

**LYON TOWNSHIP
ROSCOMMON COUNTY, MICHIGAN
PRIVATE WASTEWATER SYSTEMS ORDINANCE
Ordinance No. ____**

At a meeting of the Township Board of Lyon Township, Roscommon County, Michigan, held at the Lyon Township Hall on _____, 2023, at __:___ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to regulate private septic disposal systems within the Township's jurisdiction to protect the public safety, health, welfare, comfort, and the Township's recreation and tourism interests by requiring connection to public sewer where available; by prohibiting the construction, installation, alteration, maintenance, or operation of septic disposal systems in violation of this Ordinance and the Sanitary Code of the Central Michigan District Health Department; by implementing phase-in registration of existing and proposed septic disposal systems for subsequent inspection, and point of sale provisions; by providing requirements for the construction and maintenance of septic disposal systems; by designating failing/abandoned and non-maintained septic disposal systems as nuisances per se subject to abatement; and by authorizing the Township's Ordinance Enforcement Officer, or his or her designees, to issue municipal civil infractions for violations of this Ordinance.

THE TOWNSHIP OF LYON, ROSCOMMON COUNTY, MICHIGAN, ORDAINS:

Section 1: Title: This Ordinance shall be known and cited as the Lyon Township Private Wastewater Systems Ordinance.

Section 2: Scope: The provisions of this Ordinance shall apply to all private septic disposal systems within the Township's jurisdiction, except as provided in this Ordinance.

Section 3: Legislative Findings:

- A. Lyon Township is a rural township in Roscommon County with shoreline on Higgins Lake, a 9,900 acre inland lake. Existing land use is primarily residential and includes forested land cover with scattered areas of dense residential development and few areas of commercial or industrial development. The residential areas are generally located close to Higgins Lake.
- B. The Higgins Lake area contains a high number of seasonal residences. The residential areas around Higgins Lake primarily consist of areas of dense development on small parcels. The small parcels and high building densities in many areas provide challenges in locating onsite water and wastewater disposal systems. The riparian areas generally have high groundwater.

- C. Individual and group on-site septic disposal systems are heavily relied upon throughout most parts of the Township. Further, there is currently no centralized treatment facility for a majority of the homes surrounding Higgins Lake. There are two smaller treatment facilities located at the north and south ends of Higgins Lake. One of those facilities serves the “Camp Curnalia” area adjacent to the northwest corner of Higgins Lake in the Township.
- D. Septic systems require proper management and maintenance in order to continue working as intended. Solids accumulate over time and require removal by approved means. Septic systems need to be properly maintained. Routine maintenance can help avoid the costs of emergency replacement and/or major repairs caused by neglect.
- E. Poor maintenance or ineffective treatment by private septic systems is known to be affecting neighboring properties and the Higgins Lake surface water. Starting in 1969, nearly 20 water quality and sewer feasibility studies and reports have been conducted for the Higgins Lake area. Those studies have demonstrated decreasing water quality in Higgins Lake. Those studies indicate that nutrients from onsite septic systems around the lake are negatively impacting the area groundwater and Higgins Lake water quality.
- F. Higgins Lake is fed primarily by groundwater with two small surface water feeds. The nutrients from septic systems are being carried via the effluent into the groundwater. Groundwater, being the lake’s primary source of water, transports these nutrients to the lake which leads to degrading water quality. The high density of residential development impedes the soil’s treatment ability with the high nutrient loading. Further, these nutrients pose a health and safety issue for private water supply wells located between the lake and any septic systems.
- G. Due to a majority of residences using private septic disposal systems, the density of the lots on Higgins Lake in the Township, high groundwater, excessively drained soils, and proximity to Higgins Lake, groundwater and surface water quality concerns have developed that could impact recreation, tourism, property values, and public health and safety.

