COWLEY COUNTY SANITARY CODE

Effective March 21, 2006
Revised February 8, 2006

CHAPTER I

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 thru 19-3708 as amended. This code shall not apply to incorporated cities. No license fee shall be charged owners of property meeting the definition of agricultural purposes.

1-1.2 Declaration of Finding and Policy. The County Commissioners find that the provisions of adequate and reasonable control over the environmental conditions in unincorporated, suburban areas of the county is necessary and desirable; and the adoption of a sanitary code to (1) eliminate and prevent the development of environmental conditions that are hazardous to health and safety, and (2) promote the economical and orderly development of the land and water resources of the county, is necessary. For these reasons and objectives, it will be the policy of the Board of County Commissioners of the county to amend the sanitary code from time to time to provide for regulation of additional various practices that affect environment, sanitation and safety.

1-1.3 Purpose. The purpose and intent of this code is (1) to prescribe the administrative procedures to be followed in administering this sanitary code or any amendments thereto; and (2) to prescribe rules and regulations for controlling practices to minimize health and safety hazards.

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

1-1.5 Applicability. The administrative 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 on and after March 14, 2006.

Section 1-2.0 DEFINITIONS

The following words and phrases when used in this sanitary code shall have the meanings ascribed to them in this section, unless indicated otherwise.

1-2.1 Administrative Rules means those rules and regulations contained in Chapter I of this sanitary code which prescribe general procedures to be followed in the administration of the sanitary code adopted by the county.

1-2.2 Sanitary Code means procedures, standards, and regulations adopted by the county designed to minimize or control those environments and environmental conditions that may adversely affect the health and well being of the public. Such environments and environmental conditions may

include, but are not restricted to: sewerage and sewage disposal; water supply; food and food handling.

1-2.3 Administrative Agency means the Cowley County Health Department.

1-2.4 Health Officer means the legally appointed Administrator of the Board of Health of Cowley County or his duly authorized representative.

1-2.5 Board of Health means the Cowley County Board of Health.

1-2.6 Authorized Representative means any employee of the Health Department who is designated by the Health Officer to administer this sanitary code.

1-2.7 Hearing Board means three persons designated, one by each County Commissioner, to hear appeals from decisions of the Health Officer relating to the enforcement and administration of this code and other sanitary codes.

1-2.8 Person means municipality, political subdivision, institution, corporation, partnership, association, or individual.

1-2.9 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.

1-2.10 Agricultural Purposes means a purpose related to the production of livestock or crops.

1-2.11 Board of County Commissioners means the Board of County Commissioners of Cowley County, Kansas.

Section1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 Right of Entry. Representatives of the administrative agency shall have the right to enter, examine, and/or survey at any reasonable time such premises, establishments, and buildings as they shall deem necessary for the enforcement of sanitary codes and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

1-3.2 Obstruction of Administrative Agency. No person shall willfully and unlawfully impede or obstruct representatives of the administrative agency in their discharge of official duties under the provisions of this administrative code or any other sanitary codes adopted by the county.

1-3.3 Permit and License.

1-3.31 Applications for Permits and Licenses. Every person required by a sanitary code to obtain a permit or license shall make application for such permit or license to the administrative agency on standard forms provided by the administrative agency for that purpose.

1-3.32 Issuance of Permit or License. Within 5 days, Sundays and holidays excepted, after receipt of an application for a permit or license required by this code, or any other sanitary code, the Health Officer shall begin such investigations and inspections as he shall deem necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or

license within 10 days. If the permit or license is denied, the Health Officer shall send the applicant a written notice and state his reasons for rejection.

1-3.33 Permit Nontransferable. No permit or license required by this sanitary code shall be transferable, nor shall any fees required and paid therefore be refundable.

1-3.34 Construction Permit – Posting. When any work is being done, for which a construction permit is required by this sanitary code, the construction permit shall be posted on the property involved, in a conspicuous manner within 40 feet of the nearest road or street and shall remain posted until replaced with a certificate of final inspection, which shall remain in place until the property is occupied.

1-3.35 Standard Fees. For the purpose of defraying all or part of the cost of administration of a sanitary code, the Board of County Commissioners shall establish a schedule of fees for all permits and licenses required by the code, and said fees shall be paid to the Administrative Agency at the time an application for a permit is filed, and a receipt issued therefore, a copy of which shall be attached to the application for such permit or license. The Health Officer shall not process any application for a permit or license until the required fee has been paid.

