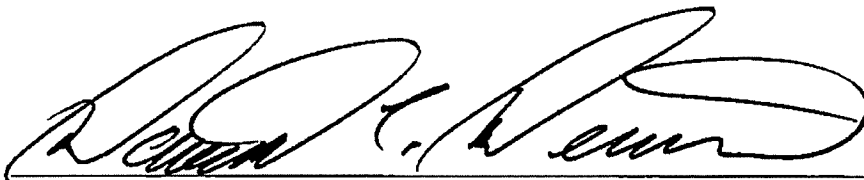


The enclosed Sedgwick County Sanitary Code has been officially adopted by the Sedgwick County Board of Commissioners.

A handwritten signature in black ink, appearing to read "Robert C. New", written over a horizontal line.

Signature

Chairman, Board of County Commissioners

June 7, 2022

Date

Return to:

KDHE-Watershed Management Section
1000 SW Jackson, Suite 430
Topeka, KS 66612-1367

RESOLUTION NO. 092-2022

Published on: May 25, 2022

Effective Upon Publication

**A RESOLUTION AMENDING CHAPTER 14, ARTICLE V OF THE
SEDGWICK COUNTY CODE, ENTITLED THE SANITARY CODE.**

WHEREAS, the Board of County Commissioners is authorized by K.S.A. 19-3701, *et seq.* and K.S.A. 19-101, *et seq.* to officially adopt sanitary codes pursuant to statutory requirements; and

WHEREAS, Chapter 14, Article V of the Sedgwick County Code is the Sanitary Code for Sedgwick County and was adopted by the Board of County Commissioners with Resolution No. 102-2007 on April 18, 2007; and

WHEREAS, the Sanitary Code is a “sanitary code” as defined by K.S.A. 19-3701 and the Sanitary Code has not previously been approved by the Kansas Department of Health and Environment (“KDHE”); and

WHEREAS, the Board of County Commissioners believes that the amendments to its Sanitary Code and formal approval of amendments to such code by the KDHE are necessary for the protection of the health and welfare of the public; and

WHEREAS, the Board of County Commissioners deems the Sanitary Code necessary for the control of environments and environmental conditions that may adversely affect the health and well-being of the public, as well as for the promotion of public health and comfort; and

WHEREAS, the Board of County Commissioners has designated the Metropolitan Area Building and Construction Department (“MABCD”) as the county agency with authority and responsibility for administering the Sanitary Code; and

WHEREAS, the MABCD shall maintain a copy of the Sanitary Code available for public inspection; and

WHEREAS, on October 6, 2021, the Board of County Commissioners approved the submission of proposed amendments to the Sanitary Code to the KDHE; and

WHEREAS, on January 31, 2022, pursuant to K.S.A. 19-3704, the KDHE approved the proposed amendments to the Sanitary Code; and

WHEREAS, the proposed amendments the KDHE approved on January 31, 2022 are the same amendments proposed within this resolution; and

WHEREAS, consistent with the requirements of K.S.A. 19-3704, notice of the public hearing was published and a public hearing was held by the Board of County Commissioners on May 18, 2022.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS CHAPTER 14, ARTICLE V OF THE SEDGWICK COUNTY CODE, ENTITLED THE SANITARY CODE TO READ AS DESCRIBED HEREIN:

SECTION 1. Updated Sanitary Code Attached.

Attached and incorporated into this resolution as the new Sanitary Code in Sedgwick County, Kansas is the document entitled "Sedgwick County, Kansas Code, Chapter 14 – Health and Human Services, Article V. Sanitary Code." Such document has been reviewed and approved by the KDHE, and shall repeal and replace Chapter 14, Article V of the Sedgwick County Code.

SECTION 2. Publication and Effective Date.

Upon adoption of this resolution, the Sedgwick County Clerk shall publish this resolution once in the official county newspaper. This resolution shall become effective upon publication.

Commissioners present and voting were:

PETER F. MEITZNER	<u>Aye</u>
SARAH LOPEZ	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>
LACEY D. CRUSE	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>

Dated this 18th day of May, 2022.

ATTEST:

Kelly B. Arnold
KELLY B. ARNOLD



BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

David T. Dennis
DAVID T. DENNIS, Chairman
Commissioner, Third District

Sarah Lopez
SARAH LOPEZ, Chair Pro Tem
Commissioner, Second District

Peter F. Meitzner
PETER F. MEITZNER
Commissioner, First District

Lacey D. Cruse
LACEY D. CRUSE
Commissioner, Fourth District

James M. Howell
JAMES M. HOWELL
Commissioner, Fifth District

APPROVED AS TO FORM:

Justin M. Waggoner
JUSTIN M. WAGGONER
Assistant County Counselor

ARTICLE V. SANITARY CODE¹

DIVISION 1. GENERALLY

Sec. 14-136. Applicability of the sanitary code.

This sanitary code shall not apply to: (1) Incorporated cities; or (2) Any premises under one (1) ownership, which exceeds six hundred forty (640) acres in area and which is used only for agricultural purposes.

(Res. No. 102-2007, § I(A), 4-18-07)

Sec. 14-137. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Agricultural purposes* means a purpose related to the production of livestock or crops.
- (2) *Community sewer system* means a sewage treatment system designed to serve a limited number of properties in a limited geographic area; including but not limited to two (2) or more lots within a single plat or adjoining properties. Often referred to as cluster systems or decentralized systems.
- (3) *Director of MABCD* means the director of the Metropolitan Area Building and Construction Department ("MABCD") or his or her authorized representative.
- (4) *Domestic wastewater* means all waterborne wastes produced in connection with ordinary living including kitchen, toilet, laundry, shower, and bathtub wastewater. Surface water runoff from roof, paved areas, or other areas; subsurface drainage from springs, foundation drains and sump pumps; cooling water; industrial or commercial wastewater from shops, manufacturing, car washes, etc. is not domestic wastewater and these types of wastewater shall not be mixed with domestic wastewater.
5. *Lateral field* means a system of perforated or open joint sewer pipe positioned underground within crushed rock beds or trenches, chambers, gravelless pipe or other approved material to effect transfer of septic tank effluent to soil for final treatment and dispersal.
6. *New construction* means initial construction or enlargement of the onsite wastewater treatment system, modification of the method or extent of sewage treatment, or replacement of a significant portion of the existing onsite wastewater treatment system.

¹Editor's note(s)—Section II of Res. No. 102-2007, adopted Apr. 18, 2007, repealed Res. No. 146-2002, adopted Oct. 16, 2002, from which §§ 14-136—14-182 derived. Section I of said resolution enacted new provisions to read as herein set out.

Cross reference(s)—Plumbing code, § 6-251 et seq.; sewers and sewage disposal, Ch. 23; solid waste, Ch. 24; sewer districts, § 25-101 et seq.; water districts, § 25-126 et seq.

State law reference(s)—Local sanitary codes, K.S.A. 19-3701 et seq.

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7. *Onsite wastewater treatment system* means the arrangement of devices, structures and mechanisms to treat and modify wastewater from a structure, in locations where a public sewerage system is not available, in such a fashion as to prevent sewage from being a public health hazard, a detriment to environmental or natural resources, or a water pollutant.
- a. *Alternative onsite wastewater treatment system* means any system that includes enhanced treatment of wastewater resulting in effluent quality going into the soil absorption field that is of higher quality than from a conventional septic tank. Includes all media filters, aerated tanks and mounds, followed by soil absorption, including drip irrigation.
- (8) *Onsite wastewater treatment system installer* means any person engaged in the business of installing, altering, repairing, or excavating for any portion or all of onsite wastewater treatment systems.
- (9) *Onsite wastewater treatment system installer's license* means the written license issued annually by the department of code enforcement authorizing a person to engage in the business of installing, altering, repairing, or excavating onsite wastewater systems.
- (10) *Owner* means any person who, alone or jointly or severally with others: (1) Has record legal title to any property or structure thereon with or without accompanying actual possession thereof; or (2) Has charge, care or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
- (11) *Premises* means a lot, plot or parcel of land, including structures located thereon.
- (12) *Property* means any real property within the county which is not a street or highway.
- (13) *Reconstruction/Rebuild* means building again after it has been damaged or destroyed; to restore to like new condition.
- (14) *Replace* means to put something new in place of.
- (15) *Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc.*
- "Seepage pits" and "cesspools" means an excavation (deeper than it is wide) which receives septic tank effluent and from which the effluent seeps into the surrounding soil through the bottom and openings in the side of the pit; emphasis is on disposal rather than treatment.
- A "drywell" is a seepage pit but the bottom of the drywell is above the water table, leaving it dry except when wastes are discharged into it.
- A "rathole" is a well or shaft drilled to some depth that is intended to receive untreated waste or effluent.
- "Abandoned mine shafts" are sometimes used to receive untreated wastewater or effluent.
- "Leach pit" or "soak pit" may be similar to a seepage pit or may be an open surface depression or excavation that receives wastes or effluent.
- *All the above, Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc. are prohibited by this code.*
- (16) *Septic tank* means a water-tight covered receptacle for the treatment of sewage, receives the discharge of sewage from a building, separates settleable and floating solids from the liquid, digests organic matter by anaerobic bacterial action, stores solids through, a period of detention, allows clarified liquids to discharge for additional treatment and final dispersal, and attenuates flows.

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- (17) *Sewage* means untreated wastes consisting of blackwater and graywater from toilets, baths, sinks, lavatories, laundries and other plumbing fixtures in places of human habitation, employment, or recreation.
 - (18) *Toilet, Pit* means a self-contained waterless toilet used for disposal of non-water-carried human waste; consists of a shelter built above a pit in the ground into which human waste falls.
 - (19) *Toilet, Vault* means a waterless toilet mounted on a vented watertight holding tank designed to store non water-carried human waste prior to offsite treatment.
 - (20) *Toilet, Waterless* means a toilet specifically designed to receive non-water-carried human waste; includes chemical, composting, incinerating and vault toilets.

C. *Duties and authority of the Metropolitan Area Building and Construction Department (MABCD)*

- (1) The MABCD is designated as the county agency responsible for promulgating and administering the sanitary code regulations concerning sewage and sewage disposal.

(Res. No. 102-2007, § I(B), 4-18-07)

Secs. 14-139—14-150. Reserved.

***DIVISION 2. ONSITE WASTEWATER TREATMENT SYSTEMS FOR SINGLE USE
PROPERTIES***

Sec. 14-151. Applicability.