Section 4: Definitions: As used in this Ordinance:

- A. “Abandoned/Failing Septic Disposal System” means a septic disposal system where the effluent therefrom is exposed to the surface or is permitted to drain onto the surface of the ground or into any lake, river, county drain, storm sewer or stream, or where the seepage of effluent therefrom may endanger a public or private water supply or where an improperly constructed or maintained system creates a nuisance. In addition to the definition set forth above, a septic disposal system shall also be a failing system under this Ordinance if it is in “substantial non-compliance” as defined in any of the criteria for an “Action Required” system set forth in the “On-Site Sewage System Time of Transfer Evaluation Categories” established by the Central Michigan District Health Department.
- B. “Person” means an individual, including but not limited to a person owning a premises personally, by the entirety, jointly, by land contract or by other means, or by way of a

trust or other means of conditional transfer. "Person" also means a firm, company, corporation, or governmental entity. In the event of any conflict in determining the person who owns or is responsible for a premises, the person listed on the records of the Township assessor shall be determinative.

- C. "Premises" means any property that is required to have a septic disposal system.
- D. "Septic Tank" means a watertight receptacle used for storage and decomposition of human and domestic wastes.
- E. "Septic Disposal System" means a sewage disposal system, other than a public system, which receives either human excreta, liquid wastes or both from one or more premises. Included within the scope of this definition are septic tank soil absorption systems, privies, chemical toilets, and such other types as may be approved by the CMDHD or the Township for use with a premises.
- F. "Performance-based Disposal System" means a septic disposal system that meets or exceeds the NSF/ANSI Standard 245 for Wastewater Treatment Systems, and which the effluent therefrom is not exposed to the surface and is not permitted to drain onto the surface of the ground or into any lake, river, county drain, storm sewer or stream, and where no seepage of effluent therefrom occurs that may endanger a public or private water supply, and where a system is not improperly constructed or maintained.
- G. "Supervising Authority" means the Township Board, the Township's Ordinance Enforcement Officer and his or her designees, or any other individual authorized by the Lyon Township Board and authorized to administer and enforce this Ordinance.
- H. "Health Department" means the Central Michigan District Health Department (CMDHD) and any successor thereof.
- I. "Township" means Lyon Township, Roscommon County, Michigan.
- J. "Public sewer" means a sanitary sewer system designed and functioning to collect wastewater from a premises and transport the same to a treatment facility operated by a municipality or a public authority.

Section 5: Public Connection Required: Where public sewer is available, a premise is required to connect to the public sewer system. Where a public sewer is not available, a premise shall connect to a septic disposal system that complies with the requirements of the CMDHD and this Ordinance. Public sewer is considered available when a sewer line with sufficient capacity is located within 200 feet of the property line of a parcel on which a premises is located.

Section 6: Supervising Authority: The Township Board, the Township's Ordinance Enforcement Officer and his or her designees, or any other individual or governmental agency authorized by the Lyon Township Board, shall be designated by the Township Board and shall then be responsible for the general administration and enforcement of this Ordinance to ensure compliance with the provisions of this Ordinance.

Section 7: General Prohibitions:

- A. No person shall begin to construct, install, alter, maintain, operate, or extend any septic disposal system in violation of the provisions of this Ordinance.
- B. No person shall begin to construct, install, alter, or extend any septic disposal system unless they have made application to the CMDHD and for which an approved construction permit has been issued.

Section 8: Registration, Point of Sale and Inspections:

A. Phase-in Registration.

- 1) Any premises with a septic disposal system that has not received an approved permit from the CMDHD to construct, alter, or extend such system within the past twenty (20) years shall be registered by the person owning such premises with the Township Clerk within 90 days of the effective date of this Ordinance on a “Septic Disposal System Registration” form provided by the Township. The Registration form shall include, at a minimum:
 - i. Name of premises owner and contact information, including mailing address, email address, and telephone number.
 - ii. The approximate location of the system on the premises.
 - iii. General description of the septic disposal system located on the premises.
 - iv. General explanation of any existing problems or concerns regarding the septic disposal system, if any, including whether the system, or any part thereof, has failed at any time.
 - v. Date of last known inspection and copies of any inspection report or any reported findings, if any.
 - vi. Copies of any past permits related to or concerning the septic disposal system, if any.
 - vii. Any other information deemed necessary by either the CMDHD or the Township to evaluate the condition of the septic disposal system.
- 2) Any premises with a septic disposal system that has received an approved permit from the CMDHD to construct, alter, or extend such system within the past twenty (20) years shall be registered by the person owning such premises with the Township Clerk within 1 year of the effective date of this Ordinance. Registration shall be made pursuant to the “Septic Disposal System Registration” form provided by the Township as outlined in subsection (A)(1).

