

**WELLS COUNTY SEWAGE ORDINANCE  
NO. 2011-08**

**ORDINANCE REGULATING THE INSTALLATION, CONSTRUCTION,  
MAINTENANCE, OPERATION AND REPAIR OF RESIDENTIAL AND  
COMMERCIAL ON-SITE SEWAGE SYSTEMS IN WELLS COUNTY,  
INDIANA, AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.**

**WELLS COUNTY SEWAGE ORDINANCE NO. 2011-08 HEREBY REPEALS  
WELLS COUNTY SEWAGE ORDINANCE 1995-16**

Be it ordained and enacted by the Board of Commissioners of Wells County, State of Indiana as follows:

**ARTICLE I**

**ADMINISTRATION**

**SECTION 101:** The regulations and requirements of Indiana State Department of Health Rule 410 IAC 6-8.2 “Residential On-Site Sewage Systems” are hereby incorporated by reference in this Ordinance 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 IAC regulations and requirements are available and are on file in the office of the Wells County Health Department.

**SECTION 102:** The regulations and requirements of Indiana State Department of Health Rule 410 IAC 6-10 “Commercial On-site Wastewater Disposal” are hereby incorporated by reference in this Ordinance 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 IAC regulations and requirements are available and are on file in the office of the Wells County Health Department.

**SECTION 103:** All other regulations and requirements duly promulgated by the Indiana State Department of Health as found in Title 410 IAC and various bulletins relative to the subject matter of this Ordinance 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.

## ARTICLE II

### DEFINITIONS

In addition to, or to otherwise supplement those definitions contained in Rule 410 IAC 6-8.2, Rule 410 IAC 6-10, Bulletin S.E. 11 and Bulletin S.E. 13, which are herein incorporated by reference, this Ordinance shall include the following additional definitions:

**SECTION 201:** “Board of Health” shall mean the Board of Health having jurisdiction in Wells County, State of Indiana.

**SECTION 202:** “Building” shall mean 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.

**SECTION 203:** “Health Officer” shall mean the Health Officer having jurisdiction in Wells County, State of Indiana, or the Health Officer’s designated agent.

**SECTION 204:** “Installer” shall mean any person engaged in or intending to engage in the installation, construction and repair of on-site sewage systems or equipment in Wells County.

**SECTION 205:** “On-Site Sewage System” shall mean 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.

**SECTION 206:** “Owner” shall mean the owner of a dwelling or building or the agent of the owner.

**SECTION 207:** “Privy” shall mean a fly tight and rodent proof structure designed for the disposal of human waste erected on or over a properly constructed sanitary vault.

**SECTION 208:** “Quorum” shall mean a majority of the Wells County Board of Health, or at least four of the seven members.

**SECTION 209:** “Soil Survey” shall mean 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.

**SECTION 210:** “Subdivision” shall mean divisions of any parcel of land shown as a unit or as contiguous units created for dwelling or building sites.

## ARTICLE III

### RESIDENTIAL AND COMMERCIAL ON-SITE SEWAGE SYSTEM REQUIREMENTS

**SECTION 301:** 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 Ordinance for on-site sewage systems.

**SECTION 302:** 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.

**SECTION 303:** 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 IAC 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.

**SECTION 304:** 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.

**SECTION 305:** 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 IAC 6-8.2, Rule 410 IAC 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.

**SECTION 306:** The installation of any other on-site sewage systems not described in Rule 410 IAC 6-8.2, Rule 410 IAC 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.

**SECTION 307:** 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 Section 302, Section 303, Section 304, Section 305 or Section 306, 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.

**SECTION 308:** 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 ninety (90) days after receipt of written notice ordering such action.

**SECTION 309:** Notwithstanding any other provisions of this Ordinance, 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 Ordinance.

## **ARTICLE IV**

### **PERMITS, PERMIT FEES, INSPECTIONS, INSTALLERS REGISTRATION**

**SECTION 401:** 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 twenty-five (\$25.00) dollars 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.

**SECTION 402:** 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 Ordinance, that such applications should be approved, the permit shall be issued. A permit and inspection fee of seventy-five (\$75.00) dollars 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.

**SECTION 403:** 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.

**SECTION 404:** 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 (2) 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.

**SECTION 405:** The Wells County Health Officer shall maintain a register of all approved on-site sewage system installers within Wells County, State of Indiana.

