

CHAPTER I. POLICY, ADMINISTRATION AND ENFORCEMENT

ARTICLE 1: GENERAL PROVISIONS

1-101. Title.

This Code shall be known and referred to as the Miami County Environmental Health Sanitary Code.

1-102. Legal Authority.

This Code is adopted under the authority granted to the Board of County Commissioners under application of Federal Law and the laws of the State of Kansas, including K.S.A. 19-3701 et seq., as amended, and pursuant to the powers and authorities of the Board of County Commissioners under K.S.A. 19-101a; and Sec. 5 of Article 12 of the Kansas Constitution and by K.S.A. 12-3301 et seq., if adopted by any city in Miami County.

1-103. Findings and Declaration of Policy.

A fundamental duty of every government is the protection of the health and safety of its citizens and to thereby promote the public welfare as well as the economical and planned development of the land and water resources of the County. Consequently, the Board of County Commissioners hereby finds, determines, and declares that it is necessary to adopt a uniform system of rules, regulations and standards to eliminate and prevent environmental conditions that are or may be hazardous to the public health, safety and welfare and to thereby promote the safe, economical and orderly development and conservation of the land and resources of the County.

1-104. Purpose.

The purpose of this Code is:

- (a) To promote the public health, safety, comfort and well-being of the public; and
- (b) To prescribe the procedures to be followed in administering this Code; and
- (c) To prescribe rules, regulations, standards and enforcement procedures to minimize, control or eliminate potential or actual sources or causes of disease, infection, contamination or pollution; and

- (d) To establish minimum standards and criteria for the design, installation, inspection and operation and maintenance of an onsite wastewater system (OWS).
- (e) To protect the integrity of water, air, soil, and natural resources, including aquatic biota, flora, fauna, and wildlife through the prevention of pollution and degradation of the environment by regulation of activities which may affect environmental conditions.

1-105. Jurisdiction and Application.

This Code and all authorized rules, regulations, restrictions and requirements shall apply from and after the effective date of adoption, to and throughout the unincorporated area of Miami County, Kansas, and to all persons, property, establishments and business activities located or conducted, regardless of ownership and acreage, within Miami County, Kansas and outside the municipal boundaries of any city.

1-106. Public Health Jurisdiction and Application.

This Code and any or all rules, regulations, restrictions and requirements shall apply to and throughout all areas of Miami County, Kansas, including those areas located within the municipal boundaries of any city, whenever authorized by said city or required under application of the Laws of the State of Kansas or of the United States, whether by statute, contract, rule or regulation, or pursuant to the jurisdiction of the Miami County Board of Commissioners.

1-107. Severability.

If any clause, sentence, paragraph, section or subsection of this Code shall be adjudged invalid for any reason whatsoever, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof found to be invalid.

1-108. Disclaimer of Liability.

This Code shall not be construed or interpreted as imposing upon the County, or its officials or employees: (1) any liability or responsibility for damages to any property; or (2) any warranty that any installation, system, or portion thereof that is constructed or repaired under permits or inspections required by this Code will function properly. In addition, any employee charged with the enforcement of this Code, who acts in good faith and without malice in the discharge of his or her duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage which may occur to any person or property as a result of the discharge of his or her duties.

1-109. Amendments and Additions.

This Code may be supplemented or its provisions may be amended by Resolution adopted by the Board of County Commissioners, after notice and hearing, as required by

law, and any such amendments or additions shall be incorporated within and codified as a part of this Code. Any changes, modifications or additional provisions adopted and imposed by State or Federal law, rule or regulation which are applicable to and administered through the jurisdiction of Miami County, Kansas, shall be incorporated within and made a part of this Code, with or without notice and hearing, as authorized or required by State or Federal law.

1-110. Repeal and Supersede Effect.

This Code shall supersede any and all previously adopted resolutions or regulations, which are, in whole or in part, in conflict with any provision of this Code, where applicable, and any rule, regulation or resolution which is or was in effect upon the effective date of this Code shall be repealed to the extent necessary to give this Code full force and effect, and in the case of any conflict of provisions, whether real or apparent, then the provisions of this Code shall govern wherever applicable.

1-111. Effective Date.

This Code shall become effective from and after the date of adoption by the Board of County Commissioners and publication of notice as required by law.

ARTICLE 2: ADMINISTRATION

1-201. Administering Authority.

Unless otherwise specifically designated within a separate and particular Chapter or Article of this Code, the Director of the Miami County Environmental Health Department shall have the primary authority and responsibility for the administration of this Code.

Under the authority of any particular Chapter or Article of this Code, the Director of the Miami County Environmental Health Department may implement such administrative procedures, consistent with this Code, as deemed necessary for the effective administration of any regulations or which may be required or imposed under application of the laws of the State of Kansas or the United States.

1-202. Administrative Actions and Decisions.

It is the intent of this Code to establish regulations and standards for the protection of the public health and safety. To the extent possible, all administrative actions and decisions required or authorized for the administration of this Code shall be made solely in accordance with the standards enumerated in the Code. Whenever, in the course of administration, it is necessary to make an administrative decision or take action for which standards are not provided, then the decision or action shall be made according to the purpose and intent of this Code so that the result will best serve the public health and safety.

1-203. Interpretation of Terms or Words.

All terms and words used in this Code shall be interpreted and given meaning according to their common understanding and to provide reasonable application of the purpose and intent of the Code. Whenever the context requires, in the application of this Code, the terms and phrases used shall be interpreted in the following manner:

- A. Words appearing in the singular number shall include the plurals, and those appearing in the plural shall include the singular.
- B. Words used in the present tense shall include the past tense and future tense, and words used in the future tense shall include the present tense and past tense.
- C. Words appearing in the masculine gender shall include the feminine and neuter genders.
- D. The word “shall” is mandatory; the word “may” is permissive.
- E. The phrase “this Code” shall refer to the Code and all authorized rules, regulations, restrictions and requirements, and the phrase “the regulations” shall include rules, regulations, restrictions and requirements authorized by the Code.

1-204.

Definitions.

The following words, terms and phrases appear throughout this Code and, thus, have general application and usage. Words, terms and phrases appropriate or applicable to specific Chapters within this Code are defined, where necessary, within those Chapters. Unless the context requires or specifies otherwise, the following words, terms or phrases as used in this Code shall be given the meaning defined in this Section.

- A. Access: Entry into or upon any real estate, structure or vehicle including any part thereof.
- B. Administering Agency: The agency or official designated in any of the Chapters contained in this Code to administer the provisions of that Chapter or any Section therein.
- C. Administrative Rules: Any regulation adopted by an administering agency, which the agency determines to be necessary and appropriate to enable it to fulfill its duties and responsibilities under this Code.
- D. Applicant: Any person who submits an application or requests permission to do some act regulated by this Code.
- E. Application: The application form provided by an administering agency, including the filing fee and any other supporting documents required by the agency.
- F. Authorized Representative: A person who is designated by an administering agency to administer the provisions of this Code or any Chapter therein.
- G. Board of Health: The Board of County Commissioners acting as the Board of Health.
- H. Board of County Commissioners: The Board of County Commissioners of Miami County, Kansas.
- I. Cesspool: A drywell that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.
- J. Domestic Sewage: Sewage which is normally characterized as and is similar to residential wastewater, not commercial or industrial activity, and which originates primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.
- K. Drywell: A well or excavation completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
- L. Effluent: The liquid wastewater discharged from a septic tank of any onsite wastewater system.

- M. Environmental Health Director: The legally appointed Environmental Health Director of Miami County, appointed in accordance with the Miami County Position Classification and Pay Plan.
- N. Establishment: Any structure or self-contained unit therein, including single and multiple family dwellings, commercial and industrial buildings, schools, churches, and public institutions.
- O. Flood Plain: Land which is subject to inundation of water as a result of what is commonly known as the 100-year flood. Floodplain boundaries in the unincorporated territory of Miami County are shown as Zone A on the Federal Insurance Administration's "Flood Hazard Boundary Map" for Miami County, Kansas (unincorporated area), currently dated June 7, 1977, and any later revisions.
- P. Ground Water Table: The upper surface of a ground water in the zone of saturation of a geologic formation.
- Q. Hearing Officer: Any person designated in this Code, or by an administering agency, to hear appeals from decisions made by an agency representative relating to the enforcement and administration of this Code.
- R. Industrial and Commercial Wastes: Any wastes produced as a by-product of any industrial or commercial process or operation, other than domestic sewage. Uses involving industrial or commercial wastewater must comply with regulations involving industrial and commercial wastes as approved and permitted by the Kansas Department of Health and Environment.
- S. Industrial and Commercial Onsite Wastewater System: Discharge of industrial or commercial waste to an onsite wastewater system is prohibited by the Kansas Department of Health and Environment regulations K.A.R. 28-46-1 et. seq.
- T. Law: Includes Federal, State, and local statutes, ordinances, regulations and resolutions.
- U. NPDES: National Pollutant Discharge Elimination System. A Federal permit issued by the Kansas Department of Health and Environment for any public and sanitary sewage system which discharges treated wastewater to approved receiving waters.
- V. Onsite Wastewater System: Any approved domestic wastewater collection and treatment system not discharging into Kansas streams or waterways and not required to hold a Kansas Department of Health Water Pollution Control Permit.
- W. Permit: The written permission to perform some act regulated by this Code, including, for example, permission to construct or permission to operate.

- X. Person: An individual, corporation, partnership, association, state, or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body or other legal entity.
- Y. Point Source: any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged.
- Z. Pollution: Any induced alteration of the physical, chemical, biological, and radiological integrity of water, air, soil (both surface and subsurface), or contamination of food or foodstuffs.
- AA. Premises: Any lot or tract of land and all buildings, structures or facilities located thereon.
- BB. Privy: A biological composting facility used for the disposal of human excreta.
- CC. Sanitary Sewer District: Any County-operated sewer municipal system duly formed, authorized and empowered to plan construct and operate a public sewer system in accordance with K.S.A. 19-27a01.
- DD. Sanitary Sewage System: Any system of pipes, tanks, conduits, structures or other devices for the collection, transportation, storage, treatment and disposal of sewage.
- EE. Schedule of Compliance: A schedule of remedial measures and times including an enforceable sequence of actions or operations leading to compliance with any regulations or limitation.
- FF. Sewage: A combination of liquid wastes which may include chemicals, domestic wastewater, animal or vegetable matter in suspension or solution, and other solids in suspension or solution, which is discharged from a dwelling building, or other establishment.
- GG. Subdivision: Any land, vacant or improved, which is divided or re-subdivided into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of sale or development.
- HH. Wastewater: Liquid or water carrying pollutants or water contaminants from residential, industrial, municipal, agricultural or other sources.

1-205.

Technical and Scientific Terms.

Unless otherwise defined, any technical or scientific term used within this Code or within any rule, regulation, restriction or requirement shall be given the meaning most commonly known and applied within the appropriate literature of manuals applicable for that science, industry or technological skill.

1-206.

Vested Interests.

Nothing contained in this Code or any regulations shall be deemed or construed to grant any vested interest or protected right to any person beyond the express limited terms of any permit or ruling issued under this Code, and the Code and regulations are expressly declared to be subject to amendment, change, or modification.

1-207.

Compatibility With Other Laws.

Nothing contained in this Code or any regulations shall be deemed to alter or modify the application of any other laws, codes or regulations which are or may be applicable to the property, use, business activity or other object or matter regulated under this Code, and any permit, approval or other condition given or acknowledged under this Code shall be limited in effect to the requirements of this Code and shall not, under any circumstance, relieve the holder from compliance with all other applicable laws, codes, regulations or requirements.

ARTICLE 3: PERMITS AND LICENSES

1-301. Permits and Licenses Required.

No person shall conduct, carry-on or perform any business or activity identified in this Section without first having obtained a valid permit or license in conformance with the requirements of this Code.

