

ORDINANCE NO. 92-09-CM

An Ordinance pertaining to and regulating the design, construction, installation, maintenance and operation of private sewage disposal systems located within Tippecanoe County, Indiana, providing for the issuance of permits therefore and providing penalties for the violation thereof.

Be it ordained by the Board of Commissioners of the County of Tippecanoe that this Ordinance is adopted as follows:

1. TITLE. This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the Private Sewage Disposal Ordinance of Tippecanoe County, and may be cited as such and will be referred to herein as "this Ordinance".

2. PURPOSE. The purpose of this ordinance is to provide minimum standards for the prevention and suppression of disease and health risks associated with the use of private sewage disposal systems and to otherwise promote public safety and welfare and protection of the environment.

3. AUTHORITY. The Health Officer of Tippecanoe County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees, perform inspections, order or otherwise compel correction of violations of this ordinance, and are otherwise authorized to perform all actions necessary for the administration and enforcement of this ordinance.

4. ADOPTION OF REGULATIONS BY REFERENCE.

A. The regulations of the Indiana State Board of Health as found in Title 410 IAC 6-8.1-1 et. seq. are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. [H.I.]

1. Copies of 410 IAC 6-8.1-1 et. seq. are available and on file in the office of the Tippecanoe County Board of Health and the Tippecanoe County Auditor.

B. The regulations of the State Board of Health as found in Title 410 IAC 6-10-1 et. seq. are hereby incorporated by reference in this Ordinance and shall include any later amendments to those regulations as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein [H.I.].

1. Copies of 410 IAC 6-10-1 et. seq. are available and on file in the office of the Tippecanoe County Board of Health and the Tippecanoe County Auditor.

5. SUPPLEMENTAL DEFINITIONS. In addition to or to otherwise supplement those definitions contained in 410 IAC 6-8.1-1 et. seq. which is incorporated herein by reference this Ordinance shall include the following definitions:

HEALTH OFFICER: Shall include and also means the Health Officer of Tippecanoe County.

BOARD: Shall include and means the Tippecanoe County Board of Health.

DUPLEX: Means a dwelling as defined in 410 IAC 6-8.1-7 with two separate living quarters for two separate families.

SANITARY PRIVY: Means a privy so located, constructed, and maintained;

1. that users do not contract waste matter deposited;
2. that flies, insects, rats and other animals cannot gain access to the privy interior or vault;
3. that surface or ground water cannot enter the vault;
4. that the waste material in the privy cannot contaminate a water supply, stream or body of water;
5. that odors are minimized both inside and outside the privy structure.

RESIDENCE: Means a dwelling, as defined in 410 IAC 6-8.1-7.

MULTIPLE FAMILY UNITS: Means any building or place used or intended to be used as a place of seasonal or permanent human habitation or for sleeping for more than two families.

PUBLIC WATER SUPPLY: Means a system which provides piped water for human consumption to at least fifteen (15) service connections or at least twenty-five (25) people at least sixty (60) days out of the year.

PLANNED DEVELOPMENT: Means any land development which requires the specific zoning classification entitled "Planned Development".

BUSINESS BUILDING: Means that building or structure utilized primarily for the purchase, sale, or exchange of goods or services or the maintenance of offices or recreational activities including, but not limited to, office buildings, apartments, condominiums, motels, mobile home parks, churches, campgrounds, schools, hospitals, nursing homes, subdivisions, restaurants, etc., at locations where such facilities may be approvable.

PRIVATE SEWAGE DISPOSAL SYSTEM: Means any sewage disposal facility not owned by a municipality or sanitary district or administered by the State Board of Health and shall include septic tanks, aeration treatment tanks, finger systems or other subsurface absorption fields. Included within said definition is a sewage disposal system for residences and business buildings.

6. **SYSTEM REQUIREMENTS.** Where a sanitary sewer system is not available, all persons owning, leasing, or otherwise occupying property shall comply with 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10-1 et. seq. and the following provisions of this Ordinance for a private sewage disposal system.

A. No person shall, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of Tippecanoe County, or cause, permit, or suffer to be thrown, run, drained, allowed to seep or otherwise disposed into such waters, any organic or inorganic matter from a private sewage disposal system that would cause or contribute to a health hazard or water pollution.

