

ORDINANCE NO. 2011-24-CM

AMENDING TIPPECANOE COUNTY CODE
CHAPTER 73
TRANSPORTATION EMERGENCIES

WHEREAS, IC 10-14-3-29.5 was adopted by the Indiana General Assembly establishing particular language to be used by local government officials when exercising their authority to issue a local travel advisory; and

WHEREAS, Tippecanoe County Code, Chapter 73, contains language inconsistent with that now required by the Indiana General Assembly;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana, that the Tippecanoe County Code be amended to amend Chapter 73, reading as follows:

**ESTABLISHING CLASSIFICATIONS OF TRANSPORTATION EMERGENCIES;
REGULATING THE OPERATION AND PARKING OF MOTOR VEHICLES DURING
TRANSPORTATION EMERGENCIES AND ACTIONS REQUIRED FROM UTILITY
COMPANIES TO REMOVE DAMAGED UTILITY SYSTEM COMPONENTS FROM
ROADWAYS**

BE IT ORDAINED by the Board of Commissioners of Tippecanoe County, Indiana

Section 1. Short Title This ordinance shall be known and may be cited as the "Transportation Emergency Ordinance of Tippecanoe County, Indiana".

Section 2. Definitions For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Commissioners" The Board of Commissioners of Tippecanoe County, Indiana.

"Roadway" The entire width between the boundary lines of the right-of-way of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel located in the unincorporated areas of Tippecanoe County, Indiana.

"Snow Emergency" A particular type of travel emergency caused by winter weather conditions including ice, freezing rain, sleet, snow, blowing and drifting snow and/or blizzards; a condition declared to be such by the Board of Commissioners of Tippecanoe County or their authorized representative.

"Travel Watch" or "Travel Emergency" A situation, actual or impending, which represent hazardous conditions for the normal use of roadways which may be caused by or result from accumulations of ice, freezing rain, sleet, snow, blowing and drifting snow, blizzards, flood water, high water, wind caused damage, roadway damage or other hazardous event; a condition declared to be such by the Board of Commissioners of Tippecanoe County or their authorized representative

to regulate the operation and parking of motor vehicles during emergency situations.

“Travel Advisory” An advisory communication issued to warn vehicle operators of conditions which present a hazard to the normal operation of motor vehicles on roadways. A Travel Advisory may be issued for a hazardous event which affects the normal use of roadways as determined by the Tippecanoe County Sheriff, Highway Superintendent and/or Emergency Management Director but does not impose any restrictions on travel, or parking motor vehicles, other than those normally required by law.

“Vehicle” Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.

“Motor Vehicle” Shall have the meaning set forth in I.C. 9-13-2-105.

Section 3. Travel Advisory Whenever the Tippecanoe County Sheriff, the Tippecanoe County Highway Department Superintendent and the Tippecanoe County Emergency Management Director, or their respective designees jointly find, on the basis of existing conditions of ice, freezing rain, sleet, snow, blowing and drifting snow, high water or damage debris on roadways or other hazardous conditions which may present hazardous situations to the normal operation of motor vehicles on the roadways, and that motor vehicle operators need to be aware of said conditions to maintain the safe operation of their motor vehicles, then the Sheriff, Superintendent, or EMA Director, or their respective designees, on consultation and agreement between said officials, may cause to be issued a Travel Advisory for parts of or all roadways as determined necessary. Travel Advisories may be issued for hazardous conditions which do not warrant an immediate emergency declaration by the Commissioners.

- A. The Sheriff, Superintendent or EMA Director shall cause each advisory issued by said respective official pursuant to this ordinance to be publicly announced by means of broadcasts from radio stations located within and with a normal operating range covering Tippecanoe County, Indiana. They may cause the advisory to be further announced in newspapers or of general circulation when feasible. Each advisory shall describe the situation threatening motor vehicle operation on roadways, the time the advisory will be effective and shall specify the roadways or area affected.
- B. Whenever the Sheriff, Superintendent or EMA Director or their designees find jointly that some or all of the conditions which gave rise to a Travel Advisory being issued no longer exists, they may terminate the advisory, in whole or in part. Such termination shall be announced in the same manner required to issue the original advisory and shall become effective upon announcement.
- C. No unusual restriction or prohibition on the parking of motor vehicles or on the operation of motor vehicles upon roadways shall be imposed or implied under a Travel Advisory. The Travel Advisory is not regulatory in nature.
- D. A Travel Watch or Travel Warning declared by the Commissioners pursuant to this

ordinance will supersede a Travel Advisory issued for the same causative event and same roadways or area.

