

TITLE V: PUBLIC WORKS

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CHAPTER 50: SOLID WASTE

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GENERAL PROVISIONS

§ 50.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF COMMISSIONERS. The Wells County Board of Commissioners.

COUNTY AUDITOR. The Auditor of Wells County.

FINAL DISPOSAL FACILITY. Has the meaning prescribed at I.C. 13-20-5.

SOLID WASTE. Has the meaning prescribed at I.C. 13-11-2-205.
(Ord. 90-2, passed 6-12-1990)

§ 50.02 GENERAL PROVISIONS.

(A) A county solid waste planning fee is imposed at the rate of \$2 per ton on each ton of solid waste disposed of or incinerated at a final disposal facility in the county.

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(B) The owner or operator of a final disposal facility located in the county is responsible for collecting the county solid waste planning fee imposed under division (A) above from persons delivering solid waste to the final disposal facility. The owner or operator may deduct an amount equal to 1% of the fees collected and may retain this amount as compensation for collecting and remitting the fees.

(C) The remainder of the fees collected each month under division (B) above shall be remitted to the County Auditor within ten days after the last day of the month in which the fees are collected.

(D) The owner or operator of a final disposal facility shall make necessary records available to an employee designated by the Board of Commissioners for the purpose of verifying the amount of solid waste disposed of and the amount of fees being collected and remitted to the County Auditor.

(E) The owner or operator of a final disposal facility that does not have a scale suitable for solid waste may determine the weight of the solid waste by conversion from the volume of the solid waste. In making this conversion, an owner or operator shall use the following conversion factors:

(1) Three and three-tenths cubic yards of compacted solid waste equals one ton of solid waste;
and

(2) Six cubic yards of uncompacted solid waste equals one ton of solid waste.

(F) (1) The fee imposed under division (A) above does not apply to solid waste that is received at a final disposal facility pursuant to a contract entered into before January 1, 1990, unless the contract contains a pass-through provision by which the transporter of the solid waste may recover the fees from the transporter's client.

(2) Any solid waste for which an exemption under this section is sought must be identified as to the particular contract which does not contain the pass-through provision. A copy of any contract for which the owner or operator of a final disposal facility desires to claim an exemption under this section must be filed with the Board of Commissioners.

(G) The fee imposed under division (A) above does not apply to solid waste disposed of at a final disposal facility by a person that:

(1) Generated the solid waste; and

(2) Disposes of the solid waste at a final disposal facility that is owned by that person and is limited, for the purposes of the disposal of solid waste, to use by that person for the disposal of solid waste generated by that person.

(H) The County Auditor shall establish a fund to be known as the "Wells County Solid Waste Planning Fund." The fund shall be administered in the same manner as all other county funds.

(I) (1) Money in the fund may be used only for the following purposes:

(a) To pay expenses of administering the fund; and

(b) To pay costs associated with the development of a district solid waste management plan.

(2) A description of the activities to be undertaken, together with an estimate of the costs of the activities are attached as Exhibit A and Exhibit B, and are incorporated by reference herein.

(J) The fee imposed under this chapter may not be imposed after the earlier of:

(1) The date on which the county is either designated a county district or joins into a joint district; or

(2) December 31, 1992.
(Ord. 90-2, passed 6-12-1990)

WASTE DISPOSAL

§ 50.15 SPECIFIC ACTS PROHIBITED.

The following acts are specifically prohibited in the county. No person shall:

(A) Cause, or allow to be caused, an accumulation or scattering of any solid waste in the county. However, this does not include:

(1) Accumulations of solid waste, prior to compaction and application of daily cover, at sanitary landfills; and

(2) Accumulations of solid waste for the purposes of pick-up and disposal at sanitary landfills. Such accumulations shall be stored only in rat-proof covered containers, or containers otherwise approved by the Wells County Board of Health.

(B) Maintain any condition which may support vectors, generate, transmit, or promote disease; or, in general, cause or possibly cause health problems for a person or persons of the county.
(Ord. 94-3, passed 3-21-1994)

§ 50.16 DEFINITIONS.

