

The enclosed Marion County Environmental/Sanitary Code has been officially adopted by the Marion County Board of Commissioners.

Leon Suderman

Signature

Chairman, Board of County Commissioners

3-14-94

Date

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BUREAU OF WATER

**MARION COUNTY, KANSAS**

**SANITATION CODE**

**FEBRUARY, 1994**

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Marion County, Kansas  
Sanitation Code

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SANITATION CODE  
OF  
MARION COUNTY, KANSAS

ARTICLE 1

LEGAL AUTHORITY; DECLARATION OF FINDING AND POLICY;  
PURPOSE; TITLE; APPLICABILITY; DEFINITIONS

**Sections:**

- 1-101 Legal Authority
- 1-102 Declaration of Finding and Policy
- 1-103 Purpose
- 1-104 Title
- 1-105 Applicability
- 1-106 Definitions

**1-101 Legal Authority:** This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 through 19-3708, as amended. This code shall be enforced pursuant to authority granted unto the Board of County Commissioners, or the duly constituted governing body of Marion County, Kansas. Nothing herein is intended to nor constitutes a pre-emption of similar authority conferred upon the Kansas Department of Health and Environment, separately enforcing the Water Well Construction Act, K.S.A. 82a-1201, et seq.

**1-102 Declaration of Finding and Policy:** The County Commission of Marion County, Kansas, finds that provisions for adequate and reasonable control over the environmental conditions in unincorporated areas of the county are necessary and desirable; and that it is necessary to adopt a sanitation code to:

- A. Eliminate and prevent the development of environmental conditions that are hazardous to health and safety; and,
- B. Promote the economical and orderly 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 of Marion County, Kansas, to amend this code as required with respect to any matter affecting environmental sanitation and safety.

**1-103 Purpose:** The purpose and intent of this code is:

1. To prescribe the administrative procedures to be followed in administering this sanitation code or any amendments thereto.
2. To prescribe rules and regulations for controlling practices to minimize health and safety hazards.
3. To establish administrative procedures to facilitate fair and equitable regulation while recognizing the rights of affected persons to receive reasonably prompt processing and to appeal administrative decisions.

1-104 **Title:** This code shall be known and referred to as the Marion County Sanitation Code, and shall be referred to herein as "this code".

1-105 **Applicability:** The administrative procedures prescribed in this article shall be followed in administering this code and any amendments thereto.

1-106 **Definitions:** For the purposes of this code, certain terms and words are hereby defined. Words used in the present tense shall include the future and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word "building" shall include the word "structure"; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word "shall" is mandatory and not discretionary while the word "may" is permissive; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE:** Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ABANDONED WATER WELL:** A well:
  - a. which has been discontinued from use;
  - b. from which the pumping equipment has been removed;
  - c. which is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer, or both;
  - d. which possesses potential health and safety hazards; and/or,
  - e. which is in such a condition it cannot be placed in active or inactive status.
3. **ACTIVE WELL:** A water well which is an operating well used to withdraw water, or monitor or observe groundwater conditions.
4. **ADMINISTRATIVE AGENCY:** The entity authorized to implement and enforce the provisions of this code. The Administrative Agency for Marion County is designated as the Marion County Health Department.
5. **ADMINISTRATIVE RULES:** Those rules and regulations contained in this code which prescribe general procedures to be followed in the administration of this code.
6. **ADMINISTRATOR:** The person or persons appointed by the Board of Health to oversee implementation and enforcement of this code.