- (1) This section pertains to onsite wastewater treatment systems including but not limited to the following types or classifications: septic tank-lateral field, lagoon and any other type of onsite wastewater systems approved by the director of the MABCD. A wastewater system serving more than one (1) lot will be regulated under the community sewer system portion of the Wichita-Sedgwick County Subdivision Regulations. Any surface discharging system must be permitted by the Kansas Department of Health and Environment, per K.S.A. 2001 Supp. 65-165 and K.A.R. 28-5-1 et seq.
- (2) *Toilet Vault* means privies, chemical toilets, incinerating toilets, composting toilets, or other approved technology that may be utilized for toilet waste collection. All other wastewater, (shower, sinks, washing machine, etc.) emanating from a structure will need to be directed to an approved wastewater system or an approved grey water system meeting the Kansas Department of Health and Environment, "Grey Water Specification".

(Res. No. 102-2007, § II(A), 4-18-07)

Sec. 14-152. Prohibited acts.

- (a) The following acts are prohibited:

- (1) New construction of any onsite wastewater system or any structure from which wastewater will be discharged other than to a public sewage system may not be started, until a construction permit has been issued by the director of the Sedgwick County MABCD for such onsite wastewater treatment system. Permit regulations may be found in a separate resolution governing issuance of construction and operating permits.

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- (2) No onsite wastewater system shall be constructed within four hundred (400) feet of an existing public sewer, unless the director of the Sedgwick County Department of Code Enforcement finds that connection to such a sewer system is not reasonable or feasible and that an onsite wastewater treatment system, meeting the requirements of this code, can be constructed on the property which will not adversely affect the natural resources and public health and safety.
- (3) No person shall use, or cause to be used, any private onsite wastewater treatment system which:
- Has a discharge to the ground surface unless such system is permitted by the Kansas Department of Health and Environment;
 - Has been enjoined as a public health nuisance by a court of competent jurisdiction;
 - Has received a written notice from the MABCD that said onsite wastewater treatment system fails to comply with the provisions of this code;
 - Discharges into a seepage pit, cesspool, well, mine shaft, or subsurface excavation;
 - Receives nondomestic wastewater;
 - Discharges wastewater to a vault or septic tank which is not a water-tight receptacle; or
 - Any other device or system not approved by the MABCD.
- (4) No portion of a private wastewater disposal system shall be constructed within the 100-year floodplain (as established by the Federal Emergency Management Agency) of any stream, river, or watercourse unless written approval is obtained from the MABCD. This does not preclude repair of existing systems, provided other requirements of this code are met.
- (5) Cesspools, seepage pits and other wastewater disposal methods not described as acceptable or by the references adopted by this code, are illegal and shall be removed from operation upon notification of the owner by registered mail. Any replacement of these systems shall be constructed in accordance with this code.
- (6) It shall be unlawful for any person, firm, corporation, or other entity to install, maintain, alter, repair or excavate an onsite wastewater system without a valid onsite wastewater treatment system installer's license issued by the director. On or after January 1, 2003, such license shall be issued only after the applicant has indicated a basic knowledge of the proper design and function of an onsite wastewater system and knowledge of the MABCD standards of construction by successful completion of a MABCD examination. Licensing requirements may be found in a separate resolution providing for the licensing and regulation of onsite wastewater installers. The MABCD may grant a waiver for an individual owner to repair or replace lateral lines upon obtaining a permit and meeting the requirements of this code.
- (b) Onsite wastewater treatment systems existing or under construction prior to the effective date of this code, are not subject to this code until such time as these systems are modified, enlarged or replaced; or when inspected by the director of the Sedgwick County MABCD and found to be causing a public health hazard, nuisance or water pollution of the waters of the state.

(Res. No. 102-2007, § II(B), 4-18-07)

Sec. 14-153. Enforcement.

- (a) *Issuance of uniform complaint and notice to appear.* Whenever the director or a code enforcement officer authorized under this code has probable cause to believe that a person, firm, or corporation is committing or has committed a violation of any provision of this code, the director or such code enforcement officer may serve upon such accused person a uniform complaint and notice to appear, or in the alternative, may sign a complaint against the accused person and cause a notice to appear to be issued according to the provisions

of K.S.A. 19-4701, et seq., the code for the enforcement of county codes and resolutions. Pursuant to K.S.A. 19-101d, prosecution for any such violation shall be conducted in the manner provided by law in the district court under the code for the enforcement of county codes and resolutions as provided by K.S.A. 19-4701, et seq. Writs or processes necessary for the prosecution of such violations shall be substantially in the form of writs and process as shown in K.S.A. 19-4738. The county shall provide all necessary supplies, forms and records at its own expense.

- (b) *Procedures.* Procedures for prosecution of violations of this code shall be pursuant to chapter 8 of the Sedgwick County Code.
- (c) *Classification of violations and schedule of fines.* An accused person who shall be convicted in the district court for violation of any provision of this code shall be deemed guilty of a violation thereof and in accordance with K.S.A. 19-4716, shall be subject to payment of a fine which shall be fixed by the court at a sum not to exceed five hundred dollars (\$500.00); provided further, the minimum fine for any violation of this code shall be assessed according to the classification of violations and schedules of fines in section 8-5 of the Sedgwick County Code and subject to the enhancements contained therein, and each and every violation of this code shall be a class G violation.
- (d) *Separate offense.* Each day that any violation of this code occurs after the passage of the reasonable time for performance of any act required by a notice of violation(s) or order(s) to comply has been served in accordance with the terms and provisions hereof shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person, firm or corporation is found guilty of a violation hereunder and it shall appear to the court that the violation complained of as prescribed in this code is continuing, then in addition to the penalty as set forth, the court may enter such order as it deems appropriate to cause the violation to be abated.

(Res. No. 102-2007, § II(C), 4-18-07)

RESOLUTION NO. 093-2022

Published on: May 25, 2022

Effective Upon Publication

**A RESOLUTION AMENDING CHAPTER 23, ARTICLE V OF THE
SEDGWICK COUNTY CODE, REGARDING THE INSTALLATION OF
ONSITE WASTEWATER TREATMENT SYSTEMS AND LICENSING
AND REGULATION OF ONSITE WASTEWATER TREATMENT
SYSTEM INSTALLERS**

WHEREAS, the Board of County Commissioners is authorized by K.S.A. 19-3701, *et seq.* and K.S.A. 19-101, *et seq.* to officially adopt sanitary codes pursuant to statutory requirements; and

WHEREAS, Chapter 23, Article V of the Sedgwick County Code is commonly referred to (and referred to within this resolution) as the “Wastewater Code” for Sedgwick County and was adopted by the Board of County Commissioners with Resolution No. 103-2007 on April 18, 2007; and

WHEREAS, the Wastewater Code is a “sanitary code” as defined by K.S.A. 19-3701 and the Wastewater Code has not previously been approved by the Kansas Department of Health and Environment (“KDHE”); and

WHEREAS, the Board of County Commissioners believes that the amendments to its Wastewater Code and formal approval of amendments to such code by the KDHE are necessary for the protection of the health and welfare of the public; and

WHEREAS, the Board of County Commissioners deems the Wastewater Code necessary for the control of environments and environmental conditions that may adversely affect the health and well-being of the public, as well as for the promotion of public health and comfort; and

WHEREAS, the Board of County Commissioners has designated the Metropolitan Area Building and Construction Department (“MABCD”) as the county agency with authority and responsibility for administering the Wastewater Code; and

WHEREAS, the MABCD shall maintain a copy of the Wastewater Code available for public inspection; and

WHEREAS, on October 6, 2021, the Board of County Commissioners approved the submission of proposed amendments to the Wastewater Code to the KDHE; and

WHEREAS, on January 31, 2022, pursuant to K.S.A. 19-3704, the KDHE approved the proposed amendments to the Wastewater Code; and

WHEREAS, the proposed amendments the KDHE approved on January 31, 2022 are the same amendments proposed within this resolution; and

WHEREAS, consistent with the requirements of K.S.A. 19-3704, notice of the public hearing was published and a public hearing was held by the Board of County Commissioners on May 18, 2022.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS CHAPTER 23, ARTICLE V OF THE SEDGWICK COUNTY CODE, A CODE REGARDING THE INSTALLATION OF ONSITE WASTEWATER TREATMENT SYSTEMS AND LICENSING OF REGULATION OF ONSITE WASTEWATER TREATMENT SYSTEM INSTALLERS TO READ AS DESCRIBED HEREIN:

SECTION 1. Updated Wastewater Code Attached.

Attached and incorporated into this resolution as the new Wastewater Code in Sedgwick County, Kansas is the document entitled "Sedgwick County, Kansas Code, Chapter 23 – Sewers and Sewage Disposal, Article V. Installation of Onsite Wastewater Treatment Systems and Licensing and Regulation of Onsite Wastewater Treatment System Installers." Such document has been reviewed and approved by the KDHE, and shall repeal and replace Chapter 23, Article V of the Sedgwick County Code.

SECTION 2. Publication and Effective Date.

Upon adoption of this resolution, the Sedgwick County Clerk shall publish this resolution once in the official county newspaper. This resolution shall become effective upon publication.