The definitions contained herein shall govern construction of this subchapter unless specific provisions or the context requires otherwise:

COUNTY. Wells County, Indiana and those unincorporated areas which are under the jurisdiction of the Health Officer and not incorporated cities or towns, except as provided for under the authority of I.C. 16-1.

DISPOSAL. The discharge, deposit, injection, spilling, leaking, or placing of any solid waste or hazardous waste, as defined herein, into or on any land or water.

GARBAGE. All putrescible animal solid, vegetable solid, and semi-solid wastes resulting from the processing, handling, preparing, cooking, serving, consumption of food or food materials.

HEALTH OFFICER. The Wells County Health Officer, or his or her authorized representative.

PERSON. Means, but is not limited to, any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, or his or her legal representative or agent.

RUBBISH. Means and includes ashes, cans, metalware, broken glass, crockery, sweepings, boxes, furniture, appliances, cardboard, and all similar matter.

SOLID WASTE. Any garbage, rubbish, or other material that is typically discarded, including solid, liquid, and semi-solid debris resulting from commercial, mining or agricultural operations or from community activities. However, the term **SOLID WASTE** does not include:

- (1) Solid or dissolved material in domestic sewage as defined in 410 IAC 608, or dissolved materials in irrigation return flows or industrial discharge, which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act Amendments (P.L. 92-500);
- (2) Source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954; or
- (3) Manures or crop residues returned to the soil as fertilizers or soil conditioners.

VECTOR. Any living organism that is capable of harboring and/or transmitting any disease-producing virus or micro-organism from one animal to another animal or human being.
(Ord. 94-3, passed 3-21-1994)

§ 50.17 ENFORCEMENT.

(A) The provisions of this subchapter shall be enforced by the Health Officer or the County Sheriff.

(B) The Health Officer or County Sheriff may enter upon and inspect private property at proper times after due notice in regard to violations of this subchapter.
(Ord. 94-3, passed 3-21-1994)

§ 50.18 NOTICE.

Whenever the Health Officer or County Sheriff determines that there are reasonable grounds to believe that there has been a violation of any provision of this subchapter, the Health Officer or County Sheriff shall give notice of such alleged violation to the person responsible therefor. The notice shall:

(A) Be in writing;

(B) Include a statement which indicates the precise reason for the issuance of notice;

(C) Indicate a reasonable time for the performance of any act required to bring the situation into compliance;

(D) Be served upon the person responsible, or the occupant, or the landowner, as the case may be; be deemed to be properly served upon such person, occupant, or landowner, if a copy thereof is posted in a conspicuous place in or about the area affected by the notice, or if he or she is served with such notice by any other method authorized or required under the laws of this state; and

(E) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this subchapter.

(Ord. 94-3, passed 3-21-1994)

§ 50.19 APPEAL HEARINGS.

(A) (1) Any person affected by any such notice issued by the Health Officer or County Sheriff may request and shall be granted a hearing before the County Board of Health, if such person affected files in the office of the Health Officer, within ten calendar days after the service of the notice, a written petition requesting said hearing and setting forth a brief statement of the grounds therefor.

(2) Upon receipt of such petition, the Health Officer shall arrange a time and place for such hearing, and it shall be held as soon as practicable after the receipt of the request.

(B) The Board of Health shall sustain, modify, or withdraw the notice based upon their findings on the relevant facts and the applicable violations. Such action may be taken by a majority vote, provided a quorum is present.

(Ord. 94-3, passed 3-21-1994)

§ 50.20 VIOLATIONS AND PENALTIES.

(A) It shall be unlawful to violate any of the terms, conditions, or restrictions of this subchapter. Any person or legal entity who is found by a court of competent jurisdiction to have violated any provision of this subchapter may be fined not more than \$2,500 per offense per day plus costs and attorneys' fees where a judgement has been entered accordingly.

(B) An action under this subchapter may be brought by the County Attorney or the County Prosecuting Attorney.