7. **AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land held under one ownership which is forty (40) or more acres in area for the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental or greenhouse products. Land used for agricultural purposes shall not include the following:
  - a. The raising of furbearing animals as a principal use.
  - b. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
  - c. Wholesale or retail sales.
  - d. The operation or maintenance of a commercial stockyard or feedlot as defined in K.A.R. 28-18-1a.
  - e. The feeding of garbage to animals.
  - f. Any dwelling unit.
8. **ALTERNATING LATERAL FIELD:** A subsurface absorption system divided into two fields to allow alternate use of the individual fields over extended period of time. The sewage effluent coming from the septic tank is diverted from one field to the other by means of a diversion valve or box approved by the Administrator.
9. **ALTERNATIVE WASTEWATER SYSTEM:** A wastewater system other than a septic tank/soil absorption system that is used or designed to be used to collect, treat, hold or discharge waste from residential, industrial or commercial property into a soil absorption field. This includes such systems as evapo-transpiration fields and mechanical treatment systems.
10. **ANIMAL:** All wild or domesticated vertebrate animals of the class Mammalia and Aves, such as, but not limited to, dogs, cats, fowl, bovines, horses and other equines, or such animals that have been tamed, domesticated or captivated.
11. **ANNULAR SPACE:** The space between the well casing and the well bore in a water well, or the space between two (2) or more strings of well casing.
12. **AQUIFER:** An underground formation that contains and is capable of transmitting groundwater.
  - a. **CONFINED AQUIFER:** An aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is under pressure greater than atmospheric pressure and will rise in a well above the point at which it is first encountered.

- b. **UNCONFINED AQUIFER:** An aquifer containing groundwater at atmospheric pressure. The upper surface of the groundwater in an unconfined aquifer is the water table.
13. **AUTHORIZED REPRESENTATIVE:** Any employee of the Marion County Health Department who is designated by the Health Officer to administer this code.
14. **BITE:** An actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the animal causing the bite.
15. **BOARD OF COUNTY COMMISSIONERS:** The Board of County Commissioners of Marion County, Kansas.
16. **BOARD OF HEALTH:** The Marion County, Kansas, Board of Health.
17. **BULKY WASTE:** Discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building demolition debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that this definition shall not mean abandoned or inoperable vehicles in whole or in part.
18. **CODE:** The Marion County Sanitation Code.
19. **CONTRACTOR:** A person/persons or firm hired to perform a specific task. As intended herein, this shall include, but not be limited to, sewage disposal and construction of water well systems.
20. **CONTROL MEASURES:** Any chemical, structural or physical procedures or processes designed to eradicate, minimize, prevent or otherwise limit the reproduction and/or infestation of insects and rodents detrimental to community health; but not limited to insects and rodents.
21. **DISTANCES:** The minimal, straight-line, horizontal measurement between the closest portions of the objects or structures of concern.
22. **DOMESTIC PURPOSE:** Water used for drinking, culinary, and ablutionary purposes.
23. **DOMESTIC SEWAGE OR WASTEWATER:** All water-borne wastes produced at family dwellings in connection with ordinary family living, and similar type wastewater produced at offices, churches, industrial and commercial firms, exclusive of storm water, foundation drains and cooling water.
24. **GROUNDWATER:** That part of the subsurface water which is in the zone of saturation.