1-3.36 Transfer of Fees. All fees collected hereunder shall be used by the administrative agency to defray the cost of administering this code.

1-3.4 Notices, Orders, Appeals.

1-3.41 Notice of Violations. Whenever the Health Officer determines that there has been, or is likely to be, a violation of any provision of the county sanitary code, he shall give notice of such alleged violation to the person responsible therefore. The notice shall be (1) in writing; (2) include a statement of why the notice is being issued; (3) allow a reasonable period of time for performance of any work required by the notice; and (4) be properly served upon the owner or his agent, provided that such notice shall be deemed properly served upon such owner or agent when a copy thereof has been sent by registered mail to the last known address of the owner or agent.

1-3.42 Appeal of Hearing. Any person aggrieved by any notice or order issued by the Health Officer under the provisions of this administrative code or any other sanitary code may request, and shall be granted, a hearing on the matter before the hearing board appointed by the Board of County Commissioners; provided such person shall file with the health officer within ten 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. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the Health Officer shall confer

with the hearing board and 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 not later than ten days after the date on which the petition was filed; provided, that upon request of the petitioner the hearing board may postpone the day of the hearing for a reasonable time beyond such ten day period, when in its judgment the petitioner has submitted good and sufficient reasons for such postponement.

1-3.43 Report of Hearing. Within 10 days after such hearing, exclusive of Sundays and holidays, the hearing board shall submit a written report of their findings to the Board of County Commissioners with a recommendation that the Board issue an order sustaining, modifying or withdrawing the notice or order of the Health Officer. Upon receipt of the report of the Hearing Board, the Board of County Commissioners shall consider the report and issue an order confirming, modifying or withdrawing the notice or order of the Health Officer and shall notify the appellant in the same manner as is provided for in Sec. 1-3.41.

1-3.44 Emergency Orders. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provision of this ordinance, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Health Officer, shall be afforded a hearing before the Hearing Board as soon as possible, but not more than 5 days after the emergency order is issued.

1-3.45 Variances; Board of County Commissioners. Notwithstanding any of the requirements or guidelines herein, the Board of County Commissioners may grant variances and issue a permit or license for the construction or reconstruction of a private sewerage system or septic system where geological or geographical reasons would otherwise interfere with the issuance of a permit or license, provided they are assured that a health hazard or potential health hazard will be avoided.

1-3.46 Variances; Health Officer. In unusual cases where compliance with the requirements of this code is not feasible, the Health Officer shall have the authority to waive design requirements of private sewage disposal systems provided that reliable data is furnished demonstrating that such waiver will not create a hazard or otherwise endanger health and safety. This power of waiver may be used to allow temporary or experimental private sewage disposal systems such as

evapotranspiration or absorption beds. Employment of any such waiver does not relieve the owner of the responsibility of correcting deficiencies and/or constructing a replacement sewage disposal system of conventional design in the event of experimental system failure.

1-3.5 Records

1-3.51 Permit Applications. Applications for permits or licenses, required by this code, shall be filed in the administrative agency and a duplicate shall be kept with the office of the Health Officer.

1-3.52 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 in the administrative agency.

1-3.53 Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the hearing officer, together with a copy of every notice and order related 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.

1-3.6 Enforcement Procedures. The County Attorney shall enforce the provisions of this code and other sanitary codes adopted by the County and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the administrative agency. Actions of injunction, mandamus, and quo warranto are appropriate for enforcement of these codes.

1-3.7 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 code will function properly.

1-3.8 Separability. If any section, subsection, paragraph, sentence, clause or phrase of this code should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portion, which shall remain in full effect; and to this end the provisions of this code are hereby declared to be severable and shall be presumed to have been adopted knowing that the part or section declared invalid would be so declared.

1-3.9 Penalties. In addition to, and independently of the enforcement procedures provided in Section 1-3.6 herein, any violation of any provisions of a sanitary code shall be deemed to be an unclassified misdemeanor and punishable by fine not to exceed one hundred dollars ($100.00) for each offense. Each day's violation shall constitute a separate offense.

CHAPTER II

Sewage and Excreta Disposal

Section 2-1.0 PURPOSE AND INTENT OF CODE

The provisions of this chapter are adopted for the purpose of regulating and controlling the location, construction, maintenance, and use of sewerage systems, sewage disposal systems, and privies and the removal and disposal of materials removed from such facilities in order to protect the health of the citizens of Cowley County, to prevent nuisances and to preserve property values.

