

ORDINANCE NUMBER 08-09-02-001 Well

**AN ORDINANCE ESTABLISHING RULES AND
REGULATIONS FOR PRIVATE WATER WELLS
IN KOSCIUSKO COUNTY, INDIANA**

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WHEREAS, in order to protect the health and welfare of the citizens of Kosciusko County, the Kosciusko County Board of Health has found it necessary to enact an Ordinance establishing specific rules and regulations for private water wells in Kosciusko County, Indiana, and

WHEREAS, pursuant to 16-20-1-19 the Kosciusko County Board of Health is authorized to enforce the health laws, ordinances, orders, rules, and regulations of their own and superior boards of health;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Kosciusko County, Indiana, that the Private Water Well Ordinance for the County of Kosciusko shall read as follows:

ARTICLE I

Definitions

Section 1. The following terms and phrases shall be defined as following for the purposes of this Ordinance:

"Person" means an individual, firm, corporation, partnership, or association

"Private Water Wells" means any water well, including those serving geothermal heat pump systems, constructed to provide water to one and/or two family dwellings totally or in part.

Among those wells specifically excluded from this definition are those which do not provide water to one or two family dwellings and which serve commercial, public, or agricultural needs.

Also excluded from this definition are all wells constructed, installed, maintained, operated and owned by a municipality or a taxing district established for the purpose of providing water.

"Annular Space" means the space between the exterior of the well casing and the natural formation in a drilled well.

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Kosciusko County Recorder IN
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"Aquifer" means any underground geologic formation (consolidated or unconsolidated) that has the ability to receive, store, and transmit water in amounts sufficient for the satisfaction of any beneficial use.

"Casing" means a pipe installed to prevent unwanted solids, liquids, or gases from entering the interior of a well.

"County" means those unincorporated areas which are under the jurisdiction of the Kosciusko County Health Officer and not incorporated cities or towns, except as provided for under authority of Indiana Code 16-20.

"Health Officer" means the Kosciusko County Health Officer or a duly authorized representative.

ARTICLE II

Private Water Wells

Section 1. No person shall place, install, or permit the installation of a private water well in an unsanitary or unsafe manner within the county. No well driller shall construct a private water well within the County until the location and/or area of such water well is approved by the Kosciusko County Health Department.

Section 2. No private water well shall be installed which does not conform to any ruling of the Health Officer issued under this ordinance.

Section 3. If any defect exists or occurs in any private water well which could cause that private water well to contaminate an existing aquifer or the groundwater, the owner or occupant shall correct the violation immediately.

Section 4. If the owner or occupant of any property, or his or her agent, receives a written order from the Kosciusko County Board of Health or Health Officer, he or she shall comply with the provisions of the order and perform all acts required by the order within the time limit set forth in that order. The order shall be served on the owner or occupant of the property or his or her agent, but may be served on any person who, by

contract with the owner, has assumed the duty of complying with the provisions of this Ordinance and any order issued under this Ordinance.

ARTICLE III
Permits and Inspections

Section I. Private water wells shall be located in accordance with the distances shown in Table I below:

Table I

Minimum Horizontal Separation Distances from private water wells:

Lake, pond, river, stream or open public ditches	25 feet
Dwelling or other structures	5 feet
* Agriculturally Productive Ground	50 feet
Side, rear or front property lines	5 feet
Septic tanks	50 feet
Sewage Absorption Systems (in soils where aquifers are in danger of contamination)	75 feet
Sewage Absorption Systems (in soils where aquifers are not in danger of contamination)	50 feet
Underground Storage Tanks for fuel or chemicals	50 feet
Permanently fixed above ground storage tanks for fuels or chemicals (300 gallons or more)	25 feet
Earthen Agricultural Waste Pits	200 feet
Concrete Agricultural Waste Pits	50 feet
Sanitary Sewage Lagoons	300 feet
Landfills (presently or previously licensed or permitted by the State of Indiana)	600 feet

* Owner(s) of an agriculturally productive property may wave the 50 foot setback. Waving this setback must be in writing and recorded on the deeds of the agriculturally productive property as well as the property where the well is to be placed.

Section 2. Private water well casings shall be a minimum of two (2) inches in diameter.

Section 3. Private water wells shall not be placed in below grade well pits.

Section 4. The cap of the private water well shall be visible and securely attached. Minimum well depth shall be forty-five (45) feet or more if necessary to enter a satisfactory aquifer. Single suction lines must be fifty (50) feet from septic tanks and sewage absorption systems.

Section 5. No annular space may exist. Materials and design for sealing must conform to the standards of the Indiana Department of Natural Resources.

Section 6. Pitless adaptors shall be required on each new private water well as in accordance with the requirements of the Indiana Department of Natural Resources.

Section 7. All new water wells shall be properly disinfected at the time of installation.

Section 8. The owner of any building or private residence where a private water well is to be installed, or the replacement of an existing water well is planned, shall obtain a written permit signed by the Kosciusko County Health Officer before any construction begins. The owner shall apply for a permit on a form provided by the county. The applicant shall supplement the application with plans, specifications and other information deemed necessary by the Kosciusko County Health Officer. The applicant shall pay a permit and inspection fee of Ten Dollars (\$10.00), as established under Indiana Code 16-20-5-6, to the Kosciusko County Health Department at the time the application is filed. The fee shall be accounted for and paid into the County Health Fund. The installation or repair of well lines, screens, pump, pressure tanks, etc. are exempted unless a new well is also installed.