25. **GROUT:** Material, such as cement grout, neat cement grout, bentonite clay grout or other material approved by KDHE, used to create a permanent impervious watertight bond between the casing and the undisturbed formation surrounding the casing or between two (2) or more strings of casing.
- a. **BENTONITE CLAY GROUT:** A mixture consisting of water and commercial grouting or plugging sodium bentonite clay containing high solids such as that manufactured under the trade name of Volclay Grout, or an equivalent as approved by KDHE; provided:
1. The mixture shall be as per the manufacturer's recommendations to achieve a weight of not less than 9.4 pounds per gallon of mix. Weighing agents may be added as per the manufacturer's recommendations.
  2. Sodium bentonite pellets, tablets or granular sodium bentonite may also be used; provided they meet the specifications listed in K.A.R. 28-30-2.
  3. Sodium bentonite products that contain low solids, are designed for drilling purposes, or that contain organic polymers shall not be used.
- b. **CEMENT GROUT:** A mixture consisting of one (1) ninety-four (94) pound bag of portland cement to an equal volume of sand having a diameter no larger than 0.080 inches (2 millimeters) to five (5) to six (6) gallons of clean water.
- c. **NEAT CEMENT GROUT:** A mixture consisting of one (1) ninety-four (94) pound bag of portland cement to five (5) to six (6) gallons of clean water.
26. **GROUT TREMIE PIPE OR GROUT PIPE:** A steel or galvanized steel pipe, or similar pipe having equivalent structural soundness, that is used to conduct pumped grout to a point of selected emplacement during the grouting of a well casing or plugging of an abandoned well or test hole.
27. **HEALTH DEPARTMENT:** The Marion County Health Department.
28. **HEALTH OFFICER:** The Administrator, appointed by the Board of Health, or a duly authorized representative.
29. **HEARING OFFICER:** Any person, persons or board designated by the Board of Health to hear appeals from decisions of the Administrator relating to the enforcement and administration of this code.
30. **HEAT PUMP HOLE:** A hole drilled in installed piping for an earth coupled water source heat pump system, also known as a vertical closed loop system.
31. **HUMAN EXCRETA:** The normal body discharge from humans (feces and urine).

32. **INACTIVE STATUS:** A water well which is not presently operating but is maintained in such a way it can be put back in operation with a minimum of effort.
33. **INDUSTRIAL AND COMMERCIAL WASTE:** Any and all liquid or water-borne wastes produced in connection with any industrial or commercial process or operation, other than domestic waste.
34. **INOPERABLE VEHICLE:** Any motor vehicle which, because of mechanical defects, a wrecked or partially wrecked frame or body, or dismantled parts, cannot be operated in a normal and safe manner. Any vehicle which has been inoperable for a period of ten (10) days shall, in such cases, constitute a prima facie presumption that such vehicle is inoperable.
35. **INSECTS:** The classes of Insects and Arachnida of the phylum Arthropoda, including, but not limited to, flies, mosquitoes, fleas, lice, cockroaches, bed bugs, plant bugs, mites, ticks, spiders, and scorpions.
36. **INSTITUTION:** An establishment of a public or eleemosynary character that serves to instruct, train, or care for persons such as, but not limited to, a school, college, care home or hospital.
37. **KDHE:** The Kansas Department of Health and Environment, including all associated agencies thereof, or any such successor department or agency of the State of Kansas assigned the responsibility of administering the laws governing the adoption of this code.
38. **KENNEL:** An establishment for the breeding, boarding, or sale of dogs or cats, four or more in number and over six months of age.
39. **LATERAL FIELD:** A system of perforated or open joint sewer pipe positioned underground within rock or gravel beds or trenches to effect transfer of treated sanitary sewage to soil for percolation, evaporation, and/or transpiration disposal.
40. **MANURE:** The body discharge of all animals except humans.
41. **MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.
42. **MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
43. **MULTIPLE PROPERTY:** More than one property owned by a person.

44. **NUISANCE:** Those acts or conditions identified within K.S.A. 21-4106, K.S.A. 21-4107 and/or K.S.A. 65-159.
45. **OFFENSIVE ODORS:** Any odor deemed annoying, nauseous, disagreeable, unwholesome or objectionable by a majority of individuals so exposed as to interfere with the comfortable enjoyment of life or property, not withstanding the fact that the degree of such annoyance, nausea, disagreeableness, unwholesomeness, or objectionableness may be unequal.
46. **OWNER:** Any person who, alone or jointly or severally with others:
- a. shall have record legal title to any property or structure thereon with or without accompanying actual possession thereof; or,
  - b. shall have charge, care or control of any property or structure thereon as owner, agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
47. **PERCOLATION RATE:** The ability of the soil to absorb and/or transmit water as measured by methods set forth by the Administrator.
48. **PITLESS WELL ADAPTER OR UNIT:** An assembly of parts installed below frost line which will permit pumped groundwater to pass through the wall of a casing or extension thereof and prevent entrance of contaminants.
49. **PREMISE:** Any lot or tract of land, and all buildings, structures, or facilities located thereon.
50. **POTABLE WATER:** Water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the latest Public Health Drinking Water Standards.
51. **PRIVATE SEWERAGE FACILITY:** Any sewerage facility used for the collection and disposal of domestic sewage from a single-family dwelling, commercial or industrial establishment located upon one individually owned property, except sewerage facilities servicing multiple property or regulated by KDHE.
52. **PRIVATE SEWERAGE SYSTEM:** Any system which does not hold a National Pollutant Discharge Elimination System permit (NPDES), and shall include, but not be limited to, wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.
53. **PRIVATE WATER SUPPLY:** All water supplies not meeting the definition of Public Water Supply.
54. **PRIVY:** A facility designed and/or used for the disposal of non-water carried human excreta.

