

**PRESQUE ISLE TOWNSHIP
(PRESQUE ISLE COUNTY, MICHIGAN)
ORDINANCE NO. _____**

SEPTIC/WELL INSPECTION AND PROPERTY TRANSFER ORDINANCE

An Ordinance pursuant to Act 246 of the Public Acts of 1945, as amended (being MCL 41.181) to require the evaluation of sewage treatment and disposal systems (STDS) and the testing of private water supply systems upon the transfer of property served by the STDS; to repeal any Ordinance or portion thereof in conflict herewith; and to provide for the administration of this Ordinance.

THE TOWNSHIP OF PRESQUE ISLE ORDAINS:

Section 1. TITLE

This Ordinance shall be known as the Presque Isle Township Septic/Well Inspection and Property Transfer Ordinance. This Ordinance may also be called the TOT (Time of Transfer) Ordinance.

Section 2. PURPOSE

- A.** The purpose of this Ordinance is to protect public health and to prevent or minimize the degradation of groundwater and surface water quality by malfunctioning sewage treatment and disposal systems (STDS) and to assure safe water supplies by the evaluation of the STDS and private water supply systems at the time of transfer of the property served by the STDS. The Township is empowered to adopt ordinances that regulate the health, safety, and welfare of persons and property, and to provide penalties for violations of such ordinances.
- B.** This Ordinance contains minimum standards that are in addition to the rules and regulations enacted by the Michigan Department of Health & Human Services (MDHHS), the District Health Department #4 (DHD4), the Michigan Department of Environment, Great Lakes & Energy (EGLE), and any Michigan or federal law or regulation regarding the subject matter of this Ordinance. In addition, the Township will execute an Intergovernmental Agreement with DHD4, pursuant to which DHD4 will conduct the evaluations that are required by this Ordinance. The Intergovernmental Agreement will be reviewed on an annual basis by both parties to determine if changes should be considered.
- C.** This Ordinance requires an evaluation of a sewage treatment and disposal system (STDS) and private water supply system at the time the property is

transferred to determine the operational status of the STDS and private water supply system. The Township will have an intergovernmental agreement with DHD4 in which DHD4 will agree to conduct all evaluations required by the Ordinance. Only evaluations conducted by DHD4 or its evaluators comply with this Ordinance. If an evaluation discovers a defective STDS or private water supply system, DHD4 may take such action, pursuant to its own rules and regulations, to protect the environment and/or public health. This Ordinance also requires an evaluation of a STDS for which there is no permit on file with DHD4.

Section 3. DEFINITIONS

Absorption System (Field). The collective term for trench or bed excavations used to uniformly distribute septic tank effluent to subsurface soil by means of a network of distribution piping in washed aggregate with covering soil and vegetation. A trench contains one pipe. A bed contains two or more pipes.

Approved/Approval. A decision that denotes a condition, facility, thing, premise, action, or use is in satisfactory compliance with the intent, purpose, and applicable standards of Health Department Environmental Health regulations.

Authorized Agent. A person that is authorized in writing by (a) the owner, or (b) the transferee, to act as legal representative in all matters authorized on behalf of the owner or transferee.

DHD4. The District Health Department #4.

Evaluator. A person who is authorized by DHD4 to conduct evaluations of STDS and private water supply systems for the purpose of this Ordinance.

Effluent. The partially treated sanitary sewage outflow discharge of a septic tank or similar device.

Environmental Health Regulations. The District Sanitary Code of the District Health Department #4 (DHD4) for Alpena, Cheboygan, Montmorency and Presque Isle Counties, October 12, 2009, and the Michigan Well Construction and Pump Installation Code (Act 368 of 1978, Part 127, and Administrative Rules.)

Failed STDS. A sewage treatment and disposal system that violates Part IV of the District Health Department #4 Sanitary Code.

Failed Private Water Supply System. A private water supply system that does not comply with either of the following: the Safe Drinking Water Act (Act 399 of 1976; MCL 325.1001 et seq.) or the Michigan Groundwater Quality Control Rules or other State of Michigan rules that were applicable at the time of construction of the private water supply system.

Groundwater Quality Control Rules. The Michigan Well Construction and Pump Installation Code (Act 368 of 1978, Part 127, and Administrative Rules.)

Owner. A person who has legal or equitable title of a premises.

Person. An individual, firm, limited liability company, partnership, party, corporation, company, society, association, or other legal entity.

