

SANITARY CODE

CLAY COUNTY, KANSAS

CHAPTER 1

ADMINISTRATIVE PROCEDURES

SECTION 1-1.0 AUTHORITY AND POLICY

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-3301 et. seq., as amended.

1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over sanitary conditions in the county is necessary and desirable. A sanitary code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt, and amend when necessary, a sanitary code for the regulation of practices that affect the environment and public health and safety.

1-1.3 Purpose. The purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this sanitary code or any amendments thereto.

1-1.4 Title. This code shall be known and referred to as the Clay County Sanitary Code.

1-1.5 Applicability. The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.

1-1.6 Effective Date. This code shall become effective
_____.

SECTION 1-2.0 DEFINITIONS

The following words, terms and phrases appear in more than one chapter of this code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this code may be found in that particular chapter.

- 1-2.1 Administrative Agency means the entity authorized to administer and implement the provisions of this code. The Administrative Agency for Clay County is designated as the Clay County Health Department.
- 1-2.2 Administrative Rules means those rules contained in chapter one of this sanitary code which prescribe general procedures to be followed in the administration of the sanitary code adopted by the county.
- 1-2.3 Authorized Representative means any person who is designated by the Administrative Agency to administer this code.
- 1-2.4 Board of County Commissioners means the Board of County Commissioners of Clay County, Kansas.
- 1-2.5 Board of Health means the Clay County Board of Health. (K.S.A. 65-201)
- 1-2.6 Hearing Officer means an individual, appointed by the Administrative Agency, to hear appeals from decisions relation to the administration of this code.
- 1-2.7 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.
- 1-2.8 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.
- 1-2.9 State Department means the Kansas Department of Health and Environment.

SECTION 1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 Right of Entry. Representatives of the Administrative Agency shall have the power and authority to inspect premises for compliance with the Clay County Sanitary Code.

1-3.2 Permit and License.

1-3.2.1 Application for Permits and Licenses. Every person required by this sanitary code to obtain a permit or license shall make application for such permit or license to the Administrative Agency.

1-3.2.2 Issuance of Permit or License. After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within thirty (30) days of such receipt. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.

1-3.2.3 Permit Nontransferable. No permit or license required by this environmental code shall be transferable, nor shall any fees required and paid therefor be refundable.

1-3.2.4 Permit Revocation. All permits are subject to revocation for reasons of noncompliance or misrepresentation.

1-3.2.5 Standard Fees. The Administrative Agency shall establish a schedule of fees for all permits and licenses required by the code, and said fees shall be paid into the Administrative Agency. The Administrative Agency shall not process any application for a permit or license until the required fee has been paid.

1-3.3 Notices, Orders, Appeals.

1-3.3.1 Notice of Violations. When the Administrative Agency determines that there has been a violation of any provision of this code, notice of such violation shall be issued to the person responsible. The notice shall:

- a. be in writing;
- b. include a statement of why the notice is being issued;
- c. Allow a reasonable period of time for performance of any work required by the notice; and,
- d. be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy has been sent by

certified mail to the last known address of the owner or agent.

1-3.3.2 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this sanitary code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the administrative Agency, within ten (10) working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. Except in the case of Emergency Orders as defined in Section 1-3.3.4, the filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the Administrative Agency shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten (10) working days after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgement the petitioner has submitted justifiable reason for such postponement.

1-3.3.3 Report of Hearing. Within ten (10) working days after such a hearing, the Hearing Officer shall submit the findings of the hearing to the petitioner. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. The Administrative Agency shall consider the report and issue an order confirming, modifying or withdrawing the notice or order, and shall notify the petitioner in the same manner as is provided for in Sec. 1-3.3.1.

1-3.3.4 Emergency Orders. Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of such an emergency, and specifying action to be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply immediately.

1-3.4 Records.

1-3.4.1 Permit Application. Applications for permits or licenses required by this code shall be filed with the Administrative Agency.

1-3.4.2 Official Actions. A written record of all official actions taken on applications for permits and licenses required by this sanitary code shall be kept on file with the Administrative Agency.