(Ord. 94-3, passed 3-21-1994)

CHAPTER 51: SEWAGE PROVISIONS

Section

- 51.01 Administration
- 51.02 Definitions
- 51.03 Residential and commercial on-site sewage system requirements
- 51.04 Permits, permit fees, inspections, installers registration
- 51.05 Power for inspection
- 51.06 Notices
- 51.07 Appeals

- 51.99 Penalty

§ 51.01 ADMINISTRATION.

(A) The regulations and requirements of Indiana State Department of Health Rule 410 I.A.C. 6-8.2 "Residential On-Site Sewage Systems" are hereby incorporated by reference in this chapter and shall include any later amendments to those regulations and requirements as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of the applicable I.A.C. regulations and requirements are available and are on file in the office of the Wells County Health Department.

(B) The regulations and requirements of Indiana State Department of Health Rule 410 I.A.C. 6-10 "Commercial On-site Wastewater Disposal" are hereby incorporated by reference in this chapter and shall include any later amendments to those regulations and requirements as the same are published in the Indiana Register of the Indiana Administrative Code with effective dates as fixed therein. Copies of the applicable I.A.C. regulations and requirements are available and are on file in the office of the Wells County Health Department.

(C) All other regulations and requirements duly promulgated by the Indiana State Department of Health as found in Title 410 I.A.C. and various bulletins relative to the subject matter of this chapter are further incorporated herein and made a part hereof. Specifically, Bulletin S.E. 11 "The Sanitary Vault Privy", as updated or amended from time to time, and Bulletin S.E. 13 "On-Site Water Supply and Wastewater Disposal for Public and Commercial Establishments", as updated or amended from time-to-time, and any bulletin or publication which may hereafter be published by the Indiana State Department of Health as a supplement or successor to said Bulletin S.E. 11 or Bulletin S.E. 13 are hereby incorporated herein and made a part hereof. Copies of the respective bulletins are available in the office of the Wells County Health Department.

(Ord. 2011-08, passed 7-18-2011)

§ 51.02 DEFINITIONS.

In addition to, or to otherwise supplement those definitions contained in Rule 410 I.A.C. 6-8.2, Rule 410 I.A.C. 6-10, Bulletin S.E. 11 and Bulletin S.E. 13, which are herein incorporated by reference, this chapter shall include the following additional definitions. For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD OF HEALTH. The Board of Health having jurisdiction in Wells County, State of Indiana.

BUILDING. A structure having a roof supported by columns or walls built or used for the enclosure, shelter, protection or occupancy of persons, fixtures or personal property, and from which there emanates any sewage.

HEALTH OFFICER. The Health Officer having jurisdiction in Wells County, State of Indiana, or the Health Officer's designated agent.

INSTALLER. Any person engaged in or intending to engage in the installation, construction and repair of on-site sewage systems or equipment in Wells County.

ON-SITE SEWAGE SYSTEM. Any commercial on-site wastewater disposal facility or residential on-site sewage system not constructed, installed, maintained, operated, and/or owned by an incorporated city or town, conservancy district, regional sewer district, or private utility.

OWNER. The owner of a dwelling or building or the agent of the owner.

PRIVY. A fly tight and rodent proof structure designed for the disposal of human waste erected on or over a properly constructed sanitary vault.

QUORUM. A majority of the Wells County Board of Health, or at least four of the seven members.

SOIL SURVEY. The book entitled "Soil Survey of Wells County, Indiana" published by the United States Department of Agriculture, Soil Conservation Service as updated or amended from time-to-time.

SUBDIVISION. Divisions of any parcel of land shown as a unit or as contiguous units created for dwelling or building sites.
(Ord. 2011-08, passed 7-18-2011)

§ 51.03 RESIDENTIAL AND COMMERCIAL ON-SITE SEWAGE SYSTEM REQUIREMENTS.

(A) Where a sanitary sewerage system is not available in Wells County, all persons owning or leasing property shall comply with the following provisions of the chapter for on-site sewage systems.