2-2.0 APPLICABILITY. The provisions of this chapter shall apply to all unincorporated land located in Cowley County, Kansas except any premises under one ownership that exceed 15 acres in area and is used only for agricultural purposes.

2-3.0 DEFINITIONS.

The words, terms and phrases listed below for purposes of this code shall be defined and interpreted as follows.

2-3.1 Domestic Sewage means water-borne wastes produced at family dwellings in connection with ordinary family living, exclusive of storm water, foundation drains, and cooling water.

2-3.2 Industrial and Commercial Wastes means any and all liquid or water-borne wastes produced in connection with any industrial or commercial process or operation, other than domestic sewage.

2-3.3 Human Excreta means the normal body wastes from humans (feces and urine).

2-3.4 Sewerage Systems means the pipes and all appurtenances related to the collection and treatment of domestic sewage, industrial or commercial wastes, which extend outward from any building.

2-3.5 Public Sewerage System means a sewerage system that is used, or designed to be used, for the collection, treatment and discharge of domestic sewage, industrial, or commercial wastes from (1) two or more family dwellings, (2) two or more trailer spaces in a trailer or mobile home park, (3) two or more lots or properties located in platted subdivisions, or (4) two or more industrial or commercial properties under more than one ownership.

2-3.6 Waste Stabilization Pond means a diked surface, earthen excavation designed to retain sewage in order that biological treatment may be accomplished.

2-3.7 Private Sewage Disposal System means a septic tank-soil absorption system used for the collection and disposal of sewage from a single family dwelling.

2-3.8 Sewer District means a special district authorized and empowered by state statutes to plan, construct, and operate a public sewerage system.

2-3.9 Privy means a facility designed and/or used for the disposal of human excreta.

2-3.10 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, septic tanks, or private sewerage systems; and the transportation of such material to a point of final disposal.

2-3.11 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 re-subdivision of lands or lots.

2-3.12 Distances means horizontal distances unless otherwise designated. Measurements referred to as "not less than", "minimum", "at least" and other similar designations shall mean horizontal distances unless specifically indicated otherwise.

2-3.13 State Department of Health means Kansas Department of Health and Environment.

2-4.0 PROHIBITED PRACTICES

2-4.1 Transfer of Property Ownership:

No person shall transfer the ownership of any property with a private wastewater system until it has been inspected by the Administrative Agency, the Cowley County Health Department, and the results of that inspection are made available to the transferee.

2-4.2 Use of Non-approved Private Systems.

No person shall use (a) any private system or facility that has been temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction; (b) any system or facility that fails to comply with the provisions of the sanitary code, and written notice thereof has been given by the Health Officer to the owner or responsible person; (c) any private system that discharges inadequately treated sewage onto the surface of the ground, into watercourses, lakes, ponds or any impoundment; or (d) causes fly breeding, produces offensive odors or nay other condition that is prejudicial to health and comfort.

2-4.3 Use of Private Systems within 400 Feet of Public Sewer.

No private sewerage system or sewage disposal system shall be constructed within 400 feet of an existing public sewer, unless the Health Officer finds that a connection to such a sewer is not feasible and that a private sewerage system, meeting the requirements of this code, can be constructed on the property.

2-4.4 Location of Private Sewerage or Sewage Disposal Systems Below Full Flood Pool.

No portion of a private sewerage system or private sewage disposal system shall be located below the full flood pool elevation of any federal reservoir or full pool elevations of any pond, lake or water supply reservoir unless written approval for location below full flood pool is obtained from the Cowley County Health Department.

2-4.5 Location of a Private Sewerage or Sewage Disposal System Within 100 Feet of a Public Well, 50 Feet of a Private Well or 25 Feet From Property it Serves.

No portion of a private sewerage system or private sewage disposal system which is constructed or reconstructed after the effective date of this Act, shall be located less that 100 feet from a public water well or a pump suction line from a public water well, or less than 25 feet from the property line of the premises it serves, unless the facility be of water tight construction. No sanitary sewer line, regardless of construction, shall be located less than 50 feet from a private water well or a suction line from a private water well.

2-4.6 Connection to Non-approved Public Sewerage System

No premises shall be permitted to connect to any public sewerage system that does not hold a valid permit from the State Department of Health as required in 2-5.2.

2-4.7 Discharge of industrial wastes to a private septic system is prohibited.

2-5.0 REQUIREMENTS FOR PUBLIC SEWERAGE SYSTEMS

2-5.2 Responsibility for Operation.