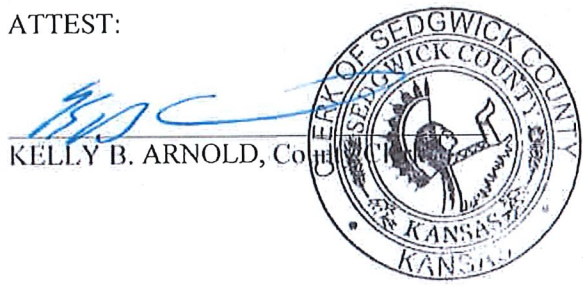
Commissioners present and voting were:

PETER F. MEITZNER	<u>Aye</u>	<u>Aye</u>
SARAH LOPEZ	<u>Aye</u>	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>	<u>Aye</u>
LACEY D. CRUSE	<u>Aye</u>	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>	<u>Aye</u>

Dated this 18th day of May, 2022.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:



[Signature]
 DAVID T. DENNIS, Chairman
 Commissioner, Third District

[Signature]
 SARAH LOPEZ, Chair Pro Tem
 Commissioner, Second District

[Signature]
 PETER F. MEITZNER
 Commissioner, First District

[Signature]
 LACEY D. CRUSE
 Commissioner, Fourth District

[Signature]
 JAMES M. HOWELL
 Commissioner, Fifth District

APPROVED AS TO FORM:

[Signature]
 JUSTIN M. WAGGONER
 Assistant County Counselor

**ARTICLE V. INSTALLATION OF ONSITE WASTEWATER TREATMENT SYSTEMS AND
LICENSING AND REGULATION OF ONSITE WASTEWATER TREATMENT SYSTEM
INSTALLERS¹**

Sec. 23-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Advisory board* means the Sedgwick County Board of Onsite Wastewater System Installers and Sewage Haulers.
- (b) *Agricultural purposes* means a purpose related to the production of livestock or crops.
- (c) *Alternative/Advanced onsite wastewater treatment system* means any system that includes enhanced treatment of wastewater resulting in effluent quality going into the soil absorption field that is of higher quality than effluent from a conventional septic tank. Includes but is not limited to all media filters, aerated tanks and mounds, followed by soil absorption, including drip irrigation, which meet the testing standards set by the director.
- (d) *Blackwater* means the portion of wastewater stream that originates from toilet fixtures, dishwashers, and food preparation sinks.
- (e) *Community sewer system* means a sewage treatment system designed to serve a limited number of properties in a limited geographic area, including but not limited to two (2) or more lots within a single plat or adjoining properties. Often referred to as cluster systems or decentralized systems.
- (f) *Conventional system* means a standard septic tank (one (1) or two (2) compartment) followed by soil absorption including at-grade and shallow in ground, chambers, rock and pipe, gravelless pipe, with or without effluent filter, gravity flow only, no pumps.
- (g) *Director* means the director of the Metropolitan Area Building and Construction Department (MABCD) or his or her authorized representative.
- (h) *Domestic wastewater* means all waterborne wastes produced in connection with ordinary living including kitchen, toilet, laundry, shower, and bathtub wastewater. Surface water runoff from roof, paved areas, or other areas; subsurface drainage from springs, foundation drains and sump pumps; cooling water; industrial or commercial wastewater from shops, manufacturing, car washes, etc. is not domestic wastewater and these types of wastewater shall not be mixed with domestic wastewater.
- (i) *Graywater* means water captured from nonfood preparation sinks, showers, baths, spa baths, clothes washing machines, and laundry sinks.

¹Editor's note(s)—Section 1 of Res. No. 103-2007, adopted Apr. 18, 2007, amended Ch. 23, Art. V in its entirety to read as herein set out. Former Art. V, consisted of §§ 23-126—23-129, pertained to similar subject matter and derived from Res. No. 150-2002, adopted Oct. 16, 2002; Res. No. 74-04, adopted May 12, 2004; and Res. No. 147-05, adopted Sept. 7, 2005.

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- (j) *Health department* means the Sedgwick County Department of Health.
- (k) *Health officer* means the local health officer or his or her authorized representative.
- (l) *Lagoon/wastewater stabilization lagoon* means a diked earthen excavation designed to retain wastewater in order that biological treatment may be accomplished.
- (m) *Lateral field* means a system of perforated or open joint sewer pipe positioned underground within crushed rock beds or trenches, chambers, gravelless pipe or other approved material to effect transfer of septic tank effluent to soil for final treatment and dispersal.
- (n) *Modified conventional system* means a standard septic tank (one (1) or two (2) compartment) followed by soil absorption, including at-grade and shallow in ground, chambers, rock and pipe, gravelless pipe, with or without effluent filter, with pumps, alarms, or other mechanical equipment, but no additional enhanced treatment, such as an aerated tank, media filter or sand filter.
- (o) *New construction* means initial construction or enlargement of the onsite wastewater treatment system, modification of the method or extent of sewage treatment, or replacement of a significant portion of the existing onsite wastewater treatment system.
- (p) *Onsite wastewater treatment system* means the arrangement of devices, structures and mechanisms to treat and modify wastewater from a structure, in locations where a public sewerage system is not available, in such a fashion as to prevent sewage from being a public health hazard, a detriment to environmental or natural resources, or a water pollutant. All onsite wastewater treatment systems, of any type whatsoever, shall be deemed to include the dispersal area or soil absorption field for purposes of installation and maintenance.
- (q) *Onsite wastewater treatment system installer* means any person engaged in the business of installing, altering, repairing, or excavating for any portion of an onsite wastewater treatment system.
- (r) *Onsite wastewater treatment system installer's license* means the written license issued annually by the director authorizing a person to engage in the business of installing, altering, repairing, or excavating onsite wastewater treatment systems.
- (s) *Onsite Wastewater System Service Provider, O & M* means a professional who performs operation and maintenance on a wastewater treatment system.
- (t) *Onsite Wastewater System Service Provider's License* means the written license issued annually by the director authorizing a person to engage in the business of providing service and repair of onsite wastewater treatment systems.
- (u) *Operation & Maintenance (O&M)* means all action taken to keep a wastewater system in a serviceable condition or to restore it to a serviceability. It includes things such as inspections, testing, servicing and repair or rebuilding.
- (v) *Owner* means any person who, alone or jointly or severally with others:
- (1) Has record legal title to any property or structure thereon with or without accompanying actual possession thereof; or
 - (2) Has charge, care or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
- (w) *Percolation rate* means the measured ability of the soil to transmit water downward by gravity.
- (x) *Premises* means a lot, plot or parcel of land, including structures located thereon.
- (y) *Property* means any real property within the county which is not a street or highway.

(z) *Reconstruction/Rebuild* means building again after it has been damaged or destroyed; to restore to a previous condition.

(aa) *Replace* means to put something new in place of.

(bb) *Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc.*

"Seepage pits" and "cesspools" means an excavation (deeper than it is wide) which receives septic tank effluent and from which the effluent seeps into the surrounding soil through the bottom and openings in the side of the pit; emphasis is on disposal rather than treatment.

A "drywell" is a seepage pit but the bottom of the drywell is above the water table, leaving it dry except when wastes are discharged into it.

A "rathole" is a well or shaft drilled to some depth that is intended to receive untreated waste or effluent.

"Abandoned mine shafts" are sometimes used to receive untreated wastewater or effluent.

"Leach pit" or "soak pit" may be similar to a seepage pit or may be an open surface depression or excavation that receives wastes or effluent.

**All the above, Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc. are prohibited by this code.*

(cc) *Septic tank* means a water-tight, covered receptacle for treatment of sewage; receives the discharge of sewage from a building, separates settleable and floating solids from the liquid, digests organic matter by anaerobic bacterial action, stores digested solids through a period of detention, allows clarified liquids to discharge for additional treatment and final dispersal, and attenuates flows.

(dd) *Septage* means liquid and residuals removed from a septic tank or other pretreatment device, portable toilet, type III marine sanitation device, or similar domestic wastewater treatment works that receives only domestic waste.

(ee) *Sewage* means untreated waste consisting of blackwater and graywater from toilets, baths, sinks, lavatories, laundries and other plumbing fixtures in places of human habitation, employment, or recreation.

(ff) *Soil profile* means an open pit, which exposes the soil to a specified depth for evaluation by a trained person. This evaluation includes examining the pit side walls, determining the soil texture, structure, color, consistence, measuring soil depth and looking for evidence of a high water table or other restrictions.

(Res. No. 103-2007, § 1, 4-18-07)

Sec. 23-127. Installation of onsite wastewater treatment systems.

(a) *Submission of plans; permit.*

(1) For each onsite wastewater treatment system, it is the responsibility of the licensed wastewater installer to obtain all required onsite wastewater treatment permits ("construction permits") before construction begins, and after construction to obtain an operating permit before the system is put into use. The administrative procedure for securing such construction and operating permits is as follows:

a. A licensed wastewater installer shall apply to the director on a Metropolitan Area Building and Construction Department (MABCD) application form for a permit to construct or modify an onsite wastewater treatment system ("construction permit"). The licensed wastewater installer shall submit a specific design proposal, which must include, but is not limited to, specific information

(Supp. No. 17)

to fully disclose the intended usage, site, type of onsite system to be installed, location and site characteristics, including the results of percolation tests and other soil and groundwater data as required by the director. Percolation tests, borehole testing or soil profiling shall be the responsibility of the installer and may be required to be certified by a qualified engineer or geologist as determined by the director. If the licensed wastewater installer intends to install an alternative treatment system, the system shall have been previously approved by the director per the requirements set forth below and the installer must meet the additional construction permit conditions set forth below for an alternative onsite wastewater treatment system. If the system design, the site and the intended usage are found acceptable, the director will issue the construction permit.

- b. In order to be classified as an alternative onsite wastewater treatment system, a system must achieve a twenty (20) mg/l or less CBOD₅ (carbonaceous biochemical oxygen demand), and twenty (20) mg/l or less TSS (total suspended solids). The manufacturer must provide a six-month compilation of actual test data for the system, with a 30-day average. Said testing must be conducted by an independent third party professional, who must attest to the results. In addition, the actual testing protocol must be provided to the director. After reviewing the data, the director will decide whether or not to allow installation of that type of system in Sedgwick County. Any system which claims fifty (50) percent or better nitrogen reduction must demonstrate same as part of the data requested above. If the director allows the installation of a particular type of system, prior to issuance of a construction permit the manufacturer or installer must provide a current best management practices manual, which shall contain details of any proprietary features as well as procedures for installation and maintenance of all system components, including but not limited to a checklist of maintenance items.
- c. After completion of construction to the point where an inspection is required, the installer shall notify the director and request an inspection. Within forty-eight (48) hours of the request, the director shall make an inspection of the system. A subsurface disposal system may not be covered prior to this inspection, and it shall be the responsibility of the installer to ensure that the system has been inspected prior to backfilling.
- d. If installation or workmanship of the system does not meet the requirements of the director, the director shall order corrections and cause a subsequent inspection to be made as set forth above.
- e. Any system installation which is completed without notification to or inspection by the director, shall be uncovered for inspection if so ordered by the director.
- f. If a licensed wastewater installer covers a system without notification to or inspection by the director, his license may be suspended or revoked by the director.
- g. When the system has been inspected by the director, he shall issue an operating permit to the owner of the structure or residence connected to the system. Every owner who has an alternative onsite wastewater treatment system installed will be required to file a restrictive covenant that provides for perpetual maintenance of the system. Such covenant shall be filed with the register of deeds and a copy provided to the director before any operating permits are issued. The form of the restrictive covenant must be in the format provided by the director.
- h. If an onsite system is not satisfactorily constructed or is not completed within one (1) year of the construction permit issuance date, the construction permit becomes void.
- i. A construction permit issued under this code is not transferable. A contractor or builder can unilaterally cancel a construction permit issued to a licensed wastewater installer, but only after written notice is provided to the licensed wastewater installer who applied for the permit. A copy of such written notice must also be provided to the director, and the original permit will not be cancelled and a new permit issued until seven (7) business days after the date on the notification

letter to the installer. At that point the original permit becomes void and fees shall not be refunded or transferred to a new permit.