Section 9. No permit for a private water well shall become effective until the installation is completed to the satisfaction of the Kosciusko County Health Officer. The officer shall be allowed to inspect the work at any stage of construction. The applicant for the permit shall notify the Kosciusko County Health Officer when the work is ready for final inspection. The Kosciusko County Health Officer shall make the inspection within two (2) working days of the receipt of notice from the applicant.

Section 10. A copy of any well log, as required by the Indiana Department of Natural Resources for licensed well drillers, shall be submitted to the Kosciusko County Board of Health within forty-five (45) days from the date that the private water well was installed.

Section 11. The Kosciusko County health Officer shall, upon the request of the applicant, sample and test the new private water well for total coliform, nitrate/nitrogen, and any other substances as deemed necessary by the Kosciusko County Health Officer initially free of charge. The applicant may employ private water laboratory personnel to conduct the required test under the direction of the Kosciusko County Health Officer. The Kosciusko County Health Officer may, in any event, conduct tests deemed necessary by the Kosciusko County Health Officer. All final sample results must be within acceptable primary standards as established by the United States Environmental Protection Agency for public drinking water sources. If necessary, additional water testing shall be the responsibility of the individual property owner.

Section 12. All water tests shall be run according to most recent Standard Methods for the Examination of Water and Wastewater. These test results will be provided in writing to the Kosciusko County Health Department within forty- five (45) days from the date of well completion. The failure of a private water well to meet any of these primary water quality standards will constitute ground for rejection of the private water well by the Kosciusko County Health Officer.

Section 13. The applicant will post the permit in a conspicuous place at or near the building where the private water well is under construction. The notice shall be plainly visible from the public thoroughfare nearest this building.

Section 14. Where the installation of private water well is required for a dwelling constructed before the enactment of this Ordinance, the owner, or agent of the owner must first obtain a written permit signed by the Kosciusko County Health Officer. The provisions of this Ordinance relating to private water well design, installation and location shall not apply to existing dwellings. Such installations shall be made in accordance with the best judgment of the Kosciusko County Health Officer.

Section 15. Subdivisions designed to utilize private water wells, the plans for which were duly recorded in the Office of the Kosciusko County Recorder prior to

January 1, 1989 are exempt from the provisions of this Ordinance regarding location, and may be located in accordance with the best judgment of the Kosciusko County Health Officer.

Section 16. The private well permit is valid for a term of one (1) year from the date of issue, unless otherwise voided by the Kosciusko County Health Officer.

Section 17. In cases of extreme emergency and when the Kosciusko County Board of Health is not open for public business, a private water well may be installed without first obtaining a local permit provided that the property owner or his agent obtains a local private well permit within the next two (2) working days.

The private water well must meet all other requirements of this ordinance.

Section 18. In cases where agriculturally productive ground is involved, placement of a well may have to be "best possible" and / or least likely to create a problem. Such installations shall be made in accordance with the best judgment of the Kosciusko County Health Officer.

ARTICLE IV

Powers for Inspection

Section 1. The Kosciusko County Health Officer will be permitted to enter upon all properties at any reasonable and proper time to inspect, observe, measure, sample and test to carry out the provisions of this Ordinance. The Kosciusko County Health Officer shall, upon request, produce and display proper credentials and identification.

ARTICLE V

Notices

Section 1. The Kosciusko County Health Officer will serve any person found to be violating any provision of this Ordinance with a written order stating the nature of the violation and providing a time limit for its satisfactory correction.

ARTICLE VI

Penalties

Section 1. Any person who violates any provision of this Ordinance will be deemed to have committed an ordinance violation and upon conviction shall be fined not more than Two Hundred Fifty Dollars (\$250.00) for the first violation and not more than Five Hundred Dollars (\$500.00) for the second and each subsequent violation. Each day a violation continues after the expiration of the time set forth in any order issued under this Ordinance for abating unsafe conditions and completing improvements as ordered by the Kosciusko County Health Officer constitutes a separate violation.

Any person violating any provision of this Ordinance will be liable to the County for any expense, including attorney fees, loss or damage suffered by the County due to that violation.

Nothing in this Ordinance shall be deemed or construed to bar, abridge or limit in any way any existing legal or equitable remedies for the abatement of a private or public nuisance.

ARTICLE VII

Disclaimer

Section 1. Because of many interrelating factors contributing to the failure of a private water well, acceptance of a private water well does not imply approval, and it cannot be considered as a guarantee by the Board of Health of successful potability or operation. The Kosciusko County Health Officer's signature merely signifies that, as of the date of signing, the private water well meets the Kosciusko County Board of Health's minimum standards. The Kosciusko County Health Officer's signature makes no other representations.

ARTICLE VIII

Appeals

Section 1. Any directive issued by the Kosciusko County Health Officer which either denies or revokes the issuance of a private water well permit or which rejects the final approval of a permitted well shall be in writing and certified by the Kosciusko County Health Officer. A person who receives such a directive may, within ten (10) days after its receipt, appeal the directive to the Kosciusko County Board of Health. If the

decision of the Kosciusko County Board of Health is adverse to the property owner or his agent, he or she may appeal that decision to the County Circuit or Superior Court as provided by law in other civil actions.

ARTICLE IX

Severability

Section 1. If any section, paragraph, sentence, clause, phrase or word of this Ordinance, or any other part thereof be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby and shall remain in full force and effect.

This Ordinance shall become effective as of the 2nd day of September, 2008.

Adopted by the Board of Commissioners of Kosciusko County on this 2nd day of September, 2008.

BOARD OF COMMISSIONERS OF KOSCIUSKO COUNTY

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.

Reg Shewman

Brad Jackson
Ronald Truex
Ron Truex
Robert M. Conley
Robert Conley

Attest:

Marsha McSherry
Marsha McSherry, Auditor