(B) It shall be unlawful for any person to throw, run, drain, seep, or otherwise dispose into any of the surface waters or ground waters of the County of Wells, State of Indiana, or cause, permit, or suffer to be thrown, run, drained, allowed to seep, or otherwise disposed into such waters, any organic or inorganic matter from a dwelling, building, or on-site sewage system that would cause or contribute to a health hazard or water pollution.

(C) At any public, commercial or business building situated within the County of Wells, State of Indiana, where on-site sewage systems may be approvable and where a sanitary sewerage system is not available, said on-site sewage systems shall be installed, constructed and maintained in compliance with the minimum requirements of Rule 410 I.A.C. 6-10 and Bulletin S. E. 13, or such other standards as may be adopted from time-to-time by the Indiana State Department of Health and the Indiana Department of Environmental Management. Plans and specifications for such on-site sewage systems shall be submitted to the Indiana State Department of Health and, where required, to the Indiana Department of Environmental Management. Final acceptance, inspection and approval of said on-site sewage system shall be granted at the discretion of the Wells County Health Officer.

(D) A privy situated within the County of Wells, State of Indiana, shall be of the sanitary vault type and shall be installed, constructed, maintained and disposed of at least in accordance with the minimum standards set forth in Bulletin S.E. 11, as may be amended from time-to-time by the Indiana State Department of Health. All privies shall be kept in a clean condition so that insects and rodents cannot enter the vault and shall be located properly to protect water supplies from contamination.

(E) All on-site sewage systems shall be installed, constructed and maintained in a manner approved by the Wells County Health Officer and in compliance with the minimum standards set forth in Rule 410 I.A.C. 6-8.2, Rule 410 I.A.C. 6-10, Bulletin S. E. 11, Bulletin S. E. 13, and such other standards and policies as may be adopted from time-to-time by the Indiana State Department of Health and the Wells County Board of Health.

(F) The installation of any other on-site sewage systems not described in Rule 410 I.A.C. 6-8.2, Rule 410 I.A.C. 6-10, Bulletin S. E. 11, Bulletin S. E. 13, and which operate by mechanical, chemical, or other means shall be approved in advance by the Indiana State Department of Health, the Indiana Department of Environmental Management (where required) and the Wells County Health Officer.

(G) If any failure exists or occurs with any on-site sewage system or privy and said system fails to meet the standards and requirements of (B), (C), (D), (E), or (F) of this section, the failure shall be remedied to the satisfaction of the Wells County Health Officer by the owner or the occupant of the premises or their agents within the time required by the Wells County Health Officer.

(H) Wherever a sanitary sewerage system is or becomes available and is within 300 feet of the property line of the residential or business property, a direct connection shall be made to said sanitary sewerage system, provided direct access is reasonably available via easement or other appropriate means.

On-site sewage systems installed with the approval of the Wells County Health Officer after December 21, 1990 which are not in failure are not required to make a direct connection to said sanitary sewerage system. Direct connections shall be completed by the owner and/or the occupant of the premises or their agents within 90 days after receipt of written notice ordering such action.

(I) Notwithstanding any other provisions of this chapter, the Wells County Health Officer may limit or prohibit the use of an on-site sewage system for residences or businesses in areas that are seasonably wet, pond water, or which periodically flood during any part of the year, or in areas where the size or topography of the site, or where information contained in an evaluation by a soil scientist indicates a reasonable likelihood that an on-site sewage system will not function properly and will dispose of sewage in an unsanitary manner in violation of the terms of this chapter.
(Ord. 2011-08, passed 7-18-2011)

§ 51.04 PERMITS, PERMIT FEES, INSPECTIONS, INSTALLERS REGISTRATION.

(A) Before the start of construction of any public, commercial or business building or private residence where an on-site sewage system or privy is to be installed or where any alterations, repairs, or additions to an existing on-site sewage system are planned, the owner shall first obtain a written permit signed by the Wells County Health Officer. A site evaluation application shall be completed and an evaluation and administration fee of \$25 shall be paid to the Wells County Health Department for deposit in the Wells County Health Fund prior to the evaluation. This fee is non-refundable. A complete application and the evaluation and administration fee are required for each site, area or location evaluated.

