

WELLS COUNTY ORDINANCE NO. 2011- 16

**AN ORDINANCE ESTABLISHING A FEE
FOR INVESTIGATING STORM WATER NUISANCES**

WHEREAS, the Indiana legislature has adopted I.C. 36-9-28.7-9 et seq pertaining to storm water nuisances; and

WHEREAS, in that statute the Indiana legislature provided that the County may adopt an Ordinance permitting a fee to be paid to defray the expense incurred to investigate a storm water nuisance complaint.

NOW, THEREFORE, BE IT ORDAINED BY THE WELLS COUNTY BOARD OF COMMISSIONERS:

SECTION 1. The Wells County Board of Commissioners has reviewed the Storm Water Nuisances enacted by the legislature and placed in I.C. 36-9-28.7 et seq.

SECTION 2. I.C. 36-9-28.7-9 provides as follows:

IC 36-9-28.7-9 Investigation fee; assessment of nuisance; investigation report; limitations

Sec. 9. (a) An ordinance may be adopted to allow for the payment of a fee to the unit of government as a condition of filing a request under this chapter. The fee may not be an amount greater than is reasonably necessary to defray the expenses incurred in processing the request, conducting the investigation, and completing the assessment under this section.

(b) A unit of government shall investigate and make a visual assessment limited to the following:

- (1) Determine whether the storm water nuisance exists.
- (2) Assess whether the removal of the storm water nuisance will:
 - (A) remove the negative effect of the storm water nuisance from the land of a person making the request; and
 - (B) cause unreasonable damage to the land on which the storm water nuisance is located.

(3) Make any other observations that may be useful in solving an alleged storm water nuisance problem.

(c) A unit of government, upon making the assessment under subsection (b), shall provide the following to a person that filed the request under section 8 of this chapter:

- (1) An oral or written report that may include:
 - (A) a general description of the investigation and its findings;
 - (B) whether the storm water nuisance exists;
 - (C) the need for the removal of the storm water nuisance;

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law" *Beth Davis*

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Wells County Recorder
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File# 178978

- (D) whether the removal of the storm water nuisance will:
- (i) remove the negative effect of the storm water nuisance from the land of a person that filed the request under section 8 of this chapter; and
 - (ii) cause unreasonable damage to the land on which the storm water nuisance is located; and
- (E) any other considerations that may be useful in solving the storm water nuisance.

(2) Information concerning alternative dispute resolution options.

(d) A unit of government is not required to use funds to meet the requirements under this chapter.

(e) Except under subpoena, a unit of government may not be compelled to testify in a legal proceeding related to its functions under this chapter.

(f) For purposes of this chapter, the unit of government has a right of entry as provided by IC 36-9-27.4-25.

(g) An artificial conveyance or runoff that was constructed and that operates in compliance with a permit issued by a political

subdivision is not subject to this chapter.

As added by P.L.125-2011, SEC.3.

SECTION 3. The Board of Commissioners of Wells County adopts a fee of \$50.00 (Fifty Dollars) for that investigation.

SECTION 4. The Board of Commissioners of Wells County ordains that the fee collected shall be deposited into the General Drain Improvement Fund of the Wells County Drainage Board.

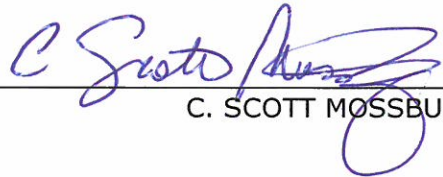
All as Passed and Ordained this 1st day of August, 2011.

WELLS COUNTY BOARD OF COMMISSIONERS:




KEVIN WOODWARD, President

PAUL BONHAM, Commissioner



C. SCOTT MOSSBURG, Commissioner

Attest:



BETH DAVIS
Auditor of Wells County

This Ordinance prepared by:
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