ORDINANCE NO. 2008-01 -CM

AMENDING TIPPECANOE COUNTY CODE
ADDING NEW CHAPTER 73
EMERGENCY TRAVEL ADVISORY

ESTABLISHING CLASSIFICATIONS OF EMERGENCY TRAVEL ADVISORY; REGULATING THE OPERATION AND PARKING OF MOTOR VEHICLES DURING EMERGENCY TRAVEL ADVISORY 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 Chapter shall be known and may be cited as the "Emergency Travel Advisory Ordinance of Tippecanoe County, Indiana."

Section 2. **Definitions.** As used in this Chapter:

(1) "Commissioners" means the Board of Commissioners of Tippecanoe County;

(2) "Roadway" means a publicly maintained right-of-way open for the use of the public for vehicular travel in the unincorporated areas of Tippecanoe County.

Section 3. **Level 3 Hazardous Travel Watch: Advisory**

(a) The Sheriff, the Highway Department Superintendent, and the Emergency Management Agency Director or their respective designees may issue a Level 3 Hazardous Travel Watch for all or parts of roadways if they agree that current or expected conditions, including without limitation, the presence of fires, floods, utility failures, major accidents, public health emergencies, thunderstorms, acts of terrorism, tornadoes and snows storms ice, freezing rain, sleet, high water, or debris make travel by motor vehicle hazardous.

(b) Upon issuance of a Watch under this section, the Sheriff, Superintendent, and Director shall cause the Watch to be broadcast by means of radio stations broadcasting in Tippecanoe County. The Watches may also be communicated by means of newspapers or other means the officials deem effective.

(c) The officials shall terminate the Watch when the conditions giving rise to the Watch abate. Termination of the Watch shall be communicated by the means used to communicate the original Watch.

(d) A Watch under this section is advisory and does not regulate or restrict travel on the roadways, however schools and businesses may begin to implement their emergency action plans.

(e) A person should not park their vehicle on roadways including subdivisions.

Section 4. **Level 2 Hazardous Transportation Warning: Essential Travel Permitted**

(a) The Commissioners may declare a Level 2 Hazardous Transportation Warning for some or all roadways when in their judgment, current or expected conditions, including without limitation the presence of fires, floods, utility failures, major accidents, public health

emergencies, thunderstorms, acts of terrorism, tornadoes and snows storms ice, freezing rain, sleet, high water, or debris, constitute a significant risk of injury or damage to persons or property or travel may be significantly delayed.

(b) By way of example, such conditions may include:

(1) Roadways which have or are expected to have significant accumulations of ice, freezing rain, sleet, or snow;

(2) Roadways which have or are expected to have blowing or drifting snow or high water covering large areas of the roadways to a dangerous depth;

(3) There are numerous trees, limbs, utility poles and/or power lines or other damage debris on the roadways;

(4) Roadways or major sections of the roadway network are closed or impassible;

(c) In the event a Level 2 Hazardous Transportation Warning is designated, only essential travel is permitted. Non-essential travel is prohibited. As used in this Chapter, "essential travel" includes the following:

(1) Travel to and from work;

(2) Travel to and from school by students, if open, and administrative and support staff.

(2) Travel to obtain necessary medical care or required prescription medications;

(3) Travel to obtain essential supplies of food or fuel;

(4) Travel to seek shelter

(5) Travel of emergency vehicles and emergency workers engaged in emergency operations.

(d) Parking is prohibited pursuant to Section 6. of this Ordinance.

Section 5. **Level 1 Hazardous Transportation Emergency: Travel Prohibited**

(a) The Commissioners may declare a Level 1 Hazardous Transportation Emergency for some or all roadways when in their judgment, current or expected conditions, including without limitation the presence of fires, floods, utility failures, major accidents, public health emergencies, thunderstorms, acts of terrorism, tornadoes and snows storms ice, freezing rain, sleet, high water, or debris, constitute a crippling emergency event causing a significant risk of injury or death to motorists, roadway maintenance, emergency or critical operations personnel.