Section 4. Classification of Transportation or Snow Emergencies—There shall be two (2) classifications of transportation or snow emergencies which may be declared by the Commissioners to control highway use.

Travel Watch: Essential Travel Permitted—This classification is determined by the Commissioners to be a significant emergency event. Roadways have, or are expected to have, significant accumulations of ice, freezing rain, sleet, snow or significant blowing and drifting snow or high water covering large areas of roadways to a dangerous depth or numerous trees, limbs, utility poles and/or power lines or other damage debris reported on roadways. Roadways or major sections of the roadway network are closed or impassible. Travel may be significantly delayed and there exists a risk of injury to motorists exposed to the existing conditions.

Only essential travel is permitted. Essential travel shall include travel to and from work; travel to obtain essential medical care or required prescription medications; travel to obtain essential supplies of food, fuel or safe shelter and travel of emergency vehicles and emergency workers engaged in emergency operations. All non-essential travel is prohibited. Vehicle operators shall exercise all due caution in the operation of motor vehicles.

Travel Warning: Travel Prohibited—This classification is determined by the Commissioners to be a crippling emergency event. Roadways have, or are expected to have, heavy accumulations of ice, freezing rain, sleet, or snow or heavy blowing and drifting of snow or blizzard conditions; very high water covering or closing large areas of roadways or washouts or of road surface, road bed, culverts, bridge approaches or bridges or widespread trees, limbs, utility poles and/or power lines or other damage debris are reported on roadways. The major portions of the roadway network is are closed or impassible. Conditions make it impossible to safely operate roadway maintenance equipment. Travel exposes motorists to significant risk of injury or death.

All roadways are closed to non-emergency vehicles and personnel. Travel is prohibited to all persons with the exception of the following who are at the time engaged in necessary emergency or critical occupations operations:

- A. **Emergency Personnel** including rostered members of law enforcement agencies, fire departments, emergency medical service providers, search and rescue organizations, rescue squads, military organizations, disaster relief organizations, emergency management personnel and requested mutual aid personnel.
- B. **Critical Occupations Personnel** including employees of railroad companies, utility companies, highway departments, towing and wrecker services, fuel delivery suppliers, news media and hospital and healthcare organizations.

Section 5. Prohibition of Parking on Roadways Whenever the Commissioners declare a Travel Watch or Travel Warning or otherwise invoke a classification described in Section 4 of this

ordinance determining that existing or expected weather conditions or other hazardous situations will make it necessary that motor vehicle traffic be expedited or prohibited and that parking on county roadways be prohibited or restricted for snow plowing, debris removal, access for emergency vehicles, evacuation or other emergency purposes, the Commissioners shall put into effect a parking prohibition on parts of or all roadways as necessary by declaring a transportation or snow emergency. The parking prohibition shall become effective concurrently with the declaration of a Travel Watch or Travel Warning.

- A. Once in effect, a prohibition under this section shall remain in effect until the transportation or snow emergency is terminated by announcement of the Commissioners in accordance with this ordinance. While the prohibition is in effect, no person shall park a vehicle or allow a vehicle to remain parked on any portion of a roadway to which the transportation or snow emergency applies.
- B. Nothing in this section shall be construed to permit parking at any time or place where it is forbidden by any other provision of law.

Section 6 Stalled Vehicles During Transportation or Snow Emergency Whenever a vehicle becomes stalled for any reason on any part of the roadway on which a transportation or snow emergency or parking prohibition is in effect as declared by the Commissioners, the person operating the vehicle shall take immediate action to have the vehicle towed, removed or pushed off the roadway. No person shall abandon or leave a vehicle in the roadway (regardless of whether he indicates, by raising of hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

Section 7. Removal, Impounding and Return of Vehicle

- A. Employees of the Tippecanoe County Sheriff's Department and Tippecanoe County Highway are authorized to remove or have a vehicle removed from a roadway to the nearest garage or other place of safety, including another place on a roadway, or to a garage designated or maintained by the Sheriff's Department, Highway Department or a facility maintained by Tippecanoe County when:
 - 1. The vehicle is parked on a part of the roadway on which a transportation or snow emergency or parking prohibition is in effect;
 - 2. The vehicle is stalled on a part of a roadway on which a transportation or snow emergency or parking prohibition is in effect and the person who was operating the vehicle does not appear to be removing it in accordance with the provisions of this ordinance and the vehicle presents a hazard to traffic, snow, or debris removal or other emergency operations;
 - 3. The vehicle is parked in violation of any parking ordinance or provisions of law and is interfering or about to interfere with snow or debris removal or any other

emergency operations.