Responsibility for operation of all public sewerage systems must be vested in (1) a sewer district, improvement district, or similar public agency authorized to operate public sewerage systems, or (2) a private corporation incorporated under Kansas law and legally bound and authorized by a charter and by-laws to operate and maintain the public sewerage system until such time as the responsibility is transferred to a duly constituted public agency.

Section 2-6.0 REQUIREMENTS FOR WASTE STABILIZATION PONDS

2-6.1 Minimum Lot Size.

A minimum of five (5) acres shall be provided for single family waste stabilization ponds.

2-6.2 Construction

Waste stabilization ponds shall be constructed in conformance with minimum requirements set by the Health Officer. All materials shall meet or surpass minimum specifications set forth by the Health Officer.

2-6.3 Separation Requirements

Waste stabilization ponds must have a minimum horizontal separation of one hundred (100) feet from all water wells, ponds, streams, and lakes. Measurements shall be from the inside upper edge of the pond berm (dam).

2-6.4 Waste stabilization ponds shall have a minimum horizontal separation of 100 feet from other properties.

2-6.5 Waste stabilization ponds designed and permitted as non-discharging facilities must be operated in such a fashion to assure that no discharge occurs. If overflow of a waste stabilization pond is imminent, overflow control methods shall be approved by the Health Officer.

2-6.6 Maintenance

Persons holding a permit for use of a waste stabilization pond and responsible for its operation shall operate and maintain the system in conformity with standard operation practices recommended by the Health Officer and shall not overload the system or allow it to produce offensive odors, impair the quality of the affluent or create any condition hazardous to health.

2-7.0 REQUIREMENTS FOR PRIVATE SEWAGE DISPOSAL SYSTEMS

2-7.1 Suitable site.

No site shall be approved by the Health Officer if (a) connection to an approved public sewerage system is feasible or violates the provisions of Section 2-4.0 of this code; (b) the site contains less than two (2) acres of land, exclusive of roads, streets, or other public rights-of-way or easements provided this area requirement may be reduced to one (1) acre if the property is served by an approved public water supply; and (c) the soil, topography and geology fails to meet the requirements set forth in Section 2-8.0. Provided, the Health Officer may issue a permit to existing lots or lots within subdivisions in existence at the time of enactment of these regulations which do not meet the minimum size requirements set forth herein, if a suitable system can be constructed within that lot which is satisfactory to the Health Officer, and presents no potential health or safety hazard.

2-7.2 Approved Plans.

No private sewage disposal system shall be constructed, reconstructed, or modified after the effective date of this code without first submitting its plans to the Health Officer and having them approved. The Health Officer shall follow the recommended standards for design, construction, and location of private sewage disposal systems recommended by the Department of Health in the latest edition of Bulletin 4-2, Minimum Standards for Design and Construction of Onsite Wastewater Treatment Systems – March 1997: Published by Kansas Department of

Health and Environment (K-State Research and Extension publication MF-2214); the provisions of Section 2-4.0.

2-7.25 Builders, Contractors and Subcontractors, Purchase of Permit

Any builder, contractor, subcontractor or person who constructs in whole or in part a waste stabilization pond or private sewerage system for which a permit from the County Health Officer has not been obtained shall be subject to the fines and penalties set out under Section 1-3.9.

2-7.3 Approval of Construction.

All private sewage disposal systems constructed, reconstructed, or modified after the effective date of this sanitary code must be inspected and approved by the Health Officer for compliance with the approved plans; and no portion of the system shall be covered or made inaccessible until the Health Officer has inspected and approved the construction for conformity with approved plans.

2-7.4 Proper Maintenance and Operation

All private sewage disposal systems shall be maintained in good working condition and shall not discharge onto the surface of the ground or drain into any stream or roadside ditch, produce offensive odors; or become a breeding place for flies, mosquitoes or rats. Whenever the Health Officer shall find any private sewage disposal system malfunctioning and causing any of the above prohibited conditions, he shall order the owner and/or user to correct the condition within thirty (30) days.

Section 2-8.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY

No private sewage disposal system which is dependent upon soil absorption for the disposal of the sewage shall be constructed on any lot where the soil, topography, and geology does not meet these standards.

No private sewage disposal system shall be constructed on any lot regardless of the size where:

a. The soil percolation rate is less than one (1) inch in sixty (60) minutes. All percolation rates shall be based upon percolation tests performed in accordance with the standard procedures for such tests prescribed by the State Department of Health in its Bulletin 4-2. Such tests shall be made by, or in the presence of the Health Officer or his representative, or as they may otherwise direct.
b. Impervious rock formations are within six (6) feet of the top of the ground.
c. The ground-water table is, at any time, within ten (10) feet of the surface of the ground.
d. The natural slope of the land is greater than fifteen (15) percent.