- A. Onsite Wastewater System: Every person who installs, removes, alters, repairs or replaces or causes to be installed, removed, altered, repaired or replaced any onsite wastewater system or part thereof shall, prior to commencement of any work, apply for and obtain a permit to perform such work, and no onsite wastewater system shall be installed, removed, altered, repaired or replaced except pursuant to a permit issued under this Article.
- B. Installer - License Required. Every person who conducts the activity of an Installer as defined in Chapter II of this Code, shall apply for, obtain and maintain a valid Installer's license to perform that activity.
- C. Designer - License Required. Every person who conducts the activity of a designer as defined in Chapter II of this code, shall apply for, obtain and maintain a valid Designer's license to perform that activity.
- D. Sanitary Disposal Contractor - License Required. Every person who engages in or conducts the activity of a Sanitary Disposal Contractor, as defined in Chapter II of this Code, shall apply for, obtain, and maintain a valid license to perform that activity.

1-302. Application Forms and Procedures.

- A. Content: Application for a permit or license shall be made on forms provided for that purpose. The application shall give a description of the character of the work proposed to be done, or activity to be engaged in, and, if appropriate, the locations, ownership, occupancy, and use of the premises in connection therewith. The administering agency shall require plans, specifications or drawings and such other information as deemed necessary. Plans for all public sewer systems shall be stamped with an engineer's seal.
- B. Filing: An application for any permit or license required under this Code shall be filed with the Director of the Miami County Environmental Health Department.
- C. Verification: An application for a permit must be signed by the person for whose benefit the permit is being required or his or her authorized representative. The administering agency may require proof of such authorization.

- D. Compliance: The applicant shall be responsible for compliance with the permit requirements as further set out in this Code. Only a person who complies with the requirements of this Code shall be entitled to receive or retain a permit or license.

1-303. Permit and License Issuance.

If the administering agency determines that the application complies with the requirements of this code, a permit or license shall be issued.

In making its determination on whether to issue a permit or license the administering agency shall perform or cause to be performed an inspection to determine compliance with this Code.

The administering agency shall issue or deny the permit or license within five (5) working days of receipt of the application provided all requirements for soil profile, site assessment, system designs, and license qualifications have been completed. If the application is denied, the agency shall give the applicant written reason for denial.

It shall be the duty of the person performing the work authorized by a permit to notify the administering agency when work is ready for any required inspection. Such notification shall be given not less than eight (8) hours during normal office hours before the work is to be inspected.

1-304. Permit and License Conditions.

Every permit and license issued under this Code shall be subject to the terms and conditions specified in this Section.

- A. Right of Access: Application for, and acceptance of, any permit issued under this Code shall grant to any inspector, code or law enforcement officer, and any representatives of the administering agency the right to enter upon any property subject to the permit, at any reasonable time during standard business hours, for the purpose of inspection to determine and ensure qualifications for and compliance with the permit, and with owner's permission, allow for reasonable access to and review of records, property or other materials necessary to perform the inspection.
- B. Authorized Activity: Each permit or license issued under the authority of this Code shall be limited to and expressly provide for the type and manner of activity permitted for the holder and shall not be used nor applied for any other purpose, type or manner of activity. The permit or license issued shall specifically refer to the activity description contained within the permit or license application, and any change in the type, manner, scope or location of any activity shall require application for and modification of the permit or license.
- C. Non-Transferable: No permit or license required by this Code shall be transferable to another person or premise, and the holder of the permit or license shall notify

the administering agency prior to any change in ownership or location of any permitted or licensed activity.

- D. Term Expiration: Each permit or license issued under the authority of this Code shall clearly state the date of issuance, the term of the permit or license, and the expiration date. The term of each permit or license issued under this Code shall be for a period not to exceed one (1) year, unless otherwise specified.
- E. Renewal: Any permit or license issued under the authority of this Code may be renewed for one or more additional terms upon application for renewal filed with the Director of Environmental Health Department on a form authorized for that purpose. No permit or license which has been expired for more than thirty (30) days or which is subject to revocation, for any reason, may be renewed, and such permits or licenses may be reissued only upon the filing of a complete application for a new permit or licensee.
- F. Errors and Omissions: The issuance of a permit or license shall not prevent the administering agency from thereafter requiring the correction of errors in plans and specifications or from preventing construction activity being carried on there under when such activity would be in violation of this Code or of any other code or resolution or from revoking any permit or license when issued in error.

The Director of the Environmental Health Department may, in writing, suspend or revoke a permit or license issued under provisions of this Code whenever the permit or license is issued in error or on the basis of incorrect information provided by the applicant.

1-305. Standard Fees.

For the purpose of defraying all or part of the cost of administration of this Code and to assist in the regulation of matters affecting the public health, there shall be and hereby is imposed a standard fee for and upon the issuance and administration of any permit or license under this Code.

- A. Fee Schedule: From and after the effective date of this Code, the following schedule of fees shall be assessed and collected for each permitted or licensed activity, establishment or person.
 - 1. Soil Profile Fees:
 - a. Soil Profile Analysis\$350.00
 - b. Secondary Profile.....\$200.00
 - c. Review or Locate of Previous Profile\$150.00
 - 2. Onsite Wastewater System Permits:
 - a. Onsite Wastewater (OSW) Installation Permit\$350.00
 - b. OSW Significant Alteration Permit\$350.00
 - c. OSW Minor Repair Permit\$100.00
 - d. Connection Permit\$100.00

- e. Industrial or Commercial Operating Permit\$50.00
- f. Residential Operating Permit.....\$25.00
- g. Reinspections (each) per hour, minimum 2 hours\$50.00
- h. Inspections outside of normal business hours.....\$50.00
(per hour, minimum 2 hours)
- i. Existing System Evaluation Inspection\$225.00

3. Licensing Fees:

- a. Installer or Designer Application Fee\$50.00
- b. Test Fee, Installer or Designer\$100.00
- c. Installer License, annual\$150.00
- d. Designer License, annual\$150.00
- e. Late Renewal, Installer or Designer\$50.00
- f. Reinstatement Fee, Installer or Designer\$75.00
- g. Homeowner, one time installer license.....\$100.00
- h. Sanitary Disposal Contractor License (Pumper)\$150.00
- i. Pumper License, each additional truck.....\$75.00

4. Miscellaneous Fees:

- a. Rule Variance\$150.00
- b. Onsite System Decommission\$50.00
- c. Lagoon Dewatering Review\$100.00
- d. Land Application Permit.....\$400.00

5. Water Well Permits

- a. New Well Permit\$150.00
- b. Well Decommissioning Permit.....\$100.00

B. Multiple Uses or Services: Whenever any person conducts more than one activity or whenever more than one activity is conducted at a single property or establishment, the fee imposed under the schedule for each separate permitted or licensed activity shall be assessed and paid as required.

C. Fee Payment: The fee imposed under this Code shall be paid by the applicant prior to the issuance of any permit or license authorized by the Code and all annual fees shall be paid prior to the anniversary or expiration date of any permit or license.

D. Failure to Pay: Failure to pay any fee imposed by this Code may be cause for suspension or revocation of any permit or license.

E. Double Fee for Unauthorized Practices: Any person who shall commence any activity for which a permit is required by this Code without first having obtained the permit shall, if subsequently allowed to obtain a permit, pay double the permit fee fixed by this section for such activity; provided, however, that this provision shall not apply to emergency work when such work was urgently necessary to protect public health and safety and it was not practical to obtain a permit before commencement of such emergency work. In all such cases, a permit must be

obtained as soon as possible after the performance of such work, and if there is a delay of more than three (3) working days in obtaining such permit, a double fee as herein provided shall be charged.

- F. Adjustments to Fee Schedule: The fees imposed under this Code may be adjusted or changed by Resolution adopted by the Board of County Commissioners, after publication notice and hearing, and upon adoption, the adjusted fees shall be appended to this Code and shall supersede the fee schedule established in this Section.

1-306. Supplemental to State Regulations.

The permits or licenses, and all fees, conditions and regulations imposed under this Article or any other Article of this Code shall be supplemental to and in addition to any permits, licenses, fees or regulations imposed or required by any other law, including those administered by the Kansas State Department of Health and Environment.

1-307. Administration of State Requirements.

In the event that any rules, regulations or requirements arising under the Laws of the State of Kansas are assumed or administered through the jurisdiction of the Board of County Commissioners by the Miami County Environmental Health Department acting under any lawful executive or administrative order or pursuant to a contract agreement, whereby the jurisdiction of any state authority is delegated to or administered by the Miami County Environmental Health Department, then any permit or license issued or issuable by the State authority shall apply and shall satisfy the permit or license requirements imposed by this Article subject to the following conditions and exceptions:

- A. Permit or License Fees: The permit or license fees imposed by this Article, Section 5, shall apply and be required for payment if greater than or equal to any state imposed fees. The state-imposed fee shall apply whenever it is greater, but only one fee shall be imposed and required for payment.
- B. Conflict in Regulations or Requirements: All rules, regulations, restrictions, and requirements of this Code shall remain in effect and shall apply to any activity or condition covered by this Code except when in direct conflict with a provision of the State rules or regulations, in which case the state-imposed rule or regulation shall apply. Terms and conditions, rules, requirements, regulations or limitations which are supplemental to those imposed by the State and which are not specifically or expressly excluded or prohibited shall not be considered conflicting and shall be imposed and in effect.
- C. Additional Regulations: Rules, regulations and requirements applicable to any conduct, activity, condition or standard which is not expressly regulated by the state law operation but which is regulated by this Code, shall be and remain in full force and effect as specifically applied under this Code for and within Miami County, Kansas.

ARTICLE 4: INSPECTIONS AND INVESTIGATIONS

1-401.

Inspections Required.

Physical site inspections shall be authorized and performed for all permitted or licensed activities under this Code.

- A. Construction Activity: Whenever plans and specifications are required by this Code to be submitted to an administering agency as part of a permit application, the agency shall inspect the premises prior to the start of operations to determine compliance with the approved plans and specifications and with any other requirements of this Code.
- B. Onsite Wastewater System: Onsite Wastewater Systems shall be inspected by the Environmental Health Department prior to being placed in operation to ensure compliance with this Code. Such systems shall be inspected thereafter as often as necessary to ensure compliance with this Code.
- C. Industrial/Commercial Onsite Wastewater Systems: Each industrial or commercial onsite wastewater system hereafter permitted shall be inspected at least once annually to ensure compliance with this Code, and shall be subject to annual renewal, upon inspection, of the operating permit.
- D. Repairs and Replacements: Any replacement of or repair to an onsite wastewater system regulated by this Code, other than normal maintenance, which constitutes a structurally significant alteration shall be permitted and inspected prior to undertaking and completing the repairs and replacements.
- E. Minor Repairs and Emergencies: All minor repairs, as defined in Chapter II of this Code, require inspections. Minor repairs, which are conducted during normal business hours, require pre-notification to the Miami County Environmental Health Department. Emergency repairs conducted during evening hours or on the weekend require notification to the Department within twenty-four (24) hours.

1-402.

Inspection Reports.

A written inspection report shall be made for all inspections conducted under the authority of this Code, stating the name of the inspector, the date and time of the inspection, the type of inspection and the property inspected. The report shall enumerate all findings made during the inspection and indicate compliance or non-compliance with the approved system design.

Whenever an onsite wastewater system is inspected after a permit is issued, the findings of the inspector shall be recorded, and the inspection report shall describe any determined violations, the Code section violated, and the correction to be made. A copy of the completed report shall be issued to the owner of the premises and, if different than the owner, to the holder of the permit. The report is a public document.

1-403. Inspection Scheduling and Re-inspections.

Whenever inspections are required under this Code to be scheduled for any installation, construction, initial activity, or for correction of any violation or other non-conforming condition, it shall be the duty of the holder of the permit or license or the operator of the establishment to promptly notify the administering agency and schedule the time and date for the inspection. The licensed installer may be required to be present at the time of the inspection.

A re-inspection fee may be assessed if the work for which the inspection is scheduled is not then complete or if the corrections required are not then made and a subsequent inspection is required.

1-404. Access and Right of Entry.

The administering agency shall have the right to make inspections of establishments, premises, places and localities for the purpose of determining compliance with this Code. Inspections shall be done at a reasonable time.

If the building, premises or establishment to be inspected is occupied, the agency representative shall first present proper identification and request entry; if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner, or other persons having charge or control of the building or premises, to request entry. If entry is refused, the agency shall have recourse to all remedies provided by law to secure entry.

The agency shall have reasonable access to the business records of any person licensed to perform any activity under this Code where the records, daily logs, or other documents are reasonably necessary to determine compliance with the requirements of this Code.