- B. Whenever the Sheriff's Department or Highway Department removes or has a vehicle removed a vehicle from a roadway as authorized in this section, and the Sheriff's Department or Highway Department knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Sheriff's Department or Highway Department shall immediately attempt to give or cause to be given notice in writing to the owner of the fact of the removal and the reasons therefore and of the place to which the vehicle has been removed. In the event any vehicle is stored in a public garage, a copy of the notice shall be given to the proprietor of the garage.
- C. Whenever the Sheriff's Department or Highway Department removes or has removed a vehicle from a roadway under this ordinance and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the vehicle is not returned to the owner within a period of three (3) days, the Sheriff's Department or Highway Department shall immediately send or cause to be sent a written report of the removal by mail to the Bureau of Motor Vehicles whose duty it is to register motor vehicles, and shall file a copy of the notice with the proprietor of any public garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time and place from which removed, the reason for the removal, and the name of the garage or place where the vehicle is stored.
- D. No person shall recover any vehicle removed in accordance with this section except as provided herein. Before the owner or person in charge of the vehicle shall be allowed to recover it from the place where it has been placed or impounded, the owner shall present to a member of the Tippecanoe County Sheriff's Department or authorized towing service evidence of the owner's identity and right to possession of the vehicle, shall sign a receipt for its return and shall pay the cost of removal plus any costs of storage accrued. Until paid, these charges constitute a lien on the vehicle which may be enforced in conformance with IC 32-8-31-5 or IC 9-9-5-6.
- E. It shall be the duty of the Sheriff's Department or Highway Department to keep a record of each vehicle it has removed in accordance with this section. The record shall include a description of the vehicle, its license number, the date and time of its removal, where it was removed from, its location, the name and address of its owner and last operator, if known, its final disposition, and the parking violation involved. The towing service authorized by the Sheriff's Department or Highway Department to remove such vehicle shall obtain said record for each vehicle removed by the towing service for which a Sheriff's Department Vehicle Tow- in card is not provided. The authorized towing service shall provide said records to the Sheriff's Department for each vehicle so removed.
- F. To facilitate the removal of abandoned vehicles pursuant to this ordinance, the

Sheriff's Department or Highway Department may enter into towing contracts or agreements for the removal and storage of abandoned vehicles.

- G. Neither the owner, lessee, or occupant of the property from which an abandoned vehicle is removed, nor the Highway Department, County Commissioners or Sheriff's Department, authorized towing service, or automobile scrap yard shall be liable for any loss or damage to any vehicle occurring during its removal, storage or disposition. Neither Tippecanoe County Highway Department, nor any employees of its employees, nor any private contractor engaged by the department shall be held liable for any loss or damage to any vehicle which is parked, stalled or abandoned on a roadway during snow or debris removal operations.

This section shall be supplemental to any other provisions of law granting members of the Sheriff's Department authority to remove vehicles.

Section 8. Citation On Vehicle Whenever any motor vehicle is parked or left without a driver in violation of this ordinance, and is not removed and impounded as provided for in this ordinance, the officer of the Sheriff's Department finding the vehicle may take the vehicle's registration number and any other information displayed on the vehicle which may identify its registered owner, and shall conspicuously affix a traffic summons to the vehicle in the manner and pursuant to the same procedures applicable to the issuance of other traffic violations.

Section 9. Evidence With Respect to Vehicles Parked Or Left In Violation In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this ordinance, proof that the particular vehicle described in the complaint was parked or left in violation, together with proof that the defendant named in the complaint was at the time registered owner of the vehicle, shall constitute prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this ordinance.