- (2) Permit fees shall be nonrefundable. The permit fee must be paid at the time the construction permit application is filed. Such permits are not transferable.

(b) *Variances.*

- (1) The director may grant a variance of the standards subject to the following considerations:
- The features of the site for which the variance is requested are not compatible with the requirements.
 - Alternate methods or design features are available which will attain the objectives.
 - The director determines that the variance will not adversely affect natural resources and the public health and safety.
 - In the granting of any variance, the director may impose conditions regarding screening, location or other measures the director may deem appropriate under the circumstances.
 - Any party denied a variance by the director may appeal that determination to the Board of County Commissioners.
- (2) An application for a variance must be filed with and approved by the director prior to construction or modification of the onsite wastewater treatment system.

(c) *Site requirements.*

- (1) All new plats or property on which an onsite wastewater treatment system is to be constructed must provide a lot size with a minimum of forty-three thousand, five hundred sixty (43,560) square feet. This minimum size requirement is independent of all other area and separation requirements, which may necessitate a larger property. Any plat or property shall have preliminary soil profiling completed before platting in order to determine the type of wastewater system(s) options that are permissible and if there is sufficient area for the onsite wastewater system as well as an area for future replacement, ensuring adequate area exists for construction and maintenance and minimum setbacks are maintained.
- (2) If a lateral field is utilized, both the lateral field and an area of equal size to be reserved for future replacement must be suitable for the location of the lateral field, and must meet the following conditions:
- Soil percolation tests for a lateral field area shall indicate a soil porosity at saturation such that a one-inch absorption or greater occurs within five (5) to sixty (60) minutes.
 - The area must have four (4) feet or more of permeable soil average depth above any clay, shale or rock formation.
 - The area must have a groundwater elevation at least four (4) feet below the bottom of the wastewater system as indicated by a soil profile.
 - The area must not be subject to inundation by floodwaters as determined by a flood of record plus three (3) feet or the 100-year floodplain as determined by FEMA, whichever is lesser.
- (3) The onsite wastewater treatment system must have a minimum of fifty (50) feet horizontal separation from any domestic water supply well and one hundred (100) feet horizontal separation from any public water supply well.
- (4) Wastewater stabilization lagoons must have a minimum horizontal separation of fifty (50) feet from the designed operational water surface to other properties, allowing public rights-of-way to be

counted as part of the separation. A minimum of three (3) acres shall be provided for a single-family dwelling served by a wastewater stabilization pond. Lots less than 3 acres may apply for a variance to install a lagoon, however all setbacks must be met and additional requirements may apply pursuant to Section 23-127(b)(1)(d). Any platted lot that prohibits lagoon by covenant is not eligible for a variance.

- (5) Lateral fields must have a minimum horizontal separation of ten (10) feet from other properties when such property is served by a public water supply. The minimum horizontal separation shall be twenty-five (25) feet when such property is served by private water wells, allowing public rights-of-way to be counted as part of the separation.
 - (6) In areas of the county which have been determined to be sensitive groundwater areas pursuant to the data on file with the Metropolitan Area Building and Construction Department (MABCD) an onsite system must be installed which achieves fifty (50) percent or better nitrogen reduction. If it has not been previously provided as part of the approval as an alternative onsite wastewater treatment system, the manufacturer must provide a six-month compilation of actual test data for the system, with a 30-day average that demonstrates nitrogen reduction. Said testing must be conducted by an independent third party who must attest to the results. In addition, the actual testing protocol must be provided. After receipt and review of the data, it will be the decision of the Metropolitan Area Building and Construction Department (MABCD) whether or not the system meets the nitrogen reduction requirements in Sedgwick County.
- (d) *Testing of soil in proposed subdivisions.* Before a township, city, county, joint planning or zoning board or any other body authorized to review and recommend approval of plats of subdivisions of land in the unincorporated area can recommend approval of any plat, the suitability of the soil for private onsite wastewater treatment systems shall be determined by the director based on the results of soil borings, or soil profile analysis.
- (e) *Design standards.*
- (1) Design and construction requirements for onsite wastewater treatment systems shall be as set forth in the design and construction policies of the director, including, but not limited to, Bulletin 4-2 of the Division of Environment of the Kansas Department of Health and Environment and the Environmental Health Handbook.
 - (2) All onsite wastewater tanks shall be watertight and of durable construction sufficient to include support of conventional septic tank servicing vehicles. Structural integrity of septic tanks must meet the requirements of the Kansas Department of Health and Environment ("KDHE") Bulletin No. 4-2.
 - (3) Any onsite wastewater treatment system designed with a surface water overflow or discharge must meet all state and federal requirements and effluent standards, and must be approved and permitted by KDHE.
 - (4) All lagoons shall be fenced as set forth in the design policies of the director. Fences shall be in place before any operating permits are issued to the owner.
- (f) *Operation and maintenance.*
- (1) The owner shall be responsible for the operation of the onsite wastewater treatment system.
 - a. All owners of alternative treatment systems must obtain an annual operating permit from the director, which must be renewed January 1 of each year. All annual operating permits expire on December 31 regardless of when the initial operating permit was issued.
 - b. Before the annual operating permit will be issued, the owner must provide a copy of a signed maintenance agreement with a licensed alternative onsite wastewater treatment system maintenance provider for the coming year, as well as any documentation relating to inspections and maintenance performed throughout the prior year. Said maintenance agreement shall cover

each and every component of the system, including but not limited to the treatment system and the entire dispersal or soil absorption area.

- c. If the permit is not renewed within thirty (30) days of the renewal date, the owner will be subject to penalties pursuant to section 23-129 of the Sedgwick County Code.
 - d. All lagoons shall be maintained in good working order. All dikes shall be mowed, cattail and tree growth removed from the interior of the lagoon, and fences maintained. Any vegetation that covers the surface of the lagoon shall be removed. Upon observation of any lagoon that fails to comply with these conditions, the director shall order the owner or user to correct the condition within thirty (30) days.
- (2) All onsite wastewater treatment systems shall be operated and maintained in a fashion to prevent water pollution and to be free of public health hazards or nuisances, including the surfacing or unapproved discharging of treated or untreated sewage.
 - (3) The owner or user shall correct operational or design deficiencies within a stipulated time as directed in writing by the director. The deadline for correction of operational or design deficiencies shall be reasonable in relation to the circumstances and hazards involved, but in no case shall it be greater than sixty (60) days. Severe public health hazards shall be corrected within twenty-four (24) hours.
 - (4) Wastewater stabilization lagoons designed and permitted as non-discharging systems must be operated in such a fashion as to ensure that no discharge occurs. The director may authorize emergency use of controlled irrigation upon agricultural cropland or grassed areas not used for recreation. The irrigation water shall be applied in such a fashion and at such times that no surface runoff leaves the property. Property which is used for irrigation must be under the control of the owner of the system and may not be within one hundred (100) feet of a water supply well, or fifty (50) feet of other properties. Care shall be exercised to minimize combining fresh or untreated sewage and sewage solids with the irrigation water.
- (g) *Suspension or revocation of permit.*
- (1) The director may suspend any permit if the holder thereof does not comply with the requirements of this Code.
 - (2) The director may revoke a permit for serious or repeated violations of any of the requirements of this Code or for interference with the department of code enforcement in the performance of its duties.
 - (3) The suspension or revocation shall become effective immediately upon the director issuing a written order of suspension or revocation, which shall advise the holder of the permit or the person in charge of the establishment or premises subject to the permit of the specific reasons for the suspension or revocation.
 - (4) The holder of any such permit, or any other aggrieved party, may request a hearing in accordance with subsection 23-128(J).

(Res. No. 103-2007, § 1, 4-18-07)

Sec. 23-128. Licensing for onsite wastewater treatment system installers.

- (a) *Onsite wastewater treatment system installer's license.* It shall be unlawful for any person, firm, corporation, or other entity to install, maintain, alter, repair, or excavate an onsite wastewater system without a valid onsite wastewater treatment system installer's license issued by the director. On or after January 1, 2003, such license shall be issued only after the applicant has demonstrated a basic knowledge of the proper design and function of onsite wastewater treatment systems and knowledge of Metropolitan Area Building

and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the director. Prior to testing, the applicant shall provide proof to the director of a minimum of one (1) year of experience in installation of onsite wastewater treatment systems. Said experience shall consist of a minimum of six (6) installations within a 12-month period or a demonstration of equivalent experience by the applicant to the director.

(b) *Alternative onsite wastewater treatment system installer's license for installation, maintenance, alteration, repair and excavation.*

- (1) It shall be unlawful for any person, firm, corporation, or other entity, to engage in the business of installing, maintaining, altering, repairing, or excavating alternative onsite wastewater treatment systems without a valid alternative onsite wastewater treatment system installer's license issued by the director. Such license shall be issued only after the applicant has proved a basic knowledge of the proper design and function of alternative onsite wastewater treatment systems and knowledge of Metropolitan Area Building and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the director. Prior to testing for an alternative onsite wastewater treatment installer's license, applicant must first take and pass the onsite wastewater treatment system installer's license exam. Upon passing both exams, the applicant must provide proof of alternative onsite wastewater treatment installation training, in the form of a certificate from the manufacturer, to Metropolitan Area Building and Construction Department (MABCD).
- (2) Proof of such installation and maintenance training will need to be submitted for each brand of system that the installer intends to install, as well as a copy of the training materials provided to the installer. Said training shall include of a minimum of two (2) onsite installations in Sedgwick County with a qualified representative from the manufacturer on site during the entire installation. An installation shall consist of a minimum of sixteen (16) contact hours with both the installer and the manufacturer's representative present. The director may require additional training installations before accepting a certificate of installation and maintenance training from the manufacturer. The certificate of installation and maintenance training must include but is not limited to the following information:
 - a. A statement that the installer has completed two (2) installations consisting of sixteen (16) contact hours per installation as set forth above; and
 - b. A statement that the installer has received a copy of and fully understands the best management practices and maintenance manual for manufacturer's system which includes a checklist of routine maintenance activities; and
 - c. A statement setting out the name and contact information of the manufacturer's representative who supervised the training installations, as well as facts demonstrating that said individual had the experience and training to fully demonstrate installation and maintenance of all system treatment and dispersal components, including but not limited to electrical panels, alarms, tanks, controls, and any proprietary components; and
 - d. A statement by the installer indicating that he/she is adequately trained in installation and maintenance of the system treatment and dispersal components; and
 - e. The signatures of both the manufacturer's representative who supervised the training installations and the installer.
- (3) If the installer passes the examination and provides an acceptable certificate of maintenance and installation training from the manufacturer, the initial onsite wastewater treatment system installer's license shall be amended to designate that such license holder is also a license holder for alternative onsite wastewater treatment systems. An installer who already holds such an amended license, and is otherwise in good standing, but intends to install an additional type of alternative onsite wastewater

treatment systems, will be required to provide the certificate of installation and maintenance training for each additional type of system he intends to install.