55. **PROPERTY:** Any real property within Marion County which is not a street or highway.
56. **PUBLIC SEWERAGE FACILITY:** A sewerage facility designed and/or used for the collection and disposal of sewage from multiple property, or facilities required to have a permit from KDHE.
57. **PUBLIC WASTEWATER SYSTEM:** A wastewater system that is used, or designed to be used, for the collection, treatment and discharge of domestic wastes or industrial or commercial wastes into a receiving water course of the state and has a valid permit from KDHE.
58. **PUBLIC WATER SUPPLY:** A water supply that is used for domestic purposes by ten (10) or more users or serves an average of twenty-five (25) individuals daily at least sixty (60) days out of the year.
59. **PUMP PIT:** A water-tight structure constructed at least two (2) feet away from a water well and below ground level to prevent freezing of pumped groundwater and which houses the pump or pressure tank, distribution lines, electrical controls, or other appurtenances.
60. **RECONSTRUCTED WATER WELL:** An existing water 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.
61. **REFUSE:** All putrescible and non-putrescible waste materials, such as trash, debris, garbage, tree trimmings, grass cuttings, dead animals and solid industrial waste, but shall not include human or animal excrements.
62. **RODENTS:** The so-called domestic rats, *Rattus Norvegicus* otherwise known as Norway Rat, and *Rattus Rarrus*, and domestic mice, *Mus Musculus*, and wild native rodents associated with the transmission of disease or causing nuisance to man or other animals.
63. **SALVAGE YARDS:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include junkyards.
64. **SANITARY SERVICE:** The pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private sewerage systems; and the transportation of such material to a point of final disposal.
65. **SANITARY WELL SEAL:** A manufactured seal installed at the top of the well casing which, when installed, creates an airtight and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.

66. **SANITATION CODE:** The rules and regulations adopted by Marion County which are designed to minimize or control those environments and environmental conditions that may adversely affect the health and well being of the public, such as, but not limited to, wastewater and wastewater disposal, water supply, food and food handling, liquid wastes, solid wastes, insects, rodents, animal shelters, abandoned vehicles, junk, salvage, dilapidated auxiliary structures, or other matters as herein presented. Whenever the term "code" is used herein, such reference shall be to the Sanitation Code of Marion County, Kansas.
67. **SEMI-PUBLIC WATER SUPPLY:** A water supply used for domestic purposes serving three (3) to nine (9) residential units (rental or under separate ownership) on a piped system.
68. **SEPTIC TANK:** A facility for the receipt of domestic sewage and clarification by settling into a liquid portion ready for further treatment by other methods and concentration of solids and organic matter for storage and digestion within the facility.
69. **SEPTIC SYSTEM:** A septic tank-soil absorption system used for the collection and disposal of domestic wastes, and industrial and commercial wastes as defined herein.
70. **SEWAGE:** Any substance that contains any of the waste products excrementitious or other discharge from the bodies of human beings or animals, or other water-borne wastes from domestic, institutional, commercial, or businesses, except waste defined as hazardous by KDHE.
71. **SEWERAGE FACILITIES:** The arrangement of devices, structures and mechanisms to treat and modify water carried waste from residences, business buildings, institutions, industrial establishments, and mobile home parks.
72. **SEWERAGE SYSTEM:** Any system, along with attendant pipes and appurtenances, designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.
73. **SOIL PERCOLATION TESTS:** Soil tests, as set forth by the Administrator, to determine the suitability of the soil for absorption of subsurface sewage effluent disposal.
74. **SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.
75. **STATIC WATER LEVEL:** The highest point below or above ground level which the groundwater in the well reaches naturally.