Section 10. Action Required From Utility Companies To Remove Damage Utility System Components From Roadway Whenever employees of the Tippecanoe County Highway Department or the Tippecanoe County Sheriff's Department find the property of a utility company, including utility poles, utility structures, transmission or distribution wires, guy wires, transformers, regulators, meters, or other appurtenances are damaged and are obstructing, interfering or about to interfere with roadway travel, snow or debris removal operations or other emergency operations, they shall cause the appropriate utility company operator to be notified of the obstructing property. The utility company operator shall take immediate and necessary action to render such property or components safe and to facilitate removal of such property or components from the roadway.

- A. A knowledgeable employee shall be dispatched to each reported site where damaged utility property obstructs roadways in a timely manner.
- B. The employee shall take necessary steps to de-energize the affected damaged utility system or otherwise render the damaged system safe for the removal of components which obstruct roadways.

- C. When the affected damaged utility system is de-energized or otherwise rendered safe, the employee or utility operator shall report this information to the Tippecanoe County Highway Department and/or the Tippecanoe County Sheriff's Department and will coordinate any further debris clearance procedures as required.

Section 11. Declarations Of The Commissioners The Board of Commissioners of Tippecanoe County, Indiana may declare a transportation or snow emergency: Travel Watch or Travel Warning, as set forth in Section 4 based upon recommendations and situation reports provided by the Tippecanoe County Sheriff, Tippecanoe County Highway Department Superintendent, or Tippecanoe County Emergency Management Agency Director or their respective designees.

Once declared, the transportation or snow emergency classification may be up-graded, down-graded, extended or terminated by action of the Commissioners.

The Commissioners shall cause each declaration made by them pursuant to this ordinance to be publicly announced by means of broadcasts from radio and television stations located within and with a normal operating range covering Tippecanoe County, Indiana. They may cause the declaration to be further announced in newspaper of general circulation when feasible. Each announcement shall describe the action taken by the Commissioners, including the time said action became or will become effective, and shall specify the roadways or area affected. A transportation emergency shall go into effect when designated.

Section 12. Termination of Transportation Emergency By The Commissioners Whenever the Commissioners find that some or all of the conditions which gave rise to a transportation or snow emergency no longer exist, they may declare the emergency terminated, in whole or in part, in a manner prescribed by this ordinance, effective immediately upon announcement.

Section 13. Provisions Temporarily Effective To Take Precedence Any provision of this ordinance which becomes effective by declaration of the Commissioners or upon occurrence of certain weather or hazardous conditions shall, while temporarily in effect, take precedence over other provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a law enforcement officer.

Section 14. Penalty

(A) Any person violating any provision of this Chapter for which no specific penalty is otherwise provided shall be subject to the provisions of § 10.99.

(B) A person who violates Section 8 of this Ordinance commits a Class C infraction.

(B) An officer of the County Sheriff's Department shall issue a citation to an individual who violates Section 8 of this Ordinance. The fine for a first offense shall be fined \$50. The fine for each subsequent offense shall not be less than \$100 and not more than \$2,500. Violators may be prosecuted

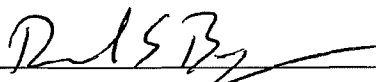
through any Tippecanoe County court with jurisdiction over traffic infractions.

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

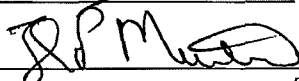
This Ordinance shall be in full force and effect on the 17th day of October 2011.

Passed and adopted by the Board of Commissioners of Tippecanoe County, Indiana on 1st reading this 17th day of Oct., 2011..

VOTE



David S. Byers, President

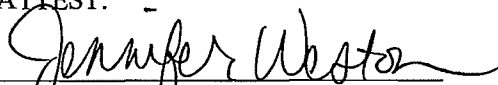


Thomas P. Murtaugh, Vice President



John Knochel, Member

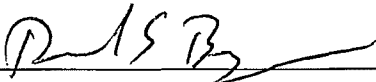
ATTEST:



Jennifer Weston, Auditor of
Tippecanoe County

Passed and adopted by the Board of Commissioners of Tippecanoe County, Indiana on 2d reading this 17th day of October, 2011.


VOTE



David S. Byers, President

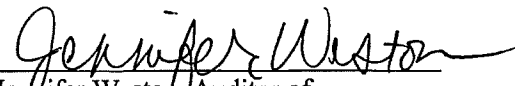


Thomas P. Murtaugh, Vice President



John Knochel, Member

ATTEST:



Jennifer Weston, Auditor of
Tippecanoe County