Premises. Any house, building, structure, facility, or improvement that is served by a STDS and is within 500 feet of the high-water mark of a lake, river, or stream, measured from the point of the property closest to the water.

Private Water Supply System. A system of privately-owned pipes and structures through which water is obtained, including but not limited to: the source of the water such as wells, or hauled water storage tanks, pumping and treatment equipment, storage tanks, pipes, and appurtenances used or intended to furnish water for potable use. It does not include a municipally-owned water supply system or the Presque Isle Harbor Association water supply system.

Real Estate Service Provider. A person, who for a fee and in connection with the transfer of a premises, provides one or more of the following services: provides escrow services, provides title insurance, or acts as a real estate agent for an owner or a transferee or both.

Septic Tank. A watertight receptacle used to receive all sewage and designed to collect solids from such wastes for decomposition therein.

Sewage Treatment and Disposal System (STDS). The method of disposing of sewage by means of a sewer line connected to a septic tank or aerobic tank and one or more of the following: dry well, seepage pit, block trench, absorption field, trench or bed, or any similar device or devices approved by the Health Officer.

Township. Presque Isle Township.

TOT Notification. A written document prepared by the Township that contains a summary of the requirements of this Ordinance.

Transfer. A conveyance of the entire legal or equitable title to a premises to a person who at the time of the conveyance did not have an ownership interest in the premises. The conveyance may be by any legal means, including but not limited to a deed, land contract, or inheritance (testate, intestate, or trust). In addition, a transfer includes a change in more than 50% of the ownership interest of a legal entity when that legal entity owns a premises.

Transferee. A person to whom a premises is transferred.

Transferor. A person who makes a transfer of a premises.

Section 4. ADVISING OWNERS OF ORDINANCE

When providing services in connection with a transfer of a premises, a real estate service provider shall provide the owner and transferee with a TOT Notification.

TOT Notification documents may be obtained from a Township officer or employee, as designated by the Township Board, or from DHD4.

Section 5. STDS EVALUATION REQUIRED AND EXEMPTIONS

- A.** Except as provided in subsection B, an owner of any premises in the Township shall not transfer a premises until the following conditions are met:
- 1.** The existing STDS has been evaluated as required by this Ordinance and DHD4 has determined that the STDS complies with DHD4's Environmental Health Regulations and, if applicable, the private water supply system complies with the requirements of Section 7 of the Ordinance; and
 - 2.** A written copy of the evaluation report has been provided to the transferee or an authorized agent of the transferee by the owner or an authorized agent of the owner.
- B.** Any premises which has not obtained a septic permit from DHD4 must have its existing STDS evaluated within 12 months of the effective date of this Ordinance. A written copy of the evaluation report must be provided to the Township Zoning Administrator.
- C.** The transfer of a premises is exempt from the STDS and private water supply system evaluation requirements of this Ordinance under any of the following circumstances:
- 1.** Based on information provided by the owner or the records of DHD4, a determination is made by DHD4 that, pursuant to a permit issued by DHD4 under applicable Environmental Health Regulations, a new or replacement STDS was installed on the premises within ten years prior to the proposed date of transfer.
 - 2.** Based on information provided by the owner or the records of DHD4, a determination is made by DHD4 that the STDS, which serves the premises, has been evaluated and found by DHD4 to meet the requirements of this Ordinance within five years prior to the date of the proposed transfer.
 - 3.** Based on information provided by the owner or the records of DHD4, a determination is made by DHD4 that any structure on the premises, which is served by a STDS, will be demolished and not replaced.

- 4.** When a mortgage or other payment obligation for which the premises is pledged as security is refinanced.
 - 5.** A transfer from one spouse to the other spouse and which does not involve any other person obtaining or conveying a legal or equitable interest in the premises.
 - 6.** A change in ownership solely to include a spouse.
 - 7.** A transfer to establish, release, or foreclose on a secured interest (such as a mortgage).
 - 8.** An involuntary transfer pursuant to foreclosure or court order.
- D.** If the Township receives notification of a property transfer from the Register of Deeds which did not comply with section 5 of this ordinance, the new owner must have the property STDS evaluated pursuant to section 5.A. of this ordinance within 60 days of notification by the Township.
- E.** If property is to be transferred at a time when inclement weather makes an evaluation under Section 5 impossible, then an amount equal to the inspection fee should be placed in escrow with the Title Insurance Company by the Seller, to be released once notice of an inspection has been received by the Township.

