

ORDINANCE NO. 77
ATTORNEY FEES DELINQUENT MUNICIPAL ACCOUNTS
AND ENFORCEMENT OF TOWNSHIP ORDINANCES

AN ORDINANCE OF BERWICK TOWNSHIP TO ADOPT A SCHEDULE OF ATTORNEY FEES, TO PROVIDE FOR IMPOSITION, ASSESSMENT AND COLLECTION OF ATTORNEY FEES IN ACTIONS INVOLVING INITIATION AND COLLECTION OF MUNICIPAL CLAIMS AND ENFORCEMENT OF TOWNSHIP ORDINANCES AND CONTAINING REPEALER AND SEVERABILITY CLAUSES.

WHEREAS, Act No. 1 of 1996 has been enacted to amend provisions of the general municipal law, and Act 20 of 2003 and Act 83 of 2004 have been enacted pertaining to municipal claims and charges for nonpayment thereof; and

WHEREAS, the Board of Supervisors finds it necessary and in the best interests of the Township that an appropriate schedule of attorney fees be established and that provision be made for assessment, imposition and collection of attorney fees incurred by the Township in actions to file and collect municipal claims, to enforce Township ordinances, and to secure collection or enforcement of civil judgments, etc., entered in connection therewith.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Berwick Township, Adams County, Pennsylvania as follows:

SECTION 1. In actions under general municipal law, including the filing and collection of municipal claims and liens, under civil proceedings, or scire facias sur municipal lien proceedings, attorney fees shall be assessed, imposed and collected at an hourly rate equivalent to the hourly rate charged by the Township Solicitor as adopted by Resolution for all legal services performed.

SECTION 2. In all proceedings to enforce ordinances of Berwick Township, in all proceedings brought by third parties seeking to avoid enforcement of Township ordinances, and in all appeals from determinations of the Township's enforcement officers or courts brought by persons seeking to contest or modify in any respect the enforcement of Township ordinances, in which the services of the Township Solicitor, or other legal counsel retained by the Township are deemed by the Township to be necessary, an hourly rate equivalent to the hourly rate charged by the Township Solicitor as adopted by Resolution for all services performed is hereby assessed and imposed. In all such proceedings involving enforcement of Township ordinances and appeals therefrom, all attorney's fees incurred by the Township so calculated at the hourly rate above established for all services rendered in the matter shall be assessed and imposed in full by the court having appropriate jurisdiction. It is the express intention of this Ordinance that all attorney fees and costs incurred by Berwick Township in defense of an appeal brought by any person or entity found to have violated a Township ordinance shall be added to the original court's judgment in the event such appeal is denied, dismissed or resolved in any manner less favorable to the appellant than the appellant's represented defense to the enforcement proceeding.

SECTION 3. All attorney's fees and charges, expenses and fees incurred by or on behalf of Berwick Township in proceedings upon municipal claims or enforcement of Township ordinances are hereby imposed, as is applicable, upon the property subject to the lien and its owner(s) and persons or entities found to have violated an ordinance of the Township or to be responsible for the payment of a municipal claim. Such charges, expenses and fees shall include, but not be limited to, all filing and satisfaction fees, all charges for service of process, all sums paid for certified mail service of notice required by statute or rules of procedure, and in actions to collect municipal claims, sums paid by the Township for lien or title examinations of property required to prepare affidavits of lien holders and parties in interest, etc. In all such proceedings, the Township shall submit to or file with the court having appropriate jurisdiction such certification(s) of costs as may be required, and all charges, expenses and fees as so certified shall be imposed, assessed and collected as part of any judgment.

SECTION 4. All attorney fees, charges, expenses and fees incurred by Berwick Township in actions relating to filing and collection of municipal claims and enforcement of Township ordinances shall be the responsibility of the person or entity found to be responsible for such claim or violation and shall be a part of any judgment entered in the matter and, to the extent permitted by the general municipal law, shall with the primary debt constitute a municipal claim and lien upon the property subject to the action and its owner(s).

SECTION 5. The provision of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors of Berwick Township that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

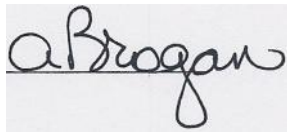
SECTION 6. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

SECTION 7. This ordinance shall become effective five (5) days after enactment.

ENACTED AND ORDAINED into law this 23 day of November, 2009

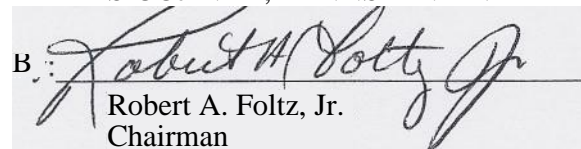
ATTEST:

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Secretary



BERWICK TOWNSHIP
ADAMS COJ NTY, PENNSYLVANIA

B.:



Robert A. Foltz, Jr.
Chairman