B. No privy serving a residence shall be permitted except on a temporary basis and then only by special permit. All such privies shall comply with Indiana State Board of Health Bulletin S.E. 11. Bulletin S.E. 11 is herein incorporated by reference as part of this section and two copies are filed in the office of the Tippecanoe County Auditor and Tippecanoe County Board of Health for public inspection. In the case of self-contained chemical toilets, no pit will be required.

C. Should a private sewage disposal system fail, the failure shall be corrected by the owner or occupant of the property served by such system within the time limit set by the Health Officer.

D. Whenever a public sanitary sewerage system becomes available and is within 300 feet of the property line or property upon which a building situated within Tippecanoe County, Indiana, is located, and that building is used as a dwelling or business building and is served by a private sewage disposal system or privy, a direct connection of the building sewer shall be made to said sanitary sewer and any septic tanks, seepage pits, outhouses, privy pits and similar sewage disposal and treatment facilities shall be abandoned and filled in a safe and sanitary manner. The direct connection to a sanitary sewerage system shall be made within 180 days of issuance of orders of connection.

EXCEPTION: When the business building or dwelling (or closest part thereof) that is served by a private sewage disposal system is more than 200 feet from the property line, said building or dwelling shall be exempt from the requirement of connection to a sanitary sewer so long as an adequate private sewage disposal is in use serving said building and said system can be maintained without private sewage disposal system failure.

E. Except for those business buildings or dwellings more than 200 feet from their property line which qualify for the Exception as provided by the immediately preceding paragraph, whenever a new business building or dwelling is to be constructed in an area where a sanitary sewerage system is available as provided in the above paragraph, a connection shall be made to the sanitary sewer according to plans submitted for approval prior to construction of any such project.

7. PERMITS.

A. Application.

1. Before the commencement of construction, alteration or repair of a private sewage disposal system, the owner or his agent shall apply in writing to the Tippecanoe County Health Office for a permit to construct, alter or repair a private sewage disposal system, which application shall set out the date of the intended construction, alteration, or repair, topographic and soil characteristic information as well as other information required in 410 IAC 6-8.1-48 and 410 IAC 6-10-6, previously incorporated herein by reference, and expressly stating that the owner has complied and will at all times comply with the standards set out in this Ordinance. No permit will be issued if it is determined the issuance of such a permit would violate or otherwise be inconsistent with the provisions of 410 IAC 6-8.1-1 et. seq., 410 IAC 6-10-1, et. seq., any Federal or State statute or regulation and any ordinance of Tippecanoe County, or would otherwise be reasonably expected to cause or contribute to an unsanitary condition, an unacceptable probability of groundwater contamination or construction of a private sewage disposal system with an unacceptable risk of failure.

2. Permit fees shall be payable as provided by Tippecanoe County Ordinance.

3. No private sewage disposal system shall serve more than one (1) single dwelling or business building. No permits will be issued for multiple family units served by a private sewage disposal system unless permitted by 410 IAC 6-10-1 et. seq.

4. A permit for the installation of a private sewage disposal system, whether issued prior to or after the adoption of this Ordinance, shall lapse and be void if work has not been started within 180 days and completed within one year after its issuance.

5. No part of a private sewage disposal system for a residence shall be located closer than 25 feet to a surface water drain tile, running stream or surface water drain. The rules and regulations of the drainage board will apply for any legal ditch or drain. All parts of the system must be kept at least 50 feet from any water well.

6. Because of the hazards regarding potential ground water contamination of wells through the development of subdivisions, planned developments, parcels and other divisions of land for development the Health Officer may, at the Health Officer's discretion, decline to issue a permit for a private sewage disposal system if said system is reasonably expected to cause or contribute to a health hazard or an unsanitary condition unless a public water supply is provided.

Those factors to be considered by the Health Officer in making a determination to issue or decline to issue a permit unless a public water supply is provided include but are not limited to the requirements of 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10-1 et. seq., soil and geological conditions, the depth of the water table and the quantity of water available, evidence of any contaminants existing in the water supply, and the number of existing or anticipated private sewage disposal systems located within the general area in which the proposed private sewage disposal system is to be built.

8. INSPECTIONS.

A. The Board, its agent, or the Health Officer or his or her agent shall be permitted to enter upon all properties for purposes of inspection, observation, measurement, sampling and testing necessary to insure compliance with this Ordinance and to verify no private sewage disposal system has failed.

