

Silver Lake United Voice

Presented

DRAFT Ordinance

INSPECTION AND PERMITTING OF RESIDENTIAL AND BUSINESS ONSITE SEWAGE TREATMENT SYSTEMS WITHIN THE SILVER LAKE SEPTIC DISTRICT

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Presented 1/28/2020

DRAFT Ordinance

INSPECTION AND PERMITTING OF RESIDENTIAL AND BUSINESS ONSITE SEWAGE TREATMENT SYSTEMS WITHIN GOLDEN TOWNSHIP SEPTIC DISTRICT

INTRODUCTION

An Ordinance to define a Septic District in Golden Township (Silver Lake Area, other areas may be added as needed), identify residential and business On-Site Sewage Treatment System (OSSTS) performance requirements, and set inspection certification periodicity for permitting. This ordinance is enacted pursuant to, among other Public Acts, Act 248 of Public Acts 1945, as amended (now MCL 41.181); to repeal any Ordinance, or provision thereof in conflict herewith; and to prescribe penalties, standards of performance and enforcement remedies for the violation of this Ordinance.

Section 1.0 TITLE

This Ordinance shall be known and cited as *Golden Township "Inspection and Permitting of Residential and Business On-Site Sewage Treatment Systems of Golden Township Septic District"*.

Section 2.0 PURPOSE

- A. The township is empowered by ACT 246 of the Public Acts 1945, as amended (now MCL 41.181), to adopt Ordinances regulating the health, safety, and welfare of persons and property, and to provide operating standards and penalties for violation of such Ordinances.
- B. The purpose of this Ordinance is to protect public health by preventing and minimizing degradation of ground water or surface water by improper or malfunctioning sewage treatment systems through the regulation of the required five-year operating permit. Permit is obtained by inspection after pumping of the system and verification of performance by sampling effluents and inspection of OSSTS.
- C. This ordinance contains minimum standards in addition to and supplemental to rules and regulations enacted by Environment, Great Lakes and Energy (EGLE), the District

#10 Health Department or the County of Oceana, and Michigan statute and law or any federal laws which preempts this area of regulation. The intent of the ordinance is to impose standards more restrictive than those required by federal, state or local regulations, for protection of any open water body in Golden Township.

Section 3.0 DEFINITIONS

As used in this Ordinance or discussion of this topic:

- A. When not inconsistent with the context, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural include the singular number. The word "shall" is always mandatory and not merely directional. Words and terms not defined herein shall be interpreted in the manner of their common usage.
1. **"Dosing tank"** is a watertight tank, pumping chamber or receptacle used for the purpose of retaining the overflow or effluent from a septic tank, pending the automatic discharge of such effluent to a selected point.
 2. **"Dwelling"** shall mean any building, structure, shelter, trailer, or vehicle or portion thereof, which is occupied, will be occupied, or was heretofore occupied in whole or part as home, residence, living or sleeping, or other gathering place designed or used by one or more human beings either permanently or transiently, or occupied in whole or in part as a business wherein one or more human beings is engaged in commercial or industrial activities on either a permanent or temporary basis.
 3. **"Dwelling Unfit for Human Habitation"** When a dwelling is dangerous or detrimental to life or health because of want of repairs, defects in the drainage and/or plumbing, water supply or their construction, infection with contagious disease or the existence on the premises of an unsanitary condition likely to cause sickness among the occupants of the dwelling, it shall be deemed unfit for human habitation. In addition, any existing dwelling not served or provided with an acceptable on-site sewage treatment system or with an acceptable potable water supply shall be declared as "Dwelling unfit for human habitation".
 4. **"Enforcement Agent" (EA)** shall mean the person (or duly authorized representative thereof) who Golden Township Board authorizes and appoints as responsible for ensuring compliance with the provisions of this Ordinance.
 5. **"Evaluator"** shall be the person conducting the OSSTS inspection.
 6. **"Failure"** is defined as including the following, but not limited to this list:
 - a. The backup of sewage into structure;
 - b. Discharge of effluent onto the ground surface;
 - c. The connection of an OSSTS to a storm drain;
 - d. Back-flow from a drain-field to a septic tank;
 - e. Structure failure of a septic tank or drain field;
 - f. Discharge of sewage into a body of water;