Section 6. EVALUATION APPLICATION AND FEE

Applications for an evaluation that is required by this Ordinance may be obtained from a Township officer or employee, as designated by the Township Board, or from DHD4. The application must be returned to DHD4, and an evaluation fee, as set by DHD4, shall be paid to DHD4.

Section 7. STDS EVALUATION AND REPORT

- A.**
- 1.** An STDS evaluation shall consist of visual and olfactory observations of the sewage system, use conditions, information gathering, evaluations at time of prior pumping, evaluation of the condition of the septic tank, absorption system, pumps, filters, and other important features of the sewage system. The evaluation shall provide a determination regarding whether the STDS is in compliance with DHD4's Environmental Health Regulations. In making this determination, evaluators will adhere to the evaluation checklist established by DHD4 for evaluations to be conducted under this Ordinance and as specified in an attachment to the Intergovernmental Agreement between DHD4 and the Township.
 - 2.** Except as provided in subsection 3 below, prior to evaluation, the septic tank(s) must

be pumped and serviced by a Michigan licensed septage hauler. The licensed hauler shall provide written documentation of service to the homeowner and to the evaluator. If a STDS has been pumped within 5 years prior to the evaluation and documentation concerning this prior pumping has been provided to the evaluator prior to the TOT evaluation, the STDS will not need to be pumped as a part of the STDS evaluation under this Ordinance.

3. An STDS with design features that met the design standards at the time of construction will not be considered a failed system unless its performance is deemed failed.

B. Evaluation Reports must be in written or electronic form and include, at a minimum:

1. The address of the site;
2. The parcel identification number;
3. The name of the owner or the owner's authorized agent;
4. The location of the STDS and private water supply system to be inspected;
5. A description of the current operational status of the STDS, including documentation as to whether the STDS has failed;
6. Other relevant or unusual observations related to the STDS and/or private water supply system;
7. Recommendations to extend the life of the STDS and/or to make improvements in compliance with environmental health regulations;
8. A determination that the STDS and private water supply system is or is not in compliance with DHD4's Environmental Health Regulations;
9. The results of water quality testing that were performed.

C. The evaluator shall provide complete documentation of each STDS evaluation to the owner, Township and DHD4 within 5 business days of the evaluation.

D. Any owner or authorized agent of a failed STDS shall request a permit from DHD4 for corrective action(s). This request shall be made within 10 business days of the receipt of the evaluation report or notification from DHD4.

E. Once DHD4 gives final approval to the corrected STDS, the system shall be considered in compliance with this Ordinance.

Section 8. EVALUATIONS

Evaluations required by this Ordinance may only be conducted by DHD4 or evaluators contracted by DHD4.

Section 9. PRIVATE WATER SUPPLY SYSTEM EVALUATION

- A.** If a STDS must be evaluated as required by this Ordinance and the premises being served by the STDS also has a private water supply system, then the private water supply system shall be evaluated in addition to the STDS. Water sample(s) will be obtained by the evaluator and analyzed at a State of Michigan certified drinking water laboratory to determine the presence or absence of coliform bacteria or nitrate concentrations, and to determine whether the water quality complies with Safe Drinking Water Act (399 PA 1976; MCL 325.1001 et seq.).
- B.** The evaluator shall also perform a visual evaluation of the private water supply system for compliance with Michigan Groundwater Quality Control Rules or other regulations in force at the time of construction. The evaluator will identify the existence and disposition of any abandoned wells and describe any abandoned wells in the evaluation report. The foregoing information shall be contained in the evaluation report.
- C.** All determinations required by this Section shall be made by DHD4 after reviewing all relevant information.

Section 10. FAILED STDS OR FAILED PRIVATE WATER SUPPLY SYSTEM

After reviewing the evaluation report or based on its own investigation, if DHD4 determines that the STDS and/or private water supply system fails to comply with the requirements of this Ordinance, then the transfer of the premises shall not take place until the failed STDS and/or failed private water supply system complies with DHD4's Environmental Health Regulations and the requirements of Section 7 and/or Section 9 of this Ordinance, as applicable. If a premises for which there is no permit for the STDS system on file fails a DHD4 evaluation, the STDS system must be brought into compliance with Section 7 and/or Section 9 of this Ordinance, as applicable, within 12 months of the date of the evaluation report.

