

ORDINANCE NO. 2-99 PRIVATE SEPTIC SYSTEMS

The Town Board of Supervisors of the Town of Lessor, Shawano County, Wisconsin, does ordain as follows:

Section 1 - Purpose. The purpose of this ordinance is to regulate the installation, use, replacement and maintenance of holding tanks as private sewage systems within the Town of Lessor. The installation, use, replacement and maintenance of holding tanks shall be permitted only under the terms and conditions set forth herein.

Section 2 - Statutory Authority. Pursuant to Chapter 145 and 146 of Wisconsin Statutes and Chapter H63 of the Wisconsin Administrative Code, the Town Board of Lessor does hereby enact this ordinance.

Section 3 - Definitions. The definitions contained in Sec. 145.01 of Wisconsin Statutes and Sec. H3.02 of the Wisconsin Administrative Code are hereby adopted and made a part of this ordinance by reference.

Section 4 - Restriction of Installation and Use. Holding tanks for use as private sewage systems shall not be installed for any new or existing structure in the Town of Lessor without first obtaining a permit and entering an agreement as provided herein. Replacement holding tanks for existing structures to replace defective systems shall also be required to comply with this ordinance.

No such tank shall be installed if another alternative method can be effectively used by the owner.

Section 5 - Permit. Prior to the installation of any holding tank for private sewage purposes within the Town, the owner of the premises desiring to install the holding tank shall apply to the Town Zoning Committee by filing a notice with the zoning enforcement officer for a permit.

Section 6 - Application Information. The Town of Lessor Zoning Committee may request sufficient information in writing to determine that the proposed holding tank will comply with the requirements of the Wisconsin Administrative Code as to installation, construction, design, use and servicing. Failure to comply with this section or provide adequate information to the Planning Commission shall be adequate grounds to deny the issuance of the permit. The applicant shall provide sufficient information to determine either that no other system would effectively work at the site.

Section 7 - Maintenance Agreement. Prior to the issuance of a permit by the Town of Lessor Zoning Committee the applicant must consent to and sign a "Holding Tank Agreement" as provided in the attached document Exhibit A, and incorporated in this ordinance by reference. The Holding Tank Agreement shall be signed by the Town Chairman or Town Clerk and the building inspector on behalf of the Town of Lessor, upon proper approval and recommendation of the Town Planning Commission as provided herein.

Section 8 - Approval of Permit. Upon review of the application information by the Lessor Zoning Committee, a holding tank permit may be issued if the said body finds the following:

- a) Necessary application information is complete;

- b) All statutory and administrative code requirements have been complied with;
- c) The applicant has consented to and signed a "Holding Tank Agreement" as provided herein;
- d) The issuance of a permit would not be contrary to the public interest;
- e) There is no viable alternative to a holding tank at the site;
- f) If a replacement tank is applied for, the applicant may show undue hardship beyond the owner's control to obtain approval. This must involve more than additional expense. The Zoning Committee must be satisfied that past use of the holding tank was responsible, with protection for the public, including timely periodic pumping by a licensed hauler.
- g) Any new tank approved is conditioned upon deposit with the town treasury of an amount of funds equal to two pumping costs for the size of tank. The Lessor Zoning Committee has the ability to set a schedule of deposits which may be updated from time to time. At the point of a property transfer, the owner may transfer the deposit to the purchaser, or the buyer may deposit an amount equal to the schedule in effect at the time of transfer. When a new deposit is made, or a new system is installed not requiring a deposit, the original deposit amount shall be returned by the Town to the depositing owner, or where appropriate, to the heirs, successors, or assigns.

Section 9 - Issuance of Permit. Upon approval of a permit by the Lessor Zoning Committee, the town's Zoning and Building Inspector and either the Town Chairman, or Clerk shall be authorized to sign a permit and execute a Holding Tank Agreement with the owner or owners.

Section 10 - Fee. The applicant shall be required to tender to the town clerk or treasurer a fee of \$50.00 prior to the issuance of the Holding Tank Permit. This fee shall be used to defray the administrative costs of issuance of the permit and account administration.

Section 11 - Inspection. The Town of Lessor Building Inspector shall be authorized to inspect at reasonable times any holding tank installed and in use under this ordinance.

Section 12 - Enforcement and Notice of Violation. Upon personal inspection by the Building Inspector, or upon sufficient information to an Inspector kept away from inspection, if the holding tank has not been properly maintained or serviced in compliance with Wisconsin Law or in such a manner as to create a nuisance, the Building Inspector may issue a notice to pump or correct the violation within not less than twenty-four (24) hours. The notice shall indicate that failure to pump the holding tank or take corrective action as directed shall result in the Town of Lessor causing such work to be done and charged back to the owner. Further, that failure to pay the costs of such work within 30 days of date of notice of the charges shall result in placing

the charge on the owner's tax bill as a special charge. The special charge shall contain an administrative fee set by the town board occasionally, starting at \$50.00. Except for the administrative fee, the funds received from the special charge shall replenish the funds held on deposit for future pumping.