- g. The liquid level in a disposal field above the outlet holes in the pipe of such field; outside of natural occurring water level fluctuations and.
 - h. Not meeting effluent nutrient level standards as set by this Ordinance.
7. **"Fish Cleaning Station"** effluents must be directed to a vault tank and pumped for disposal.
 8. **"Flush toilet"** shall mean a type of closet or plumbing device containing a portion of water that receives human excreta and is so designed as by a means of a flush of water to discharge the contents of the receptacle into a sewage system.
 9. **"Habitable building"** shall mean any structure where persons reside, are employed or congregate.
 10. **"Health Department"** shall mean the District Health Department #10, Oceana office.
 11. **"Health Officer"** shall mean the director or the acting director or his duly authorized representative of District Health Department #10 or their successors or a designee of the Health Officer.
 12. **"On-Site Sewage Treatment Systems"** (OSSTS) shall mean a sanitary privy, flush toilet, septic tank, drain, sub-surface disposal absorption system, or other similar toilet device or method used in the collection, storage, enclosure, decomposing and/or disposal of sewage, human excreta or other waste including but not limited to hazardous, toxic, or chemical wastes or other pollutants or contaminants, singularly or in combination with sewage or human excreta. When speaking of other toilets or septic devices it shall mean septic toilet, chemical toilet or closet, holding tanks, or other similar devices used for the collection, storage, disposal of sewage or other wastes as defined in the Code and Regulations. Sink drains, grease traps, washing or machine drains, etc. must be directed to an approved septic system. These drains may be located in, attached to or on the same property as a dwelling required to meet this Septic Ordinance.
 13. **"Owner"** shall mean any person who has legal title to any premise, and further, where premises are sold on executor contract or land contract shall include any person who has legal title to any premises or if a title is held by a person by or under a Sheriff's Deed shall be deemed the grantee of the Sheriff's Deed as well as any person remaining in possession of said premises subject to an equity of redemption.
 14. **"Person"** shall mean any individual, firm, partnership, party, trust, corporation, company, society, association, or other legal entity.
 15. **"Premises"** shall mean any tract of land, or portion thereof, or combination of tracts of land under single or common ownership, operation or control, which contains (a) any type of structure that is, was, or will be inhabited either permanently or transiently, and (b) a septic tank, drains, drain field, underground tank or pipes, or similar appurtenances containing sewage or other contaminants or a combination thereof.
 16. **"Privies"** are outhouses, which are not allowed within the "Septic District" unless directed to a vault tank for pumping.

17. **"Septic District"** is comprised of the parcels, listed by property number on attachment #1. This also includes any splits after this Ordinance is approved.
18. **"Septic Tank"** shall mean a watertight tank or receptacle of sufficient size and constructed of concrete or other approved non-corrodible material and used for the purpose of receiving sewage and to provide for the separation of substantial portions of the suspended solids in such sewage and for the partial treatment by bacterial action on the solids so separated.
19. **"Sewer Piping"** is a conduit for carrying sewage and is located under ground.
20. **"Substantial conformance"** shall mean there is a minimum likelihood of risk to public health caused by improper construction, location, or operation of an OSSTS, or of a malfunctioning OSSTS. This definition allows the Enforcement Agent discretion for noncompliance areas that were previously installed under different regulations.
21. **"Drain field"** shall mean a system for distributing septic tank effluent beneath the ground surface by means of a line or a series of branch lines of drain tile or other methods of distribution as approved by the Health Officer so as to allow the effluent to be absorbed by the surrounding soil.

Section 4.0 PROPERTY SUBJECT TO THIS ORDINANCE

- A. The properties subject to this Ordinance are included as Attachment #1 and are updated with each addition or deletion of property.
- B. Golden Township Board may add any property or group of properties to this Ordinance upon the recommendation of the Enforcement Agent but only at their Annual Review meeting where this Ordinance is approved. This meeting must comply with Michigan Open Meetings Act and must pass by a simple majority vote of board members. Notifications must occur per this Ordinance.
- C. The Owner of a property being added to the group of properties subject to this Ordinance may appeal to the EA their inclusion under this Ordinance by a written request to the EA. This written request must state their reason why their property should not be subject to the Ordinance. The EA will make a recommendation to the Golden Township Board for a vote at a normally scheduled meeting.
- D. Owners shall be notified if their property is added to coverage of this ordinance 60 days prior to Golden Township Board meeting to vote on the addition. The property Owner or representative may present cause against the addition at the annual review meeting. The Golden Township Board decision is final.
- E. The vote of the Golden Township Board is final.

Section 5.0 ADVISING OWNERS OF ORDINANCE

Any corporation, financial institution, title company, real estate agent, or other authorized agent in a land sale, conveyance, or transfer, (including land contracts and inheritance), shall advise property owners and purchasers of the this Ordinance.

Section 6.0 OSSTS OPERATING PERMIT

An OSSTS evaluation must be completed to confirm substantial conformance at an interval of every five-years to obtain an OSSTS Operating Permit for occupation of a property. The EA is responsible to issue OSSTS Permits, including a serialized number on said permit. In event of sale or transfer of a property, the permit including expiration date remains in effect for said property. Sample in Attachment #2.

