

ORDINANCE NO. 2019-11 -CM
AMENDING TIPPECANOE COUNTY CODE CHAPTER 94
VECTOR CONTROL

WHEREAS, the Board of Commissioners has the duty and authority pursuant to IC 16-20-2-2(c) to adopt health ordinances that apply to the entire County;

WHEREAS, the Board of Commissioners previously adopted Sections 94.01 through 94.06 and Section 94.99(A) of the Tippecanoe County Code concerning Vector Control; and

WHEREAS, the Board of Commissioners, upon recommendation of the Tippecanoe County Health Department, seeks to improve and clarify the Vector Control Ordinance of the Tippecanoe County Code:

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Tippecanoe County, Indiana, that the Tippecanoe County Code be amended by repealing existing sections 94.01 – 94.06 and 94.99 of the Tippecanoe County Code and replacing them with a new sections 94.01 – 94.08 and 94.99 as follows:

§ 94.01 TITLE, PURPOSE, AND AUTHORITY

This Ordinance and all ordinances supplemental or amendatory hereto shall be known as the Vector Control Ordinance of Tippecanoe County, and may be cited as such and will be referred to herein as this Ordinance. The purpose of this Ordinance is to provide for a Vector Control program which shall be under the direction of the Health Officer of Tippecanoe County. This Ordinance shall supersede all ordinances previously established for Vector Control. The Health Officer of Tippecanoe County, as hereinafter defined, and the Health Officer's agents and representatives are hereby authorized to perform inspections order and 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.

§ 94.02 DEFINITIONS.

Unless the context specifically indicates otherwise, the definitions of the current Vector Control Ordinance requirements of the Indiana State Department of Health and their interpretations shall apply to the enforcement of this ordinance and the provisions of I. C. 16-41-33-1 et seq. and any amendments thereto, are incorporated herein. In addition to or to otherwise supplement those definitions contained in the above referenced code sections this ordinance shall include the following additional definitions:

- A. VECTOR: Any arthropod or feral animal responsible for the transmission of pathogens from a host to another animal or human.

- B. PEST: Any arthropod, vertebrate, or microorganism of health significance to humans.
- C. PERSON: Any individual, partnership, co-partnership, firm, company, corporate, association. Joint-stock company, trust, estate, municipal corporation, city, school, town, school district, school corporation, county, any consolidated unit of government, political subdivision, or any legal entity.
- D. BOARD OF HEALTH: means or includes the Tippecanoe County Health Department.
- E. HEALTH OFFICER: The Health Officer of Tippecanoe County, Indiana or his authorized representative.
- F. DEPARTMENT or HEALTH DEPARTMENT: The Tippecanoe County Health Department.

§ 94.03 ENFORCEMENT.

The Health Officer of Tippecanoe County and his or her authorized representative shall have those powers and that authority indicated in I. C. 16-41-33-6, and any amendments thereof, for vector abatement and pest control. It shall be the duty of the Health Officer to enforce the provisions of this Ordinance. A violation of an abatement order, issued by the Health Officer pursuant to the provisions of I.C. 16-20-1-25, or a similar statute, shall be considered a violation of this Ordinance.

§ 94.04 ABATEMENT.

The Health Officer is authorized as part of his or her duties to issue an order in writing to any person and requiring said person to take all necessary, proper, and reasonable steps to control or abate vectors or pests and breeding places thereof which have adverse health significance to humans or domestic animals. Said order may specify the actions that shall be taken for such control or abatement and the time available for accomplishing the control or abatement.

§ 94.05 VIOLATIONS.

Whenever the Health Officer determines that any person or entity subject to the provisions of this Ordinance is in willful or continuing violation of any of the provisions of this Ordinance, in addition to any other remedy or penalty imposed by this Ordinance, the Health Officer may furnish evidence of said willful or continuing violation to the Prosecuting Attorney of Tippecanoe County, Indiana or the attorney for the Department who shall seek all appropriate legal remedies against the entity or person(s) violating the provisions of this Ordinance.

§ 94.06 INJUNCTION/REMEDIES.

The Health Officer may bring actions in the Tippecanoe Circuit Court or Superior Courts of the 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 chapter. Any such action for mandatory or injunctive relief may be joined with an action to recover the penalties, costs and expenses provided in this chapter. In the event any legal action is necessary to enforce this chapter, the Health Officer may seek and recover costs and expenses reasonably incurred to enforce the provisions of this chapter, including, but not limited to, reasonable attorney's fees and other costs. The remedies provided in this chapter shall be cumulative, and not exclusive, and shall be in addition to any other remedy provided by law.