1-3.4.3 Proceedings of Hearings. The proceedings of all hearings, including findings

and decisions of the Hearing Officer, and a copy of every notice and order thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

1-3.5 General Provisions.

1-3.5.1 Enforcement Procedure. It shall be the duty of the County Attorney to prosecute any person who violates any provision of this code. It shall be the responsibility of the administrative agency to file in a timely manner with the County Attorney all reports concerning alleged violations of this code.

1-3.5.2 Penalties. In addition to, and independently of, the enforcement procedures provided in section 1-3.5.1, any violation of any provision of an environmental code shall be deemed to be a misdemeanor and upon conviction punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense.

1-3.5.3 Disclaimer of Liability. This code and other sanitary codes adopted 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 system, installation or portion thereof that is constructed or repaired under permits and inspections required by the sanitary code will function properly.

1-3.5.4 Separability. If any clause, sentence, paragraph, section or subsection of this code shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgement shall not affect, repeal or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or subsection found to be unconstitutional and invalid.

SANITARY CODE

CLAY COUNTY, KANSAS

CHAPTER 2

ON-SITE WASTEWATER MANAGEMENT

- SECTION 2-1.0 PURPOSE AND INTENT
Sewage is a potential source of disease and water pollution, and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Clay County.
- SECTION 2-2.0 APPLICABILITY
The provisions of this chapter shall apply to all premises containing less than 5 acres under one ownership and/or which have a residence located on them. In the event an incorporated city within Clay County has an environmental code, the more stringent regulations provided by the county or city codes with regard to a specific action shall apply within the incorporated area of that city.
- SECTION 2-3.0 DEFINITIONS
- 2-3.1 Beneficial use means the use of water for any of the following purposes: agricultural water supply; aquatic life; domestic water supply; groundwater recharge; industrial water supply; recreation.
- 2-3.2 Domestic Wastewater means wastewater originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers, and sinks.
- 2-3.3 Non-domestic Wastewater means automotive grease, oil, antifreeze or toxic or hazardous waste from a commercial or manufacturing business or waste other than domestic waste.
- 2-3.4 Nuisance means conditions or activities on properties both public and private, which have or threaten to have a detrimental effect on the environment or the health of the public.
- 2-3.5 Private Wastewater Private Wastewater System<):> means any system which

does not hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

- 2-3.6 Sanitary Privy means a facility designed for the disposal of non-water carried wastes from the human body.
- 2-3.7 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater disposal systems; and the transportation of such material to a point of final disposal.
- 2-3.8 Seepage Pit means a subsurface excavation, which is filled with rock or gravel and receives effluent from treatment devices.
- 2-3.9 Sewage means any substance that contains any of the waste products or excrement or other discharges from the bodies of human beings or animals or chemical or other wastes from domestic, manufacturing or other forms of industry.
- 2-3.10 Subdivision means any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any division of lands.
- 2-3.11 Wastewater Systems means any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.
- 2-3.12 Vaults/Holding Tanks means a water-tight receptacle for the retention of sewage either before, during, or after treatment.

SECTION 2-4.0 PROHIBITED PRACTICES

- 2-4.1 Use of existing wastewater systems. Private wastewater systems existing prior to the adoption of this code are exempt from meeting the requirements of this code unless the existing wastewater system poses a hazard to waters of the state or public health as referred to in Section 2-4.2 provisions A, C, and/or D.
- 2-4.2 Use of Nonapproved Private Systems. No person shall use, or cause to be used, any private wastewater system, or privy constructed after adoption of this sanitary code until it has been inspected and approved by the Administrative Agency or if it:
- a. has been enjoined as a public health nuisance by a court of competent jurisdiction; or,
 - b. fails to comply with the provisions of this sanitary code, and written notice thereof has been given by the Administrative Agency; or
 - c. discharges onto the surface of the ground, or waters of the state as defined in K.S.A. 65-161 (a) or
 - d. receives non-domestic wastewater, causes vector breeding, or produces offensive odors
- or any condition that is detrimental to health and comfort.
- 2-4.3 Use of Private Wastewater Systems Within 400 feet of Pubic Sewer. No private wastewater system shall be constructed or reconstructed within 400 feet of an existing public sewer, unless the Administrative Agency finds connection to such a sewer is not feasible and that a private wastewater system, satisfying the purposes and requirements of this code, can be constructed and used on that property.
- 2-4.4 Location of Private Wastewater Systems Below Full/Flood Pool. No portion of a private 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.
- 2-4.5 Location of Private Wastewater Systems Within a 100 Year Flood Plain. No portion of a private wastewater system shall be located within the 100 year flood plain, as established by the Federal Emergency Management Agency, of any stream, river, or water course.
- 2-4.6 Location of a Private Wastewater System Within 100 feet of a Private Water