Section 2-9.0 APPROVAL OF PLATS

No Board authorized to review and recommend approval of plats or subdivision of land, shall recommend for approval any plat containing one or more building sites, having less than one (1) acre of land, unless public sewers are provided or a surety bond in an amount stipulated by the County Commissioners is filed with the County Clerk to guarantee installation of such sewers, or as otherwise provided herein.

Section 2-10.0 REQUIREMENTS FOR PRIVIES

2-10.1 Approval of Plans.

No person shall construct, erect, alter or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Health Officer. Plans for all new privies shall conform with the provisions of Kansas State Department of Health's Bulletin 4-3, The Sanitary Privy.

2-10.2 Approval or Construction.

No person shall use, or make available for use, any newly constructed or modified privy until the construction has been inspected by the Health Officer and found to be in conformity with plans approved under Sec. 2-10.1 of this code.

2-10.3 Proper Maintenance.

No person shall use or offer for use any privy that is not maintained in a clean and sanitary condition. Privies that permit insects or rodents access to the fecal material in the pit shall be repaired within a reasonable time or condemned by the Health Officer for further use.

2-10.4 Vault Required in Certain Areas.

In areas where the elevation of the ground water is within six (6) feet of the top of the ground, a watertight concrete vault shall be provided in lieu of the standard pit.

2-10.5 Location

a. No pit privy shall be installed less than fifty (50) feet from an existing well, nor less than twenty-five (25) feet from any property line.

b. No pit privy shall be constructed or reconstructed on any premise served by a public water supply, or on which water is delivered to any building under pressure, unless special permission for use of a privy is obtained from the Health Officer and all homeowners within 500 feet of the privy are notified of the proposed construction.

Section 2-11.0 SANITARY SERVICES

2-11-1 License Required.

No person shall remove, haul or transport, or offer to move, haul or transport any domestic sewage, industrial or commercial waste or human excreta from any private sewerage system,

private sewage disposal system or privy, or offer to remove or transport such wastes unless he holds a valid license from the Health Officer.

2-11.2 Application and Inspection Fee.

Every person wishing to obtain a sanitary service license shall make application for a license on forms provided for this purpose and shall pay the inspection fee set by the Board of County Commissioners to the County Treasurer before filing the application with the Health Officer. A receipt showing such payment shall be attached to the application form. In case a license is denied, no portion of the inspection fee will be refunded.

2-11.3 Contracting With Unlicensed Persons Prohibited.

No person responsible for operating a private sewerage system or a private sewage disposal system or privy shall contract, or offer to contract, with any person for sanitary service unless that person holds a valid permit or license to provide such service from the Health Officer.

2-11.4 Minimum Standards for Sanitary Service Equipment.

All equipment used for rendering of sanitary service shall be of watertight construction, maintained in good working condition and provided with hoses, couplings, valves, pumps, and other necessary equipment to insure that all materials removed from private sewerage systems, sewage disposal systems, or privies will be transported to a point of disposal approved by the Health Officer without spillage of the waste onto the road or street. All equipment shall be in good workable condition and the operator shall demonstrate that the equipment is in good operating condition and will perform its function without leakage or spillage.

2-11.5 Minimum Requirements for Equipment.

No sewage, sewage sludge or human excreta shall be transported in equipment that does not comply with the following requirements:

1. Tank construction shall be heavy gauge steel plate or aluminum;
2. Tank shall be airtight and watertight;
3. Tank shall be provided with suction-type pump;
4. 20 feet or more of 2" hose shall be available;
5. Tank shall be provided with leak-proof valve and airtight manhole covers;
6. Elbow or extension pipe shall be provided to permit discharge of sewage directly into sewer line or manhole;
7. Manholes used for the purpose of disposing of waste shall be left in a clean condition, and if necessary, haulers shall be required to install tanks on trucks for hauling of water for cleaning purposes.

8. Permit number and capacity of truck shall clearly and plainly be marked on the truck;
9. All tanks shall be inspected and all requirements set forth in this section shall be met before a license may be issued to any person;
10. Each hauler shall post a bond as may be required by the Board of County Commissioners;
11. Information forms will be provided by the Department of Health and Environment and each hauler will be instructed as to who shall receive such forms.