§ 94.07 CIVIL PENALTIES.

The Department has determined that one of the most efficient methods of encouraging compliance with ordinances to protect the public health is to assess civil penalties (fines) for violators of laws intended to suppress disease and minimize health risks. For purposes of tracking violations and imposing fines under this Chapter the Department shall maintain inspection records for not less than one (1) year from the date of any inspection conducted consistent with this Ordinance. No fine is payable the first time a violation is noted within any one-year period. For a second or subsequent violation of this Ordinance within any one-year period, a civil penalty is payable as provided in this Ordinance.

- A. The following civil penalties (fines) shall apply for a violation of this Ordinance which reoccurs for a second or subsequent time within any one-year period:
 - 1. The second time the same violation is determined within any one-year period, there will be a fine of \$50.00.
 - 2. The third (and subsequent) time the same violation is determined within any one-year period, there will be a fine of \$100.00.
- B. Each day after the expiration of the time limit for abating any violation of this Ordinance or completing other actions as ordered by the Tippecanoe County Health Department or the Health Officer, shall constitute a distinct and separate offense; provided that, the total of all fines imposed for a continuing violation of this ordinance shall not exceed the total sum of \$10,000.00.
- C. All fines shall be payable in full within thirty (30) days of assessment, unless otherwise ordered by the Health Officer. Failure to pay fines by the due date will result in an additional ten percent (10%) late fee. Any fines and late fees may be collected in any manner provided herein or as provided by law including any law for collection of debts, along with attorney fees incurred to collect said amounts owing and with all costs of collection.
- D. Any assessment of a civil penalty by this Ordinance is subject to the right of appeal

and a public hearing which will be scheduled, conducted, and concluded as provided in this Ordinance. Any request for an appeal shall be filed in writing with the Health Officer within ten (10) days of assessment of the civil penalty.

§ 94.08 PROCEDURE FOR HEARING.

- A. All hearings required under this or any other section, shall be open to the public and held with sufficient written notice to the permittee of time, place, and nature thereof to enable the party to the proceedings to appear and participate in the hearing.
- B. At any hearing required under this Ordinance, the Hearing Officer shall be the Health Officer or the Health Officer's designee. Every person who is a party to such proceedings shall have the right to submit evidence, to cross-examine witnesses and to be represented by legal counsel as arranged by the party to the proceedings. All such hearings shall be conducted in an informal manner, but irrelevant, immaterial or unduly repetitive evidence may be excluded.
- C. Within a reasonable time after such hearing, the Health Officer or the Health Officer's designee shall enter a final order, subject to the right of appeal to a Court having jurisdiction of the parties and of the subject matter of the appeal.
- D. To exercise the right of appeal, a party to the final order must file a petition for relief from the order with the Circuit or a Superior Court of Tippecanoe County no later than as required by law or sixty (60) days from the date of the health officer's final order, whichever is less.

§94.99 PENALTY FOR VIOLATION OF ALARM SYSTEM REGULATIONS

The fine imposed for violation of any provision of §§ 94.15 through 94.21 will be not more than \$2,500 for each violation .

BE IT FURTHER ORDAINED that:

- 1. SEVERABILITY. Invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.
- 2. PARTIAL INVALIDITY. If any term or provision of this Ordinance shall be found to be wholly or partially unenforceable then, notwithstanding same, the remainder of this Ordinance shall remain in full force and effect and such term or provision shall be deemed stricken or modified to the extent required to make the remainder of this Ordinance enforceable.

3. EFFECTIVE DATE. This ordinance shall be in full force and effect upon passage, signing, and publication as required by law.

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on first reading this 1st day of April, 2019, by the following vote:

VOTE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY

<u>Yes</u>	<u>David S. Byers</u> David S. Byers, President
<u>Yes</u>	<u>Tracy A. Brown</u> Tracy A. Brown, Vice-President
_____	<u>Absent</u> Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga
Robert Plantenga, Auditor

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and approved on second reading this 6th day of May, 2019, by the following vote:

VOTE BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY

<u>Yes</u>	<u>David S. Byers</u> David S. Byers, President
<u>Yes</u>	<u>Tracy A. Brown</u> Tracy A. Brown, Vice-President
<u>Yes</u>	<u>Thomas P. Murtaugh</u> Thomas P. Murtaugh, Member

ATTEST:

Robert Plantenga
Robert Plantenga, Auditor