

**WATER RATE ORDINANCE**  
**Adopted 03/31/1996**  
**Published: Immediate**  
**Effective: Upon Publication**

**Township of Ely**  
**Marquette County**  
**Michigan**  
**Ordinance No. 1996-1**

**The Board of Ely Township, Marquette County, Michigan ORDAINS:**

That an Ordinance entitled:

An Ordinance to revise, update, and consolidate all existing Township Ordinances relating to the establishment of rates and charges for water service by repealing in their entirety Ordinance No. 1974-2, adopted June 21, 1974 and Ordinance No. 1979-1, adopted September 19, 1979 together with any and all amendments or resolutions relating to either of said Ordinances, and by replacing those Ordinances with the provisions of the Ordinance; to incorporate new Ordinance provisions designed to facilitate the collection of rates and charges for water service and the retirement of bonded indebtedness relating thereto: to provide penalties for violation of certain of the provisions hereof; and to combine the power and authority of the Township Board to establish water service rates and charges in the provisions of this one Ordinance and resolutions to be adopted pursuant thereto, rather than by an assortment of numerous Ordinances and amendments thereto.

Be adopted as follows:

Section 1. Repealer

Ordinance No. 1974-2, adopted June 21, 1974, and Ordinance No. 1979-1, adopted September 19, 1979, together with any and all amendments and resolutions adopted pursuant thereto which are inconsistent with the terms of the Ordinance, shall be, and the same hereby are, repealed in their entirety, such repealer to be to be effective as of the effective date of this Ordinance.

Section 2. Definitions

- A. Whenever used in this Ordinance or any Resolution adopted pursuant hereto, the following described words or phrases shall have the following meanings:

Charges shall mean the amounts charged by the Township to customers of the system attributable to services other than User Fees, including but not limited to connections

charges, turn off charges, waterline thawing charges, delinquent payment charges, and other such charges.

Customer shall mean any person who actually makes use of the services of a water system at a subject's premises, and can include but is not necessarily limited to either a property owner or an occupant.

The Diorite System shall mean the water system servicing the Diorite location, originally placed in operation in 1981, and all enlargements, extensions, repairs and improvements thereto thereafter made.

The Greenwood System shall mean the water supply system servicing the Greenwood location, originally constructed in 1974, and all enlargements, extensions, repairs and improvements thereto thereafter made.

Occupant shall mean the person or persons actually in, or with an apparent right to, possession of real estate or personal property, or both, and shall include but not be limited to tenants, lessees and land contract vendees.

Parcel shall mean a lot upon which a structure or structures are situated, or a vacant lot, the legal descriptions of which are as shown on the tax rolls of the Township.

Person shall mean any individual, firm, company, association, society, group or corporation.

Premises shall mean, whence applicable, a parcel and all structures situated thereon, to which the services of a system are made available.

Property Owner shall mean the person or persons holding legal title to personal or real property, or both, and in the case of real estate being sold by land contract it shall be understood to include both the fee owner and the land contract vendee or vendees.

Structure shall mean a building of any kind, including but not limited to a house, apartment, garage, church, school, office or building used primarily for commercial or industrial purposes, or any and all other types of building used for any purpose whatsoever, and shall also include a mobile home.

The Systems shall mean both the Diorite System and the Greenwood System.

Township and Township Board shall mean the Township of Ely, Marquette County, Michigan, and the Township Board of said Township.

User Fees shall mean the amounts paid to the Township by customers of the Systems for the purpose of covering the cost of operation and maintenance of the Systems, and to generate an amount of revenue adequate to meet the requirements of principal and interest, debt services, reserves and all other requirements established by Ordinance No. 1974-1, as amended by Ordinance No. 1995-1, and to otherwise comply with the covenants and requirements of those Ordinances.

### Section 3. Establishment of Rates and Charges: No Free Service

- A. User Fees and Charges for the services of the Systems shall be established and amended from time by resolution of the Township Board in amounts estimated to be sufficient to pay the costs of operation and maintenance of the Systems, and to generate revenues adequate to meet the requirements of principal and interest,

debt services, reserves and all other requirements established by Ordinance No. 1979-1 (adopted May 3, 1979) and Ordinance No. 1995-1, and to otherwise comply with all of the covenants and requirements therein provided.

