

RESOLUTION NO. 092-2022

Published on:

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.

Dated this _____ day of _____, 2022.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

KELLY B. ARNOLD, County Clerk

DAVID T. DENNIS, Chairman
Commissioner, Third District

SARAH LOPEZ, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:

JUSTIN M. WAGGONER
Assistant County Counselor

PETER F. MEITZNER
Commissioner, First District

LACEY D. CRUSE
Commissioner, Fourth District

JAMES M. HOWELL
Commissioner, Fifth District

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.

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.

- (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.

- (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:
 - a. Has a discharge to the ground surface unless such system is permitted by the Kansas Department of Health and Environment;
 - b. Has been enjoined as a public health nuisance by a court of competent jurisdiction;
 - c. Has received a written notice from the MABCD that said onsite wastewater treatment system fails to comply with the provisions of this code;
 - d. Discharges into a seepage pit, cesspool, well, mine shaft, or subsurface excavation;
 - e. Receives nondomestic wastewater;
 - f. Discharges wastewater to a vault or septic tank which is not a water-tight receptacle; or
 - g. 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)