76. **SUBDIVISION:** Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offering same for sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. A subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, map, plat or other recorded instrument.
77. **SUBSURFACE SEWERAGE FACILITY:** An aerobic or anaerobic sewage disposal facility designed to adequately dispose of solids and liquid sewage waste beneath the surface of the ground by means of liquification, bacterial action, and absorption through fabricated subsurface systems and natural earth.
78. **TEST HOLE:** In regard to water wells, any excavation constructed for the purposes of determining the geological and hydrologic characteristics of underground formations.
79. **TREATMENT:** The stimulation of production of groundwater from a water well through the use of Hydrochloric Acid, Muriatic Acid, Sulfamic Acid, Calcium or Sodium Hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing Iron and Manganese Hydroxide and oxide deposits, Calcium and magnesium carbonate deposits and slime deposits associated with iron and manganese bacterial growths which inhibit the movement of groundwater into the well.
80. **UNCASED TEST HOLE:** Any test hole in which casing has been removed or in which casing has not been installed.
81. **VAULTS OR HOLDING TANKS:** A watertight receptacle for the retention of sewage either before, during, or after treatment.
82. **VETERINARIAN:** A Doctor of Veterinary Medicine licensed by the State of Kansas.
83. **WASTE STABILIZATION POND:** A diked surface earthen excavation designed to retain raw sewage in order that biological treatment may be accomplished.
84. **WASTEWATER:** Any water that is used for any purpose and then discharged on or from the premises where used.
85. **WASTEWATER (SEWER) DISTRICT:** A special district authorized and empowered by state statutes to plan, construct and operate a public wastewater system.
86. **WATER DISTRICT:** Any special district authorized and empowered by state statutes to plan, construct and/or operate a public water supply system.

87. **WATER IMPOUNDMENTS:** Situations created by improper drainage or discharge obviously not existing for any benefit, but not including a natural water course, artificial pond, or lake.
88. **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.
89. **WATER WELL, CONSTRUCTION OF:** All acts necessary to obtaining groundwater by any method for any use, including, without limitation, the location of and excavation for the well.
90. **WATER WELL CONTRACTOR:** Any individual, firm, partnership, association or corporation who shall construct, reconstruct or treat a water well. The term shall not include:
1. An individual while in the act of constructing a water well on land which is owned by him or her and is used by him or her for farming, ranching, agricultural purposes, or at his or her place of abode; but only when the well is constructed in compliance with prescribed minimum well standards and the requirement of well logs as required by KDHE in K.A.R. 28-30-4, and any amendments.

**ARTICLE 2**  
**ADMINISTRATION**

**Sections:**

- 2-101 Administrative Powers and Procedures
- 2-102 Permit and License
- 2-103 Notices, Orders and Appeals
- 2-104 Records
- 2-105 Disclaimer of Liability
- 2-106 Supplemental Regulations
- 2-107 Severability
- 2-108 Penalties and Enforcement Procedures

**2-101 Administrative Powers and Procedures:**

- A. Responsibility of the Administrator:** The Administrator shall be responsible for the enforcement of all provisions contained in this code and is hereby authorized to make investigations, to issue notices and orders, to hold hearings, to bring legal action in courts of competent jurisdiction, and to take other measures as are necessary for the enforcement of this code. Applications for permits or licenses, as required by this code, shall be filed with the Administrator on forms provided therefor.
  