- B. The User Fees and Charges for all services and facilities rendered by the Systems shall be reasonable and just, taking into consideration the cost and value of the Systems and the cost of maintaining, repairing, and operating the same and the amounts necessary for the retirement of all the outstanding bonds and the Junior Lien Bonds and the accruing interest on all the outstanding and the Junior Lien Bonds, and to meet the requirements of Section 12 and 14 of Ordinance No. 1995-1, Section 8 of Ordinance 1979-1 (adopted May 3, 1979) and Section 8 of Ordinance No. 1974-1.
- C. The Township shall not permit free water service to be supplied by the Systems to the Township or any department or agency thereof, or to any person or to any public agency or instrumentality. The reasonable cost and value of all water service rendered to the Township and shall be paid for as the service accrues. All payments so made shall be considered revenues of the Systems, and shall be applied in the manner provided for the application of revenues of the Systems as set forth in Ordinance No. 1974-1, Ordinance No. 1979-1 (adopted May 3, 1979), and Ordinance No. 1995-1.
- D. The User Fees and Charges of the Systems to be established by resolution of the Township Board as described in Section 3.A. herein-above shall be subject to revision from time to time as may be necessary to carry out the provisions of Ordinance No. 1974-1, Ordinance 1979-1 (adopted May 3, 1979), and Ordinance No. 1995-1 and this Ordinance.

Section 4. Liability for User Fees and Charges, Collection of User Fees and Charges, Delinquent User Fees and Charges.

- A. The property owner of a parcel or premises to which the services of the Systems are provided, and upon which the services of the Systems are used, shall be ultimately liable to the Township for the User Fees and Charges incurred as the result of the use of such services upon said parcel or premises, notwithstanding to the contrary contained in any lease, contract, or any agreement between such property owner and any other person by which liability for such User Fees and Charges is sought to be imposed upon or assumed by someone other than the said property owner of such parcel or premises.
  - 1. If payment for services provided by the Systems is made by the occupants of the parcels or premises served by the Systems, the property owner of such parcel or premises shall have no further liability to the Township for such payment.

2. If, however, payment for services is provided by the Systems is not made by customers or occupants of a parcel or premises, and the User Fees and Charges for such services become delinquent pursuant to the provisions of Section 4.E. of this Ordinance, then the Township may seek to enforce the ultimate liability for such User Fees and Charges against the property owner of the parcel or premises to which such services were provided, as well as against the customer or occupant thereof.
  3. The ultimate liability of the property owner or occupant of a parcel or premises to which the services of the Systems have been provided may be enforced by the Township by suit in law or in equity, and by any other methods authorized by statute or by this Ordinance.
- B. The User Fees and Charges for water services which are under the provisions of Section 21 of Act 94 of the Public Acts of Michigan, 1933, being MSA 5.2751, et seq., as amended, made a lien on all premises served thereby unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien, and whenever any such User Fees and Charges against any premises shall remain delinquent for six months or more the Township official or officials in charge of the collection thereof shall certify annually, on the first day of September each year to the Township tax assessing officer the fact of such delinquency, whereupon such delinquency, whereupon such delinquent User Fees and Charges shall be entered upon the next tax roll as a charge against all premises and the lien thereof enforced in the same manner as general Township taxes against such premises are collected and the lien thereof; enforced; provided, however, where notice is given that a tenant is responsible for such User Fees and Charges and service in accordance said stature, no further service shall be rendered to such premises until a cash deposit of not less than an amount equal to the anticipated User Fees and Charges for service during the ensuing year shall have been made as security for the payment of such User Fees and Charges.
1. The provision of notice to the Township that a tenant is responsible for such User Fees and Charges in accordance with said stature shall serve only to preclude the establishment of a lien against the premises served pursuant to said section, and shall not absolve or in any way limit the ultimate liability of the property owner of said parcel or premises to the Township for such delinquent User Fees and Charges.
- C. The User Fees and Charges for water service which are, under the provisions of Act 178, Public Acts of Michigan, 1939, as amended by Act 132, Public Acts of Michigan, 1981, being MSA 5.2531, et seq., as amended, made a lien upon the house or other building and upon the premises, lot, or lots, or parcel of parcels of land upon which the house or other building is situated or to which the water service was supplied, are hereby recognized to constitute such lien, which may be enforced according to the provisions of said Act.