Well. No portion of a private wastewater system shall be located less than 100 feet from a private water well or water line from a private water well. No sanitary sewer line, regardless of construction, shall be located less than 10 feet from a private water well or a water line from a private water well. A minimum distance of 100 feet shall be maintained between all potential sources of contamination and all public water supply wells.

SECTION 2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER DISPOSAL SYSTEMS

- 2-5.1 Approval of Plans. After adoption of this code no person shall develop any private wastewater system until the plans and specifications for such systems have been approved by the Administrative Agency. References of KDHE Bulletin 4-2 may be used as a guide by the Administrative Agency in reviewing and approving plans for private wastewater disposal systems.
- 2-5.2 Permit. No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.
- 2-5.3 Suitable Site. No site shall be approved if:
- a. connection to an approved public wastewater system is feasible or the site violates the provisions of Section 2-4.0 of this code; or
 - b. the site contains less than three acres of land exclusive of roads, streets, or other public rights-of-way or easements or,
 - c. the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.
- 2-5.4 Construction Approval. All private wastewater systems developed or modified after the effective date of this sanitary code must be inspected and approved by the Administrative Agency for compliance with the approved plans. No portion of the system shall be covered or made inaccessible to inspection prior to approval.

2-5.5 Proper Maintenance and Operation. All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency finds any private wastewater disposal system in violation of this code, the owner and/or user shall be ordered to correct the condition.

2-5.6 Waiver. The Administrative Agency shall have the authority to grant exceptions when reliable information is provided which can justify the exception and which will still protect the beneficial uses of the waters of the state and not create a nuisance.

SECTION 2-6.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY
No private wastewater system shall be constructed on any lot of any size unless minimum standards for soil, topography and geology as established in KDHE Bulletin 4-2.

SECTION 2-7.0 REQUIREMENTS FOR PRIVIES

2-7.1 Approval of Plans. No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency. Privies shall not be constructed where other means of wastewater treatment acceptable under this code can be made available to the site.

2-7.2 Approval of Construction. No person shall use, or make available for use, any newly constructed or modified privy until the construction has been inspected and approved by the Administrative Agency for compliance with approved plans.

2-7.3 Proper Maintenance. No person shall use, or offer for use, any privy that is not maintained in a clean sanitary condition.

2-7.4 Vault Required in Certain Areas. In areas where the maximum elevation of the groundwater is within four feet of the bottom of the pit, a watertight vault shall be provided in lieu of the standard pit.

2-7.5 Location of a Privy Within 100 feet of a well. No privy shall be installed less than 100 feet from an existing well with much greater distances recommended.

SECTION 2-8.0 SANITARY SERVICES

2-8.1 Permit Required. No person shall remove or transport any wastes from any wastewater system or privy, unless that person holds a valid permit from the Administrative Agency.

2-8.2 Contracting With Non-permitted Persons Prohibited.

Contracting With Non-permitted Persons Prohibited. No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid permit.

2-8.3 Minimum Standards for Sanitary Service Equipment.

All equipment used for rendering of sanitary service shall be of watertight construction and maintained in good working condition. This ensures that all materials removed from private wastewater disposal systems or privies will be transported to an approved point of disposal without spillage of waste.

2-8.4 Approved Septage Disposal Methods. All septage shall be disposed of using one of the following methods:

- a. The most desirable method is disposal of septage at a municipal wastewater treatment plant. Septage haulers shall submit a written and signed agreement between the hauler and the plant indicating the amount of septage that the plant agrees to accept annually by the hauler.
- b. Land application of septage also is an acceptable method.
- c. Other methods which are approved by the State Department and the Administrative Agency.