1-405. Property Resale, Courtesy Inspections.

(Inspection of Existing Onsite Wastewater System.)

Whenever any property connected to, or served by, an onsite wastewater system is offered for or subject to a contract of sale, upon the request of the property owner or contract buyer, the administering agency may provide a courtesy inspection, to inspect and determine the condition of the system. Any inspection provided under this section shall be performed as a courtesy only and shall not constitute nor be deemed a warranty, and neither the administering agency nor any other official of the County shall be liable for any failures of the system or for other claims arising out of the inspection. Upon completion of the inspection, a report of findings and the results shall be issued to the applicant and any other interested parties as requested.

ARTICLE 5: ENFORCEMENT PROCEEDINGS

1-501.

Emergency Orders.

The Director of the Environmental Health Department, or other authorized code enforcement officer or representative of the administering agency, may issue such orders or directives as he deems necessary upon a determination that such action is required to prevent, contain or eliminate an obvious violation of this Code or an imminent threat to the health or safety of the public.

- A. **Health Risk:** Whenever a duly appointed representative of an administering agency determines that a condition exists which requires immediate action to protect public health, he or she may, without prior notice or hearing, issue an emergency order stating the nature of the threat to public health and directing that action be taken as he may deem necessary to eliminate or minimize such condition. Notwithstanding any other provisions of this Code, such order shall be effective immediately upon issuance and shall be reduced to writing as soon as practicable.

- B. **Work Stoppage:** Whenever any work is being performed on an onsite wastewater system contrary to the provisions of this Code, the administering agency representative may order the work stopped immediately by issuing an emergency order and serving it on any persons engaged in the doing or causing such work to be done, and any such person shall forthwith stop work until authorized by the agency to proceed with the work.

- C. **Compliance:** Any person to whom an emergency order is directed shall comply therewith immediately, but upon written request filed within five (5) days of issuance, shall be afforded a hearing before a Hearing Officer as soon as possible. Such a hearing shall be held within ten (10) days of the issuance of such emergency order.

1-502.

Suspension of Permit or License.

The administering agency may suspend any permit or license that it issues if the holder thereof does not comply with the requirements of this Code. The suspension shall become effective ten (10) calendar days after the holder of the license or permit, or the person in charge of such establishment or premises subject to the permit, receives written notice of such suspension. The holder or other aggrieved party may request a hearing in accordance with Article 6 of this Chapter. After a hearing, the Hearing Officer may uphold the suspension as originally ordered or modify it as he sees fit, but in no event shall he enter an order of suspension for a period longer than that set out in the original order. Both the original order and any order entered after an appeal may condition the length of suspension upon correction of the conditions upon which the suspension is based.

1-503.

Revocation of Permit or License.

The administering agency may revoke a permit or license for serious or repeated violations of any of the requirements of this Code or for interference with the administering agency in the performance of its duties.

Prior to revocation, the administering agency shall notify, in writing, the holder of the license or permit, or the person in charge of the establishment or premises subject to the permit, of the specific reason(s) for which the permit or license is to be revoked and that the permit shall be revoked at the end of the ten (10) calendar days following service of such notice unless a written request for hearing is filed with the regulatory authority by the holder of the permit or license within the 10-day period. If no request for hearing is filed within the 10-day period, the revocation of the permit or license becomes final.

Whenever a revocation of a license or permit has become final, the holder of the revoked permit or license may make written application for a new permit or license and pay the fee required.

1-504.

Abatement of Nuisances.

The administering agency may maintain a civil action by injunction, in the name of the Board of County Commissioners of Miami County, in which this Code is applicable, to abate and enjoin a nuisance.

ARTICLE 6: APPEALS

1-601. Appeal for Hearing.

Except as otherwise provided in Article 5 of this Chapter, any person aggrieved by any notice, final order, or denial of a permit or license by the Environmental Health Department may request a hearing on the matter before the Hearing Officer provided such person files with the Environmental Health Department within ten (10) days after the date of issuance of the notice, order, or denial 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.

1-602. Hearing Officer.

The Hearing Officer will be the County Administrator or a member of the Board of Review as stated in Chapter II, Article. 1, Section 7 E-1.

1-603. Conduct of Hearing.

Upon receipt of the appeal request, the Hearing Officer shall set a time and place for a hearing, and shall give the petitioner written notice thereof. The hearing shall be commenced not later than ten (10) days after the date on which the request for hearing was filed; provided that upon request of the aggrieved party the hearing may be postponed for a reasonable time beyond such 10-day period.

A record shall be made at the hearing, and the aggrieved party may be represented by counsel or other authorized person. The administering agency shall have the burden to sustain any notice, final order, or other decision subject to the appeal.

1-604. Decision.

Within ten (10) days after the conclusion of the appeal hearing, the Hearing Officer shall issue a written decision to the petitioning party. That decision may sustain, modify or deny the decision of the agency.

1-605. Proceedings of Hearings.

A summary of all proceedings of hearings, including the findings and the decision of the Hearing Officer, together with a copy of every notice and order related thereto, shall be filed with the administering agency.

1-606. Application of State Law Procedures.

The appeal of any final decision or action of the administering agency which is taken under the authority of a state administrative agency in application of the laws of the State of Kansas shall be subject to and conducted in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501, et seq., and the provisions of that Act

shall supersede any and all time limitations and procedures otherwise specified in this Code.

The Kansas Administrative Procedures Act shall not apply to any proceeding arising out of an appeal from any decision or action taken solely under the authority of the Board of County Commissioners.

ARTICLE 7: VIOLATIONS AND PENALTIES

1-701.

Unlawful Conduct.

The following acts shall be unlawful:

- A. Obstruction of Administering Agency: No person shall willfully impede or obstruct a representative of an administering agency in the discharge of his or her official duties under the provisions of this Code.
- B. Operation without a Permit or License: No person shall do any act or engage in any activity for which a permit or license is required by this Code unless first obtaining such permit or license.
- C. Failure to Comply with Emergency Order: No person shall fail or refuse to comply with an emergency order of an administering agency issued under Article 5 of this Chapter.
- D. Failure to Comply with Permit or License: No person shall fail to comply with the specified terms or conditions of any permit or license issued under this Code nor do any act or engage in any activity or conduct regulated by this Code without a valid permit or license, nor continue activities or conduct subject to any permit or license which has expired, been suspended or been revoked under this Code.
- E. Failure to Comply with Regulations: No person shall do any act or engage in any activity which is regulated by any Article, Section or Chapter of this Code except as authorized and permitted under the Code, and no person shall knowingly operate any activity regulated by this Code in any manner which does not comply with the requirements of the conditions and regulations specified in this Code.
- F. Falsification and Misrepresentation: No person shall falsify nor misrepresent any fact, information, product or data provided, required or submitted for any application, permit, license, inspection, examination, investigation, report, record, test or other determination required under this Code.
- G. Improper Discharges: No person shall cause nor permit any wastewater or sewage to be discharged to a cesspool, seepage pit or drywell or upon the ground surface, the ground water or other natural water course which creates or causes a health hazard or unlawful pollution, and no person shall cause nor permit any effluent from any onsite wastewater system to be so discharged, or to leak, seep or otherwise escape from the system such as to create or cause a health hazard or unlawful pollution. No person who owns or operates any establishment which generates commercial/industrial wastewater, shall allow the wastewater to discharge to the surface, to any groundwater source, or to any onsite wastewater system as prohibited by this code and by the Kansas Department of Health and Environment regulations K.A.R. 28-46-1 et.seq.

- G. Failure to Repair or Correct: No person shall fail or refuse to repair or correct any defect, deficiency or other condition, whether natural or otherwise, in any onsite wastewater system which has caused, or which the Director of the Miami County Environmental Health Department or his designees determine is likely to cause, within reasonable certainty, any improper discharge or other health hazard, unsanitary condition, or unlawful pollution.
- H. Occupancy of Establishment: The occupancy of any establishment, which was permitted to install an onsite wastewater system, shall be prohibited until the final certification for the system is issued or an exception is granted.

1-702.

Penalties.

Any violation of any provision or requirement of this Code or the commission of any unlawful act or conduct specified in this Article shall be deemed to be a misdemeanor under the codes and regulations of Miami County, Kansas, and punishable upon conviction by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day's violation shall constitute a separate offense.

1-703.

Prosecution.

The County Counselor shall prosecute violations of this Code in the name of the Board of County Commissioners of Miami County, Kansas.

CHAPTER II: SEWAGE DISPOSAL

ARTICLE 1: GENERAL PROVISIONS

2-101. Purpose.

Sewage is a potential source of disease and a potential hazard to the health, safety and welfare of the public. It also poses a direct threat to the environment as a potential pollutant of the air, water and soil, and presents a hazard to all forms of plant and animal life. It is the purpose of this Chapter to provide minimum standards for the sanitary disposal of all sewage generated or transported within Miami County unless otherwise regulated by competent authority.

2-102. Scope.

All sewage must be disposed of by the use of a sanitary sewer system as defined in this Article. A sanitary sewer system may be classified as either a public sewer system or an onsite wastewater system.

2-103. Definitions.

Unless the context requires or specifies otherwise, the following words, terms or phrases, as used in this Code, shall be given the meaning defined in this Section.

- A. Aerobic Treatment Unit: A pretreatment component of an onsite wastewater system that uses oxygen to decompose wastewater, which produces a higher quality effluent than is produced by a septic tank. An aerobic treatment unit may be used in place of a septic tank in any onsite wastewater system. Final treatment and absorption of aerobically treated wastewater must take place in some type of soil absorption system. This definition does not apply when aerobic treatment units are used in public sewer systems that are required to obtain an NPDS permit.
- B. Alternative Onsite Wastewater System (Enhanced Treatment): Any onsite wastewater systems with components that are designed to achieve enhanced treatment and are intended to deal with special site constrictions.
- C. Aquifer. A subsurface water-bearing bed or stratum of sand, gravel, or bedrock which stores or transmits water in recoverable quantities or is capable of yielding water to, or transmitting water contaminants or pollutants to, wells or springs.
- D. Bedrock: A soil horizon, which contains greater than 50% consolidated material, by volume.
- E. Bedroom: Any room within a dwelling that might reasonably be used as a

sleeping room, and meets the minimum dimensions as specified in the Miami County, Kansas Building Code, and that has an adjoining area or space that may be utilized as a closet.

- F. Building Sewer: The solid pipe beginning outside a building wall, which receives and conveys the discharge from the building drain to a public sewer system a septic tank, aerobic treatment unit or a holding tank.
- G. Conventional Onsite Wastewater System: An onsite wastewater system that is comprised of a building sewer, septic tank or aerobic tank for pretreatment and a subsurface soil absorption system that provides final treatment and absorption of effluent.
- H. Curtain Drain / Underdrain: Typically a vertical gravel trench with a drainage pipe at the bottom placed at least 10 feet upslope and around either end of the soil absorption component of an onsite wastewater system to intercept and or lower perched water tables or ground water whose elevation fluctuates seasonally.
- I. Designer: Any person duly licensed by the Miami County Environmental Health Department to plan and design any onsite wastewater system. A licensed designer must design any alternative onsite wastewater system.
- J. Director: The Director of Environmental Health of the county or the authorized deputy, agent, or representative of such officer.
- K. Distribution Box: A watertight chamber below the outlet level of a septic tank or treatment unit and from which effluent enters the soil absorption system.
- L. Distribution System: The material used to distribute wastewater within a soil absorption system. This may include gravel trenches with perforated piping, pressurized or gravity-fed, or gravelless systems.
- M. Gravelless Distribution System: A distribution system, which does not require rock or gravel to maintain an open trench for soil contact. They typically consist of an open bottom structure, half of a large diameter pipe, or other manmade aggregate to create an underground chamber to distribute and store effluent.
- N. Holding Tank: A watertight tank that holds all sewage discharged from any establishment. A licensed sanitary disposal contractor must pump the tank as necessary and the sewage shall be disposed of at an approved site.
- O. Installer: Any person duly licensed to construct, install and/or repair any onsite wastewater system and design conventional systems and wastewater stabilization lagoons.
- P. Lateral: A length of perforated pipe installed in a soil absorption system, typically laid in a gravel trench, whose purpose is to distribute wastewater, by gravity or pressure into the soil.