- (4) If at any time an alternative onsite wastewater treatment system installer's license is revoked, the director will review the installer's work practices to determine if said installer has been incompetent, negligent, in violation of any provision of this article, or has made a fraudulent misrepresentation in making application for a permit to construct an alternative onsite wastewater treatment system. If at that time the installer has not been found in violation of any of the above then it may be determined that said installer may continue to install and service said systems.
 - (5) A service provider is responsible for providing MABCD with a copy of contracts for service and copies of any service reports completed. Failure to submit all required documents shall be punishable by Sec 23-129.
- (c) *Alternative onsite wastewater treatment system license for service provider, O&M.*
- (1) It shall be unlawful for any person, firm, corporation, or other entity, to engage in the business of maintaining or repairing alternative onsite wastewater treatment systems without a valid alternative onsite wastewater treatment system service provider, O&M license issued by the director. Such license shall be issued only after the applicant has demonstrated a basic knowledge of the proper design and function of alternative onsite wastewater treatment systems and knowledge of Metropolitan Area Building and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the Metropolitan Area Building and Construction Department (MABCD). In order to test for an alternative onsite wastewater treatment system service provider O&M license applicant must first take and pass the onsite wastewater treatment system installer's license exam. Upon passing both exams the applicant must provide proof of alternative onsite wastewater treatment maintenance and repair training in the form of a certificate from the manufacturer, to the Metropolitan Area Building and Construction Department (MABCD).
 - (2) Proof of such service provider, O&M training will need to be submitted for each brand of system that the service provider intends to maintain and repair, as well as a copy of the training materials provided to the license holder. Said training can consist of either training at the manufacturer's plant or on existing installed systems in Sedgwick County. Training at the manufacturer's plant shall consist of eight (8) contact hours of training. Training on existing systems shall consist of a minimum of six (6) service calls within twelve (12) months in Sedgwick County with a qualified representative from the manufacturer present during the entire service call. The director may require additional service training before accepting a certificate of service training from the manufacturer. The certificate of service provider, O&M training must include but is not limited to the following information:
 - a. A statement that the service provider has completed six (6) service calls within a 12-month period as set forth above or eight (8) contact hours of training at manufacturer's plant; and
 - b. A statement that the service provider has received a copy of and fully understands the best management practices and maintenance manual for manufacturer's system, which includes a checklist of routine maintenance activities; and
 - c. A statement setting out the name and contact information of the manufacturer's representative who supervised the service provider, O&M training, as well as facts demonstrating that said individual had the experience and training to fully demonstrate service of all system treatment and dispersal components, including but not limited to electrical panels, alarms, tanks, controls, and any proprietary components; and
 - d. The signatures of both the manufacturer's representative who supervised the service provider, O&M training.

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- (3) If the service provider passes the examination and provides an acceptable certificate of service provider, O&M training from the manufacturer, the initial onsite wastewater treatment system installer's/service provider license shall be amended to designate that such license holder is also a license holder service provider, O&M of alternative onsite wastewater treatment systems.
 - (4) If at any time an alternative onsite wastewater treatment system service provider, O&M license is revoked, the director will review the service provider's work practices to determine if said service provider has been incompetent, negligent, or in violation of any provision of this article. If at that time the license holder has not been found in violation of any of the above then it may be determined that said service provider may continue to maintain and repair said systems.
 - (5) A service provider is responsible for providing MABCD with a copy of contracts for service and copies of any service reports completed. Failure to submit all required documents shall be punishable by Sec 23-129.
- (d) *Continuing education requirement.* In order to maintain an onsite wastewater treatment system installer's license the licensee shall complete a minimum of eight (8) hours of continuing education within the 12-month period preceding the date of renewal. An hour of continuing education time is defined as an actual contact hour of training, unless said training is provided by director or another group approved by same. The training, to be approved, must be directly related to the knowledge requirements necessary for issuance of the applicable installer's license. Attendance at any workshop conducted, sponsored, or approved by the onsite wastewater treatment system installers and sewage haulers advisory board or any appropriate professional association shall satisfy this continuing education requirement.
- (e) *License application.* In addition to the requirements set forth above, to obtain or renew any onsite wastewater treatment system installer's/service provider license, a person, firm, corporation, or other entity, shall:
- (1) Submit a completed application on a form provided by the director, for an original license to install regular or alternative onsite wastewater treatment systems, or to maintain and repair alternative onsite wastewater treatment systems, and for each renewal thereof.
 - (2) Pay a nonrefundable application/license fee of one hundred dollars (\$100.00) either by cash or a certified check, cashier's check or money order, payable to Sedgwick County. The processing of the application and issuance or denial of the license will not take place until the nonrefundable license fee is paid.
 - (3) Provide proof of continuing education that has been completed during the previous year, if the application is for a renewal of a license.
 - (4) Provide proof of liability insurance to the Metropolitan Area Building and Construction Department (MABCD) in the minimum amount of three hundred thousand dollars (\$300,000.00).
 - (5) Agree to comply with all standards for onsite wastewater treatment systems installation that have been adopted by Sedgwick County.
 - (6) Agree to obtain all required construction and operating permits.
- (f) *Term of license.* Licenses issued under this article are valid for one (1) calendar year, from January 1 through December 31, and are not transferable.
- (g) *License renewal.* To renew any license required by section 23-128, a person, firm, or corporation, or other entity, shall file a new application, and pay the required license fee on or before March 1 following the expiration of a license period.

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- (h) *Lapse of license.* A license that has not been suspended or revoked, but for which the renewal fee has not been submitted on or before March 1 following the expiration of a license period, shall be deemed to have lapsed. Renewal of a lapsed license shall be allowed upon the person's request, filing of a completed application, payment of an application fee, and upon providing proof of the required continuing education before the application will be approved.
- (i) *Violations of license requirements; suspension; revocation.*
- (1) *Suspension of license.*
- a. The director may suspend a license if there is evidence of any of the factors set forth below:
 - i. The licensee demonstrates incompetence or lack of knowledge in matters relating to the license issued.
 - ii. The licensee obtained any permit or his license by fraud or misrepresentation.
 - iii. The licensee transferred, loaned or otherwise allowed another person to use said license for the other person's purpose.
 - iv. The licensee used the license to obtain permits for another person, firm, or corporation.
 - v. The licensee demonstrated carelessness or negligence in providing reasonable safety measures for the protection of the public.
 - vi. The licensee refused to or failed to comply with any lawful and reasonable order(s) of the director, code enforcement officer, or other authorized representative of the MABCD.
 - vii. The licensee committed an act in violation of any provision of this article, the Sedgwick County Sanitary Code, or of any other resolution of Sedgwick County.
 - b. The suspension of any license hereunder shall become effective immediately upon the director issuing a written order of suspension. The order of suspension shall advise the licensee of the specific reasons the license is being suspended.
 - c. The licensee or other aggrieved party may request a hearing in accordance with subsection 23-128(j). After a hearing, the advisory board may uphold or overrule the suspension, or modify it as they see fit, but in no event shall the advisory board enter an order of suspension for a period longer than that set out in the original notice by the director. Both the original order and any order of the advisory board may condition the length of suspension upon correction of the conditions upon which the suspension is based.
 - d. The suspension period for the first violation hereunder shall not exceed thirty (30) days. A second violation in any three-year period shall result in a suspension period of not less than fifteen (15) days and not to exceed one hundred eighty (180) days. The third violation in any three-year period shall result in a suspension period of not less than thirty (30) days and not to exceed one hundred eighty (180) days, and may result in revocation of the license. Every suspended license shall automatically become activated upon the conclusion of any such suspension period, unless the director has specifically required the licensee to petition the director for reactivation.
- (2) *Revocation of license.*
- a. The director may revoke a license for serious or repeated violations of any of the factors identified in subsection 28-128(i)(1)a., or for interference with the MABCD in the performance of its duties. The licensee or other aggrieved party may request a hearing in accordance with subsection 23-128(j).
 - b. The revocation of any license hereunder shall become effective immediately upon the director issuing a written order of revocation. The order of revocation shall advise the licensee of the

specific reasons the license is being revoked. A licensee that has had his license revoked may reapply for licensure no earlier than one (1) year after the effective date of the revocation, and must meet all applicable requirements for an original license.

(j) *Appeals to the advisory board.*

- a. Except as otherwise provided, any person aggrieved by any notice, order, denial of a permit or license, or suspension or revocation of a permit or license by the director, may request a hearing on the matter before the Advisory Board if such person files with director within ten (10) days after the date of issuance of the notice, denial, suspension or revocation, a written request for a hearing setting forth the grounds on which the request is made. The filing of the request of hearing shall operate as a stay of any notice or order except an emergency order.
- b. Upon receipt of the request for hearing, the director shall notify the advisory board, which shall set a time and place for a hearing, and shall give the requestor written notice thereof. The hearing shall be commenced not later than thirty (30) days after the date on which the request for hearing was filed; provided that upon request the hearing may be postponed for a reasonable time beyond such 30-day period. A record shall be made at the hearing, and the aggrieved party may be represented by counsel or other authorized person.
- c. Within ten (10) days following the conclusion of the hearing, the advisory board shall issue a written decision either sustaining, modifying, or overruling the decision, order, or other action of the director.
- d. A summary of all proceedings of hearings, including the findings and the decision of the advisory board, together with a copy of every notice related thereto, shall be filed with the MABCD.
- e. Any aggrieved party may appeal the final decision of the advisory board to the Sedgwick County Board of County Commissioners.