- 3) Any property owner proposing to construct a new, or repair or replace an existing, septic disposal system after the effective date of this Ordinance shall register such septic disposal system with the Township's Clerk on a "Septic Disposal System Registration Form" provided by the Township prior to the start of construction, operation or use. Such form shall include, but not be limited to:
 - i. Name of premises owner and contact information, including mailing address, email address, and telephone number.
 - ii. The approximate location of the system to be located on the premises.
 - iii. General description of the septic disposal system to be located on the premises, including but not limited to the size of any tanks, drain fields, wet wells, etc.
 - iv. Copies of any permits related to or concerning the septic disposal system.
 - v. Any other information deemed necessary by either the CMDHD or the Township to evaluate the condition of the septic disposal system.

B. Inspections.

- 1) Property owners with septic disposal systems who are required to submit an inspection report to the Township shall obtain an inspection report compiled by the CMDHD or a private inspector that is certified by the Supervising Authority at the property owner's sole expense. Prospective inspectors must demonstrate knowledge of construction practices, operational standards as well as the causes and indications of sewage disposal system failures and shall provide proof of general liability insurance to the Supervising Authority. No Inspector shall be approved who has a conflict of interest or who is an employee of a waste hauler operating in the Township. No investigation reports shall be accepted from individuals not certified by the Supervising Authority.
- 2) After an inspection, 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 premises owner and to the designated Supervising Authority. If a system has been pumped within 3 years prior to the evaluation and documentation concerning this prior pumping has been provided to the Supervising Authority prior to the inspection, the septic tank(s) will not need to be pumped as a part of the inspection under this Ordinance.
- 3) The inspection shall consist of visual and olfactory observations of the septic disposal system, use conditions, information gathering, and evaluations at time of prior pumping, evaluation of the condition of the septic tank, absorption system, pumps, filters, and other important features of the system.

- 4) The inspection report shall indicate:
 - i. The premises mailing address and parcel identification number.
 - ii. The location of the system on the premises.
 - iii. The name of the owner of the premises and their contact information, including mailing address, email address and phone number.
 - iv. The name of the inspector compiling the report and their contact information, including mailing address, email address and phone number.
 - v. A description of the operational status of the system, including any relevant documentation, and any other relevant or unusual observations related to the system.
 - vi. Any recommendations made by the inspector.
 - vii. A statement from the CMDHD that the system is or is not in compliance with the CMDHD's Environmental Health Regulations.
 - viii. A statement that the system is or is not in compliance with this Ordinance.
 - ix. The results of water quality testing that were performed, if any.
 - x. A statement from the inspector that the report was conducted in accordance with the law, and does not contain any false or misleading information. Further, an acknowledgement from the inspector that submittal of a fraudulent, misleading, or incorrect report shall constitute a violation of this Ordinance subject to enforcement, including by issuance of a municipal civil infraction.
 - xi. Any other information deemed necessary by either the CMDHD or the Township Board.
- 5) A private inspector shall certify that the inspection report is true and correct and is an accurate assessment of the septic disposal system inspected and may be relied upon by the Township and the CMDHD as to the condition of septic disposal system.
- 6) A septic disposal system with design features that do not meet CMDHD's existing construction standards will not be considered a failing or abandoned septic disposal system for purposes of Section 11 of this Ordinance, unless such system otherwise is a "Abandoned/Failing Septic Disposal System" as defined by Section 4(A) of this Ordinance.

- 7) Affected property owners with septic disposal systems shall be required to provide ensuing inspection reports every ten (10) years following the submittal of the property owner’s last inspection report to the Township.
- C. Failure to register a septic disposal system or submit an inspection report as required under this Ordinance without satisfying the conditions set forth herein, shall constitute a municipal civil infraction subject to enforcement as provided by this Ordinance.