B. Inspections shall be conducted before construction begins. No construction of the private sewage disposal system may take place if the private sewage disposal system site is disturbed or altered after the on-site evaluation by the addition of fill material (other than construction necessary for the private sewage disposal system itself) or by cutting, scraping, compaction or the removal of soil, until a new evaluation has been conducted and a modified permit has been issued. In the event the on-site inspection indicates site limitations, either arising from topography or soil characteristics, the site owner or his agent is responsible for designing a residential or a private sewage disposal system which addresses the demands of the site in accordance with rules established in 410 IAC 6-8.1-1 et. seq., 410 IAC 6-10-1 et. seq. and this Ordinance.

9. PETITION FOR REVIEW.

A. The Tippecanoe County Board of Health shall hear appeals incidental to the issuance and revocation of permits if, within 15 days following the date of receipt of an issued permit, permit modification, notice of permit denial or notice of permit revocation, any person aggrieved by such action files a petition for review concerning such action with the Board.

B. A petition for review shall state:

1. the name, address and telephone number (if applicable) of the person making the request;
2. identify the interest(s) of the petitioner which is effected by the permit issuance, denial, modification or revocation;
3. identify any persons whom the petitioner represents;

4. state with particularity the reasons for the request;

5. state with particularity the issues proposed to be considered;

6. include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of law and 410 IAC 6-10-1 et. seq. or 410 IAC 6-8.1-1 et. seq. governing such permits.

C. The procedures established in I.C. 4-21.5, the Administrative Procedure and Orders Act, shall apply to the conduct of the hearing.

10. ENFORCEMENT.

A. Any person found to be violating any provision of this Ordinance shall be served by the County Board of Health or the duly appointed Health Officer with a written order stating the nature of the violation and providing a reasonable time limit, but not less than 30 days nor more than 90 days, for correction of any violations of this Ordinance. The written order shall be served either by certified mail or personal service by the Health Officer of Tippecanoe County or his designate.

B. Any person who shall continue any violation of this Ordinance beyond the time limit provided for correction of any violations of this Ordinance, or who performs any act prohibited herein or shall fail to perform any duty lawfully enjoined or who shall fail, neglect or refuse to obey any lawful order given by the Health Officer shall be punished for the first offense by a fine of \$50.00. Each day a violation of this Ordinance continues shall constitute a separate offense for which a separate fine may be levied.

C. Application of this Ordinance or any part of this Ordinance is intended to be consistent with 410 IAC 6-8.1-1 et. seq. and 410 IAC 6-10-1 et. seq. Any inconsistency in the direct application of this ordinance with said regulations shall be resolved in favor of enforceability of those regulations.

D. To the extent the provisions of 410 IAC 6-10-1 et. seq. and 410 IAC 6-8.1-1 et. seq. are inconsistent with each other then that interpretation provided by 410 IAC 6-10-1 et. seq. shall apply for private sewage disposal systems serving business buildings and that interpretation provided by 410 IAC 6-8.1-1 et. seq. shall apply for private sewage disposal systems serving residences.

11. REMEDIES. The Health Officer may, in the name of the Commissioners of Tippecanoe County, bring actions in the Tippecanoe Circuit Court or Superior Courts of Tippecanoe County for mandatory and injunctive relief for the enforcement of and to secure compliance with any order or orders made by the Health Officer or to otherwise provide for the enforcement of this Ordinance. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this Ordinance. In the event any legal action is necessary to enforce this Ordinance, the Health Officer may seek recovery of costs and expenses reasonably incurred to enforce the provisions of this Ordinance including, but not limited to, reasonable attorney's fees.

12. SEVERABILITY. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

13. EFFECTIVE DATE. This Ordinance shall apply to all of Tippecanoe County, Indiana, except within the corporate limits of those cities and towns within Tippecanoe County as of the date from and after its adoption and approval by the Commissioners as stated herein and any publication as required by law.

14. FEES. Upon application for a permit incidental to the construction, installation, maintenance or repair of a private sewage disposal system there shall be paid a fee of Seventy-Five Dollars (\$75.00) for a standard gravity flow system and a fee of One Hundred Dollars (\$100.00) for any innovative system.

15. REPEALER. The provisions of Ordinance 79-10, 81-2, 83-4, 86-5, and 89-26-CM are hereby superseded by this Ordinance.

THE BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

Nola J. Gentry
Nola J. Gentry, President

Keith E. McMillin
Keith E. McMillin, Vice President

Attest:

Betty J. Michael
Betty J. Michael, Auditor

Hubert D. Yount
Hubert D. Yount, Member