

**ORDINANCE NO. 99-30-CM
OF TIPPECANOE INDIANA**

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 continuing public safety, maintain the present and future welfare of residents of Tippecanoe County, and protection of the environment.

3. AUTHORITY. Pursuant to I.C. 36-1-3-4, Tippecanoe County through its Executive Officers, has all powers necessary or desirable in the conduct of Tippecanoe County's affairs. Pursuant to I.C. 16-20-2-2, the County Executive of Tippecanoe County may adopt health ordinances that apply to the entire county. Therefore, the Health Officer of Tippecanoe County, Indiana, as hereinafter defined, and the Health officer's agents and representatives are hereby authorized to issue permits, collect permit and incidental fees as provided by prior or subsequent ordinance or as provided herein, 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 Department of Health as found in Title 410 IAC 6-8.1-1 et. seq. and all technical specifications for onsite sewage disposal systems are hereby incorporated by reference in this ordinance and shall include any later amendments to those regulations and specifications 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. and technical specifications incidental thereto are available and on file in the office of the Tippecanoe County Health Department and the Tippecanoe County Auditor.

B. The regulations of the Indiana State Department 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 the 410 IAC 6-10-1 et. seq. are available and on file in the offices of the Tippecanoe County Health Department and the Tippecanoe County Auditor.

C. Future regulations for the Indiana State Department of Health, including but not limited to 410 IAC 6-8.2-1 et. seq. and including any later amendments to those regulations, shall become part of this ordinance and this ordinance shall be interpreted consistent with all such future Indiana State Department of Health regulations.

5. SUPPLEMENTAL DEFINITIONS. In addition to or to otherwise supplement those definitions contained in 410 IAC 6-8.1-1 et. seq., 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 Health Department

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

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 more than two (2) 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 such a facility not administered by or constructed with approval from the Indiana State Department of Health and shall include septic tanks, aeration treatment tanks, finger systems or other subsurface absorption fields and any drains or tiles incidental thereto. Included within said definition is a sewage disposal system for residences and business buildings.

Existing Building Site: Means that tract, plot, subdivision lot, parcel, or other piece of land upon which is presently situated a residence, business, recreational, or other real estate use and upon which a private sewage disposal system has been in use prior to the effective date of this Ordinance. The definition of an existing building site shall also include unimproved tracts, plots, parcels, and other legally divided pieces of land in existence prior to the effective date of this ordinance and those subdivision lots which have been approved by all requisite authorities, including the Tippecanoe County Area Plan Commission (the "APC"), and have unexpired primary approval from the APC as of the effective date of this Ordinance.

Future Building Site: Means that tract, plot, portion of a subdivision, parcel, or other piece of land created or subdivided subsequent to the effective date of this ordinance, and upon which residential, business, recreational, or other buildings are to be located or placed. To be a future building site under this Ordinance, the building site must further comply with requirements of this Ordinance found hereafter.

6. **SYSTEM REQUIREMENTS:-** Where a sanitary sewer system is not available to serve a building site, all persons owning, leasing, or otherwise occupying property shall comply with all applicable Indiana State Department of Health regulations, 410 IAC 6-8.1-1 et. seq., 410 IAC 6-10-1 et. seq., as well as all amendments and supplements thereto including but not limited to 410 IAC 6-8.2-1 et. seq. and other state regulations, any local ordinances, and the following provisions of this Ordinance for a private sewage disposal system:

A. No person shall throw, 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 that would cause or contribute to a health hazard or water pollution.

B. 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.

7. **QUALIFIED BUILDING SITES.**

A. **Minimum Size.** In order to be considered for a private sewage disposal system, a future building site shall have a minimum area based on and determined by the soil

loading rate, calculated as provided in applicable regulation or rule of the Indiana State Department of Health, of the soil located upon the building site. Those building sites which have a soil loading rate of thirty hundredths (0.30) gpd/sq. ft. gallons per day per square foot) or less shall have a minimum lot size of 43,560 square feet (1 acre). Those building sites having a soil loading rate of fifty hundredths (0.50) gpd/sq. ft. or more must have a minimum lot size of 30,000 square feet (0.69 acre). The soil loading rate for a future building site shall be determined by a soil profile, including no less than three borings per site and with the most restrictive boring used to determine the soil loading rate, performed by a soil scientist using generally recognized methods and consistent with Indiana State Department of Health regulations, guidelines, and rules.

B. Replacement System. In order to qualify as a future building site, the proposed site must have sufficient suitable area contained within the future building site for the proposed initial private sewage disposal system as well as an additional area (an alternate site meeting the criteria required by state regulations and local ordinances for installation of septic systems) approved by the Health Department, for installation of a second absorption field of similar design and configuration as the proposed initial private sewage disposal system so that additional area may be utilized as necessary to repair or replace the private sewage disposal system.