1. The provision of such notice to the Township that a tenant is responsible for such User Fees and Charges, in accordance with the provisions of MSA 5.2531, et seq., as amended, shall serve only to preclude the establishment of a lien against the house or other building and upon the premises, lot or lots, or parcel or parcels, of land upon which the house or other building is situated, absolve or in any way limit the ultimate liability of the property owner of said premises to the Township for such delinquent User Fees and Charges.
- D. In addition to all other remedies available to the Township for the collection of delinquent User Fees and Charges for water service as hereinabove defined, the Township may, upon fifteen (15) days written notice, delivered to and left at the parcel of premises for which such User Fees and Charges remain delinquent, terminate further water service to said parcel or premises.
1. If water service is terminated pursuant to the provisions hereof, said service shall not be reinstated until all delinquent User Fees and Charges, termination Charges, reinstatement charges, and security deposits as may be prescribed by resolution of the Township Board have been paid in full.
  2. The Township shall not be liable for damages of persons or property occasioned by or in any way out of the termination of water service to a parcel or premises in accordance with the provisions of this Section 4.D. or Section 4.1 of this Ordinance.
- E. Payment of User Fees and Charges for water services provided by the Systems shall be made on a monthly basis, with said monthly payments to be due and payable to the Township Treasurer by not later than the close of business on the final Friday of the month during which said services were rendered, whether or not a bill or other type of invoice is sent by the Township to users of the Systems. Any User Fees or Charges not paid by the final Friday of the month in which water service was provided shall be deemed delinquent.
- F. If a customer of the System has not paid and owes to the Township three months of User Fees for water services, the Township shall send to such customer a notice advising of the delinquency, and directing payment of the amount due. If, by the close of business on the final Friday of the month in which such notice is sent, the customer fails to make payment of the delinquent User Fees for at least one month of such delinquency, there shall be added to the total amount due and owing a service charge to be established by resolution of the Township Board.
- G. If a customer of the System has not paid and owes to the Township four months of User Fees for water services, the Township shall send to such customer a notice advising of the delinquency, and directing payment of the amount due. If, by the close of business on the final Friday of the month in which such notice is

sent, the customer fails to make payment of the delinquent User Fees for at least one month of such delinquency, there shall be added to the total amount due and owing a service charge to be established by resolution of the Township Board.

- H. If a customer of the System has not paid and owes to the Township five months of User Fees for water services, the Township shall send to such customer a notice advising of the delinquency, and directing payment of the amount due. If, by the close of business on the final Friday of the month in which such notice is sent, the customer fails to make payment of the delinquent User Fees for at least one month of such delinquency, there shall be added to the total amount due and owing a service charge to be established by resolution of the Township Board.
- I. If, at any time, a customer owes to the Township User Fees for six months of water service supplied to a parcel or premises, the Township shall send to such customer a notice indicating if such User Fees and all service charges added by reason of such delinquency are not paid within fifteen (15) days of the date of such notice, the Township shall have the right to terminate further water service to such parcel or premises, without further notice to the owners or occupants thereof. If, within fifteen (15) days of such notice at least one month of such delinquent User Fees is not paid, the Township shall terminate further water services to such parcel or premises.

#### Section 5. Procedure for Adoption of Rate Resolution.

The adoption by the Township Board of resolutions establishing or revising User Fees and Charges pursuant to Section 3.A. of this Ordinance shall be pursuant to the following procedure:

- A. The Township Board shall prior to adopting any such resolution, schedule and hold a public hearing, written notice of which shall be given to all users of the Systems for which such rates are proposed, either personally or by first class mail, postage prepaid, not less than ten (10) days prior to the scheduled hearing date. For purposes of this section, notice by United States mail shall be deemed to be completed when a copy of such notice is placed in a United States mail receptacle, with correct postage prepaid. Notice given to a property owner of a parcel or premises as identified on the tax rolls of the Township shall be deemed to be notice to all such owners, and to all occupants of a parcel or premises.
- B. Following the public hearing required by the provision of Section 5.A. of this Ordinance, the Township Board shall adopt a resolution establishing User Fees and Charges for the Systems.

- C. Following adoption of such resolution, a copy thereof shall be served upon all users of the Systems in the same manner, and to the same individuals, as described in Section 5.A. of this Ordinance.

Section 6. Severability, Publication, Effective Date.

- A. Each section of this Ordinance and each subdivision of any section thereof is hereby declared to be independent, and the finding or holding of any section or subdivision thereof to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Ordinance.
- B. The Ordinance shall be published as required by law, and the same shall be recorded in the Ordinance book of the Township and such recording authenticated by the signatures of the Township Supervisor and the Township Clerk.
- C. This Ordinance is hereby determined by the Township Board to be immediately necessary for the preservation of the peace, health and safety of the Township and shall be in full force and effect immediately from and after its passage and publication as required by law.

Adopted this 21<sup>st</sup> day of March, 1996.

ELY TOWNSHIP BOARD

By: Kenneth A. Tuominen

Township Supervisor

Attest By:

David Bleau

Township Clerk