(b) By way of example, such conditions may include:

(1) Roadways which have or are expected to have heavy accumulations of ice, freezing rain, sleet, or snow;

(2) Roadways which have or are expected to have heavy blowing or drifting of snow or blizzard conditions;

(3) Very high water covers or closes large areas of roadways;

(4) Washouts of large areas of road surfaces, road beds, culverts, bridge approaches or bridges;

(5) Widespread presence of trees, limbs, utility poles, power lines, and/or other damage debris on the roadways;

(6) Major portions of the roadway network are closed or impassable;

(7) Conditions which make safe operation of roadway maintenance equipment impossible;

(c) In the event a Level 1 Hazardous Transportation Emergency is declared, travel is prohibited and the roadways are closed, except as to emergency personnel and critical occupations personnel while engaged in necessary emergency or critical occupations operations. As used in this subsection, "emergency personnel" includes, but is not limited to, 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. As used in this subsection, "critical occupations personnel" includes, but is not limited to, employees of railroad companies, utility companies, highway departments, towing and wrecker services, fuel delivery suppliers, news media, hospital and healthcare organizations or those assisting to mitigate the condition/situation.

(d) Parking is prohibited pursuant to Section 6. of this Ordinance.

Section 6. **Prohibited Parking**

(a) Upon declaration of a Level 2 Hazardous Transportation Warning or a Level 1 Hazardous Transportation Emergency, a parking prohibition shall go into effect for the roadways covered by the declaration. The Commissioners may also declare a parking prohibition for some or all roadways if they deem it necessary for snow plowing, debris removal, access for emergency vehicles, evacuation or other emergency purposes. The prohibition remains in effect until the Level 2 Hazardous Transportation Warning or a Level 1 Hazardous Transportation Emergency is terminated by the Commissioners.

(b) While a parking prohibition is in effect, a person may not park the person's vehicle or a vehicle under the person's control or allow such a vehicle to remain parked on a roadway for which the prohibition is in effect.

Section 7. **Stalled Vehicles**

If a vehicle becomes stalled on a roadway for which a parking prohibition is in effect, the person operating the vehicle must take immediate action to have the vehicle removed from the roadway. The person may not abandon the vehicle in the roadway except for the purpose of securing assistance for the time necessary to go to a nearby telephone, garage, or other place of assistance and return without delay.

Section 8. **Removal, Impounding, and Return of Vehicle**

(a) An employee of the Sheriff's Department or the Highway Department may remove a vehicle or have it removed from a roadway to the nearest garage or other place of safety, including another place on the roadway, or to a facility maintained by the county if one of the following apply:

(1) The vehicle is parked on a roadway for which a parking prohibition is in effect.

(2) The vehicle is stalled on a roadway for which a parking prohibition is in effect; the vehicle presents a hazard to traffic, snow or debris removal, or emergency operations; and the available evidence does not reasonably suggest that the operator of the vehicle is attempting to remove it in compliance with Section 7.

(3) The vehicle is parked illegally and interferes with snow or debris removal or emergency operations.

(b) If a vehicle is removed under subsection (a), the Department causing the removal of the vehicle shall provide written notice to the vehicle's owner if the Department is able to ascertain the name and the address of the vehicle's owner through registration records or otherwise. The notice shall advise the owner of the fact of removal, the reason for removal, and the place to which the vehicle was removed.

(c) If the removing Department is unable to ascertain the name and address of the vehicle's owner to provide notice under subsection (b), the Department shall, within three (3) days of the removal, mail a written report to the Indiana Bureau of Motor Vehicle. The report shall also be filed with the garage to which the vehicle has been removed, if any. The report shall include a description of the vehicle, the time and place of removal, the reasons for the removal, and the place to which the vehicle was removed.

(d) To recover a vehicle removed under this Chapter, the owner of the vehicle must present evidence of the person's identity and right to possession of the vehicle to the removing Department or the towing service that removed the vehicle. In addition, the person must sign a receipt for the return of the vehicle and pay the costs of removal and any storage fees. The costs and fees constitute a lien on the vehicle under IC 32-33-10.

(e) The removing Department shall maintain a record of each vehicle removed under this Section. The record must include a description of the vehicle, its license number, the date and time of removal, the place of removal, the place to which it was removed, the reason for removal and, if known, the name and address of the owner and/or operator. If a towing service obtains this information on behalf of the removing Department, the towing service shall provide the record to the Sheriff's Department.