- B. Right of Entry:** The Administrator shall have the power and authority to inspect for compliance with the Marion County Sanitation Code. The Administrator, or designated representative, shall have the right to enter, examine and/or survey such premises, establishments and buildings as deemed necessary for the enforcement of this code, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or restricted.
  
- C. Obstruction of Duties:** No persons shall willfully and unlawfully impede or obstruct the Administrator, or the Administrator's designated representative, in the discharge of official duties under the provisions of this code.

**2-102 Permit and License:**

- 1. Applications for Permits/Licenses:** Every person required by this code to obtain a permit or license shall make application on forms provided by the Administrator.
  
- 2. Fees:** The Board of Health shall establish a schedule of fees for the administration of this code. The Administrator shall not process any application for a permit or license, nor perform any inspection or service, until the required fee has been paid.

3. **Issuance of Permit or License:** Within ten (10) working days after receipt of an application for a permit or license required by this code, the Administrator 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 twenty (20) working days. If the permit or license is denied, the Administrator shall send the applicant a written notice and state the reason or reasons for denial.
4. **Permit/License Non-Transferable:** No permit or license required by this code shall be transferable, nor shall any fees required and paid therefore be refundable.
5. **Permit/License Revocation:** All permits or licenses are subject to revocation for reasons of noncompliance, misrepresentation, or other valid reasons as determined by the Administrator.

**2-103 Notices, Orders and Appeals:**

1. **Notice of Violations:** When the Administrator 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:
  1. Be 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.
  4. Be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy thereof has been sent by registered mail to the last known address of the owner or agent.

2. **Appeal for Hearing:** Any person aggrieved by any notice or order issued by the Administrator under the provisions of this code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrator within ten (10) working days after the 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; except for Emergency Orders as defined in Section 2-103(5) of this code.

Upon receipt of such petition, the Administrator shall confer with the Hearing Officer 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 no later than ten (10) working days after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrator may postpone the hearing for a reasonable time beyond such ten (10) day period when in the Administrator's judgement the petitioner has submitted justifiable reason(s) for such postponement.

3. **Report of Hearing:** Within ten (10) days after such hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrator. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the Administrator shall consider the report and issue an order, confirming, modifying or withdrawing the notice of order, and shall notify the appellant in the same manner as is provided for in this code for original notice of violations.
4. **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 Administrator. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.
5. **Emergency Orders:** Whenever the Administrator finds that an emergency exists which requires immediate action to protect the public health and safety, 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 suspension of a permit or license if required. Notwithstanding any other provisions of this code, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately.

**2-104 Records:**

1. **Permit Application:** Applications for permits or licenses required by this code shall be filed with the Administrator.
2. **Official Actions:** A written record of all official actions taken on applications for permits and licenses required by this code shall be kept on file with the Administrator.

**2-105 Disclaimer of Liability:** This code, and any other adopted codes, rules or regulations of a similar nature or covering a similar subject, shall not be construed or interpreted as imposing upon the County or its officials or employees any liability or responsibility for damages to any property; or any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by this code will function properly.

**2-106 Supplemental Regulations:** Supplemental regulations may be established by the Board of Health for detailed construction specifications, policies, and guidelines. These supplemental regulations may be revised from time to time to provide for adequate and reasonable enforcement. Any and all addendum to this code shall be considered supplemental regulations of this code.

**2-107 Severability:** If a 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 severable and shall be presumed to have been adopted knowing that the part or section declared invalid would be so declared.

**2-108 Penalties and Enforcement Procedures:**

1. **Penalties:** In addition to, and independently of the enforcement procedures provided herein, any violation of this code shall be an unclassified misdemeanor and punishable by a fine not to exceed two hundred dollars (\$200.00) for each offense. Each day's violation shall constitute a separate offense.
2. **Enforcement Procedures:** The County Attorney or County Counselor shall enforce the provisions of this code, and any amendments thereto adopted by the County, and is hereby authorized to file appropriate actions for such enforcement, upon request of the Administrator. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of this code and shall be governed by the provisions of the Kansas Code of Civil Procedure.

