

Milton Township Septic Inspection and Property Transfer Ordinance First Year Evaluation

Background

In April 2012 the Milton Township Board enacted the Septic Inspection and Property Transfer Ordinance, also known as Time of Transfer (TOT). The effective date of the Ordinance was October 8, 2012. This Ordinance requires an evaluation of a sewage treatment and disposal system (STDS) and private water supply system at the time a Milton Township property is sold or transferred to determine the operational status of the STDS and private water supply system. Certain exemptions apply and Township approval of exemptions is required.

The Township has an intergovernmental agreement with the Health Department of Northwest Michigan (HDNW) in which the HDNW has agreed to conduct all evaluations required by the Ordinance. Only evaluations conducted by the HDNW or its contractors comply with the Ordinance. If an evaluation discovers a defective STDS or private water supply system, the HDNW may take such action, pursuant to its own rules and regulations, to protect the environment and/or public health.

Applications for an evaluation that is required by the Ordinance are available at the Township office, downloaded from the Township website (www.miltontownship.org) or from the HDNW. Local real estate agencies also have copies of the application. The application is submitted to the HDNW and must be accompanied by the evaluation fee, as set by the HDNW.

During the period between April and October 2012, the Township contacted real estate agents, brokers and title companies to alert them to the Ordinance. The Township created a FAQs document and Ordinance Summary that was distributed and also posted on the Traverse Area Association of Realtors website. This information and a full copy of the Ordinance was posted on the Township website.

As specified in the intergovernmental agreement, the HDNW is required to provide the Township with an annual report regarding the evaluations conducted under the provisions of the Ordinance. Their Annual Report is attached (Attachment).

Findings

The HDNW reports that 44 evaluations were conducted during the first year of the Ordinance. Three systems were considered failed and permits were required to correct failing or inadequate water and/or wastewater systems. The HDNW documented numerous other deficiencies and made specific recommendations for corrections in their evaluation reports. Several evaluation reports provided information regarding future uses of properties and what changes, modifications or rebuilding would be required for water and/or wastewater systems. The attached HDNW report provides greater detail as to the evaluation findings. The HDNW concludes that, “from the standpoint of timely delivery of service and identifying potential problems, we believe the program to be a success.”

There were a total of seven exemption requests made and the Township issued letters of exemption for all of them. All of these exemptions were because the STDS were less than 10 years old.

In comparing the properties that were sold or transferred as identified by the Township Assessor and the Ordinance evaluations that were performed through October 2013, only one property has been identified as having been transferred and the STDS NOT evaluated. This is a commercial property that is currently not occupied and an evaluation will be required prior to occupancy.

Of the 44 properties for which an evaluation was performed, 26 had been sold or transferred as of November 1, 2013. The Township developed a brief survey form and mailed it with a cover letter and self-addressed envelop to the 26 purchasers or transferees on November 6, 2013.

As of January 6, ten surveys have been returned (38.5%) and a summary of the survey results follows.

1. Are you aware that County Health Department personnel evaluated your septic system and well before closing on your property?

YES – 9, NO – 1 - comments:

- There was much confusion as to who pays for the TOT – should be clearer.
- I was present
- Evaluator was very nice

2. Did you receive a copy of the evaluation report?

YES – 8, NO – 2

3. Was it beneficial to you to know the status of your septic system and well?

YES – 10, NO – 0 – comments:

- Good assurance that our drinking water was safe.
- Very important to have the confidence as a part of the home purchase.
- Lender used the information in processing the loan.
- Gave us peace of mind

4. If recommendations were included in the evaluation, have you or do you plan to implement the recommendation(s)?

YES – 6, NO – 1, NA – 3 – comments:

- I hesitate to implement the recommendations as our system was constructed to code in 2001 and operates properly. The recommendation to change our drain field caused some trials while finalizing our mortgage. With that said, I still agree with these “pre-purchase” evaluations to protect buyers from unexpected repairs.

5. Do you believe that the Township should continue requiring these evaluations to be performed at the time of property sale or transfer?

YES – 9, NO – 1 – comments: (no comment from the person who believes NO)

- Definitely
- Very important to the health of our lakes, especially with some of the older cottages (thanks for asking our opinion)
- Exempt systems that have been evaluated during the last 5 years. (This is the current exemption)
- Good program to continue – benefits property buyers

As part of this evaluation, 2 real estate agents, 2 brokers and 1 title company executive were contacted regarding their experience with the Ordinance during the first year of implementation. All interviewees concurred with the purpose of the Ordinance and believed that the first year of implementation went fairly smoothly. Two interviewees were concerned that the Ordinance does impose a financial hardship for some of their clients. Some delays in closing were experienced when the County evaluator was on vacation during the summer. If a point of sale inspection ordinances are expanded, two interviewees expressed that it should be on a County-wide basis as opposed to multiple township ordinances. Believing that the latter approach would be very confusing to agents and brokers and likely to the County evaluator. Most agents are encouraging home sellers to obtain their evaluations soon after their property is listed to avoid delays and allow time for repairs if needed. One agent expressed concern that if the current County evaluator is replaced, operations may not be performed as smoothly. No serious adverse consequences due to the Ordinance were reported.

Recommendations to the Milton Township Board

The Planning Commission unanimously recommends that the Septic Inspection and Property Transfer Ordinance continues in force. The Ordinance is clearly perceived by purchasers and transferees as providing a beneficial service and the implementation of the Ordinance has occurred without major difficulties. Three failed systems were identified through the evaluation process and many additional potential system issues were identified and brought to the attention of property owners. The real estate professionals who were contacted support the Ordinance and had few issues with its operation. Compliance with the Ordinance was successful with only one transferred property not subject to evaluation.

The Planning Commission recommends two changes to the Ordinance:

- 1) Addition of a definition for Required Action to be consistent with changes made by the HDNW to its operations and evaluation form – Section 3 of the Ordinance.

“Required Action. As a result of an evaluation conducted, a determination by the HDNW that there are conditions that pose an imminent hazard and require immediate correction.”

- 2) Redefining “Failed STDS” – Section 3 of the Ordinance

Old definition – Failed STDS. A sewage treatment and disposal system that violates section 4.1 of the environmental Health regulations.

New definition – Failed STDS. A sewage treatment and disposal system that violates section 4.1 of the environmental Health regulations or for which a Required Action has been designated.

These changes in Section 3 follow the operational changes that the HDNW recently implemented. The broader definition of failure allows the HDNW more flexibility to require corrections to systems that do not meet the literal definition of section 4.1 (sewage on the ground or in the premises) but do represent an imminent health hazard.

January 6, 2014