(f) To implement this Section, the Sheriff's Department and the Highway Department may enter into contracts with towing services for the removal and storage of vehicles.

(g) The County, Sheriff's Department, Highway Department, owner or occupant of the property from which a vehicle is removed, authorized towing service, automobile scrap yard, or other contractor are not liable for loss or damage to a motor vehicle removed, stored, or disposed of under this Section.

Section 9. **Citation**

If a motor vehicle is parked or left without a driver in violation of this Chapter and is not removed or impounded under this Chapter, an officer of the Sheriff's Department may issue a traffic summons to the registered owner in the manner and under the same procedures applicable to other parking violations.

Section 10. **Evidence of Violation**

In a prosecution with regard to a vehicle parked or left in violation of this Chapter, proof that the vehicle described in the complaint was parked or left in violation of this Chapter together with proof that the Defendant named in the complaint was the registered owner of the vehicle at the time of the violation shall constitute *prima facie* evidence that the defendant was the person who parked the vehicle in violation of this Chapter.

Section 11. **Utility Companies**

If employees of the Tippecanoe County Sheriff's Department or Highway Department determine that the property of a utility company are obstructing, interfering, or about to obstruct or interfere with roadway travel, snow or debris removal, or emergency operations, the Department that makes the determination shall notify the utility company of the obstruction or interference. Upon notification, the utility company shall act immediately to render the property safe and remove the obstruction or interference. The action should include:

(1) Timely dispatch of a knowledgeable employee to the site.

(2) De-energize or otherwise render the property safe for removal from the roadway.

(3) Report to the Sheriff's or Highway Department when the property has been rendered safe for removal and co-ordinate removal of the property from the roadway.

Section 12. **Declarations of the Commissioners**

(a) In making its determination to declare a Level 2 Hazardous Transportation Warning or a Level 1 Hazardous Transportation Emergency under Section 4 and Section 5, the Board of Commissioners shall consider information and recommendations, to the extent available, provided by the Sheriff, the Superintendent of the Highway Department, the Director of the Emergency Management Agency or their respective designees. The declaration may be upgraded, downgraded, extended or terminated by the Commissioners as the situation requires.

(b) Upon issuance of a declaration under this section, the Board of Commissioners shall cause the declaration to be broadcast by means of radio stations broadcasting in Tippecanoe County. The declaration may also be communicated by means of newspapers or other means the Board of Commissioners deems effective.

(c) The Board of Commissioners shall terminate the declaration when the conditions giving rise to the declaration abate. Termination of the declaration shall be communicated by the means used to communicate the original declaration.

Section 13. **Penalty**

(a) A violation of this Chapter for which no specific penalty is otherwise provided shall be governed by the provisions of §10.99.

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

(c) The fine for a first offense under Section 8 of this Chapter is a fine of $50. Subsequent fines shall be not less than $100 and not more than $2,500. Violators may be prosecuted by any court in Tippecanoe County with jurisdiction over traffic offenses.

Section 14. **Severability** If any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of any remaining

portions of this ordinance.

This Ordinance shall be in full force and effect on the 15th day of Dec, 2008.

Passed and adopted by the Board of Commissioners of Tippecanoe County, Indiana on 1st reading this 7th day of January, 2008.

VOTE	BOARD OF COMMISSIONERS OF THE COUNTY OF TIPPECANOE
yes	Ruth E. Shedd Ruth Shedd, President
yes	John Knochel John Knochel, Vice-President
yes	KD Benson KD Benson, Member

Attest:

Jennifer Weston

Jennifer Weston, Tippecanoe County Auditor

Passed and adopted by the Board of Commissioners of Tippecanoe County, Indiana on 2nd reading this 15th day of December, 2008.

VOTE	BOARD OF COMMISSIONERS OF THE COUNTY OF TIPPECANOE
yes	Ruth E. Shedd Ruth Shedd, President
yes	John Knochel John Knochel, Vice-President
yes	KD Benson KD Benson, Member

Attest:

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