## ARTICLE 3

### NUISANCES

#### Sections:

3-101 Nuisances

3-102 Abatement

3-101 Nuisances: It is unlawful for any person to maintain or permit to exist any nuisance as defined within these Regulations.

3-102 Abatement: The Administrator shall have the power and authority to examine and investigate into all nuisances, sources of filth, and causes of sickness that may, in his opinion, be injurious to the health of the inhabitants of Marion County, Kansas; and whenever any such nuisance, source of filth, or cause of sickness shall be found to exist upon any private property, the Administrator shall be the power and authority to order, in writing, the owner or occupant thereof, at the owner or occupants expense, to remove the same within such a reasonable time thereafter as the Administrator may order.

## ARTICLE 4

### WASTEWATER DISPOSAL

#### Sections:

- 4-101 Purpose and Intent
- 4-102 Applicability
- 4-103 Prohibited Practices
- 4-104 Permits, Approval, Existing Facilities
- 4-105 Administrative Procedures
- 4-106 Requirements for Public Wastewater Systems
- 4-107 Requirements for Private Wastewater Systems
- 4-108 Requirements for Subdivision Developments
- 4-109 Sanitary Services
- 4-110 Variances

**4-101 Purpose and Intent:** The provisions of this Article are adopted for the purpose of regulating and controlling the location, construction, maintenance, and use of public and private wastewater systems, including septic systems, waste stabilization ponds, alternate wastewater systems, privies, and the removal and disposal of materials from such facilities, in order to protect the health and environment of the citizens of Marion County, Kansas.

**4-102 Applicability:** The provisions of this Article shall apply to all premises containing less than forty (40) acres under one ownership and located in the unincorporated areas of Marion County, Kansas.

**4-103 Prohibited Practices:** No person shall sell, use, lease, or rent for use any alternative wastewater system, septic system, waste stabilization pond, privy, or any other private wastewater system that:

1. has been constructed after the effective date of this code until it has been inspected and approved by the Administrator;
2. has been temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction;
3. fails to comply with the provisions of this code, and written notice thereof has been given by the Administrator to the owner or responsible person;
4. discharges inadequately treated wastes onto the surface of the ground, into water courses, lakes, ponds, or any impoundment; or,
5. causes fly breeding, produces offensive odors, or any other condition that is prejudicial to health and comfort.

6. is located within the 100-year flood plain, as established by the Federal Emergency Management Agency, of any stream, river or water course, unless said location is in compliance with the Flood Insurance Program requirements.

No private wastewater disposal system shall be constructed within four hundred (400) feet of an existing public wastewater system, regardless of whether the subject property is within the boundaries of the service area or district of said public wastewater system or not, unless the Administrator finds that connection to said public wastewater disposal system is not feasible and that a private wastewater disposal system, meeting the requirements of this code, can be constructed on the property.