Section 11. APPEALS

- 1.** If an owner or interested party is adversely affected by any decision under this Ordinance, they may request in writing a hearing before the Presque Isle Township Board or its designated committee within thirty (30) days of the date of notification of the need for an inspection by the Township.
- 2.** A hearing shall then be held at the next regular meeting of the Presque Isle Township Board (or its designated committee) that allows sufficient time for the meeting notice; provided, however, that a hearing shall be conducted no later than ninety (90) days after the receipt of the request for a hearing.
- 3.** The Presque Isle Township Board shall post a meeting notice fifteen (15) days prior to the public hearing.

4. The Presque Isle Township Board (or its designated committee) shall affirm, reverse, or modify the contested decision by a majority vote. The decision by the Presque Isle Township Board (or its designated committee) shall be in writing and state the reasons and grounds for such a decision. A copy shall be furnished to the owner, any interested person, and DHD4 within thirty (30) days of the decision

Section 12. ENFORCEMENT AND PRIVATE CAUSE OF ACTION

- A. Nothing in this Ordinance shall be deemed to prohibit DHD4 from enforcing its Environmental Health Regulations regarding a failed STDS or failed private water supply system in its discretion. The remedies provided by this Ordinance are in addition to remedies and penalties that are authorized by law for violations of those Environmental Health Regulations.
- B. The following provisions apply to a failure to have an STDS or private water supply system evaluated as required by this Ordinance:
 1. Penalties: Any transferor, transferee, and/or owner who violates this Ordinance shall be subject to a municipal civil infraction, as defined by Section 113 of the Revised Judicature Act of 1961, being Michigan Public Act 236 of 1961, as amended (Act 236). All owners, regardless of their interest in the property, may be responsible for the municipal civil infraction. The Township Zoning Administrator and other officials designated by the Township Board are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in the Presque Isle County District Court. Each day the violation remains may be a separate offense. A defendant found responsible by the judge or magistrate for a violation of this Ordinance shall pay a fine not to exceed \$500.00, plus costs not to exceed \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order (including but not limited to injunctive relief) necessary to enforce this Ordinance, in accordance with Section 8302 of Act 236. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of Act 236 within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of Act 236, as applicable.
 2. Civil Action: A violation of this Ordinance shall be a nuisance per se. The Township shall have the right to commence a civil action to enforce compliance with this Ordinance.
 3. Township-requested Evaluation and Costs: If an owner does not have the owner's

premises evaluated as required by this Ordinance, the Township Zoning Administrator may cause an evaluation to be completed. All costs incurred by the Township and DHD4 related to (a) the investigation of failing to have the required evaluation, and (b) in completing the evaluation, may be charged to the owner of the premises. These costs shall include, but are not limited to, the wages and fringe benefit costs of all personnel involved in the matter, including the charges of professionals. If the owner refuses on demand to pay all such costs, the Township may commence a civil action on its behalf and on behalf of DHD4 to obtain a judgment for such sums and for its attorney fees and court costs.

Section 13. SEVERABILITY

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

Section 14. REPEAL

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

Section 15. EFFECTIVE DATE

This Ordinance shall become effective 180 days after its adoption.

Section 16. PUBLICATION; RECORDATION; AUTHENTICATION

This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of Presque Isle Township, and qualified under state law to publish legal notices, within 30 days after its adoption; this ordinance shall be recorded in the record of ordinances book of the Township; and the Township Clerk shall authenticate this ordinance by placing her official signature upon the ordinance.

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Presque Isle Township Board of Trustees at a regular meeting held on the _____ day of _____, 2025.

I further certify that the following Board members were present at the meeting: _____, and that the following Board members were absent: _____.

I further certify that the Board member _____ moved for adoption of the ordinance, and the motion was supported by the Board member _____.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: _____, and the following Board members voted against the adoption of the ordinance: _____.

Adopted and approved this _____ day of _____, 2025, by the Presque Isle Township Board of Trustees.

Kate Szydowski
Presque Isle Township Clerk

CERTIFICATION AS TO PUBLICATION, RECORDATION, AND AUTHENTICATION

I hereby certify that the above ordinance was published in the _____ on the _____ day of _____, 2025; that the ordinance has been recorded in the Township record of ordinances book on the _____ day of _____, 2025; and that the ordinance is hereby authenticated by the placement of my signature below.

Dated: _____

Kate Szydowski
Presque Isle Township Clerk