

TUSCOLA COUNTY BOARD OF COMMISSIONERS

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At a regular meeting of the Board of Commissioners of the County of Tuscola, State of Michigan, held on April 30, 2026, with the meeting called to order at 8:00 a.m.

PRESENT: Nancy Barrios, Thomas Hardwick, Ken Vaughan
Bill Jutzy, Matt Koch

ABSENT: None

The following resolution was offered by Commissioner Koch and
seconded by Commissioner Jutzy:

RESOLUTION 2026-08

RESOLUTION AFFIRMING LOCAL HEALTH DEPARTMENT AUTHORITY TO APPROVE NON-RESIDENTIAL ONSITE WASTEWATER SYSTEMS DISCHARGING LESS THAN 1,000 GALLONS PER DAY PURSUANT TO LOCAL SANITARY CODES AND UNDER STATE LAW

WHEREAS, the protection of public health, groundwater, surface water, and drinking water supplies is a shared responsibility of the State of Michigan and local units of government; and

WHEREAS, local health departments are created and empowered under the Michigan Public Health Code, MCL 333.1101 et seq., and are authorized to adopt and enforce sanitary regulations necessary to safeguard the public health within their jurisdictions; and

WHEREAS, Mich Admin Code, R 323.2210(a)(i) provides that non-residential sanitary sewage discharges of less than 1,000 gallons per day may occur without a groundwater discharge permit when approved by the local health department in accordance with either the requirements of the local sanitary code or the Michigan Criteria for Subsurface Sewage Disposal; and

WHEREAS, the use of the disjunctive term "either...or" in Rule 323.2210(a)(i) establishes two independent and alternative bases for approval of such systems; and

WHEREAS, the April 1994 Michigan Criteria for Subsurface Sewage Disposal expressly states that sewage systems treating less than 1,000 gallons per day may be approved in accordance with local health department sanitary codes; and

WHEREAS, longstanding regulatory practice and historical state guidance have recognized local health department discretion to approve non-residential systems discharging less than 1,000 gallons per day under local sanitary codes; and

WHEREAS, recent interpretations asserting that local sanitary codes must be at least as stringent as the Michigan Criteria for Subsurface Sewage Disposal for systems under 1,000 gallons per day are inconsistent with the plain language of Rule 323.2210(a)(i); and

WHEREAS, reading additional stringency requirements into Rule 323.2210(a)(i) adds language not adopted through formal rulemaking and conflicts with established principles of statutory and administrative rule construction; and

WHEREAS, limiting local discretion for systems discharging less than 1,000 gallons per day undermines local public health authority and may unnecessarily restrict development without demonstrated public health benefit.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Tuscola County affirms that Mich Admin Code, R 323.2210(a)(i), by its plain and unambiguous language, authorizes local health departments to approve non-residential onsite wastewater systems discharging less than 1,000 gallons per day pursuant to either the local sanitary code or the Michigan Criteria for Subsurface Sewage Disposal.
2. Tuscola County formally disagrees with any interpretation of state law or administrative rules that eliminates or nullifies the independent authority of local health departments to rely on local sanitary codes for such approvals absent lawful amendment through formal rulemaking.
3. Tuscola County supports continued recognition of local public health expertise and discretion in regulating systems discharging less than 1,000 gallons per day consistent with historical practice and the express language of applicable administrative rules.
4. Tuscola County urges state agencies to refrain from imposing additional requirements through guidance, contracts, or informal interpretation that have not been adopted through the Administrative Procedures Act.
5. Tuscola County directs that a copy of this Resolution be transmitted to legislators, EGLE, the Michigan Department of Health and Human Services, the Michigan Attorney General, and other appropriate persons or entities.