C. Existing Sites. A proposed initial private sewage disposal system for an existing building site shall conform with existing regulations, guidelines, and rules of the Indiana State Department of Health and this ordinance. Such existing building sites shall not be required to be of minimum size or contain an alternate area for a replacement system as stated above.

8. 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 Department's 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 or an unacceptable probability of groundwater contamination or construction of a private sewage disposal system with an unacceptable risk of failure.

All applications and plans for a private sewage disposal system for future building sites and for a proposed initial private sewage disposal system on existing building sites which utilize a curtain tile or drain shall include a certification from a professional engineer, professional geologist, or professional land surveyor, indicating the location of such a drain or tile with respect to the private sewage disposal system, the depth of the tile or drain, the outlet of the tile or drain and the elevations of the drain with regard to site topography and shall otherwise confirm and certify that the plans incidental to the curtain tile or drain are sufficient to effectively drain subsurface water from the perimeter of the private sewage disposal system absorption field. All curtain drains or tiles shall be built per plans certified by the professional engineer or professional geologist or professional land surveyor.

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. However, a curtain tile or drain serving a private sewage disposal system may be located on a site other than the site for the private sewage disposal system if the right to use and otherwise maintain the tile or drain is protected by easement, covenant, or other similar enforceable rights to protect the tile or drain serving the private sewage disposal system. 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 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. All rules and regulations of the Tippecanoe County Drainage Board will apply to 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 resulting from 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 the Health officer determines 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, and evidence of contaminants in excess of drinking water standards as established or otherwise referenced in the Safe Drinking Water Act (42 U.S.C. 201 et. seq.) as it may be amended.

9. 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 for private sewage disposal systems 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 onsite 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, arising from topography or soil characteristics or other site characteristics, the site owner or his agent is responsible for designing 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.

10. PETITION FOR REVIEW.

A. The Tippecanoe County Health Officer 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 (petitioner);
2. identify the interest(s) of the petitioner which is effected by the permit issuance, denial, modification or revocation;
3. state with particularity the reasons for the request;
4. state with particularity the issues proposed to be considered;
5. include proposed terms or conditions which, in the judgment of the petitioner, would be appropriate to carry out the requirements of this ordinance and 410 IAC 6-10-1 et. seq. or 410 IAC 6-8.1-1 et. seq. and of any other applicable law or legal requirement.

C. If the Tippecanoe County Health Officer declines to grant relief requested by any person who has filed a petition for review as referenced above, then that aggrieved person shall have the right to request the appointed members of the Board of the Tippecanoe County Health Department hear and reconsider the relief requested in the petition for review. Any petition for review by the appointed members of the Board shall be in writing and be filed with the Board within 15 days of mailing of the Health Officer's decision on the petition for review. Any further consideration of the relief requested shall be as provided in I.C. 4-21.5-5-1 et seq.

D. The procedures established in I.C. 4-21.5-3-26 shall apply to the conduct of any hearing referenced herein unless inconsistent herewith. Any notices required to the Department, Health Officer, and Board shall be sufficient if mailed or hand delivered to the Department's office if the notice is received before expiration of the time for filing the notice.

11. 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 violation 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 Fifty Dollars (\$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. and any regulations supplementing, replacing, or repealing those regulations including but not limited to 410 IAC 6-8.2-1 et. seq. This Ordinance shall be interpreted consistent with said regulations and any inconsistency of this ordinance with any statute, regulation, or other ordinance shall be resolved in favor of enforceability of this ordinance. Any reference herein to any regulation of any Department of the State of Indiana shall include any future amendment or replacement of those regulations by regulations approved or adopted subsequent to the effective date of this ordinance.

12. REMEDIES. The Health Officer may 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 and other costs.

13. SEVERABILITY. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid or unenforceable for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect. Unless the context requires a different interpretation, any reference to the masculine, feminine, or neuter gender shall include any other gender.

14. EFFECTIVE DATE. This Ordinance shall apply to all of Tippecanoe County, Indiana, as of the date from and after its adoption and approval by the Commissioners as stated herein and any publication as required by law.

15. REPEALER. The provisions of Ordinance 79-10, 81-2, 83-4, 86-5, 89-26-CM, and 92-09-CM are hereby superseded and repealed by this Ordinance.

PASSED AND ADOPTED on this 15th day of November, 1999.

BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE

John Knochel

Ruth Shedd

Kathleen Hudson

Attest:

Robert A. Plantenga
Auditor

Vote First Reading **Yes** **No**

Knochel x

Shedd x

Hudson x

Vote Second Reading **Yes** **No**

Knochel x

Shedd x

Hudson x

Robert A. Plantenga hereby certifies that the above Ordinance was passed unanimously by a roll call vote of 3 - 0 on both the First Reading on the 15th day of November, 1999, and on Second Reading on the 15th day of November, 1999.

Robert A. Plantenga, Auditor
Of Tippecanoe County, Indiana

Advertised: _____, _____ 1999.