(Res. No. 103-2007, § 1, 4-18-07)

Sec. 23-129. Violations and penalty.

- (a) *Issuance of uniform complaint and notice to appear.* Whenever the director or a code enforcement officer authorized under this Code has probable cause to believe that a person, firm, or corporation is committing or has committed a violation of any provision of this Code, the director or such code enforcement officer may serve upon such accused person a uniform complaint and notice to appear, or in the alternative, may sign a complaint against the accused person and cause a notice to appear to be issued according to the provisions of K.S.A. 19-4701 et seq., the code for the enforcement of county codes and resolutions. Pursuant to K.S.A. 19-101d, prosecution for any such violation shall be conducted in the manner provided by law in the district court under the code for the enforcement of county codes and resolutions as provided by K.S.A. 19-4701, et seq. Writs or processes necessary for the prosecution of such violations shall be substantially in the form of writs and process as shown in K.S.A. 19-4738. The county shall provide all necessary supplies, forms and records at its own expense.
- (b) *Procedures.* Procedures for prosecution of violations of this code shall be pursuant to chapter 8 of the Sedgwick County Code.
- (c) *Classification of violations and schedule of fines.* An accused person who shall be convicted in the district court for violation of any provision of this code shall be deemed guilty of a violation thereof and in accordance with K.S.A. 19-4716, shall be subject to payment of a fine which shall be fixed by the Court at a sum not to exceed five hundred dollars (\$500.00); provided further, the minimum fine for any violation of this Code shall be assessed according to the classification of violations and schedules of fines in section 8-5 of

(Supp. No. 17)

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the Sedgwick County Code and subject to the enhancements contained therein, and each and every violation of this article shall be a class H violation, unless otherwise indicated. A violation of section 23-128 shall be a class I violation.

- (d) *Separate offense.* Each day that any violation of this Code occurs after the passage of the reasonable time for performance of any act required by a notice of violation(s) or order(s) to comply has been served in accordance with the terms and provisions hereof shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person, firm or corporation is found guilty of a violation hereunder and it shall appear to the court that the violation complained of as prescribed in this Code is continuing, then in addition to the penalty as set forth, the court may enter such order as it deems appropriate to cause the violation to be abated.
- (e) *Authority to permit.* The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or approval of, any violation of any of the provisions of this article. No permit presuming to give authority to violate or cancel the provisions hereof shall be valid, except insofar as the work or use which it authorized is lawful.
- (f) *Effect of permit.* The issuance or granting of a permit or approval of plans and specifications shall not prevent the director from thereafter requiring the correction of errors in said permit or plans.
- (g) *Appeals.* An appeal may be taken from any judgment under this resolution pursuant to the procedures at K.S.A. 19-4737, as amended.

(Res. No. 103-2007, § 1, 4-18-07)

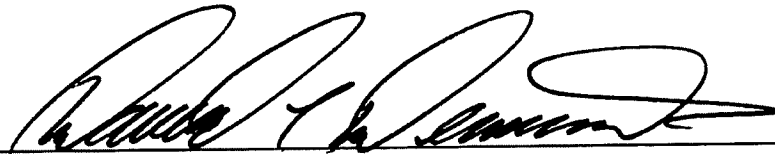
Sec. 23-130. Permit fees.

- (a) Permits for the installation of any part of an onsite wastewater treatment system shall be one hundred dollars (\$100.00). Cleaning and jetting of lateral lines shall require a permit and that permit fee shall be one hundred dollars (\$100.00). Alternative onsite wastewater treatment system permits for installation shall be two hundred dollars (\$200.00).
- (b) An annual operating permit for alternative onsite wastewater treatment systems will be twenty-five dollars (\$25.00) due January 1 of each year.

(Res. No. 103-2007, § 1, 4-18-07)

Secs. 23-131—23-155. Reserved.

The enclosed Sedgwick County Domestic Water Well Code has been officially adopted by the Sedgwick County Board of Commissioners.



Signature: David T. Dennis
Chairman, Board of County Commissioners

June 19, 2019
Date

ATTEST:


Kelly B. Arnold



Return to:

KDHE-Watershed Management Section
1000 SW Jackson, Suite 420
Topeka, KS 66612-1367

RESOLUTION NO. 138-2019

Published on: 7-3-19

Effective Upon Publication

A RESOLUTION AMENDING CHAPTER 27, ARTICLE III, OF THE SEDGWICK COUNTY CODE, ENTITLED THE DOMESTIC WATER WELL CODE.

WHEREAS, the Board of County Commissioners is authorized by K.S.A. 19-3701, *et seq.* and K.S.A. 19-101, *et seq.* to officially adopt sanitary codes pursuant to statutory requirements; and

WHEREAS, Chapter 27, Article III of the Sedgwick County Code is the Domestic Water Well Code for Sedgwick County and was adopted by the Board of County Commissioners with Resolution No. 190-05 on November 2, 2005; and

WHEREAS, the Domestic Water Well Code is “sanitary code” as defined by K.S.A. 19-3701 and the Domestic Water Well Code has not previously been approved by the Kansas Department of Health and Environment (“KDHE”); and

WHEREAS, the Board of County Commissioners believes that the amendment to its Domestic Water Well Code, and formal approval of such code by the KDHE is necessary for the protection of the health and welfare of the public; and

WHEREAS, the Board of County Commissioners deems the Domestic Water Well Code necessary, for the control of environments and environmental conditions that may adversely affect the health and well-being of the public, as well as for the promotion of public health and comfort; and

WHEREAS, the Board of County Commissioners has designated the Metropolitan Area Building and Construction Department (“MABCD”) as the county agency with authority and responsibility for administering the Domestic Water Well Code; and

WHEREAS, the MABCD shall maintain a copy of the Domestic Water Well Code available for public inspection; and

WHEREAS, on January 30, 2019, the Board of County Commissioners approved the submission of proposed amendments to the Domestic Water Well Code to the KDHE, and the content of such proposed amendments are identical to the content of this proposed Resolution; and

WHEREAS, on April 4, 2019, pursuant to K.S.A. 19-3704, the KDHE approved the proposed amendments that the Board of County Commissioners voted to submit on January 30, 2019; and

WHEREAS, pursuant to the requirements of K.S.A. 19-3704, notice of the public hearing was published and a public hearing was held by the Board of County Commissioners on June 19, 2019.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS CHAPTER 27, ARTICLE III OF THE SEDGWICK COUNTY CODE, ENTITLED THE DOMESTIC WATER WELL CODE TO READ AS FOLLOWS

DOMESTIC WATER WELL CODE OF SEDGWICK COUNTY

Sec. 27-75. - Title; purpose; jurisdiction; scope.

- (a) *Title.* The provisions of this resolution shall be known as the Domestic Water Well Code of Sedgwick County, Kansas, and may be cited as such, and may also be referred to herein as "this code."
- (b) *Purpose.* The provisions of this code are for the purpose of regulating and controlling the development, maintenance and use of water supplies in Sedgwick County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.
- (c) *Jurisdiction.* The provisions of this code are hereby adopted as the domestic water well code for the unincorporated area of Sedgwick County, and for those second- and third-class cities located therein which have by action of their governing bodies adopted the domestic water well code in the same form as herein contained and which have entered into a separate agreement with the county for enforcement within their municipal boundaries and conferring jurisdiction upon the county for all prosecutorial function relating thereto. To the extent any of the provisions of this code apply within the Equus Beds Groundwater Management District #2 ("GMD #2") and conflict with regulations of the GMD #2, such provisions of this code would not be applicable.
- (d) *Scope.* After the effective date of this code, no water well shall be constructed, reconstructed, plugged, or treated, except in accordance with the provisions of this code, and without first obtaining a separate permit. Such permit shall be legally issued only when in compliance with the regulations set forth in this code.
- (e) *Duties and authority of the MABCD.* The Metropolitan Area Building and Construction Department ("MABCD") is designated as the county agency responsible for administering the Water Well Code.

Sec. 27-76. - Definitions.

The following words, terms or phrases, when used in this code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Abandoned water well* means a water well meeting any one of the following criteria:
 - (1) Whose use has been permanently discontinued;
 - (2) In which pumping equipment has been permanently removed;
 - (3) Which is either in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer, or both;
 - (4) Which poses actual or potential health and safety hazards;
 - (5) An inactive water well found not to be maintained in accordance with the criteria listed in KDHE's Article 30 (K.A.R. 28-30-2, et seq.), regardless of inactive status designation;

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- (6) Which is in such a condition it cannot be placed in active or inactive status.
- (b) *Advisory board* means the Sedgwick County Domestic Water Well Advisory Board.
- (c) *Aquifer* means an underground formation that contains and is capable of transmitting groundwater.
- (d) *Construct* or *construction* means all acts necessary to obtain groundwater by any method for any use, including without limitation, the location of and excavation for a water well, and any act necessary to complete the well that would require entry into the sanitary well seal or casing.
- (e) *Department* means the MABCD.
- (f) *Director* means the Director of the MABCD or his/her authorized representative.
- (g) *Domestic purposes* means the use of water by any person, family unit or entity for household purposes or commercial, governmental, or other non-industrial applications; or for the watering of livestock, poultry, farm or domestic animals; or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns; or for residential lawn sprinkler systems.
- (h) *EPA* means the United States Environmental Protection Agency.
- (i) *Environmental audit* means an internal assessment, evaluation or review, which may or may not be required by environmental law, that is performed by the owner or operator, the owner's or operator's employees, or a qualified auditor for the express and specific purpose of determining whether a facility, operation within a facility or facility management system complies with environmental laws.
- (j) *Groundwater* means that part of the subsurface water that is in the zone of saturation.
- (k) *Heat pump hole* means a hole drilled to install piping for an earth coupled water source heat pump system, also known as vertical closed loop system.
- (l) *Household purposes* means water used for drinking, culinary or ablutionary purposes.
- (m) *Inactive status* means a water well that is not presently operating but is maintained in such a way that it can be put back in operation with minimum effort.
- (n) *KDHE* means the Kansas Department of Health and Environment.
- (o) *License* means a document issued by KDHE to qualified persons making application therefor, authorizing such persons to engage in the business of water well contracting.
- (p) *Owner* means any person who, alone or jointly or severally with others: (1) has record legal title to any property or structure thereon with or without accompanying actual possession thereof; or (2) has charge, care or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
- (q) *Plugging* or *plug* means the act of permanently terminating a water well from operation by following those procedures as described in K.A.R. 28-30-2, et seq.

