

PUBLIC WELL WATER TESTING ORDINANCE
of
TUSCOLA COUNTY

Article 1--AUTHORITY

1976 PA 399, MCL §325.1001 ("Safe Drinking Water Act"), hereinafter referred as the "Act," requires regular testing ("Regular Testing") of non-community well water, which is served to the public. The purpose of the Regular Testing is to ensure that it is not contaminated and meets Safe Drinking Water Act standards for human consumption. The Act identifies such wells as "Type 2 Supplies."

Under the Act, the Tuscola County Public Health Department ("TCHD"), has certain regulatory responsibilities to ensure that the operators or owners of Type 2 Supplies are complying with the Regular Testing and if not, empowers TCHD to collect a sample and perform the Regular Testing itself.

Michigan Counties have been delegated the right to issue ordinances enforcing policy decisions made by county commissioners on topics over which they have jurisdiction. See MCL §46.11(j).

Article 2--PURPOSE

The purpose of this Ordinance is to fulfill the above-described responsibilities of the TCHD by providing necessary authorizations, enforcement and fee arrangements.

The Tuscola County Board of Commissioners expressly finds that Regular Testing is to promote the public's health safety and welfare and that this Ordinance is necessary to facilitate the Regular Testing.

Article 3--ADMINISTRATION AND ENFORCEMENT

3.1 ADMINISTRATION

- (a) The provisions of this Ordinance shall be administered by the TCHD in accordance with the Act and any state regulations.
- (b) TCHD shall send the owner or operator of all Type 2 Supplies in the County a letter explaining the Regular Testing requirements of the Act, the fees involved, the potential for fines issued by the MDEQ and USEPA in the event samples are not collected and the existence of this Ordinance, including the right of TCHD to collect a

sample and charge the owner or operator the fees provided in this Ordinance if the owner or operator does not timely and voluntarily perform the Regular Testing.

- (c) Each owner or operator of a Type 2 Supply shall maintain a current contact name and address with the TCHD.
- (d) Each owner or operator of a Type 2 Supply shall perform the Regular Testing required by the Act during the first month of each quarter in the calendar year and notify TCHD that the Regular Testing has been performed.
- (e) During the second month of the quarter, TCHD shall send a reminder card to the identified or known contact name at the identified or known address, advising the owner or operator of the apparent failure to perform the Regular Testing.
- (f) During the third month of the quarter, TCHD shall have the right to access the Type 2 Supplies that have not demonstrated that they have performed the required Regular Testing, and upon attaining access, TCHD may collect the required sample and perform the required tests at each of the Type 2 Supplies.
- (g) The TCHD shall invoice each owner or operator of a Type 2 Supply from which a sample has been collected and tested pursuant to subsection "(f)" above. Such invoice shall include the laboratory testing charge approved by the MDEQ, as well as a \$100 collection and handling fee, and any other fees as provided in subsection "(h)" below.
- (h) Each owner and operator of a Type 2 Supply shall be liable for the appropriate Environmental Health Fee, as set from time to time by the Tuscola County Public Health Board, which shall post at the TCHD the current copy of the Environmental Health Fee Schedule.

3.2 ENFORCEMENT

- (a) The TCHD, Tuscola County Sheriff's Department and/or Tuscola County Prosecuting attorney shall enforce the provisions of this Ordinance.
- (b) Upon a finding a probable cause to believe there has been a violation of this Ordinance, a sanitarian in the TCHD, Sheriff's Deputy, or Prosecuting Attorney may issue and serve an appearance Ticket upon the person or entity responsible.
- (c) The Appearance Ticket shall direct the recipient to appear in Tuscola County District Court on a specified date to respond to the alleged violation.

3.3 CIVIL AND CRIMINAL PENALTIES

STATE OF MICHIGAN

RESOLUTION

At a regular meeting of the Board of Commissioners of the County of Tuscola, Michigan, held at the County Building in Caro, Michigan on the 8th day of April, 2003, at 6 o'clock p.m. local time.

PRESENT: Commissioners: Sollon, Buback, McFane,
Ritzold, Peterson

ABSENT: Commissioners: None

It was moved by Commissioner Sollon and supported by Commissioner McFane that the following resolution be adopted.

Whereas, the Safe Drinking Water Act, MCL §325.1101 hereinafter referred as the "Act," requires regular testing ("Regular Testing") of non-community well water, which is served to the public to ensure that water ("Type 2 Supplies") is not contaminated and meets the Act's standards for human consumption;

Whereas, under the Act, the Tuscola County Public Health Department ("TCHD"), has certain regulatory responsibilities to ensure that the operators or owners of Type 2 Supplies are complying with the Regular Testing and if not, empowers TCHD to collect a sample and perform the Regular Testing itself;

Whereas, Michigan Counties have been delegated the right to issue ordinances enforcing policy decisions made by county commissioners on topics over which they have jurisdiction [See MCL §46.11(j)];

Whereas, the Tuscola County Board of Commissioners expressly finds that Regular Testing is to promote the public's health safety and welfare and that the attached Ordinance is necessary to facilitate the Regular Testing.

Now, Therefore, Be It Resolved, that the attached "PUBLIC WELL WATER TESTING ORDINANCE of TUSCOLA COUNTY" is hereby approved and adopted;

Be It Further Resolved, that this Resolution and its attached Ordinance shall augment, supersede, modify or replace any inconsistent prior ordinance, resolution or motion;

Be It Further Resolved, that the Board Chairperson and County Clerk are hereby authorized and directed to sign the attached Ordinance and the Clerk is instructed to publish notification of the adoption of the Ordinance and to post such Ordinance in compliance with MCL §46.11(m).

YEAS: Commissioners: Seaton, Babcock, McFaul,
Petgold, Peterson

NAYS: Commissioners: none

ABSTENTIONS: Commissioners: none

RESOLUTION ADOPTED:

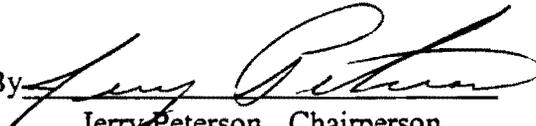
David Peterson
Chairperson, Tuscola County
Board of Commissioners

Marye White-Cormier
Tuscola County Clerk

Civil action or criminal prosecution, along with any other remedies provided by law, may accomplish enforcement. Civil penalties can include but are not limited to those authorized in the Act, as well as any fees due under the Environmental Health Fee Schedule. Any responsible party shall be guilty of a misdemeanor if proven to have violated the provisions of this Ordinance and may, upon conviction, be punished by imprisonment in the County jail for not more than ninety (90) days, or by fine of not more than five hundred (\$500) and the cost of prosecution, or by a fine and imprisonment at the discretion of the Court. The imposition of any sentence shall not exempt the responsible party from compliance with the requirements of the Act nor from liability for civil penalties or other civil proceedings to enforce this Ordinance or abate the violation.

Article 4--EFFECTIVE DATE OF ORDINANCE

This Ordinance shall take effect following notification of same in a newspaper of general circulation in the County of Tuscola, providing no petition has been filed pursuant to 1988 PA 227, MCL §46.11.

By 
Jerry Peterson, Chairperson
Tuscola County Board of Commissioners

CERTIFICATION

I, Margie White-Cormier, the Tuscola County Clerk, hereby certify that the Tuscola County Board of Commissioners duly approved this Ordinance and directed that it be executed by the Chairperson of the Board of Commissioners, whose signature has been applied above.


Margie White-Cormier

Dated: 4-8-03

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