Section 9: Requirements for Construction of Septic Disposal Systems:

- A. As of the date of this Ordinance, it is prohibited for any person to construct within the Township an individual sewage disposal system that is of a type that has not been approved for use by the CMDHD. The construction of other types of individual sewage disposal systems, such as but not limited to privies or chemical toilets, is prohibited. Temporary use of portable chemical toilets is allowed so long as such toilets are not used for more than 180 days in any calendar year.
- B. No septic tank shall be located where it is inaccessible for cleaning or inspection purposes, nor shall any structure be placed over any existing tank making the same inaccessible for cleaning and inspection purposes. For purposes of this provision, a structure includes any impermeable surface such as a concrete or asphalt driveway or parking area.
- C. No septic tank or an associated disposal area shall be located within 100 feet of any lake or stream.
- D. Septic tanks shall be of watertight construction and of materials not subject to corrosion or decay. Concrete blocks or bricks at least eight (8) inches in thickness may be used in septic tank construction. The interior of the tank shall have a smooth surface and be watertight. The top is to be four (4) inches reinforced concrete. Septic tanks constructed of material other than concrete must be approved by CMDHD. No septic tank shall have a permeable bottom that allows septage to percolate into the soils below the septic tank.
- E. Septic tanks hereafter installed shall have a minimum liquid capacity of at least the average volume of sewage flowing into it during any 36-hour period, but in no case shall the total liquid capacity of septic tanks be less than 750 gallons. The following minimum capacity of septic tanks shall be required for single and two-family dwellings except where, in the opinion of the CMDHD, increased capacities may be required:

No. of Bedrooms or sleeping rooms or sleeping lofts	Minimum Liquid Capacity
1-2	750 gallons
3	1000 gallons
4	1250 gallons

For each additional bedroom, sleeping room or sleeping loft, add 250 gallons

- F. If new construction or additions to or remodeling of any premises occurring after the date of adoption of this ordinance increases the number of bedrooms, sleeping rooms or sleeping lofts, the septic tank and system shall be reinspected by the CMDHD, the size of the septic tank shall comply with the requirements of paragraph E above, and a new permit shall be required. The size and design of septic tanks other than the minimum specified herein shall be determined in accordance with good engineering practice and based upon the recommendation contained in the "Manual of Septic Tank Practice," EPA Design Manual or Michigan Criteria for Subsurface Sewage Disposal.

Section 10: Requirements for Maintenance of Septic Disposal Systems:

- A. Property owners with septic tanks shall clean out tanks when the total solid accumulation in the tank is between 30% to 50% of the total capacity, or every five (5) years, whichever occurs first. The first clean out shall occur no later than five (5) years after the effective date of this Ordinance. Property owners shall file a report with the Township certifying that the completed clean out of the septic tanks has occurred. If a property owner cleans out the tank more frequently than every five (5) years, such clean out shall also be reported to the Township. The report shall be on a form provided by the Township. The failure to clean out septic tanks or provide the Township with a report of the clean out as required by this Ordinance shall constitute a municipal civil infraction subject to enforcement as provided by this Ordinance.
- B. A property owner's failure to clean out septic tanks pursuant to the timelines and requirements set forth under Section 10(A) of this Ordinance shall constitute a public nuisance *per se*, which may be abated by an order of the court with proper jurisdiction. If by order of the court the property owner is required to repair, abate, or otherwise remove the nuisance and the property owner fails to do so, the Township may abate the nuisance by entering the premise and causing the work to be done and charge the cost pursuant to Section 12(d) of this Ordinance.
- C. All septic disposal systems shall be maintained, operated, constructed, altered or extended in compliance with the CMDHD's Sanitary Code, and any other local, state or federal law. Failure to comply with CMDHD's Sanitary Code, or any other applicable law, shall constitute a municipal civil infraction subject to enforcement as provided by this Ordinance.

Section 11: Failing/Abandoned Systems: No person shall maintain or operate a failing or abandoned septic disposal system. Maintaining or operating a failed or abandoned septic disposal system shall constitute a violation of this Ordinance and a municipal civil infraction subject to enforcement as provided by this Ordinance. The Township may also initiate a claim in the Circuit Court pursuant to the Revised Judicature Act of 1961, *et. seq.*, to abate a nuisance caused by any abandoned or failing septic disposal systems.

Section 12: Requirement for Performance-Based Disposal Systems: If a septic disposal system is determined to have failed or been abandoned, such system shall only be replaced with a Performance-Based Disposal System if the failed or abandoned system is located within “District A” as described in Attachment A to this ordinance. Further, within District A, all new or replaced septic disposal systems on vacant lots within District A shall be Performance-Based Disposal Systems.

