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RESOLUTION NO. 2020 - 08

AN ORDINANCE REQUIRING WELL AND SEPTIC INSPECTIONS AT TIME OF SALE OR TITLE TRANSFER

AN ORDINANCE ENACTED UNDER THE TOWNSHIP ORDINANCES ACT (MCL 41.181, et seq.) TO REQUIRE AN INSPECTION OF WATER SUPPLY AND SANITARY SEWAGE DISPOSAL SYSTEMS AT TIME OF SALE OR TITLE 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 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 SEPTIC SYSTEMS ARE PROPERLY OPERATED, INSPECTED AND ROUTINELY MAINTAINED; AND TO PROVIDE THE ADMINISTRATION OF THIS ORDINANCE INCLUDING FOR SANCTIONS FOR VIOLATION OF THIS ORDINANCE.

STATEMENT OF INTENT

It is the goal of Centerville Township:

1. 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
2. To promote a quality environment in the marshes, wetlands, watersheds, streams, lakes and beaches by reducing contaminated runoff from failed or poorly maintained septic systems; and
3. To ensure that onsite water supply systems and OSDS are properly operated, inspected and routinely maintained.

To accomplish this goal, Centerville Township will require an inspection of a water supply and sanitary sewage or septic system at the time a property is sold or title to that property is transferred to another owner.

CENTERVILLE TOWNSHIP HEREBY ORDAINS:

Section 1. New Construction.

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered, or relocated upon any premises shall be in compliance with the requirements of the Benzie-Leelanau District Health Department (BLDHD) in effect at the time of such erection, alteration, or relocation. The written approval of such facilities by BLDHD 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 BLDHD 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 BLDHD and the applicable fees established by the BLDHD paid for at least thirty (30) days before the anticipated closing date for the property sale or transfer.

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

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

1.) A written contract providing for the non-compliant water well and/or on-site sewage system or septic system to be brought into compliance by a date acceptable to the BLDHD, but not more than one hundred and fifty (150) days from the date that 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 BLDHD, which bond shall be in the amount determined by the BLDHD.

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 ensure 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 compliance with the standards of the Public Health Code and its regulations. The term "substantial compliance" 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 shall be considered as applicable:

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 BLDHD whatever information the BLDHD requires so that the BLDHD will be able to maintain a record of each water supply and septic system or OSDS installed, inspected, repaired, and altered.

Section 5. Exemptions.

This ordinance provides for specific scenarios, noted below, which provide an exemption from the inspection requirement:

A. The purchaser provides a notarized letter of intent to remove the structure and related OSDS entirely by a date certain and bear full responsibility for meeting all code requirements in the future, and grants the Township a right of access to the property to inspect as needed for compliance purposes;

B. The title is changing due to the addition or deletion of a co-owner; or

C. The title is changing but the existing ownership remains unchanged; such as a husband and wife transferring title to a trust in which they are the trustees; or such as a transfer of title to an LLC, partnership, or other legal entity in which the membership is a mirror image of the existing owners; or

D. The system was constructed within the past ten (10) years in a manner fully conforming to code; or

E. The system has passed an inspection by the BLDHD within the previous 3 years; or

F. The system is a community system which is subject to regular, required inspections by the BLDHD.

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 Centerville Township 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 30 days after publication.

At a regular meeting of the Board of Trustees of Centerville Township held on October 14, 2020, adoption of the foregoing resolution to adopt an ordinance requiring well and septic inspection at time of sale or title transfer was moved by Schwantes and supported by Chiles .

Roll Call Vote: Chiles: yes Hubbell: yes Pleva: yes Schaub: no Schwantes: yes

Vote Count: Yes: 4 No: 1

The Township Supervisor declared the resolution passed.

James Schwantes, Supervisor

CERTIFICATION

I, Elizabeth Chiles, the duly elected and acting Clerk of Centerville Township hereby certify that the foregoing resolution was adopted by the township board at the regular meeting of said board held on October 14, 2020 at which meeting a quorum was present by a roll call vote of said members as herein before set forth, and that the ordinance that is the subject of said resolution was ordered to take effect 30 days after publication.

Elizabeth Chiles, Clerk

Centerville Township

Notice Of Adoption Of
Resolution No. 2020-08

An Ordinance Requiring Well And Septic Inspections At Time Of Sale Or Transfer

Notice is hereby given that on October 14, 2020 an Ordinance Requiring Well and Septic Inspections at Time of Transfer was adopted by the legislative body of the township of Centerville.

This ordinance shall become effective 30 days following publication of this Notice of Adoption in the Leelanau Enterprise.

A copy of the ordinance may be inspected at 5001 S. French Road, Cedar, MI 49621 by appointment or on the township website at www.leelanau.cc/centervilletwp.asp.

Affidavit of Publication

Centerville Township

John T. Elchert being first duly sworn, says that he is the publisher of The Leelanau Enterprise, a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news, which is a duly qualified newspaper, and that annexed hereto is a copy of a certain order taken from said newspaper, in which the order was published:

October 22nd, 2020

Signed: _____

John T. Elchert, Publisher

Subscribed and sworn to before me this 22nd day of October, 2020.

Jenny N. Romo

Jenny N. Romo,
Notary Public, Leelanau County, Michigan
Acting in Leelanau County

My Commission Expires March 08, 2025