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- (r) *Potable water* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming to the most recent KDHE/EPA primary drinking water standards.
- (s) *Private water supply* means a water supply used for domestic purposes, excluding public water supplies and semi-public water supplies.
- (t) *Premises* means a lot, plot or parcel of land, including structures located thereon.
- (u) *Property* means any real property within the county which is not a street or highway.
- (v) *Public water supply* means a water supply that provides water to the public for human consumption and has at least ten (10) service connections or serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.
- (w) *Reconstruct or reconstruction* means the repair or alteration of any kind to an existing water well. This term shall include minor repairs, replacements, treatment and alterations of any above ground components or any pumping components of the water well.
- (x) *Sanitary well seal* means a manufactured seal installed at the top of the well casing which, when installed properly, creates an air tight and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.
- (y) *Semi-public water supply* means a water supply used for household purposes serving two (2) to nine (9) service connections or up to twenty-four (24) individuals daily at least sixty (60) days of the year. Related family members would be excluded from these criteria.
- (z) *Service connection* means any connection or arrangement between a water well and any plumbing fixture through which it may be possible to supply water to be utilized for domestic purposes.
- (aa) *Surface water* means lakes, ponds, rivers, or streams.
- (bb) *Test hole* means any excavation constructed for the purpose of determining geologic, hydrologic or water quality and quantity characteristics of underground formations.
- (cc) *Treat, treating, or treatment* means the stimulation or production of groundwater from a water well, through the use of hydrochloric acid, muriatic acid, sulfamic acid, calcium or sodium hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing iron and manganese hydroxide and oxide deposits, calcium and magnesium carbonate deposits and slime deposits associated with iron or manganese bacterial growths which inhibit the movement of groundwater into the well. This term shall not include chlorinating of water supplies for bacterial removal as referred in section 27-85 of this code.
- (dd) *Uncased test hole* means any test hole in which casing has been removed or in which casing has not been installed.
- (ee) *Water well* means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed, when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

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(ff) *Water well contractor* or *contractor* means any licensed individual, firm, partnership, association, corporation, or other entity, who constructs, reconstructs, plugs or treats a water well. The term shall not include: (1) an individual constructing, reconstructing, or plugging a water well located on land owned by the individual, when the well is used by the individual for farming, ranching or agricultural purposes or for domestic purposes at the individual's place of abode; or (2) an individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractor's supervision.

(gg) *Water supply* means one (1) or more water wells that supply water for domestic purposes.

Sec. 27-77. - Violations.

- (a) *Issuance of uniform complaint and notice to appear.* Whenever the director or a code enforcement officer authorized under this code has probable cause to believe that a person, firm, or corporation is committing or has committed a violation of any provision of this code, the Director or such code enforcement officer may serve upon such accused person a uniform complaint and notice to appear, or in the alternative, may sign a complaint against the accused person and cause a notice to appear to be issued according to the provisions of K.S.A. 19-4701, et seq., the code for the enforcement of county codes and resolutions. Pursuant to K.S.A. 19-101d, prosecution for any such violation shall be conducted in the manner provided by law in the district court under the code for the enforcement of county codes and resolutions as provided by K.S.A. 19-4701, et seq. Writs or processes necessary for the prosecution of such violations shall be substantially in the form of writs and process as shown in K.S.A. 19-4738. The county shall provide all necessary supplies, forms and records at its own expense.
- (b) *Procedures.* Procedures for prosecution of violations of this code shall be pursuant to chapter 8 of the Sedgwick County Code.
- (c) *Classification of violations and schedule of fines.* An accused person who shall be convicted in the district court for violation of any provision of this code shall be deemed guilty of a violation thereof and in accordance with K.S.A. 19-4716, shall be subject to payment of a fine which shall be fixed by the Court at a sum not to exceed \$500.00; provided further, the minimum fine for any violation of this code shall be assessed according to the classification of violations and schedules of fines in section 8-5 of the Sedgwick County Code and subject to the enhancements contained therein, and each and every violation of this code shall be a class G violation, except that a violation of subsection 27-78(a), water well contractor registration, shall be a class I violation.
- (d) *Separate offense.* Each day that any violation of this code occurs after the passage of the reasonable time for performance of any act required by a notice of violation(s) or order(s) to comply has been served in accordance with the terms and provisions hereof shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person, firm or corporation is found guilty of a violation hereunder and it shall appear to the court that the violation complained of as prescribed in this code is continuing, then in

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addition to the penalty as set forth, the court may enter such order as it deems appropriate to cause the violation to be abated.

Sec. 27-78. - Water well contractor.

- (a) *Registration.* No person, firm, corporation, or other entity shall engage in the business of constructing, reconstructing, plugging or treating a water well in the unincorporated areas of Sedgwick County, without:
- (1) Holding a valid license, and meeting all licensing and continuing education requirements as set forth in the most current edition of K.S.A. 82a-1201, et seq. or K.A.R. 28-30-2, et seq.
 - (2) Maintaining continuous liability insurance in the amount of three hundred thousand dollars (\$300,000) and provide proof of such annually to the Department.
 - (3) Registering as a water well contractor with the Department on forms provided for that purpose.
- (b) Violations; advisory board; appeals.
- (1) Registration as a water well contractor in Sedgwick County may be suspended or revoked if, after a hearing of the advisory board, the holder of such registration is found incompetent, negligent, in violation of any provision of this code or K.S.A. 82a-1201, et seq. or K.A.R. 28-30-2, et seq., or to have made any fraudulent misrepresentation in making application for a permit to construct, reconstruct, plug or treat a domestic water well, or if the insurance required under this section has been cancelled.
 - (2) For the first violation hereunder, the suspension period shall not exceed thirty (30) days. A second violation in any three-year period shall result in a suspension period of not less than thirty (30) days and not to exceed one hundred eighty (180) days, and may result in revocation of the registration for a term to be determined by the advisory board.
 - (3) Any contractor feeling aggrieved because of any action of the advisory board under this code may appeal in writing to the Sedgwick County Board of County Commissioners. Any such appeal must be submitted within thirty (30) days of the action being appealed.
 - (4) The director shall notify KDHE of any suspensions or revocations issued under this code within five (5) business days of the date of issuance.

Sec. 27-79. - Water wells; permits.

- (a) No person shall construct, reconstruct, or plug any water well until that person has obtained an approved permit from the Department.
- (b) No permit shall be approved until the plans and specifications for such water well have been submitted to the Department as required by the Director.

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- (c) A water well permit shall be obtained prior to the issuance of a building permit on any premises where a water well is to be utilized as a private water supply.
- (d) Permits shall be valid for a period of one year from the date of issuance and are transferable.
- (e) Permit fees are non-refundable and shall be assessed as follows:
 - (1) Water well permit: \$50.00.
 - (2) Semi-public water supply permits: \$200.00.
 - (3) Semi-public water supply annual operating permits: \$50.00.

The processing, approval, or denial of the permit will not take place until such permit fee is paid.

- (f) The issuance or approval of a permit shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions hereof shall be valid, except insofar as the work or use that it authorized is lawful.
- (g) Only a registered contractor meeting the criteria designated in section 27-78 of this code shall be permitted to apply for a permit unless such applicant is the individual constructing, reconstructing, or plugging a water well located on land owned by the individual, when the well is used by the individual for farming, ranching, agricultural or domestic purposes to serve only the individual's place of abode. In such case, the owner shall be permitted to apply for the permit and shall be required to adhere to all requirements of this code.
- (h) The intended use of a water well must be declared at the time permits are applied for. Such uses would include, but not be limited to, household, lawn and garden, livestock, heat pump, and semi-public. Permits shall be issued only for the declared use and wells shall not be utilized for any other such use without notification and prior approval by the Department. Such approval may require an inspection of the water well by the Department, and may be subject to the water quality assurance testing requirements of section 27-86. The fee for such inspection shall be fifty dollars (\$50.00), and shall be the responsibility of the owner.
- (i) After completion of the work to the point where an inspection is required, the contractor shall notify the Department of the completion and shall request an inspection. If installation or workmanship does not meet the requirements of this code and any additional permitting requirements, the Director shall order corrections and cause a subsequent inspection to be made.
- (j) The contractor shall submit a copy of the log as required in K.S.A. 82a-1201, et seq. to the Department within thirty (30) days of the completion of such work.
- (k) Any water well constructed, after the effective date of this code without notification to the Director or without having an approved permit shall be plugged if so ordered by the Director. Any person constructing such water well shall be subject to violations and penalties as described in section 27-77 of this Code.
- (l) When the water well has been satisfactorily constructed, inspected and required water analysis results and drilling log approved, the Director shall approve use.

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- (m) Whenever the Director finds that an emergency exists which requires immediate action to protect the public health or water resources of Sedgwick County, the Director may without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as the Director deems necessary to meet the emergency, including the suspension of the permit or use of the water well.
- (n) If the KDHE issues a permit pursuant to state statutes and regulations for the same specific activity as addressed within a portion of this code, this code would yield to state statutes and regulations such that no duplicate permit will be required for said activity under this code.

Sec. 27-80. - Same—Use limitations.

- (a) No water well permit for household purposes shall be issued when the water to be accessed constitutes a significant health risk.
- (b) No use of surface water as a source of water for household purposes shall be permitted when the water to be accessed constitutes a significant health risk. An initial test for all contaminants for which primary drinking water standards have been established by KDHE in K.A.R. Chapter 28, Article 15a, shall be obtained to determine suitability.

Other tests, such as screens for pesticides, volatile organic chemicals or other minerals and metals may be required, at the direction of the Director and upon approval by the Board of County Commissioners.

- (c) No person shall construct or locate on any property any new residence or agricultural or commercial structure and utilize an existing water well for domestic purposes, until such water well and any other wells located on such property have been inspected by the Department and found to comply with the provisions of this code.

Sec. 27-81. - Same—Construction.

All persons constructing, reconstructing, plugging or treating a water well shall comply with the minimum requirements for construction as established in the most current edition of K.S.A. 82a-1201, et seq. and K.A.R. 28-30-2, et seq., in addition to any construction standards established by the advisory board, approved by the Sedgwick County Board of County Commissioners.

Sec. 27-82. - Same—Location.