Section 13: Enforcement Authority/Infractions:

A. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by this Ordinance or any applicable ordinance, plus any costs, damages, expenses and other sanctions as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws:

- 1) Unless otherwise specifically provided for, a particular municipal civil infraction violation by this Code or any other ordinance, the civil fine for a first violation shall be not less than \$100.00, plus costs and other sanctions.
- 2) Second violation within a 3-year period* shall be not less than \$175.00.
- 3) Third violation within a 3-year period* shall be not less than \$250.00.
- 4) Any violation after a third violation within a 3-year period* shall be not less than \$250.00.
- 5) Each day a violation of this Ordinance continues to exist constitutes a separate violation.

*(*determined on the basis of the date of the violation(s))*

B. In addition to the above-prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the civil infractions bureau if the fine and costs are paid within 10 days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the civil infractions bureau.

C. Any violation of this ordinance is hereby declared to be a public nuisance *per se* which may be abated in Circuit Court in lieu of or in addition to other civil sanctions.

D. All expenses incurred by the Township in repairing, abating, or otherwise removing a nuisance under this Ordinance shall be charged to the person responsible therefor, the occupant of the land in question, or the person who appears as owner or party in interest upon the last local tax assessment records of the Township. If such person fails to pay the charge within 30 days after a statement therefor is mailed to him, the amount of expenses

incurred by the Township in repairing, abating, or otherwise removing the nuisance may be paid from the Township general fund and the amount thereof assessed against the lands on which the expenditures were made on the next general assessment roll of the Township and shall be collected in the same manner as other taxes are collected. The Township shall have a lien upon such lands for such expense, such lien to be enforced in the manner prescribed by the general laws of the state providing for the enforcement of tax liens.

- E. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law.

Section 14: Variances:

- A. It is the intent of this Ordinance to provide minimum standards to be used in the design and construction of all septic disposal systems and performance-based disposal systems. However, there may be special circumstances that justify a variance from a particular portion of this Ordinance. The Township Board may grant individual variances upon written request when the Township Board has adequately determined that all of the following conditions exist:
 - 1. That no substantial health problems or nuisance is likely to occur from the issuance of a variance from the terms of this Ordinance,
 - 2. That strict compliance with the Ordinance's requirements shall result in unnecessary or unreasonable hardship,
 - 3. That the proposed variance would provide essentially equivalent protection of the public interest, and
 - 4. That no state statute or other applicable laws would be violated by such a variance.
- B. In no case shall a variance from the strict enforcement of the Ordinance be construed to permit the commission of any act as may jeopardize the public health, safety or welfare of the citizens of the Township.
- C. In granting any variance from the provisions of this Ordinance, the Township Board shall explain the reasons for the variance and certify that the variance will not, in the Board's opinion, jeopardize the public health, safety or welfare. A copy of this finding shall be sent to all contiguous property owners. The notice should include the name, business number and business address of the Township's Ordinance Enforcement Officer or the individual authorized by the Lyon Township Board to administer and enforce this Ordinance. The notice should direct the contiguous property owners to file any written objections to the variance with the officer within one week of the receipt of the Board's finding. If no objection is received within one week of receipt of the Board's finding, the officer may issue the permit to install the variant system.
- D. The receipt of any written objection shall stay issuance of any variant permit. The objection shall be heard by the Township Board at its next regularly scheduled meeting or at a special meeting if so called by the Township Board. After a hearing, the Township Board may reject the variance if sufficient evidence is presented to show that the variance did not meet the criteria for variances established in this Ordinance.

Section 15: Severability: The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

Section 16: Repeal: All other Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed in their entirety.

Section 17: Effective Date: This Ordinance shall take effect 30 days after publication as required by law.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN _____

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I, Doug Schnell, Clerk of Lyon Township, do hereby certify that the foregoing is a true and accurate copy of Ordinance No. _____ adopted by Lyon Township on the _____, 2023. A summary of the Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Lyon Township, on _____, 2023. Within 1 week after such publication, I recorded the Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted. I filed an attested copy of the Ordinance with the Roscommon County Clerk on _____, 2023.

Doug Schnell, Lyon Township Clerk