- Q. Limiting Condition: The presence of bedrock, the normal ground water table, a restrictive soil layer, a seasonal or perched water table, or other condition that severely limits the treatment and/or absorption of effluent.
- R. Minor Repair: When used in reference to onsite wastewater systems, the term “minor repair” shall be defined as a replacement or repair of any solid pipe component of the system or such similar type of work as designated by the Director of the Miami County Environmental Department or his designee.
- S. Onsite Wastewater System: A sanitary sewer system which retains wastewater generated by an individual establishment on the same premises as the establishment and such wastewater is either:
- a. Treated on site by means of a soil absorption system or wastewater stabilization lagoon; or
 - b. Stored in a holding tank and transported for treatment to an approved site by a licensed sanitary disposal contractor.
- T. Public Sewer System: A sanitary sewer system that collects untreated or partially treated wastewater from multiple establishments or premises or recreational areas and transports the wastewater by means of pipes or conduits to a central plant or location for treatment, and which is available for use by any person within the geographic area served by such a system.
- U. Restrictive Soil Layer: A compacted or dense soil layer such as a fragipan, a soil layer with a brittle and firm or very firm consistence, or a soil layer having a massive or a platy structure.
- V. Sanitary Disposal Contractor: Any person duly licensed to perform sanitary disposal services. A person who engages in the collection, transportation, and disposal of the contents of sewage tanks, privies, portable toilets, or other containers holding sewage or septage.
- W. Sanitary Disposal Service: The pumping out and removal of sewage from onsite wastewater systems and the transportation of such material to another location for treatment or disposal.
- X. Septic Tank: A watertight, accessible, covered receptacle designed and constructed to receive sewage from a building sewer; separate the settleable and floatable solids; partially decompose the accumulated solids by anaerobic action; and provide storage for the accumulated sludge and scum.
- Y. Sewage Treatment Plant: An arrangement of devices and structures used for treating sewage.

- Z. Soil Absorption System: A component of an onsite wastewater system that allows wastewater to leach into the soil by means of a distribution system for the purpose of absorption and final treatment. Soil absorption systems include but are not limited to, shallow-in-ground or conventional trenches or beds gravity flow or pressurized, Wisconsin mound, At-grade beds or trenches, and drip dispersal lines.
- AA. Soil Loading Rate (SLR): The rate expressed as gallons per square foot at which wastewater may be applied to the soil in a soil absorption system. The SLR is one factor in determining the size of the soil absorption area.
- BB. Soil Mottles: Spots or streaks of contrasting soil colors, which indicate the presence of a seasonal water table zone.
- CC. Structurally Significant Alteration: When used in reference to onsite wastewater systems, the term “structurally significant alteration” means any of the following:
1. Replacement, repair or extension of any portion of the soil absorption component of the system; and/or
 2. Replacement, repair or reconstruction of any one or more of the critical parts of the system, as designated by the Director of the Miami County Environmental Health Department; and/or
 3. Any replacement, repair or reconstruction, which upon review of the administering agency is determined to be an essential repair in order to correct or prevent an improper discharge or imminent health hazard or unlawful pollution.
- DD. Suspended solids: Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- EE. Trunk Line: The solid pipe from which the lateral lines extend in an onsite wastewater system.
- FF. Vertical Separation Distance: The depth as measured from the bottom of the infiltrative surface of the distribution system of the soil absorption component to the shallowest limiting condition.
- GG. Wastewater: Liquid or water carrying pollutants or water contaminants from residential, industrial, municipal, agricultural or other sources.
- HH. Wastewater Stabilization Lagoon: An artificial pond designed to exclude surface water and receive all sewage from an establishment for biological decomposition.
- II. Watercourse: A channel in which a flow of water occurs, either continuously or intermittently.

- JJ. Water Table Zone: A zone in the soil which is either continually or seasonally saturated with water.

2-105.

Rules of Application.

The requirements established by Chapter II of this Code shall apply and be applicable to any and all public sewer systems and onsite wastewater systems now or hereafter installed used or operated upon any property located within Miami County, Kansas subject to the provisions of this Code.

- A. General Rule: Unless otherwise provided or excepted in accordance with this Section, from and after the effective date of the Code, no person shall design, install, replace, alter, repair, use or operate, nor cause or allow the installation, replacement, alteration, repair, use or operation of any onsite wastewater system except as permitted under and as which complies with the established requirements of this Code.
- B. Existing Systems Treating Domestic Wastewater: Any onsite wastewater system lawfully installed prior to the effective date of this Code and used exclusively for domestic wastewater and not industrial nor commercial wastes, may remain in use if, and as long as, it continues to operate in accordance with the original design and location, does not experience any system failure, and does not present any hazard to the public health, safety or welfare; however, any replacement, alteration, enlargement, repair, removal, conversion, improvement or demolition shall comply with the requirements of this Code or any later amendments, revisions or versions.
- C. Existing Industrial and Commercial Onsite Wastewater Systems:
1. Discharge of industrial or commercial waste to the surface, to a groundwater source or to a soil absorption system is prohibited. Any such discharge occurring at the time of passage of this Code shall be properly corrected or referred to the Kansas Department of Health and Environment to assure compliance with state and federal requirements.
 2. Industrial and/or commercial wastes collected and retained on site using below ground holding tanks or treating the wastewater in a lined lagoon shall be subject to all Kansas Department of Health and Environment permit and inspection requirements, and shall comply with or satisfy all requirements and regulations now or hereafter adopted by the Kansas Department of Health and Environment, pursuant to Kansas Administrative Regulations, Article 28.
 3. Those systems that are currently used exclusively for domestic waste may remain in use, subject to at least one (1) annual inspection, as long as the system continues to be used only for domestic wastewater treatment and satisfies the requirements of this Code.

- D. Existing Tracts and Lots of Record: The owner of any land, which is a tract or lot of record on the effective date of this Code and contains sufficient size or acreage to satisfy the minimum lot size requirements for any permit specified under this Code, may apply for and receive an installation permit under the applicable provisions of this Chapter if:
1. The installation and use of the onsite wastewater system shall be exclusively for domestic wastes and all commercial and/or industrial wastes are handled per state regulations and will comply with all other requirements of this Code; and
 2. The lot is located in a plat which has received final plat approval on or before the effective date of this Code or the lot or tract is not platted but is duly recorded as a lot or tract of record prior to the effective date of this Code; and

2-106. Connections to Public Sewer Systems.

To the extent feasible, public sewer systems shall be used for the disposal of all sewage within Miami County. No onsite wastewater system shall be permitted under this Chapter whenever a public sewer system is within four hundred feet (400') of the property line unless the Administrative Agency finds that connection to such a sewer is not feasible or reasonably available and an onsite wastewater system meeting the requirements of this code can be constructed on the property.

2-107. Repairs and Corrections.

Any onsite wastewater system that cannot connect to a public sewer system and does not function properly as designed and permitted shall be replaced or repaired. Plans and specifications for the replacement or repairs shall be submitted to and reviewed by the administering agency, and no repairs or replacements, other than ordinary maintenance, shall be performed without a permit and inspection as required under this Code.

2-108. Variances.

Effective from the date of adoption of this Code, any person who owns a lot or tract of land which has been recorded or platted as a lot or tract of record prior to the effective date of this Code may apply for and receive a variance from the minimum lot size requirements established by this Code for the installation, use or operation of any type of onsite wastewater system if, after inspection and evaluation, the Miami County Environmental Health Department determines, in coordination with the Miami County Planning and Zoning Office, that the system can and will comply with all other applicable requirements of this Code and the applicable Zoning and Subdivision Regulations of the County. The Environmental Health Department shall adopt standards to apply in granting such variances.

2-109.

Rule Exceptions.

The owner of any land or the user of any onsite wastewater system regulated by this Code may apply for any exception to any standard, specification, rule or regulation prescribed in this Code, which is not otherwise discretionary, under the authorities granted to the Director of the Environmental Health Department or other administering agency.

- A. Application: Application for any rule exception under this Section shall be filed with the Director of the Environmental Health Department on approved and authorized forms and shall contain the following information:
1. The name of the applicant;
 2. The name of the property owner if different than the applicant;
 3. The address and legal description of the property;
 4. The zoning and land use, existing and proposed, for the property;
 5. The express rule, regulation or requirement for which exception is sought;
 6. A detailed description of the plan, action, or other specification that is proposed in alternative to the rule requirement.
- B. Application Fee: There shall be and hereby is imposed a fee of fifty dollars (\$50.00) for and upon each application for a rule exception filed under this section. The fee shall be charged and paid for each separate tract, lot or sub-part of a tract or lot subject to the application and for each rule, regulation or requirement for which exception is sought.
- C. Report and Recommendation: Upon receipt of any application for a rule exception under this Section, the Director of the Environmental Health Department, hereafter referred to as Director, or his designee shall evaluate the application and may conduct such site inspections or other investigations as he deems appropriate, and may require the applicant to submit additional facts, information or tests as may be reasonably necessary to render a decision on the application. The Director or his designee shall prepare a report and recommendation on the application within seven (7) days after receipt of the application and of all required additional information. A copy of the report and recommendation shall be sent to the applicant, to any appropriate planning or governmental body and to any other interested person or party.
- D. Final Decision: The report and final recommendation of the Director, or his designee, shall be and become the final decision on the application unless, within fourteen (14) days after the date of the report and final recommendation, the applicant or other interested party or governmental body requests in writing a formal review of the application or final recommendation. Any final decision of the Director, or his designee, shall be issued in the form of a written

administrative order, and the order shall be certified and recorded with the County Register of Deeds.

- E. Review Proceeding: Whenever a timely request for a review of any application or final recommendation is filed with the Director, a review proceeding shall be by the Codes Board of Appeals for Miami County as established in the Miami County Building Code. The Codes Board of Appeals shall hold it's meeting to consider the application or recommendation within fourteen (14) days after a request for review is filed with the Director. Notice of the meeting shall be provided in writing to the applicant, the party seeking review, the Director, and any other interested person or governmental body.
- F. Standards for Review: The report and recommendation of the Director, or his designee, shall be given substantial deference upon any review, but the person applying for any rule exception shall have the responsibility, in all instances, to demonstrate that the exception is justified and necessary. No rule exception shall be granted, either by final decision of the Director, or his designee, or upon any order of a review proceeding unless it is found and determined that:
1. The rule or requirement for which an exception is sought cannot practically be met as applied to the property without extreme and undue hardship; and
 2. The rule exception will not adversely affect the proper and efficient operation of the onsite wastewater system nor require extraordinary monitoring, care or maintenance; and
 3. The system as proposed will comply with all other applicable rules, regulations or requirements and will not cause nor result in any identifiable risk to the environment or public health.
- G. Decision on Review: The decision in any review proceeding authorized in this Section shall be issued, in writing, within seven (7) days after completion of all review proceedings. A copy of the final decision shall be certified and recorded with the County Register of Deeds. Any final decision on any application for a rule exception under this Article shall be solely within the discretion of the Codes Board of Appeals and shall not be subject to review by nor overturned in any court or other jurisdictional body in the absence of demonstrated fraud or deliberate, capricious action.

ARTICLE 2: PUBLIC SEWER SYSTEMS

2-201. Regulation of Public Sewer Systems.

Any public sewer system which is maintained and operated by Miami County, Kansas, shall be built and operated only as permitted by the rules and regulations of the Kansas State Department of Health and Environment and the United States Environmental Protection Agency and shall comply with and be governed by such laws, rules, regulations and administrative actions.

2-202. Policy Regarding Public Sewer Systems.

Any subdivision or developments with a lot or lots of less than two acres may need to be served by a public sewer system. The cost of installation, maintenance, and operations of public sewer systems shall be borne by those properties and persons being served by the system.

ARTICLE 3: REGULATIONS FOR ONSITE WASTEWATER SYSTEMS

2-301. General System Requirements.

An onsite wastewater system shall be designed to consist of a building connection, a pretreatment unit such as a septic tank and some type of a soil absorption system or wastewater stabilization lagoon. The design of the system shall ensure that the wastes discharged to the onsite wastewater system:

- (1) Do not contaminate any drinking water.
- (2) Are not accessible to insects, rodents or other possible carriers of disease which may come in contact with food or drinking water.
- (3) Do not contaminate the waters of any bathing beach or streams used as a water supply or for recreational purposes.
- (4) Do not surface above ground level.
- (5) Are not a danger by being exposed and accessible to animals or children.
- (6) Do not give rise to a nuisance due to odor or unsightly appearance.