**SECTION 406:** 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 seventy (75) percent 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 (5) consecutive business days until a passing score is obtained.

**SECTION 407:** Installer making application to have their name placed on the list of "Registered Septic Installers" shall submit with such application a fee of seventy-five (\$75.00) dollars per calendar year. Only one application need be submitted pursuant to Sections 405 and 406 of this Ordinance, if such person is a firm, partnership, association, corporation, or other legal entity.

**SECTION 408:** 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 said Register by the Wells County Board of Health after satisfactory demonstration of ability or willingness to comply with these regulations.

**SECTION 409:** All fees collected under the terms of this Ordinance shall be deposited into the Wells County Health Fund for services rendered in enforcing this Ordinance.

## ARTICLE V

### POWER FOR INSPECTION

**SECTION 501:** The Wells County Health Officer, bearing proper credentials and identification, shall be permitted to enter upon all properties subject to the provisions of this Ordinance at reasonable times for purposes of inspections, observations, measurements, sampling and testing necessary to carry out the provisions of this Ordinance.

**SECTION 502:** 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 Ordinance. 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.

## ARTICLE VI

### NOTICES

**SECTION 601:** Any person in violation of any of the provisions of this Ordinance 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.

## ARTICLE VII

### APPEALS

**SECTION 701:** Appeals may be taken from any of the following decisions made or action taken by the Wells County Health Officer:

- a) Denial of an application for a permit to construct, install, alter or repair an on-site sewage system or privy;
- b) Failure to approve an application to have name placed on "Registered Septic Installers";
- c) Removal of name from "Registered Septic Installers";
- d) A determination that work completed, in process or planned is in violation of any of the provisions of this Ordinance, or that any other violation of the provisions of this Ordinance exists.
- e) Order to make direct connection with a sanitary sewerage system and to abandon an on-site sewage system or privy under Section 308 of this Ordinance.

**SECTION 702:** 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 Section 701. Such appeal shall be submitted in writing at the office of the Wells County Board of Health within ten (10) 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 said 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 twenty (20) days thereafter. Any person may appear and testify at such hearing, either in person or by counsel.

**SECTION 703:** 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:

- a) strict compliance with the provisions of the Ordinance will impose upon such person unusual difficulties and/or particular hardship; AND
- b) That overruling or modifying the decision of the Wells County Health Officer:
  - i. will constitute substantial justice,
  - ii. is in harmony with the general purpose, intent and spirit of this Ordinance,
  - iii. will not serve merely as a convenience to appellant,
  - iv. will alleviate a demonstrable hardship, and
  - v. surrounding property and the public in general will not be harmed thereby.

**SECTION 704:** A quorum of the Wells County Board of Health shall be required to hear an appeal under this Ordinance 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.

## **ARTICLE VIII**

### **PENALTIES**

**SECTION 801:** Any person, firm, corporation, partnership or any other legal entity that shall violate any provision of this Ordinance shall be guilty of an infraction. The violator may be punished by a fine of not more than two thousand five hundred dollars (\$2,500) per offense for each day the violation continues and each day shall constitute a distinct and separate offense.

**SECTION 802:** 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 Ordinance.

**SECTION 803:** The Wells County Board of Health shall be entitled to recover all legal fees and expenses incurred by reason of violation of this Ordinance.

**SECTION 804:** Enforcement of violations of this Ordinance 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 Ordinance.

## ARTICLE IX

### ORDINANCE IN FORCE

**SECTION 901:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

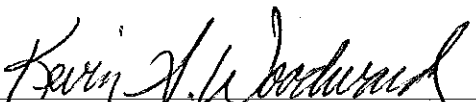
**SECTION 902:** The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance.

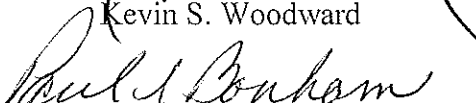
**SECTION 903:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Passed and adopted by the Commissioners of Wells County, State of Indiana, on this

18th day of July, 2011.

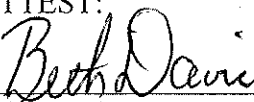
### WELLS COUNTY COMMISSIONERS

  
\_\_\_\_\_  
Kevin S. Woodward

  
\_\_\_\_\_  
Paul I. Bonham

  
\_\_\_\_\_  
C. Scott Mossburg

ATTEST:

  
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Beth Davis  
Wells County Auditor