(B) The application for such permit shall be made on a form provided by the Wells County Health Officer. Said application shall be supplemented by all plans specifications and other information required by the Wells County Health Officer. The Wells County Health Officer shall examine said application, together with all information accompanying the same, and if determined, consistent with the provisions of this chapter, that such applications should be approved, the permit shall be issued. A permit and inspection fee of \$75 shall be paid to the Wells County Health Department for deposit in the Wells County Health Fund at the time the permit is obtained. Otherwise, the Wells County Health Officer shall deny such application and shall notify the applicant in writing of the reason or reasons for such denial. In any case, an application shall be denied if the information submitted therewith is incomplete or inaccurate. The permit, if issued, shall be posted prior to the start of construction in a conspicuous place at or near the building where the on-site sewage system is to be installed. The permit shall be plainly visible from the public thoroughfare serving the building.

(C) If the on-site sewage system for which the permit was issued has not been constructed, installed, altered, or repaired within two years from the date of issuance, the permit shall automatically expire and become void.

(D) A permit for the construction, installation, alteration or repair of an on-site sewage system or privy shall not constitute final approval of such system until the same is completed to the satisfaction of the Wells County Health Officer. The Wells County Health Officer shall be permitted to inspect the work at any stage of construction; and, in any event, the owner shall notify the Wells County Health Officer before beginning the construction of any component of the on-site sewage system, before any components of the on-site sewage system are covered, and when the work is ready for final inspection. The final inspection shall be made within the shortest reasonable time, but not to exceed two working days after receipt of notice by the Wells County Health Officer excluding weekends, legal holidays, and days when the weather is unfit to make an inspection as reasonably determined by the Wells County Health Officer.

(E) The Wells County Health Officer shall maintain a register of all approved on-site sewage system installers within Wells County, State of Indiana.

(F) Installers engaged in or intending to engage in the installation, construction or repair of on-site sewage systems or equipment shall make application to the Wells County Health Officer to have their names placed on the list of registered septic installers and pass a proficiency examination by a score of 75% or higher. The application form shall contain the name and address of the firm or place of business such installer is associated with, and such other information as the Wells County Health Officer may reasonably require to aid in the administration and enforcement of these regulations, or to help determine whether there is any reason the application should not be approved. Opportunity for re-examination shall be afforded to an applicant upon request, but not more than once every five consecutive business days until a passing score is obtained.

(G) Installer making application to have their name placed on the list of registered septic installers shall submit with, such application a fee of \$75 per calendar year. Only one application need be submitted pursuant to divisions (E) and (F) of this section, if such person is a firm, partnership, association, corporation, or other legal entity.

(H) The Wells County Health Officer may remove the name of any installer from the list of registered septic installers who have demonstrated inability or unwillingness to comply with these regulations. Such installer may have their name reinstated on the register by the Wells County Board of Health after satisfactory demonstration of ability or willingness to comply with these regulations.

(I) All fees collected under the terms of this chapter shall be deposited into the Wells County Health Fund for services rendered in enforcing this chapter.
(Ord. 2011-08, passed 7-18-2011)

§ 51.05 POWER FOR INSPECTION.

(A) The Wells County Health Officer, bearing proper credentials and identification, shall be permitted to enter upon all properties subject to the provisions of this chapter at reasonable times for purposes of inspections, observations, measurements, sampling and testing necessary to carry out the provisions of this chapter.

(B) The Wells County Health Officer may issue an immediate stop work order of work completed, in process or planned, which is in violation of any provisions of this chapter. Thereafter, all work at the worksite shall be suspended immediately. Such stop work order shall be posted at the construction site and confirmed by written notice to the owner or occupant of the premises and any person engaged in the performance of said work or any person causing said work to be performed.
(Ord. 2011-08, passed 7-18-2011)

§ 51.06 NOTICES.