2-302. Proper Maintenance and Operation.

All onsite wastewater systems shall be maintained in good working condition and shall not discharge onto the surface grade, or into the groundwater, or drain into any stream, or roadside ditch, or produce any offensive odors; or become a breeding place for flies, mosquitoes or rats and other disease vectors. Whenever any of the conditions exist, the system shall be considered malfunctioning. Whenever the administering agency shall find any onsite wastewater system malfunctioning and causing any prohibited condition, it shall order the owner and/or user to correct the condition within thirty (30) days.

All alternative systems require additional maintenance in order to function properly. Refer to Chapter II, Article 7 for operating permit requirements.

2-303. Abandonment.

A septic tank or aerobic treatment unit that is no longer being used as an onsite wastewater system component shall be abandoned as follows:

1. Disconnect and seal all piping to and from the tank.
2. Pump and properly dispose of the contents of the tank to a facility or site approved by the Environmental Health Department.

3. Remove the tank covers and fill the tank with earth, sand, gravel, concrete or other approved material.

Cesspools, drywells, seepage pits or other holes that have received wastewater shall be emptied and plugged following Kansas State University Bulletin MF-2246.

2-304. Permits Required.

It shall be unlawful for any person, firm, or corporation to erect, construct or perform any structurally significant alteration, remove, convert, or demolish any part of any onsite wastewater system regulated by this Code, without first obtaining a permit from the Miami County Environmental Health Department. Permits issued under this Article shall be subject to the following qualifications:

- A. Property Use. Permits may be issued under this Article for any approved establishment in any zoning district.
- B. Terms. A permit issued under this Article shall be valid for a period of twelve (12) months following the date of issuance and may be granted a three-month extension by order of the Environmental Health Department Director when the extension is requested in writing by the permit holder prior to permit expiration.
- C. Transfer. A permit issued under this Article shall not be transferable.
- D. Standards. No permit shall be issued to any person, property, or establishment, which does not comply with and satisfy the specified requirements of all applicable Sections of this Article.

2-305. Location of Onsite Wastewater Systems Below Flood/Full Pool.

- A. No portion of an onsite wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir with the potential to inundate the wastewater system.
- B. No pond or swimming pool shall be constructed or maintained so as to discharge or have the potential to discharge water onto an onsite wastewater system which could result in the failure of that system, unless a structure or suitable arrangement approved by the administering agency is constructed to protect the onsite wastewater system from such discharge or potential discharge of water.

2-306. Location of Onsite Wastewater System Within a Floodway or 100-Year-Floodplain.

No portion of an onsite wastewater system shall be constructed within the floodway or the 100-year-floodplain of any stream, river, or watercourse as established by the Federal Emergency Management Agency. The onsite wastewater system shall be designed and located so as to avoid impairment or contamination during flooding.

2-307.

Soil Profile Analysis Application Procedure.

The person applying for an onsite wastewater system soil profile analysis shall file an application in writing on a form furnished for that purpose by the Environmental Health Department. The application shall:

- (1) Identify the location of the activity for which permission is requested by legal description and crossroads or street address.
- (2) Indicate the type of establishment that the onsite wastewater system will serve.
- (3) Indicate the property owner and property buyer as applicable.
- (4) Be signed by the applicant. Where the applicant is not the property owner, the applicant's signature verifies that the property owner has given permission for this activity to be conducted.

2-308.

Field Data Requirements.

- A. Site Evaluation. A site evaluation shall be completed along with a soil profile analysis as described below. The site evaluation helps to determine some of the factors that may effect or restrict the location for installation of an onsite wastewater system. Such factors include land slope and contour, setbacks from existing and future structures, setbacks from ponds, creeks, streams or other waterways, and setbacks from wells, property lines, easements and rights-of-way.
- B. Soil Profile Analysis. A soil profile analysis shall be required on all building sites where new construction is to occur, where remodeling will result in a greater number of bedrooms and/or additional water usage, and all replacements of existing onsite wastewater systems. A soil profile analysis may also be required for a structurally significant alteration that is being made to an existing onsite wastewater system. The analysis is required on all building sites where any onsite wastewater system, except a holding tank, is proposed.

The soil profile analysis shall consist of visual and physical examination of the soil in the area proposed for the onsite wastewater system. Environmental Health staff shall perform the analysis. The applicant shall be responsible for having a backhoe and operator on site for digging as many inspection pits as necessary to adequately determine the best location for the onsite wastewater system.

The soil profile analysis shall determine the load rate of the soil, the depth to any restrictive layer and the type(s) of onsite wastewater system(s) that are options for permitting and installation. Depending upon the type of restrictive layer that exists and the type of onsite wastewater system to be installed, there must be 2-4 feet of vertical separation between the restrictive layer and the lowest elevation of the soil absorption component of the system.

2-309.

Application Procedures for an Installation Permit for an Onsite Wastewater System.

The person applying for an Installation Permit for an onsite wastewater system shall file an application in writing on a form furnished for that purpose by the Environmental Health Department. The application shall:

- (1) Identify the location of the activity for which permission is requested by legal description and crossroads or street address.
- (2) Indicate the type of establishment that the onsite wastewater system will serve.
- (3) Indicate the number of bedrooms, where applicable, the number of plumbing fixtures such as stools, showers and tubs, etc.
- (4) Be accompanied by a set of house/building plans, where applicable.
- (5) Be accompanied by plans and specifications for the proposed onsite wastewater system which are drawn to scale, no greater than one inch to fifty feet (1"= 50'), and shall include but not be limited to the following information:
 - a. Location of the soil profile sites in the area of the proposed onsite wastewater system.
 - b. Size of lot, dimensions, and relative location of structures.
 - c. Proposed location and size of the onsite wastewater system.
 - d. Alternative systems require submittal of all design specifications, including but not limited to: size and length of all piping, and pressure distribution information such as pump curve, orifice spacing, dose volume, etc.
 - e. Specific installation requirements pertinent to the proposed system.
 - f. One set of approved plans shall be retained by the Miami County Environmental Health Department and one set of approved plans shall be returned to the applicant.

2-310.

Inspection Required for System Approval.

No onsite wastewater system shall be placed into service and no occupancy permit may be issued to any person for use of any establishment to be connected to such system until all the required inspections of the system have been conducted and approved and the Final Inspection Certification has been granted by the Director of Environmental Health Department or his designee.

- A. Pre-conditions. No inspection or system approval will be initiated until and unless the applicant or property owner has fully complied with the permit and application requirements of this Article. Any required permit must be posted and displayed at the property job site.

The applicant, property owner or licensed installer shall provide a minimum of one (1) working day notice to the Miami County Environmental Health Department to perform any required onsite wastewater system inspection. An inspection will be conducted only when proper notice is given, and only where the permit is posted and visible from the road.

- B. Inspection Procedures. There will be at least two (2) separate inspections required for each onsite wastewater system after installation of the system begins.

- (1) Depending on the type of onsite wastewater system that was permitted for installation, some inspections may be made during the construction process and/or when the system is completely installed. These inspections are referred to as Final Construction inspections. In most instances, the system component(s) for which the inspection is requested shall be installed but must be uncovered for inspection. Final Construction inspections may include but are not limited to the following:

- a. Tank size and type, structural integrity, water tightness, the presence of approved inlet and outlet baffles or tees, and watertight connections to the influent and effluent side of the tank.
- b. Proper slope maintained on all sewer lines, typically 1-2 % slope or 1/8 to 1/4 inch per foot fall.
- c. The width and depth of trenches or beds for gravity-fed or pressurized soil absorption systems.
- d. All solid trunk lines on undisturbed soil and no rock material in the house sewer and trunk line ditch.
- e. Depth of gravel in lateral trenches or beds.
- f. Proper level of pipes or gravelless units and the end of each lateral line is capped.
- g. Filter material over gravel-filled lateral trenches or beds.
- h. Anticipated depth of fill over lateral lines.
- i. Quality of all construction materials to assure compliance with minimum standards set forth by the Environmental Health Department and minimum standards as specified in Bulletin 4-2.

- j. Pump test for any pumped or pressurized system.
 - k. Additional items will be inspected as required by the permit and when an alternative system or wastewater stabilization lagoon is installed.
- (2) A Final Grade inspection is made after the system has received a Final Construction approval and after final grading has occurred, but before occupancy. The inspector will check for the following:
- a. Depth of soil cover over the septic tank, and approved access manhole to surface grade.
 - b. Depth and proper placement of soil cover over the soil absorption system.
 - a. Contour of soil to assure allowance for water diversion around the septic tank and soil absorption component of the system.
 - b. Final pump and alarm test for any pumped or pressurized system.

2-311. Construction Specifications.

A. Septic Tank Requirements. Plans for all septic tanks shall be submitted to the Environmental Health Department for approval. Such plans shall show all dimensions, reinforcements, structural calculations, and such other pertinent data as may be required. Septic tanks shall be constructed of sound durable materials such as concrete, fiberglass or polyethylene, not subject to excessive corrosion or decay, and shall be watertight. In instances where there may be concern regarding the water tightness of a septic tank, the Miami County Environmental Health Department may require testing for water tightness before the tank is covered with earth.

Each such tank shall be structurally designed to withstand all anticipated earth or other loads and shall be installed on a solid bed, typically 3-4 inches of sand, pea gravel or other crushed non-corrosive granular material less than 2 inches in diameter, which allows for proper leveling and bearing. Steel septic tanks shall not be permitted.

All tanks shall meet the design and construction specifications as set forth in the State of Kansas Department of Health and Environment Bulletin 4-2.

Residential septic tanks shall have at least a one thousand two hundred (1200) gallon capacity. Multiple compartments tanks are mandatory for all onsite wastewater systems except holding tank systems. Single compartments tanks are not allowed unless they are used in series, which in effect creates multiple

compartments. The inlet compartment shall have a capacity of not less than two-thirds (2/3) of the total capacity.

There shall be access to surface grade provided for each septic tank and/or each compartment of a multiple compartment septic tank to allow easy access for pumping, inspection and repairs. The access shall be provided by an approved manhole at least 20 inches in diameter. The manhole(s) and extension riser(s) shall be watertight to prevent odors and any leakage into or out of the tank. The access manhole shall also be child and tamper resistant.

Septic tanks must be structurally stable when covered by two feet (2') of soil. Whenever the septic tank will be covered by more that two feet (2') of soil, it is recommended that the tank manufacturer be contacted to verify that the tank, especially the top, will be able to support an additional one hundred (100) pounds per square foot for each foot of soil or portion thereof in excess of two feet (2').

Septic Tank Capacity. The liquid capacity of a septic tank serving a dwelling shall be based primarily on the number of bedrooms in the dwelling served and shall conform to capacities given in the following table:

<u>Table 1: BEDROOM/TANK CAPACITY RATIOS</u>							
No. of Bedrooms	1	2	3	4	5	6	*
Capacity (gallons)	1200	1200	1200	1500	1500	1800	
*In the event that any installation serves more than a six-bedroom home or its equivalent, or serves a facility other than a home with the equivalent of twelve persons or more, approval of septic tank capacity and design must be obtained from the Miami County Environmental Health Department.							

B. Pump Tanks

1. Septic Tank Effluent Pump (STEP). This method involves a two-compartment septic tank with the pump assembly in the second compartment. An approved pump assembly shall be used. STEP systems are allowed in public sewer systems, when pumping to a wastewater stabilization lagoon or pumping to a gravity-fed soil absorption system. A separate pump tank as described below is required for all pressurized onsite wastewater systems.
2. Single Compartment Pump Tank. Single compartment pump tanks shall be pre-cast concrete, fiberglass or polyethylene. The pump tank shall have a minimum capacity of 500 gallons.

3. All STEP systems and pump tanks shall be equipped with an approved manhole and riser to finished grade and shall also be equipped with an approved high water alarm. The alarm and pump shall be fed from separate circuits. The circuit serving the pump shall be provided with a means of disconnect within sight of the pump or be provided with an approved lockout breaker.