Section 13 - Servicing of Holding Tank and Charge Back. Upon failure of an owner to timely comply with a proper notice of the Town of Lessor Building Inspector to pump or correct a violation in the use of a holding tank, the Building Inspector may contract with a properly licensed business to pump or correct the holding tank. The costs of such pumping or corrective action shall be billed to the owner of the land. Failure to pay the costs within 30 days shall result in the placing of the costs on the owners tax bill as a special charge. The special charge shall be a special assessment against the property.

Section 14 - Quarterly Report. Pursuant to Sec. 63.18(4) of Wisconsin Administrative Code, the owner shall submit a quarterly pumping report to the Town Clerk which shall state the following:

- a) The owner's name;
- b) Location of property where the holding tank is located;
- c) Volumes pumped;
- d) Disposal site of the volume pumped;
- e) A statement whether the home is seasonal, stating the time of year when used, is a second home, or is the major home of the owner or other occupants.

Section 15 - Separability and Conflict. If any section, subsection, sentence, clause, phrase, or work of this ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 16 - Effective Date. This ordinance shall take effect the day after proper publication, recording and filing with the Town Clerk.

Section 17 - Penalty. In addition to the other procedures contained herein, any person violating this ordinance by installing or using a holding tank without the issuance of a proper permit shall pay a forfeiture for each offense, plus costs and disbursements. In default of payment of the above forfeiture plus costs and disbursements, the person convicted shall be confined to the county jail until such forfeiture plus costs and disbursements have been paid, not to exceed thirty (30) days.

Penalty Range: \$100.00 - \$500.00

Deposit schedule

First offense: \$50.00 plus current court costs

Second or later offense
within two years: \$ 250.00 plus current court costs

TOWN OF LESSOR
HOLDING TANK AGREEMENT

This is an Agreement between TOWN OF LESSOR (Town), Shawano County, WI, and _____ (Applicant).

WHEREAS, Applicant has requested a holding tank permit for the following premises: _____

WHEREAS, the percolation tests on said premises does not meet the minimum standards set by Wisconsin Statutes, and Zoning Committee has granted approval to this system of last resort being viable;

WHEREAS, Applicant is aware of the fact that sanitary sewer exists in part of the town and an extension may be built in the future with assessment for same;

NOW, THEREFORE, in consideration of the issuance of a holding tank permit for the above premises, the parties hereby agree as follows:

1) Applicant agrees to comply with all Wisconsin Statutes, regulations of the Wisconsin Administrative Code, which are incorporated herein, and all Town Ordinances in installing and maintaining a holding tank. Applicant further agrees to properly maintain said holding tank and to have it pumped out as necessary.

2) Applicant agrees that the Town, through its zoning officials or other officers or agents, is granted the right and privilege to enter upon his property to inspect said holding tank. If Town deems it necessary, Applicant agrees to pump out said holding tank upon the request of any Town zoning official. If for any reason Applicant fails to pump out said holding tank when requested, Applicant agrees that the Town may have the holding tank pumped and hauled and charge the cost to Applicant and place any unpaid amount, plus 12% annual interest calculated through December 31 of the current year on Applicant's or the current owner's tax bill as a special charge against the parcel benefited.

3) Applicant agrees that if sanitary sewer is installed that he will be precluded from asserting the cost of any septic system including a holding tank from any sanitary assessment which may be made against him.

4) Applicant agrees that this Agreement is binding on himself, his heirs and assigns.

5) A security deposit of _____ is required to be deposited with the Town Treasurer before a permit can be issued to install such holding tank.

Dated this _____ day of _____, _____.

Applicant

Applicant

Chairman or Clerk

TOWN ZONING ENFORCEMENT/BUILDING INSPECTOR

BY: _____

Section 18 - Injunctive Relief. The Town Board of Lessor may authorize the commencement of appropriate legal action or proceedings to prohibit the owner, resident, agent or occupant of the premises from use of a holding tank installed or used in violation of this ordinance.

Approved by the Town Board of Lessor this 9th day of March, 1999.

Vote for: 3 against 0

Delmar Zernicke

Chairman Delmar Zernicke

Gerald Jarek

Supervisor Gerald Jarek

Ray Brusky

Supervisor Ray Brusky

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JoAnn Thiede

Clerk JoAnn Thiede