

**TOWNSHIP OF CLEVELAND**

**AN ORDINANCE REQUIRING WELL AND SEPTIC INSPECTIONS  
AT TIME OF TRANSFER  
ORDINANCE NO. 2018-4**

AN ORDINANCE TO REQUIRE AN INSPECTION OF WATER SUPPLY AND SANITARY SEWAGE DISPOSAL SYSTEMS AT TIME OF TRANSFER OF PROPERTY; TO PROMOTE THE HEALTH AND SAFETY OF THE RESIDENTS, VISITORS, AND OTHER COMMUNITY MEMBERS BY PREVENTING THE SPREAD OF DISEASES ASSOCIATED WITH FAILING ONSITE SEWAGE DISPOSAL SYSTEMS (OSDS) OR SEPTIC SYSTEMS; TO EDUCATE THE PUBLIC ABOUT PROPER SEPTIC SYSTEM OPERATION AND MAINTENANCE; AND TO PROMOTE A QUALITY ENVIRONMENT IN THE MARSHES, WETLANDS, STREAMS AND BEACHES BY REDUCING CONTAMINATED RUNOFF FROM FAILED OR POORLY MAINTAINED SEPTIC SYSTEMS; AND TO ENSURE THAT OSDS ARE PROPERLY OPERATED, INSPECTED AND ROUTINELY MAINTAINED; AND TO PROVIDE FOR SANCTIONS FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, the Township of Cleveland desires to promote the health and safety of the residents, visitors, and other community members by preventing the spread of diseases associated with contaminated onsite water supply and failing onsite sewage disposal systems (OSDS) or septic systems; and

WHEREAS, the Township of Cleveland desires to promote a quality environment in the marshes, wetlands, streams, lakes and beaches by reducing contaminated runoff from failed or poorly maintained septic systems; and

WHEREAS, the Township of Cleveland desires to ensure that onsite water supply systems and OSDS are properly operated, inspected and routinely maintained; and

WHEREAS, such water supply systems and OSDS are under the jurisdiction of the Benzie-Leelanau District Health Department (DHD); and

WHEREAS, the Township of Cleveland wants to require an inspection of a water supply and sanitary sewage or septic system at the time a property is sold or deed transferred; and

WHEREAS, the DHD makes such inspections and also has established conditions under which a waiver of such inspection is possible; and

WHEREAS, at present, a waiver of such inspection might be obtained from the DHD if: 1.) The purchaser provides a notarized letter of intent to remove the residence and related OSDS entirely and bear full responsibility for meeting all code requirements in the future; 2.) The title is changing due to the addition of a spouse; or 3.) The system was constructed within the past five years in a manner fully conforming to code;

NOW, THEREFORE, THE TOWNSHIP OF CLEVELAND ORDAINS:

**Section 1. New Construction.**

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered to increase occupancy or relocated upon any premises shall be in compliance with the requirements of the Benzie-Leelanau District Health Department (DHD) in effect at the time of such erection, alteration or relocation. The written approval of such facilities by DHD shall be filed with the application for a Land Use Permit.

**Section 2. Existing Well or Onsite Septic Systems.**

An owner of any premises, regardless of use or location, on which there is a habitable building or the owner of such building, shall not sell, convey, assign or transfer ownership of, or exclusive rights in, said premises or said habitable building until the owner or the agent of the owner has done all of the following:

A. Requested the DHD to evaluate any existing on-site water well and any existing on-site sewage disposal system or to provide a written waiver of such evaluation. Such request shall be made of the DHD and the applicable fees established by the DHD paid for before the anticipated closing date for the property sale or transfer.

B. Furnished the results of such evaluation by the DHD in writing to any prospective purchaser or transferee of the premises or the building on the premises.

C. If it is determined by the DHD that the water well and/or the onsite septic system is not in conformance with the standards established in Section 3, below, the owner of the premise or the building on the premises shall provide to the DHD and the purchaser or transferee of the premises or the building the following;

1.) A written contract providing for the noncompliant water well and/or on-site sewage system or septic system to be brought into conformance by a date acceptable to the DHD, but not more than one hundred and fifty (150) days from the date title to the premises or the building is transferred; and

2.) Any surety bond, performance bond or cash bond guaranteeing performance of such contract if required by the DHD, which bond shall be in such amount as determined by the DHD.

**Section 3. Evaluation Standards.**

It is not the intent of this ordinance to require that all water and sewage disposal systems be brought up to the same standards that would apply to a new system being installed, but rather to insure that such systems are working properly. In that regard, the evaluation shall consist of a determination that the sewage disposal system and the water well system are in substantial conformance with the standards of the Public Health Code and its regulations. The term "substantial conformance" shall mean that there shall not be more than a minimal likelihood of degradation of ground water or surface water by improper or malfunctioning sewage disposal systems or water supply systems. In making this determination, the following criteria may be

considered:

- A. The vertical isolation distance between the high ground water table and the point of sewage discharge;
- B. The isolation distance from surface waters or wetlands, as defined by federal or state law or regulations;
- C. The isolation distance between a water well and the sewage disposal system;
- D. The on-site conditions of the property, including, but not limited to, soil types, ground water elevation, flow and direction; and
- E. The operational condition of the existing water supply and/or sewage disposal system.

**Section 4. Inspection Records.**

The owner of the premises or the building on the premises shall provide the DHD whatever information the DHD requires so that the DHD will be able to maintain a record of each water supply and septic system or OSDS installed, inspected, repaired and altered.

**Section 5. Exemption.**

Except in those cases where the property owner is aware of a failing water supply or septic system which is in violation of the regulations of the DHD, any residential structures for which a new water supply or septic system is constructed, are exempt with respect to such newly constructed water supply or septic system from the time of transfer inspection requirement imposed by this ordinance for a period of five (5) years from the date of completion of construction of said water supply or septic system

**Section 6. Sanctions.**

Any person who violates any provision of this ordinance shall be responsible for a municipal civil infraction and shall be subject to the penalties and sanctions provided for in the Township of Cleveland's Municipal Civil Infraction Ordinance.

**Section 7. Authorized Local Officials.**

The Township Zoning Administrator or the Township Code Enforcement Officer, if there is one, and a member of the County Sheriff's department are hereby authorized to enforce this ordinance and to issue municipal civil infraction citations or municipal civil infraction violation notices for violations of this ordinance.

**Section 8. Severability.**

Each provision of this Ordinance is declared to be separable and severable, and a judicial determination that any such provision is invalid or unenforceable, shall not affect the

enforceability of any other article, section, subsection or provision hereof.

**Section 9. Effective Date.**

This Ordinance shall become effective thirty (30) days after publication in accordance with law.

At a regular meeting of the Township Board for Cleveland Township held on the 11<sup>th</sup> day of December, 2018, Jan Nowak moved for adoption of the foregoing ordinance and Bill Olsen supported the motion.

Voting for: Bill Olsen, Todd Nowak, Tim Stein, Jan Nowak and Angie Diotte.

Voting against: None

The Township Supervisor declared the ordinance adopted.

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2018-4 which was enacted by the Township Board for the Cleveland Township at a regular meeting held on December 11, 2018.

  
Jan Nowak, Township Clerk