- C. Site Preparation. The area proposed for installation of an onsite wastewater system, which uses a soil absorption system for treatment, shall not be disturbed or compacted prior to system installation. Fencing or other appropriate barriers shall be used to designate this area. During and after installation, care shall be taken to avoid compaction or destruction of the soil profile.

Excavation for construction of the system shall not be done when soil moisture is so great that soil from the site rolled between the hands will form a soil wire.

Scarifying or chisel plowing the top six to eight inches (6"-8") of soil may be required for shallow-in-ground and at-grade soil absorption systems and for some alternative soil absorption systems.

- D. Location. The location of the septic tank and any soil absorption system shall be such as to maintain not less than the stated distances as shown in Table 2.

	Septic Tank	Soil Absorption System
Property Line	10 feet	10 feet
Well or surface water used for drinking water	100 feet	100 feet
Cistern	25 feet	25 feet
Pond or lake not used for drinking water	50 feet	50 feet
Potable water line (private)	10 feet	10 feet
Potable water line (public)	25 feet	25 feet
Habitable building	10 feet	25 feet
Uninhabitable building	10 feet	10 feet
Public utility lines or easements	10 feet	10 feet
Any surface water course	50 feet	50 feet
Swimming pool	15 feet	15 feet

- E. Sizing the Soil Absorption System. Absorption field size is dependent on the soil load rate determined from the soil profile analysis and the estimated wastewater flow. Wastewater flow is calculated by using 75 gallons per day per person with a maximum occupancy of two persons per bedroom. Wastewater flows for commercial facilities are determined on a case-by-case basis. All soil absorption systems shall be sized in accordance with the results of the soil profile analysis and the potential wastewater flow. (Refer to Tables 3 and 4).

TABLE 3: GUIDE TO ESTIMATING WASTEWATER INFILTRATION RATES FOR THE SOIL ABSORPTION OF RESIDENTIAL STRENGTH WASTEWATER	
<u>Soil Horizon Characteristics</u>	<u>Wastewater Loading (gpd/ft²)</u>
1. Gravely coarse sand; moderate or strong platy structure; sandy clay loam or silty clay loam with weak platy structure; cemented consistence or any consistence stronger than firm (moist), or hard (dry); sandy clay, clay or silty clay with massive or weak structure; silt loam, clay loam or silty clay loam with massive structure.	0.0
2. Sandy clay, clay or silty clay of low clay content with moderate or strong structure; sandy clay loam, clay loam or silty clay loam with weak structure.	0.1 - 0.2
3. Sandy clay loam, clay loam or silty clay loam with moderate or strong structure; sandy loam, loam or silt loam with weak structure.	0.3 - 0.4
4. Sandy loam, loam or silt loam with moderate or strong structure; fine sand, very fine sand, loamy fine sand or loams very fine sand.	0.5 - 0.6
5. Coarse sand, sand, loamy sand or loamy coarse sand with single-grain structure.	0.7 - 0.8

TABLE 4: BEDROOM/LOAD RATE/SQUARE FOOTAGE REQUIREMENTS *

Wastewater Load Rate (gpd/ft ²)	Two-Bedroom	Three-Bedroom	Four-Bedroom	Five-Bedroom
0.8	1000	1200	1300	1625
0.6	1100	1300	1400	1750
0.5	1200	1400	1600	2000
0.4	1300	1500	1800	2250
0.3	1400	1600	2000	2500

*When using approved gravelless systems please obtain the sizing chart from the Environmental Health Department.

- F. Lateral Trench Width. The acceptable absorption trench width for a gravity-fed or pressurized lateral line shall be from twenty-four inches to thirty-six inches (24” - 36”) with the following minimum distances between trenches observed:

Table 5: DISTANCES BETWEEN TRENCHES

Trench Width Minimum Distances Between Center Line of Trenches

24 inches	8.0 feet
36 inches	9.0 feet

- G. Lateral Bed Width. Some pressurized systems are designed with a lateral bed for wastewater distribution. Lateral beds shall be no wider than ten feet (10’).
- H. Lateral Trench or Bed Depth. Generally, a lateral trench has a minimum depth from surface grade of twelve inches (12”) and does not exceed thirty-six inches (36”). Lateral beds are generally designed and are installed at the design depth. The installation permit for an onsite wastewater system will specify the required depth for the specific site and particular system being permitted.
- I. Gravity-fed Soil Absorption System. All gravity-fed soil absorption systems shall meet but not be limited to the following specifications:

- The building sewer, all fittings and pipe in the septic tank and the first ten feet (10') exiting the tank shall be schedule 40 pipe or heavier.
- An approved standard perforated trench pipe (10' length of rigid PVC) shall be used or any approved gravelless system.
- The end of each lateral shall be capped.
- Proper slope shall be maintained on the solid pipe from the outlet end of the tank to the first distribution line.
- Individual trenches shall follow the contour.
- The lateral pipe, rock cover or gravelless unit shall not vary more than one inch (1") in elevation along its length.
- Individual trenches shall not exceed 100 feet from the end of the distribution system from where it is supplied. Exceptions may be made where a longer contour is available and the area for the soil absorption system is limited.
- Where gravel trenches are used, the gravel must be washed and sized from 3/4 inches to 2 inches.
- There shall be six inches (6") of approved gravel under the distribution pipe, followed by enough gravel to cover the pipe by two inches (2").
- An approved fabric material shall be placed over the gravel before backfilling.
- Individual trenches shall be installed with some method of detection, acceptable to the Department, which allows for and assists in the future location of the lateral lines.
- No soil absorption system or any portion thereof shall be placed in fill material unless approved by the administering agency.
- No part of the distribution system shall be covered by less than twelve inches (12") of approved backfill.
- The soil absorption system shall be constructed and installed according to requirements approved by the Director of the Environmental Health Department, or his designee, and per the requirements set forth in the Installation Permit.

J. Field Layout Methods.

1. Sequential Step-down or "Overhead" Systems. This method is well suited to terrain with a slope. In this system, effluent is not distributed equally to all the lateral lines. Instead, the lines are filled sequentially and diversions to the next line do not occur until the proceeding trench has reached its full liquid capacity. The installation of laterals must be along contour lines so that level trenches of uniform depth can be constructed. The bottom of the lateral trenches shall be level. The overhead distribution line must be set on a firm foundation of undisturbed earth.
2. Level Field Method. On flat terrain the level field method may be used. When this method is used, all distribution trenches shall be installed level and at the same elevation. Typically the solid pipe connecting the lateral lines will be at the same elevation as the lateral line.

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3. Distribution Box Method. On level or moderately sloping topography, the distribution box method may be used. A level concrete foundation shall be provided to insure against tilting and it shall extend six inches (6") beyond the box in both dimensions. Extreme care must be exercised in backfilling around and over the distribution box. Influent lines from the septic tank shall terminate inside the distribution box. When this method is used, absorption trenches of equal lengths, not exceeding one hundred feet (100') shall be installed. While such absorption trenches may be installed at the same or different elevations, all lines leading from the distribution box to absorption trenches must be installed level and at the same elevation, shall be watertight and, for the remainder of their sealed length, the grade of such lines shall not be more than one-eighth inch (1/8") per foot. All perforated distribution lines shall be laid on a level grade

K. Pressurized Distribution System.

All pressurized soil absorption systems shall meet but not be limited to the following specifications:

- The building sewer shall be schedule 40 pipe or heavier.
- The pump line, manifold and lateral line(s) shall be sized and installed as specified in the approved design.
- The orifice size and spacing shall be as specified in the approved design.
- Approved orifice shields may be used on any pressurized distribution system and are required on others.
- The end of each lateral shall be extended to a point within six inches (6") of the final grade. Terminate the ends with a valve, threaded cap or threaded plug to allow for proper maintenance. Provide the terminal ends of the laterals with an approved cover for protection and access. The cover shall be set flush with final grade.
- Individual trenches or beds shall follow the contour.
- Pressurized lateral lines may be used with any approved gravelless system if desired.
- Where gravel trenches are used, the gravel must be washed and sized from 3/4 inch to 1½ inch.
- There shall be six inches (6") of approved gravel under the distribution pipe, followed by enough gravel to cover the pipe by two inches (2").
- An approved fabric material shall be placed over the gravel before backfilling.
- No soil absorption system or any portion thereof shall be placed in filled material unless approved by the administering agency.
- The soil absorption system shall be constructed and installed according to requirements approved by the Director of the Environmental Health Department, or his designee, and per the requirements set forth in the Installation Permit and the approved design.

L. Prohibited Connections. No roof, driveway, or foundation drains shall be connected to any soil absorption system.

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M. Other Requirements: The Director of the Environmental Health Department shall approve any additional construction specification guidelines that may be necessary.

2-312. Applicable Building Codes.

In addition to the standards and requirements established under this Chapter, the installation, alteration, construction reconstruction, repair, replacement, or other work for or upon any onsite wastewater system regulated under this Code shall comply with and satisfy the specifications and requirements, whenever applicable, of the Uniform Building Code and the Uniform Plumbing Code, or similar codifications, as adopted by and in effect in Miami County, Kansas. The administering agency shall have available copies of any such codes and code specifications and shall delineate those parts and requirements that are applicable to onsite wastewater systems.

ARTICLE 4: REGULATIONS FOR PRIVIES AND PORTABLE TOILETS

2-401. Privy.

No privy shall be constructed or erected on any premises.

2-402. Portable Toilets.

A portable toilet for purpose of this article is a transportable, self contained static or flush-type toilet constructed to promote a sanitary environment at remote locations, construction sites or special events, comprised of at least a waste storage receptacle, a riser and toilet seat and a protective enclosure.

- A. The Environmental Health Department shall approve, on a temporary basis, portable toilets for special events, fairs, carnivals, revivals, field locations, encampments and other locations which lack permanent structures where people congregate for short periods of time, provided the maintenance and utilization of such systems conform to the general provisions of this Article. Portable toilets at construction sites or at a location for a temporary period of time do not require a permit.
- B. The Environmental Health Department shall permit and approve, for permanent use or placement, portable toilets at continually used locations where toilet facilities are desirable for the promotion of public health and where conventional facilities are neither available nor practical. Examples of such locations would be boat ramps, golf courses, or other places where people congregate which meet the above criteria.

Requirements.

- 1. The portable toilet service company providing portable toilets shall be responsible for maintenance of the unit and removal if conventional facilities are made available.
- 2. Portable toilets shall be self-contained, have self-closing doors and shall be designed and maintained so that insects are excluded from the waste container.
- 3. Table 1 shall be used to determine the required number of facilities for special events. Table 1 assumes that the portable toilets are serviced only once per day. If the toilets are serviced twice per day, the value from the table shall be divided by two. If they are pumped three or more times per day, the value shall be divided by three.
- 4. Table 2 shall be used to determine the number of required facilities where permanent placement is permitted.
- 5. Special event organizers shall provide to the Environmental Health Department a signed contract, or facsimile copy thereof, with the portable toilet service

2-402

company specifying the dates the facilities will be on the event site, the number of toilet facilities to be provided, the servicing frequency and the removal date for the units.

Number of People per day	Table 1 NUMBER OF HOURS FOR EVENT PER DAY									
	1	2	3	4	5	6	7	8	9	10
250	2	2	2	2	2	3	3	3	3	3
500	2	3	4	4	4	4	4	4	4	4
1000	4	5	6	7	7	8	8	8	8	8
2000	6	10	12	13	14	14	14	15	15	15
3000	9	14	17	19	20	21	21	21	21	22
4000	12	19	23	25	28	28	28	30	30	30
5000	15	23	30	32	34	36	36	36	36	36
6000	17	28	34	38	40	42	42	42	44	44
7000	20	32	40	44	46	48	50	50	50	50
8000	23	38	46	50	54	57	57	58	58	58
9000	26	42	52	56	60	62	62	62	64	64
10,000	30	46	57	63	66	70	70	72	72	72
12,500	36	58	72	80	84	88	88	88	88	92
15,000	44	70	84	96	100	105	105	110	110	110
17,500	50	80	100	110	115	120	125	125	126	126
20,000	57	92	115	125	132	138	138	144	144	150
25,000	72	115	144	154	168	175	175	176	176	184
30,000	88	138	168	192	200	208	208	216	216	216

Table 2	
Number of people per site 8 hours per day – 40 hours per week	Minimum holding tank Capacity
1	140
2-3	280
4-5	560
6-7	840
Over 7	Add 140 gallons for each additional person

Article 5: Regulations For Holding Tanks

2-501.