Section 7.0 REQUIREMENTS

- A. The evaluation shall consist of a determination that the OSSTS is in substantial conformance with the standards of District #10 Health Code and the additional standards implemented in this Ordinance. HD#10 approves installation of all systems. Below, items 1 through 9 are as set-forth within HD#10 Adopted Sanitary Code. In making this determination, the following criteria shall be considered but not necessarily limited to:
1. The presence of a septic tank and field in a condition acceptable to normal standards;
 2. The age of the system; gives the inspector the basis of the technology use upon installation;
 3. The size of the system in relation to the number of bedrooms (assuming two people per bedroom) and demands upon it (such as washing machines, garbage disposal, etc);
 4. Vertical isolation distance between high ground-water table and the point of sewage discharge; exceptions may be granted based on outside of natural occurring water level fluctuations
 5. Isolation distance from surface waters or wetland;
 6. Isolation distance from between water well and sewage system;
 7. The on-site conditions of the property, including but not limited to soil types, ground water elevation, flow and direction;
 8. Lot size and usable area for on-site sewage disposal;
 9. Potential area for replacement or reserve system;
 10. In addition to the above 9 items, the OSSTS shall meet the following effluent criteria;
 - a. Biological Oxygen Demand (BOD) less than or equal to 30 mg/L
 - b. Total Suspended Solids (TSS) less than or equal to 30 mg/L

- c. Total Inorganic Nitrogen (TIN) less than or equal to 10 mg/L
 - d. Effluent Sample Point shall be as close to the septic tank discharge as possible and before the drain field.
 - e. For discharges within 500 feet of a water body, total phosphorous less than or equal to 2 mg/L
 - f. Perform a drain field inspection and use standard criteria for determining viability
11. The owner of an OSSTS that uses an Advanced Treatment Unit/System (ATS), applying for a permit shall supply a copy of a contract for annual maintenance of an ATS for the five-year period of the permit.
 12. Copies of the report are supplied to the property owner or designee and the Golden Township OSSTS Enforcement Agent for permitting purposes.
- B. Evaluation Reports must be in written form, and include, at a minimum, the following:
1. The address of the site;
 2. The parcel identification number;
 3. The name of the property owner of record;
 4. The location of the OSSTS to be inspected (by drawing or GIS);
 5. A description of the current operational or functional status of the OSSTS, including whether the OSSTS is failing or if such failure is imminent;
 6. Identification of any necessary repairs or replacement of all or portions of the OSSTS. Indicate if ATS is required. Addition of ion exchangers, dosing tanks, etc.;
 7. Other relevant or unusual observations related to the OSSTS;
 8. Recommendations to extend the life of the OSSTS and to prevent the premature failure of the OSSTS in the future;
 9. Educational material regarding OSSTS maintenance that has been approved by the township board.
 10. Results of the effluent sampling and indication of limits exceeding those expressed herein and recommended actions for correction.
- C. The following are exempt from OSSTS inspection and maintenance standards herein.
1. A new home that has not been previously occupied or lived from the date of this Ordinance, provided a septic compliance permit has been issued for the septic system, has grace period of 5 years from the issuance of the septic compliance permit.
 2. An OSSTS that has passed an inspection from the Evaluator and/or Enforcement Agent and is remains within the five-year certificate length.
 3. In the event an Owner has knowledge that the OSSTS located on their property will not pass inspection by the Health Department, and accordingly has obtained a validly issued permit for the replacement or addition or repair thereof and completes the installation thereof as determined on a case-by-case basis of the due date for inspection.

4. If, at any time, the Enforcement Agent believes that a person is violating this Ordinance, the Enforcement Agent shall make a good faith attempt to enter into a voluntary agreement with the property owner to resolve the violation (ex: time extension past the current permit). If a voluntary agreement cannot be reached, the Enforcement Agent may issue a violation notice to the owner, accompanied by a statement of the facts upon which the notice is based.

Section 8.0 OSSTS ENFORCEMENT AGENT (EA) and EVALUATORS

- A. The Golden Township Enforcement Agent (EA) administering this Ordinance must be registered with the State of Michigan as a sanitarian (SAN) before undertaking any evaluations or holding the position of Enforcement Agent. Evidence of registration must be provided to the Township Clerk. The Golden Township Board may authorize a time delay for an EA pursuing the Sanitation designation by the State of Michigan and allowing no more than 36 months for completion of this registration from the date of hire. The EA may also perform the duties of an Evaluator (must also meet Evaluator training requirements).
- B. Individuals may be placed on the list of registered Evaluators (held by the Township Clerk) upon the completion of HD#10 training in the area of OSSTS Inspection.
- C. Removal of an Evaluator. The Township Board may remove an Evaluator from the list maintained by Golden Township for any of the following reasons:
 1. The Evaluator fails to comply with this Ordinance.
 2. The Township Board determines that the Evaluator (a) is unable to perform evaluations of OSSTS under this Ordinance, or (b) was negligent in the discharge of his/her duties or responsibilities in this regard.
 3. The Evaluator submits false or misleading information on an application for registration, or an evaluation report.
 4. The Evaluator submits a report under this Ordinance that lacks information deemed relevant, and the evaluator thereafter fails to submit the omitted information with five business days from the date the Enforcement Agent requests that he/she provides such information.
 5. The Evaluator does not maintain the required certification as required by this Ordinance.
- D. Procedure to Remove an Enforcement Agent or Evaluator from the Registered List:

Before the Township Board removes an Enforcement Agent/Evaluator from the registered list under this Ordinance, the Township Board shall give written notice, either personally or by first class mail, to that Enforcement Agent/Evaluator. An Enforcement Agent/Evaluator is considered notified if the notice is sent to the evaluators last known address. Upon a written request by the evaluator within 14 days from the date of the written notice, the Enforcement Agent/Evaluator must be given the opportunity at an informal meeting with the Township Board to

demonstrate why he/she should not be removed from the position as Enforcement Agent/Evaluator list without further proceedings.

Section 9.0 ENFORCEMENT

- A. If, at any time, the Enforcement Agent (EA) believes that a person is violating this Ordinance, the EA shall make a good faith attempt to enter into a voluntary agreement with the property owner including a reasonable time line for resolution as determined by the EA. If a voluntary agreement cannot be reached, the EA may issue a violation notice to the owner, accompanied by a statement of the facts upon which the notice is based requiring corrective action soonest. Failure to comply and remedy the violations could result in the EA issuing a violation notice every thirty days and enacting Section 9.0.D each month.
- B. The EA may, after presenting proper documents as may be required by law and upon stating the authority and purpose for the investigation, enter and inspect property (not the dwelling) containing an OSSTS at reasonable times in order to determine compliance or noncompliance with the Ordinance, this may include:
 - 1. Inspection at reasonable times of any OSSTS and related systems on the property.
 - 2. Collection of evidence, samplings and information for the purpose of determining compliance with this Ordinance.
- C. Violation of this Ordinance. Upon determining that there exists a violation of this Ordinance the Enforcement Agent may:
 - 1. Reach a Voluntary agreement with the Owner
 - 2. Issue a Notice of Violation to be repeated (up to every 30 days) until a remedy is agreed upon (with incremental fines). This notice includes a plan of improvement and a time limit to remedy the violation within the discretion of the EA.
 - 3. Issue a Cease and Desist Order; suspend any permit, certificate or other approval issued pursuant to this Ordinance to the owner or other party violating the Ordinance; or
 - 4. Request that the Golden Township Board authorize the commencement of legal action to enjoin the violation and to recover any and all costs related to the correcting, removing or abating the violation, including requesting HD#10 to declare the property "Dwelling Unfit for Human Habitation".
- D. Penalties. Property owners in violation of this Ordinance are guilty of a Municipal Civil Infraction punishable by a fine of not more than \$1000.00. All such persons, regardless of their interest in property (for instance, owner or occupant) may be a separate offense.
- E. Assessment against the Property. If an owner does not have his or her premises evaluated as specified by this Ordinance, the Enforcement Agent may cause an inspection and evaluation report to be completed, and may charge all costs and fees incurred as a result to the owner of the premises. If the owner refuses on demand to pay any expenses incurred by the Enforcement Agent for which the owner is

responsible under this Ordinance, the sum of such expenses shall be assessed against the subject property and shall be collected and treated in the same manner as taxes assessed under the general tax law of this State.

Section 10.0 SEVERABILITY

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, work, section, or provision is declared void or unenforceable for any reason by any court or competent jurisdiction, such declaration shall not affect any portion of the Ordinance other than said part or portion thereof.

Section 11.0 ADMINISTRATIVE FUNDING

Golden Township is authorized to assess each property owner, within the define Septic District, a fee needed to administer this Ordinance *“Inspection and Permitting of Residential and Business On-Site Sewage Treatment Systems within Golden Township Septic District.”* This fee is reviewed annually and adjusted to meet costs from the previous year, adjusted for inflation and expected capitol costs for the next year. A majority of Golden Township Board must agree to the recommendation of the Enforcement Agent on the fee level.

Section 12.0 REPEAL

Any other Ordinances and parts of Ordinances that are in conflict with this Ordinance are hereby repealed.

Section 13.0 EFFECTIVE DATE

This Ordinance is hereby adopted at a regular meeting of the Golden Township Board on _____ and shall be effective _____.

Attachment #1 – List of Properties Subject to this Ordinance

Attachment #2 – Sample Permit for OSSTS

Attachment #3 – Sample Evaluation Report

Attachment #4 – Enforcement Agent Job Description