2-8.5 Restrictions To Land Application of Septage

All land application of septage shall be:

- a. limited to less than 30,000 gallons of septage per acre per year;
- b. stabilized with lime to reduce pathogens and vector attraction;
- c. incorporated into the soil within twenty-four (24) hours of application or applied to a nitrogen consuming crop;
- d. separated by at least 200 feet between land application sites and any surface water bodies;
- e. prohibited from frozen, snow covered or saturated soil caused by heavy rain or flooding.
- f. prohibited from sites within the ten year flood plain.

SECTION 2-9.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code no person shall develop any subdivision until the plans and specifications for on-site wastewater management have been approved by the Administrative Agency.

SANITARY CODE

CLAY COUNTY, KANSAS

CHAPTER 3

NONPUBLIC WATER SUPPLIES

SECTION 3-1.0 PURPOSE AND INTENT

The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than Public Water Supplies in Clay 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.

SECTION 3-2.0 APPLICABILITY

The provisions of this chapter shall apply to all premises containing less than 5 acres under one ownership and/or which have a residence located on them. In the event an incorporated city within Clay County has a sanitary code, the more stringent regulations provided by the county or city codes with regard to a specific action shall apply within the incorporated area of that city.

SECTION 3-3.0 DEFINITIONS

3-3.1 Public Water Supply means a system that has at least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

3-3.2 Semipublic Water Supply means all water supplies not meeting the definition of Public Water Supply.

3-3.3 Domestic Water means water primarily for kitchen, bathroom and laundry use, including water used for food preparation, dishwashing, baths, showers, and sinks.

SECTION 3-4.0 REQUIREMENTS FOR NONPUBLIC WATER SUPPLIES

3-4.1 Permit. No person shall develop, use, sell, or lease any modified or newly constructed non-public water supply until a permit has been obtained from the Administrative Agency.

3-4.2 Approved Plans. No permit to develop a non-public water supply subject to regulations of this code shall be issued until the plans have been approved by the Administrative Agency. References approved by State Department shall be used as a guide by the Administrative Agency in reviewing and approving plans for non-public water supply systems.

3-4.3 Semipublic Water Supplies Which Serve Two to Nine Service Connections. All semipublic water supplies which serve two to nine service connections shall:

1. mechanically chlorinate the water delivered to the connections; and
2. test for bacteriological quality at least every three months; and,
3. maintain logs to verify chlorine residuals and bacteriological quality for a period of at least one year.

3-4.4 Disinfection of Bacterial Contaminated Wells. All semipublic water sources shall be disinfected in accordance with K.A.R. 28-30-10.

SECTION 3-5.0 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES

3-5.1 Location. All wells used as sources of water for non-public water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table 1. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

Table 1

Minimum Separation Distance Between Nonpublic Water Supply Wells and Sources of Pollution

<u>Source of Pollution</u>	<u>Recommended Separation</u>	<u>Minimum Separation</u>
Subsurface absorption field for septic tank effluent.....	50 feet*	≥ 100
feet**		
Pit privy.....	50 feet*	≥
100 feet**		
Septic tank.....	50 feet*	≥
100 feet**		

Barnyards, stables, manure piles, animal pens, etc..... feet	50 feet*	≥ 100
Streams, lakes and ponds..... feet	25 feet*	≥ 50
Sewer lines, not constructed of cast iron or other equally watertight construction..... feet	50 feet*	≥ 100
Sewer lines constructed of cast iron or other equally watertight construction..... feet	10 feet*	≥ 10

* As required by K.A.R. 28-10-101 ** As required by Sec. 2-4.6 & 2-7.5 of this code.

3-5.2 Construction and Enforcement. Well construction and the enforcement of this section of the environmental code shall be regulated in accordance with K.A.R. 28-30-1 through 28-30-10 et seq. as amended.

SECTION 3-6.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT
 After adoption of this code no person shall develop any subdivision until the plans and specifications for water supply provision and/or protection have been approved by the Administrative Agency.