- (a) *Located in mapped flood plains.* Any water well constructed after the effective date of this code which is located within the one (1) percent annual chance flood zone (100-year flood plain) shall be subject to special permitting conditions as determined by the Director, to include but not limited to:

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- (1) The new well casing shall extend to a minimum of two (2) feet above the base flood elevation and shall be protected. Verification of the finished casing elevation shall be made in writing to the Department.
 - (2) Any abandoned water well shall be plugged in accordance with the requirements of section 27-83 of this code.
- (b) *Located at established minimum pad elevations.* Water wells constructed, reconstructed or treated on any premises with an established minimum pad elevation, meaning the lowest building opening, shall have the casing extend to the point at or above the established minimum pad elevation.
 - (c) *Located in sensitive groundwater areas.* Water wells located in sensitive groundwater areas may be subject to special permitting requirements as determined by the Director and approved by the Board of County Commissioners in order to protect the public health and water resources of Sedgwick County. The Director may recommend to the Board of County Commissioners the areas or conditions located in the unincorporated areas of Sedgwick County that qualify as "sensitive groundwater areas." The owner of any property declared a "sensitive groundwater area" may request the Board of County Commissioners to reconsider the action.
 - (d) *Located in contaminated areas.* Water wells located within one thousand (1,000) feet of any area that has a confirmed contaminated condition present (whether water, soil or other) may be subject to special permitting requirements as determined by the Director. Such requirements may include, but not be limited to, specific construction, reconstruction or plugging specifications, water quality assurance testing, monitoring, the denial of a permit to construct or reconstruct, and plugging of existing water wells. Any newly identified contaminated areas shall result in the Director providing the KDHE Bureau of Environmental Remediation with written notice of such identification. A confirmed contaminated area in this case shall mean an area designated by official action of EPA or KDHE, or during the course of an environmental audit, as having contamination to an extent that requires remediation, or similar action, or is providing treatment for remediation for the protection of human health and environment.

Sec. 27-83. - Same—Plugging of abandoned wells and cased and uncased test holes.

- (a) All abandoned water wells and cased and uncased test holes shall be plugged in accordance with K.A.R. 28-30-2, et seq., as amended. Owners may seek to obtain written approval from KDHE to maintain wells in an inactive status rather than being plugged if the landowner can present evidence as to the condition of the well and as to the owner's intentions to use the well in the future. Owners should comply with KDHE or GMD #2 requirements, as authorized in Article 30 (K.A.R. 28-30-2, et seq.), to seek inactive status and shall file a copy of the written approval of such status with the Department.
- (b) Failure to obtain an inactive status for an abandoned water well or to provide written approval of such status to the Department shall require the well to be plugged within a reasonable time following notification from the Department.

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Sec. 27-84. - Same—Separation from pollution sources.

Water well locations shall be approved by the Department with respect to distances from potential pollution sources. The following minimum standards shall be observed:

- (a) The horizontal distances between the water well and the listed potential source of pollution or contamination shall be as follows:
 - (1) Water well to sewer lines, septic tanks, lateral fields and subsurface drip irrigation fields shall be fifty (50) feet or more. If the sewer line is watertight then the separation shall be ten (10) feet or more.
 - (2) Water line to septic tanks, lateral fields and subsurface drip irrigation fields shall be ten (10) feet or more and of water tight construction.
 - (3) Water line to sewer line shall be twelve (12) inches and constructed of approved materials as described in subsection 27-84(a)(7), otherwise the distance shall be ten (10) feet.
 - (4) When crossing a water line and a sewer line, all materials shall be water tight and be constructed of approved materials as described in subsection 27-84(a)(7), otherwise sleeving shall be required on one (1) of the lines, whichever was installed last, at the crossing plus ten (10) feet on either side of the crossing.
 - (5) Water well to pit privy, seepage pits, fuel or fertilizer storage, pesticide storage, feed lots or other areas of repetitive livestock feeding or watering, or barnyards shall be fifty (50) feet or more.
 - (6) Any other separation to a potential source of pollution or contamination not specifically mentioned in this code shall be fifty (50) feet or more as determined by the advisory board.
 - (7) Water pipe collapse strength shall be one hundred sixty (160) psi or greater. Sewer line shall be Sch40 or greater.
- (b) Proper drainage in the vicinity of the water well shall be provided so as to prevent the accumulation and ponding of surface water within fifty (50) feet of the well. The well shall not be located in a ravine or any other drainage area where surface water may flow into the well.
- (c) All wells shall be twenty-five (25) feet or more from the nearest property line, allowing public right-of-ways to be counted; however, a well used only for cooling purposes or lawn irrigation may be located closer than twenty-five (25) feet to an adjoining property where:
 - (1) Such adjoining property is served by a sanitary sewer and does not contain a septic tank system, a non-heat pump disposal well or other source of contamination or pollution; and
 - (2) The property to be provided with the proposed well is served by both a sanitary sewer and a public water supply.

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Sec. 27-85. - Same—Disinfection.

All persons constructing, reconstructing or treating a water well, removing the pump or pump column, replacing a pump or water lines, or otherwise performing any activity which has potential for contaminating or polluting the well system or groundwater supply shall chlorinate the well, well system and appurtenances thereto for adequate disinfection.

Sec. 27-86. - Same—Water quality assurance testing required.

- (a) The Department is authorized to collect samples from any water well for the protection of public and environmental health. These samples may be taken for any analysis deemed appropriate by the Director. The Department can also collect samples at the request of the owner. Any fees associated with a requested water quality analysis shall be the responsibility of the requestor.
- (b) Water quality analysis shall be required on any newly constructed, reconstructed or treated water wells. The Department shall collect all water samples unless otherwise authorized by the Director.
- (c) Samples shall be tested for at a minimum bacteria and nitrate analysis.
- (d) If a water sample result indicates failure to meet a primary drinking water standard, the owner shall take whatever action is deemed necessary by the Director to obtain potable water. Any expenses in meeting such requirements shall be the responsibility of the owner.

Sec. 27-87. - Same—Variances.

- (a) The Director may grant a variance of standards included within this code (but not from any requirements within K.A.R. 28-30-2, et seq.) subject to the following considerations:
 - (1) The features of the site for which the variance is requested are not compatible with the requirements.
 - (2) Alternate methods or design features are available which will attain the objectives.
 - (3) The Director determines that the variance will not adversely affect the public health and safety.
- (b) An application for a variance and any specific information deemed necessary by the Director shall be filed with and approved by the Director prior to construction, reconstruction, plugging or treatment of the water well.

Sec. 27-88. - Public water supplies.

- (a) No person shall operate a public water supply without obtaining a permit from KDHE and the Kansas Department of Agriculture's Division of Water Resources. A copy of each of the permits shall be filed with the Department.

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- (b) No person shall construct any public water supply on any property subject to the provisions of this code until the plans and specifications have been submitted to and approved by KDHE. A copy of the plans and specifications shall be filed with the Department.

Sec. 27-89. - Semi-public water supplies.

- (a) *Requirements for semi-public water supplies.* In addition to the other requirements set forth in this code, no individual, firm, partnership, association, corporation, or other entity shall construct, reconstruct, plug, treat, operate or maintain a semi-public water supply system that has been:
- (1) Constructed or reconstructed after the effective date of this code until a permit has been issued and a final inspection approved by the Department.
 - (2) Temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction.
 - (3) Found by the Director not to comply with the provisions of this code and written notice thereof has been given to the owner.
- (b) *Conditions of use.* The following shall be performed by the property owner and approved by the Department prior to the issuance of a permit:
- (1) Submit plans and specifications for such system to the department as required by the Director, who may require a Kansas licensed engineer to review such plans.
 - (2) Perform water quality assurance testing as follows:
 - a. An initial test for all contaminants for which primary drinking water standards have been established by KDHE in K.A.R. Chapter 28, Article 15a.
 - b. An initial and at least semi-annual bacterial and nitrate analysis.
 - c. A partial chemical analysis is to be done initially and every three (3) years thereafter. This should include at a minimum analysis for chloride, hardness, iron, manganese, sodium, sulfate and total hardness.
 - d. Other tests such as a screen for pesticides, volatile organic chemicals or other minerals/metals may be required, at the direction of the Director, to protect the public's health.
 - e. If a water sample result indicates failure to meet a primary drinking water standard, the owner shall take whatever action is deemed necessary by the director to obtain potable water. This may include public notification of such failure to the users of such system and or providing supply of a temporary potable water source. Any expenses in meeting such requirements shall be the responsibility of the owner of the water well.

The Department shall collect all water samples unless otherwise authorized by the Director. All samples shall be sent to the KDHE Lab or other state certified lab for analysis. Payment of the fee for the analysis is the responsibility of the owner of the water well.

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- (c) *Annual operating permit required.* After an initial permit and final inspection for use has been issued, no person shall operate or maintain a semi-public water supply system without obtaining an annual permit from the Department, renewable January 1 of each year. To obtain an annual permit, such system shall meet the water quality assurance requirements as stated in this section and any maintenance requirements as deemed necessary by the Director to assure a safe, potable drinking water source.

Sec. 27-90. - Appeals.

- (a) Any person feeling aggrieved by a decision of the Director made under this code may be appealed in writing to the advisory board. Any such appeal must be submitted within thirty (30) days of the action being appealed.
- (b) Any decision of the advisory board made under this code may be appealed in writing to the Sedgwick County Board of County Commissioners.

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PUBLICATION AND EFFECTIVE DATE

Upon adoption of this Resolution, the Sedgwick County Clerk shall publish this Resolution once in the official county newspaper. This Resolution shall become effective upon publication.

Commissioners present and voting were:

PETER F. MEITZNER	<u>Aye</u>
MICHAEL B. O'DONNELL, II	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>
LACEY D. CRUSE	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>


Dated this 19 day of June, 2019.

ATTEST:



KELLY B. ARNOLD, Clerk



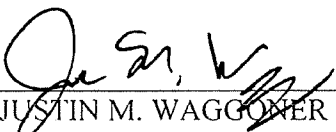
BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS



DAVID T. DENNIS, Chairman
Commissioner, Third District

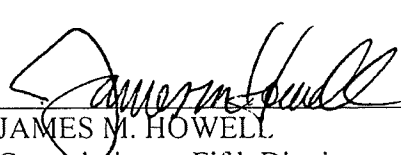

PETER F. MEITZNER, Chair Pro Tem
Commissioner, First District


MICHAEL B. O'DONNELL, II
Commissioner, Second District

APPROVED AS TO FORM:


JUSTIN M. WAGGONER
Assistant County Counselor


LACEY D. CRUSE
Commissioner, Fourth District


JAMES M. HOWELL
Commissioner, Fifth District