Scope.

For purposes of this Article, the term “Holding Tank” refers to a watertight receptacle to retain sewage onsite prior to removal from the site by a Sanitary Disposal Contractor licensed under Article 1 of this Chapter.

2-502.

Authorized Usage.

A holding tank may only be used for the onsite retention of sewage before a Sanitary Disposal Contractor removes the contents.

Residential Properties. A holding tank may be used to serve only one (1) residence or dwelling unit when it is found that no other onsite wastewater system can be installed on the lot, or the holding tank is to be used as a temporary system. A holding tank that serves more than one residence or dwelling unit shall be considered a public sewer system and will not be permitted under this Code.

2-503.

Permit Required.

It shall be unlawful for any person, firm or corporation to construct, perform any structurally significant alteration, convert or use any holding tank without first obtaining a permit from the Miami County Environmental Health Department. Prior to issuance of a permit, the owner of the holding tank shall provide a copy of his service contract with a Sanitary Disposal Contractor licensed pursuant to Article 10 of this Chapter.

2-504.

Permit Qualifications.

Any permit authorized under this Article shall be issued subject to the qualifications specified in this Section.

- A. Term and Renewal. Permits for holding tanks used for commercial, domestic, or industrial wastes are valid for twelve (12) months from the date of issuance and are renewable annually. Applications for renewals shall be submitted no later than thirty (30) days prior to permit expiration with the applicable fee. Upon receipt of the application and fee, a permit will be issued for the following year.
- B. Standards. No permit shall be issued to any person, property, or establishment which does not comply with and satisfy the standards prescribed in this Article and all applicable terms, conditions, and requirements of this Code.
- C. Transfer. Permits are not transferable.

2-505.

General Requirements.

The system shall be designed to consist of a building sewer and tank. The design of the system shall ensure that waste discharged to the system:

- (1) Does not contaminate any groundwater or drinking water.
- (2) Is not accessible to insects, rodents or other possible carriers of disease which may come in contact with food or drinking water.
- (3) Does not contaminate the waters of any bathing beach or streams used as a water supply or for recreational purposes.
- (4) Is not a danger by being exposed or accessible to animals or children.
- (5) Does not give rise to a nuisance due to odor or unsightly appearance.

2-506.

Standards and Specifications.

Any holding tank system authorized under this Article shall be designed, constructed and operated to comply with standards and specifications deemed necessary and advisable by the Director of the Environmental Health Department, or his designee, including the minimum requirements specified in this Section.

- A. Capacity Requirements. The minimum liquid capacity of a holding tank for one residence shall be:

Number of Bedrooms	Holding Tank
1	1500
2	2000
3	2400
4	4800
5	5000
6	5000
7	7000
8	7000

Tanks serving commercial, retail, or industrial establishments shall have a minimum five (5) day holding capacity, but not less than twenty- four hundred (2400) gallons.

- B. Site Location. Holding tank(s) shall be located at least ten feet (10') from any part of a building. The tank(s) shall be so located to an all-weather access road or drive so that the sanitary disposal contractor may drive pumping equipment to within ten feet (10') of the servicing manhole.
- C. Warning Device: A high water warning device shall be installed so that it activates one foot (1') below the inlet pipe. This device shall be either an audible or illuminated alarm.

- D. Access Opening: There shall be access to surface grade provided for each holding tank to allow easy access for pumping, inspection and repairs. The access shall be provided by an approved manhole at least 20 inches in diameter. The manhole(s) and extension riser(s) shall be watertight to prevent odors and any leakage into or out of the tank. The access manhole shall also be child and tamper resistant.

2-507.

Changes in Use.

The permit holder shall notify the administering agency in writing within five (5) working days of any change in the use of the premises, which are served by the holding tank, or any change in ownership or occupancy of the premise.

**ARTICLE 6: REGULATIONS FOR WASTEWATER STABILIZATION
LAGOONS**

2-601. Permit Required.

It shall be unlawful for any person, firm, or corporation to erect, construct, or perform any structurally significant alteration, remove, convert, or demolish any lagoon regulated by this Code, without first obtaining a permit from the Miami County Environmental Health Department. Permits issued under this Article shall be subject to the following qualifications:

- A. Minimum Lot Size. Unless a waiver or variance is granted pursuant to Article 1 of this Chapter, a minimum lot or tract size of three (3) acres per living unit shall be required for any permit issued under this Article.
- B. Standards. No permit shall be issued to any person, property, or establishment, which does not comply with and satisfy the specified requirements of all applicable Sections of this Code.

2-602. General Wastewater Stabilization Lagoon Requirements.

- A. All wastewater stabilization lagoons must be designed and maintained so as not to overflow or discharge.
- B. The facility shall be operated in such a manner that a public health nuisance or water pollution problem will not arise.
- C. A wastewater stabilization lagoon must be constructed out of the 100-year flood plain.
- D. The completed construction of the facility shall conform to the plans and specifications approved by the Miami County Environmental Health Department.
- E. All trees shall be at least 30 feet and shrubs 15 feet outside the embankment. Because sunlight is essential for algae to produce oxygen, the east, south and west sides of the lagoon should not be shaded.
- F. Construction of the wastewater stabilization lagoon and the required fencing shall both be inspected and approved by the Environmental Health Department prior to final certification for the system being issued and prior to a final occupancy permit being issued by the appropriate building inspection department.

2-603.

Wastewater Stabilization Lagoon Design and Construction.

- A. All wastewater stabilization lagoons shall meet the following minimum horizontal separation distances as measured from the five-foot water level of the finished lagoon:

	Septic Tank	Lagoon
Property line	10 feet	100 feet
Any surface water course	100 feet	100 feet
Cistern	25 feet	50 feet
Well or surface water used for drinking water	100 feet	100 feet
Potable water line (public)	25 Feet	50 Feet
Potable water line (private)	10 Feet	25 Feet
Habitable building	10 Feet	50 Feet
Uninhabitable building	10 Feet	25 Feet
Pond or lake not used for drinking water	50 Feet	100 Feet
Public utility lines or easements	10 Feet	25 Feet

- B. The normal ground water elevation should be at least ten feet (10') below ground surface and four feet (4') below the bottom of the lagoon.
- C. A two-compartment septic tank shall be installed preceding the lagoon. The septic tank shall be sized as specified in the chart located in Article 3, Section 11 of this Code. The building sewer from the establishment shall be connected to the septic tank. Effluent from the septic tank shall gravity drain by sewer pipe to the lagoon or be pumped as necessary.
- D. The building sewer, all fittings and pipe in the septic tank and the first ten feet (10') existing the tank shall be schedule 40 pipe or heavier. The sewer line shall maintain a minimum of an 1/8-inch drop per foot. A ¼-inch drop per foot is preferred.
- E. The sewer line trench bottom should be on undisturbed soil and free from rocks. Back fill and compact around the sides and over the pipe until two inches (2'') of fill cover the pipe. Compact the remainder of the trench fill in six-inch (6'') layers. Finally mound over the trench about six inches (6'') to allow for settling of the fill.
- F. The sewer line must enter the lagoon below the water surface to prevent freezing and ice problems, be above the bottom at least twenty inches (20''), and shall extend to near the center of the lagoon. The end of the pipe shall be anchored by posts, steel supports or concrete blocks attached to a concrete slab as least two feet (2') square by four inches (4'') thick to help prevent damage to the sewer line.

- G. One or more downspouts from the roof, sump pump drains or subsurface drains can be connected to the lagoon. The connection is typically made as a wye or other directional fitting into the sewer pipe after the septic tank. This type of connection is permissible as long as the connection can be easily diverted from the lagoon during periods of excess rainfall.
- H. The top of the lagoon embankment shall be below the top of the septic tank. This will avoid any drain back from the lagoon to the tank if the lagoon is at full capacity. If this is not possible or the lagoon is located upgrade of the establishment, a pump chamber and pump must be used.
- I. When a lagoon excavation penetrates or terminates in either a rock strata or a porous (sand or gravel) strata, the excavation shall be extended a distance of one foot (1') on both the bottom and side slopes. The area of supplemental excavation shall be filled with a non-permeable earthen material to limit seepage from the lagoon to a maximum value of one-quarter inch (1/4") per day. This normally may be accomplished by using a clay soil, which is free of rocks. If a clay soil is not available, the fill soil shall be mixed with bentonite clay at the manufactures recommended rate and properly compacted.
- J. The lagoon shall be constructed to provide at least two feet (2') of freeboard above the normal five foot (5') operating depth and a minimum berm top width of five feet (5').
- K. The inside and outside embankments of the lagoon shall be constructed to meet the specified 3:1 or 3.5:1 slope. The embankments shall be smooth and free of clods, rocks or ruts so that the operation of the lagoon is not adversely affected and ease in mowing is provided.
- L. Where a topsoil layer exists above the clay subsoil, the topsoil layer must be removed from the surface and embankment base before excavating the bottom and forming the embankment. Undisturbed sides shall be compacted in place and embankment fill should be compacted in layers no more than 6 inches thick. In order to provide proper compaction for the bottom and embankments of the lagoon, the soil moisture must be at an optimum level. The best condition is when the soil is moist enough to easily work into a ball.
- M. Divert all surface water away from the lagoon with the embankments or a diversion on the upslope side as needed.
- N. A stand of grass shall be established on the berm tops and the outside embankments. The grass should be a short-rooted perennial such as bluegrass, fescue or brome and shall be mowed regularly.

- O. The fence height must be a minimum of four feet (4'). The fence shall be located at least three feet outside the embankment toe. Here it makes mowing the embankment easier and is more aesthetically pleasing.
- P. Fence openings shall be no larger than 8 square inches, (2" X 4"), or vertical slots no wider than 1 ½ inches. The fencing materials should be strong enough to discourage entry by unauthorized persons (especially children), pets, wildlife, and livestock.
- Q. Specifications and designs for particular fencing materials are included in a lagoon packet furnished by the Environmental Health Department. If any fencing or post materials other than those specified are to be used, plans must be submitted and reviewed and approved prior to the issuance of any installation permit for the lagoon.
- R. A large, (at least 4 feet wide), rigid framed, hinged gate shall be provided to allow easy access for maintenance.

2-604. Wastewater Stabilization Lagoon Sizing.

- A. Design practice for individual residential lagoons is based on two person per bedroom per day and assumes flows of 75 gallons per person per day. The water surface area of the lagoon must be large enough to provide adequate oxygen to keep the lagoon aerobic.
- B. Kansas law prohibits discharge from individual lagoons, so they must hold all wastewater. Losses are through leakage or seepage (maximum of ¼ inch per day) and evaporation. Maximum losses total ten feet (10') or less in eastern Kansas per year.
- C. Kansas has established recommended lagoon sizing based on the potential wastewater that can be generated from a home and the expected seepage and evaporation. The following chart shows these recommended sizes. The exact design and construction dimensions, surface area and volume requirements for square, rectangular and round lagoons are included in a lagoon packet furnished by the Environmental Health Department.

M - 35	1 - Bedroom	M - 50	4 - Bedroom
M - 40	2 - Bedroom	M - 55	5 - Bedroom
M - 45	3 - Bedroom	M - 60	6 - Bedroom

ARTICLE 7: REGULATIONS FOR OPERATION AND MAINTENANCE
OF ONSITE WASTEWATER SYSTEMS

2-701. Operating Permit Requirements.

Operating permits shall be required for all alternative onsite wastewater systems in order that proper maintenance is being conducted to assure system performance and longevity.

Operating permits will specify the type and frequency of maintenance to be performed and renewal term.

2-702. Operating Permit Qualifications.

- A. Term and renewal Operating permits will be valid from one to three years depending upon the complexity of the system and maintenance required. Applications for renewals shall be submitted no later than thirty (30) days prior to permit expiration with the applicable fee and documentation of maintenance performed. Upon approval of application, an operating permit will be issued for the ensuing term.
- B. Standards No permit shall be issued to any person, property, or establishment which does not comply with and satisfy the standards prescribed in this Article and all applicable terms, conditions, and requirements of this Code.
- C. Transfer Operating permits issued under this Article may be transferable as long as the permit is valid.

