

## **CHAPTER 27**

### **PROHIBITING THE USE OF HOLDING TANKS FOR NEW CONSTRUCTION**

**WHEREAS**, the proper setting, design, installation, and maintenance of private sewage systems are essential to the protection of the health of the public: and

**WHEREAS**, the Wisconsin Administrative Code, SPS 383.32(2)(a)1, provides that a county or any city, village or town within that county may prohibit, by ordinance, the installation and use of holding tanks for new construction: and

**WHEREAS**, Outagamie County does not so prohibit such installation:

**NOWHEREFORE**, the Town Board of the Town of Center, does ordain as follows:

#### **SECTION 1 – DEFINITIONS**

“Holding tank”, means an approved watertight receptacle for the collection and holding of wastewater.

“New Construction” means a new structure for which no sanitary permit for the installation of a private sewage system was issued prior to the effective date of this Ordinance.

“Private sewage system” means a septic tank and soil absorption field as defined in WI Statute 145.01(12), or an alternative system approved by the Department of Safety & Professional Services, including a substitute for the septic tank or soil absorption field, or holding tank.

#### **SECTION 2 – PROHIBITION**

The installation and use of a holding tank for new construction in the Town of Center is prohibited.

#### **SECTION 3 – EXISTING STRUCTURE**

When the use of a holding tank becomes the only available alternative for the disposal of sanitary liquid waste for an existing building, the Town shall allow the use of a holding tank or condemn the property.

#### **SECTION 4 – APPEAL PROCEDURE: VARIANCE**

Any person aggrieved by the application of this Ordinance may appeal, in writing, to the Town Board of the Town of Center, setting forth the reasons for such appeal and the basis upon which it is felt that the Town should grant a variance to overcome such prohibition.

Within thirty (30) days of receiving such appeal, the Town Board shall hold a hearing on such appeal. In making its determination, the Town may give consideration to the limited time the proposed holding tank will be in use, the arrangements for disposal of the effluent, the hardship caused by the prohibition weighted against consideration of public health, the likelihood of such installation resulting in a public nuisance, the practicality of the situation, and such other matters affecting public health and the general public welfare as it may deem appropriate. The Town Board shall notify the Department of Safety & Professional Services and Outagamie County in writing of each variance granted hereunder.

#### **SECTION 5 – SEVERABILITY**

If any portion of this Ordinance is found to be void, or otherwise unenforceable by a court of competent jurisdiction, such finding shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

## **SECTION 6 – APPROVAL**

Prior to adoption, a copy of this Ordinance was submitted to the Wisconsin Department of Safety and Professional Services for review, pursuant to Section SPS 383.03(5)(b) Except as provided in s. SPS 383.25 (1) (b), a governmental unit shall submit to the department any proposed ordinance or proposed ordinance revision relating to POWTS. The proposed ordinance or revision shall be submitted for review a minimum of 30 calendar days prior to the first scheduled public hearing date regarding the ordinance.