and such access shall not be impeded by soil, hardscaping, landscaping, materials, coal, ashes, rubbish, shrubs, plantings, or other obstacles, nor in any other manner. Failure to provide such free access shall be cause for termination of service until suitable access is provided.

SECTION 13. - VIOLATION:

Any person who violates any provision of this Ordinance, and the orders, rules, regulations, resolutions and permits issued hereunder, shall upon conviction thereof be sentenced to pay a fine of not less than \$1000.00 per day for each offense, and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation occurs shall be deemed a separate and distinct offense.

SECTION 14. - REPEALER:

All other Ordinance or Resolutions, or parts of Ordinances or Resolutions, which are inconsistent herewith, are hereby repealed to the extent that the same are inconsistent with the terms of this Ordinance.

SECTION 15. - SEVERABILITY:

If any sentence, clause, section, or part of the Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionally, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Bally that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

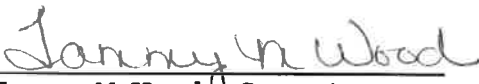
SECTION 16. - EFFECTIVE DATE:

This Ordinance shall become effective on the 4th day of October, 2022.

ORDAINED and ENACTED as an Ordinance of the Borough of Bally this 4th day of October, 2022.

BOROUGH COUNCIL OF THE BOROUGH OF BALLY

By: 
Glenn A Mutter, President

ATTEST: 
Tammy M Wood, Secretary

APPROVED this 4th day of October, 2022


David C Schott, Mayor