ARTICLE 8: REGULATIONS FOR INSTALLER

2-801. License Required.

No person shall install, engage in the installation of, or repair an onsite wastewater system unless that person holds a valid Installer License issued by the Miami County Environmental Health Department. Employees of a validly licensed Installer are not required to be separately licensed.

2-802. License Term and Renewal.

Any license issued under this Article shall expire on December 31 of each year and must be renewed annually, on or before February 15th of any following year. Applications for licenses and renewals shall be filed on forms supplied by the Miami County Environmental Health Department. All required license fees shall be paid at the time of application for the license or renewal, and no fee required under this Code shall be prorated or refunded for any partial term or part-year application.

2-803. Standard of Performance.

Prior to the issuance or renewal of a license under this Article, the applicant shall be required to demonstrate adequate knowledge of the regulations pertaining to an onsite wastewater system and general engineering principles pertaining to such systems. The administering authority may consider actual experience, education, or professional licensing of the applicant in the granting or denial of an application for an initial license or renewal, including prior revocations or disciplinary action.

Attendance by any applicant at an appropriate training workshop, conducted or sponsored by the Environmental Health Department or other recognized governmental, educational or professional institution, and satisfactory completion of a written examination administered by or on behalf of the Environmental Health Department covering subjects related to public health concerns, sewage disposal techniques, standards for design, construction or installation of onsite wastewater systems, sewage treatment theory, and/or hydraulics shall satisfy the requirements of this Section. Any applicant who fails to satisfactorily complete the written examination may retake the examination after thirty (30) days.

2-804. Continuing Education.

Every person licensed as an Installer under the authority of this Article must obtain a minimum of three (3) hours of approved continuing education each calendar year, and no license issued under this Article will be renewed without submission of a certification of the training to the director of the Environmental Health Department. The training, to be approved, must be directly related to the knowledge requirements necessary for issuance of the license under Section 3. Attendance at any workshop conducted, sponsored or approved by the Environmental Health Department or any applicable professional association shall satisfy the requirements of this Section.

2-805. Installation Bonds.

The administering agency may establish a requirement for bonding of any installer licensed under this Article and may prescribe reasonable terms and conditions for those bonds.

2-806. Certificate of Insurance.

A licensed installer shall have and maintain insurance for liability and workmanship in amounts and forms as designated by the administering agency, and a copy of the certificate of insurance shall be filed with the agency.

2-807. Code Compliance.

The installation, relocation, or repair of any onsite wastewater system shall be in compliance with the provisions of this Code.

2-808. License Revocation.

A license may be revoked for failure to comply with this Code. The revocation procedure shall comply with the provisions of Chapter I of this Code.

**ARTICLE 9: REGULATIONS FOR SANITARY DISPOSAL
CONTRACTORS**

2-901. License Required.

No person may engage in the pumping of holding tanks, septic tanks, pump tanks, portable toilets or grease traps or transport sewage to a disposal site unless that person holds a valid Sanitary Disposal Contractor's License. Employees of a validly licensed Sanitary Disposal contractor are not required to be separately licensed. The license shall also designate the vehicles to be used by the licensee.

2-902. License Term and Renewal.

Any license issued under this Article shall expire on December 31 of each year and must be renewed annually, on or before February 15th of any following year. Applications for licenses and renewals shall be filed on forms supplied by the Miami County Environmental Health Department. All required license fees shall be paid at the time of application for the license or renewal, and no fee required under this Code shall be prorated or refunded for any partial term or part-year application.

2-903. Standard of Performance.

Every person licensed as a sanitary disposal contractor under this Article shall comply with the performance requirements specified in this Section.

- A. Cleaning. A license holder, when cleaning a septic tank, shall remove the liquid, sludge and scum, leaving no more than three inches (3") depth of sewage.
- B. Equipment. A license holder shall maintain his equipment so as to ensure that no spillage of sewage will occur during transportation, and that his employees are not subjected to undue health hazards. All sewage shall be transported in an enclosed tank.
- C. Vehicles. Sewage shall be transported only in vehicles approved for that purpose by the Miami County Environmental Health Department. Each such vehicle must be inspected prior to issuance or renewal of a license to a Sanitary Disposal contractor. Each vehicle shall bear permanent identification in five-inch (5") letters identifying the name of the company, the owner and the address of the business.
- D. Disposal and Reporting. A license holder shall dispose of the collected sewage only at approved locations designated by the Miami County Environmental Health Department, and shall submit to the Director, or his designee, not later than the 10th day of each month, a report on a form furnished by the Environmental Health Department stating the dates, sources, volume, and disposal site of each load or partial load of sewage or waste transported during the preceding calendar month.

The report form must contain the signature of the person submitting the report and must bear the signature or signatures of the responsible person operating the disposal site for each load or partial load received at the site from the contractor.

- E. Experience. Prior to the issuance or renewal of a license the applicant shall be required to demonstrate adequate knowledge of the regulations pertaining to Sanitary Disposal Contractors. The administering authority may consider prior conduct of the applicant in localities not subject to this Code in the granting or renewal of a license as well as any prior violations of this Code.
- F. The license holder shall comply with any applicable federal, state, and local regulations or laws including, but not limited to, those set forth now or hereafter adopted in Standards for the Use or Disposal of Sewage Sludge, volume 58, number 32, page 9388, of the Federal Register, February 19, 1993, as amended.

2-904.

License Revocation.

A license may be revoked for failure to comply with this Code. The revocation procedure shall comply with the provisions of Chapter I of this Code.

ARTICLE 10: REGULATIONS FOR DESIGNER

2-1001. License Required.

No person shall plan or design any alternative onsite wastewater system regulated under this Code, unless that person holds a valid license issued by the Miami County Environmental Health Department.

2-1002. License Term and Renewal.

Any license issued under this Article shall expire on December 31 of each year and must be renewed annually, on or before February 15th of any following year. Applications for licenses and renewals shall be filed on forms supplied by the Miami County Environmental Health Department. All required license fees shall be paid at the time of application for the license or renewal, and no fee required under this Code shall be prorated or refunded for any partial term or part-year application.

2-1003. Standard of Performance.

Prior to the issuance or renewal of a license under this Article, the applicant shall be required to demonstrate adequate knowledge consistent with the provisions of this Chapter.

2-1004. Continuing Education.

Every person licensed as a Designer under the authority of this Article must obtain a minimum of three (3) hours of approved continuing education each calendar year, and no license issued under this Article will be renewed without submission of a certification of the training to the director of the Environmental Health Department. The training, to be approved, must be directly related to the knowledge requirements necessary for issuance of the license under Section 3. Attendance at any workshop conducted, sponsored or approved by the Environmental Health Department or any applicable professional association shall satisfy the requirements of this Section.

2-1005. License Revocation.

A license issued under this Article may be revoked for any failure to comply with this Code. The revocation procedure shall comply with the provisions of Chapter I of this Code.

CHAPTER III: WATER SUPPLY

ARTICLE 1: WATER SUPPLIES

3-101. Purpose and Intent.

The provisions of this Code are for the purpose of regulation and controlling the development, maintenance and use of private water supplies in the unincorporated area of Miami 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.

3-102. Area of Applicability.

This Code shall apply to all unincorporated land located in Miami County.

3-103. Compliance Required.

After the effective date of this Code, no person shall construct on any property subject to this Code, any public or private water supply that does not comply with the requirements of this Code.

3-104. Definitions.

In addition to the definitions provided in Chapter 1 of this Code, the words, terms and phrases listed below, for purpose of this Chapter 3, are defined as follows:

- A. Potable Water. Water free from impurities in amounts sufficient to cause disease or harmful psychological effects in humans and conforming to the latest KDHE regulations.
- B. Domestic Purpose. The use of water by any person or family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two acres for the growing of gardens, orchards and lawns.
- C. Public Water Supply. A system for delivery to the public of piped water for human consumption that has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year.
- D. Private Water Supply. A water supply used for domestic purposes, which serves not more than one (1) dwelling on a piped system.
- E. Abandoned Water Well. A water well determined to be a well:
 - 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 has the potential for transmitting surface contaminants into the aquifer, or both;
 4. Which poses potential health and safety hazards; or
 5. Which is in such a condition it cannot be placed in active or inactive status.
- F. Test Hole. Any excavation constructed for the purposes of determining the geologic and hydrologic and water quality characteristics of underground formations.
- G. Treatment. The stimulation of production of groundwater from a water well, through use of Hydrochloric Acid, Muritic 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 growth which inhibit the movement of groundwater into the well.
- H. Reconstructed Water Well. An existing well that has been deepened or has had the casing replaced, repaired, added to or modified in any way for the purpose of obtaining groundwater.
- I. Active Well. A water well, which is an operating well, used to withdraw water, monitor or observe groundwater conditions.
- J. Inactive Status. A water well which is not presently operating but is maintained in such a way it can be put back into operation with a minimum of effort.
- K. Groundwater. That part of the subsurface water which is in the zone of saturation.
- L. Water Well. 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.
- M. Construction of Water Wells. All acts necessary to obtaining groundwater by any method for any use including, without limitation, the location of and excavation for the well.

3-105. Requirements for Public Water Supplies.

- A. State Permit. No person shall operate a public water supply without obtaining a permit from KDHE. A copy of the permit shall be filed with the local Environmental Health Office.

- B. State Approved Plans. 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 local Environmental Health Department.

3-106. Requirement for Private Water Supplies.

- A. Permit. No person shall drill, develop or construct any private water supply well on any premises subject to the regulations of this Code until he/she has obtained a permit therefore from the Environmental Health Department. A person must also obtain a license from the Kansas Department of Health and Environment in order to construct, reconstruct and or treat water wells.
- B. Approved Plans. No permit to construct or develop a private water supply on premises subject to the regulations of this Code shall be issued until the plan showing the location and construction of the supply has been approved by the Environmental Health Director.
- C. Use Limitation.
 - 1. No permit for drilling a well for a private water supply shall be issued to any person when in the discretion of the Environmental Health Officer the property can be served at a reasonable cost by a public water supply, or when the water supply constitutes a significant health risk.
 - 2. No use of surface water (lakes, ponds, or streams) as a source of water for private water supply shall be permitted:
 - (a) Where a satisfactory ground water source is available;
 - (b) Where adequate treatment is not provided. (In no case shall surface water be used without filtration and chlorination); and
 - (c) Where the pond or lake receives any drainage or discharge from septic tanks, or sewage treatment plans or other sources of pollution.

3-107. Minimum Standards for all Groundwater Supplies.

- A. Location. The horizontal distance between the well and the potential sources of pollution or contamination, such as an onsite wastewater system, pit privy, fuel or fertilizer storage, pesticide storage, feed lots or barnyards shall be one hundred feet (100') or more.
- B. Construction. All wells that are to serve as a source for private water shall be constructed in accordance with State Administrative Regulations included under 28-30-6.

- C. Plugging of Abandoned Wells and Test Holes. All water wells abandoned by the landowner on or after July 1, 1979 and all water wells that were abandoned prior to July 1 1979 which pose a threat to groundwater supplies, shall be plugged or caused to be plugged by the landowner in accordance with Kansas Administrative Regulations included under 28-30-7.
- D. Pollution Sources. Well locations shall be approved by the Environmental Health Department with respect to distances from pollution sources and compliance with wastewater and disposal regulations. The minimum standards set forth in State Administrative Regulations 28-30-8 are hereby adopted by Miami County.
- E. Water Well Disinfection for Wells Used for Human Consumption or Food Processing. Disinfection standards set forth in State Administrative Regulations 28-30-10 are hereby adopted by Miami County and shall apply to all water wells used for public consumption or food processing.

3-108.

Appeals.

- A. Requests for exception to any of the foregoing rules and regulations, as set out within this Chapter, shall be submitted to the Environmental Health Director in writing and shall contain all information relevant to the request.
 - (1) Request shall specifically set forth why such exception should be considered.
 - (2) The Environmental Health Director may grant exceptions when geologic or hydrologic conditions warrant an exception and when such an exception is in keeping with the purposes of the Kansas Groundwater Exploration and Protection Act; provided, however no such exception shall be granted without a prior written concurrence of KDHE.
- B. Appeals from the decision of the Environmental Health Director shall be made to the District Court who, after due consideration, may affirm, reverse, or modify the decision.

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