Any person in violation of any of the provisions of this chapter shall be served a written notice by the Wells County Health Officer stating the nature of the violation and providing a time limit for satisfactory correction thereof.
(Ord. 2011-08, passed 7-18-2011)

§ 51.07 APPEALS.

(A) Appeals may be taken from any of the following decisions made or action taken by the Wells County Health Officer:

(1) Denial of an application for a permit to construct, install, alter or repair an on-site sewage system or privy;

(2) Failure to approve an application to have name placed on registered septic installers;

(3) Removal of name from registered septic installers;

(4) A determination that work completed, in process or planned is in violation of any of the provisions of this chapter, or that any other violation of the provisions of this chapter exists.

(5) Order to make direct connection with a sanitary sewerage system and to abandon an on-site sewage system or privy under § 51.03(H) of this chapter.

(B) An appeal may be filed with the Wells County Board of Health by any person aggrieved or affected by any decision of the Wells County Health Officer as set forth in § 51.07(A). Such appeal shall be submitted in writing at the office of the Wells County Board of Health within ten days after the applicable decision of the Wells County Health Officer (unless the appellant obtains an extension of time in writing from the Wells County Board of Health); said appeal shall specify the adverse decision being appealed and the grounds for the appeal. The Wells County Health Officer shall forthwith transmit to the Wells County Board of Health all of the papers in the Wells County Health Officer's possession constituting the record of the case. The Wells County Board of Health, upon receipt of such notice and record, shall immediately select a reasonable time and place for the hearing of the appeal and shall give notice in writing to the appellant of the time and place thereof. The hearing on the appeal may be continued from time-to-time. Following the conclusion of the hearing, the Board shall render a decision within 20 days thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

(C) The Wells County Board of Health shall hear and decide the appeal and may overrule or modify the decision or determination of the Wells County Health Officer if the Board determines that the Wells County Health Officer incorrectly decided the matter. The Wells County Board of Health shall overrule or modify the decision of the Wells County Health Officer only if the appellant shows by clear and convincing evidence that:

- (1) Strict compliance with the provisions of the chapter will impose upon such person unusual difficulties and/or particular hardship; and
- (2) That overruling or modifying the decision of the Wells County Health Officer:
 - (a) Will constitute substantial justice;
 - (b) Is in harmony with the general purpose, intent and spirit of this chapter;
 - (c) Will not serve merely as a convenience to appellant;
 - (d) Will alleviate a demonstrable hardship; and
 - (e) Surrounding property and the public in general will not be harmed thereby.

(D) A quorum of the Wells County Board of Health shall be required to hear an appeal under this chapter and a concurring vote of a majority of the members present at the hearing shall be necessary to reverse or modify any determination or decision of the Wells County Health Officer.
(Ord. 2011-08, passed 7-18-2011)

§ 51.99 PENALTY.

(A) Any person, firm, corporation, partnership or any other legal entity that shall violate any provision of this chapter shall be guilty of an infraction. The violator may be punished by a fine of not more than \$2,500 per offense for each day the violation continues and each day shall constitute a distinct and separate offense.

(B) The Wells County Board of Health shall also be entitled to seek any other legal remedy available, including injunctive relief, against any of the above who shall violate any provision of this chapter.

(C) The Wells County Board of Health shall be entitled to recover all legal fees and expenses incurred by reason of violation of this chapter.

(D) Enforcement of violations of this chapter may be filed in either the Wells Superior Court or the Wells Circuit Court and either the Wells County Prosecuting Attorney or the Wells County Attorney shall be allowed to enforce this chapter.

(Ord. 2011-08, passed 7-18-2011)

CHAPTER 52: STORMWATER

Section

52.01 Monitoring of stormwater runoff

§ 52.01 MONITORING OF STORMWATER RUNOFF.

It is the policy of the Board of Commissioners of the county, that the Area Plan Commission of this county monitor through its ordinances and policies, stormwater runoff throughout the county.
(Res. 2000-5, passed 7-17-2000)