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

#### **4-104 Permits, Approval, Existing Facilities:**

1. **Construction Approval:** New construction on any wastewater facility, or any structure from which sewage will be discharged other than to a public wastewater system, may not be started by the owner, contractor, or any other person until approval has been obtained from the Administrator. Such new construction of wastewater facilities include initial construction, enlargement of existing wastewater facilities modification of the method or extent of wastewater treatment, or replacement of a significant portion of an existing wastewater facility.
2. **Existing Wastewater System:** Wastewater facilities which were existing or on which construction was started prior to the effective date of this code shall be regulated under this code when such facilities are modified, enlarged, replaced, or when inspected by the Administrator and found to be lacking in design or operation to the extent that water pollution or a public health hazard or nuisance is created. A permit will be required for any such deficient wastewater facility and will only be approved for use after proper corrections have been made. Septic tank and lateral field wastewater facilities existing as of the effective date of this code need not have a permit unless enlarged, replaced, modified, found to be deficient, or creating a health hazard or nuisance requiring corrective measures.
3. **Abandonment of Wastewater System:** Any existing private wastewater system that is located within an Improvement District, Sewer District, or other area where public wastewater facilities are within four hundred (400) feet shall be discontinued and the building sewer shall be connected to said public wastewater facilities. Connection shall include all domestic waste coming from the building. The continued use of a private wastewater facility when a public wastewater facility is within four hundred (400) feet shall be deemed a nuisance as described in Article 3 of this code.

4. **Abandonment Procedures - Private Wastewater System:** Any private wastewater facility which is discontinued shall follow the abandonment procedures set forth within this code.

#### 4-105 Administrative Procedures:

1. **Responsibility - Permits:** It is the responsibility of the property owners upon which a wastewater facility is to be located to secure the required written approval before construction and to obtain a permit before use.
2. **Application for Permit:** The owner, or his designated representative, shall apply for approval to construct, reconstruct or modify a private wastewater facility upon application forms provided by the Administrator. This application shall be accompanied with applicable fees.
3. **Required Site Information:** The application shall require specific information to fully disclose the intended usage, site, location and site characteristics, including the results of percolation tests and other soil and ground water data as required by the Administrator. A proposed design of the private wastewater facility shall be submitted by the owner at the time of application.
4. **Construction Approval:** When the facility design, site, and the intended usage are found acceptable, the Administrator will notify the owner of approval to start construction of the wastewater facility. When the wastewater facility has been satisfactorily constructed, the Administrator will release to the owner a permit to allow use of the wastewater facility.

#### 4-106 Requirements for Public Wastewater Systems:

1. **Approval of Plans and Specifications:** Plans and specifications for all public wastewater systems shall be submitted to and approved by the KDHE prior to starting any construction of such systems. Copies of the approvals for such systems shall be filed with the Administrator.
2. **Permit:** The owner of every public wastewater system shall obtain a permit for operation of the system from KDHE and no public wastewater system shall be operated or put in operations until the owner has obtained the required permit.
3. **Responsibility for Operation:** Responsibility for operation of all public wastewater systems must be vested in:
  - A. A sewer district, improvement district, or similar public agency authorized to operate public wastewater systems, or,

B. A private corporation incorporated under Kansas laws, and legally bound and authorized by a charter and bylaws to operate and maintain the public wastewater system until such time as the responsibility is transferred to a duly constituted public agency.

**4-107 Requirements for Private Wastewater Systems:**

**1. Septic Tank - Lateral Fields:**

a. **Minimum Lot Size:** After the effective date of this code, all property on which a septic tank and lateral field wastewater facility is constructed must provide a minimum of one (1) acre, including dedicated public rights-of-way. This minimum lot size requirement is independent of all other area and separation requirements which may necessitate a larger property.

b. **Minimum Area - Lateral Fields:** If a lateral field is utilized, at least ten thousand (10,000) square feet of the property must be suitable for the location of the lateral field. Alternating lateral fields, as specified in this code, require twenty thousand (20,000) square feet.

c. **Site Requirements - Lateral Fields:** Locations for lateral fields must meet the following conditions:

1. Four (4) feet or more of average soil depth above solid rock formation.

2. Ground water elevation ten (10) feet or more below ground surface.

3. Not to be subject to inundation by flood waters as determined by a flood of record plus three (3) feet, or the 100-year flood plain records, whichever is less.

4. Soil percolation tests of the original soil for the lateral field area shall indicate a soil porosity at saturation such that a one (1) inch absorption or greater occurs within sixty (60) minutes. The soil percolation test shall be performed in accordance with the procedures established in this code.

The above stated provisions shall not prohibit soil modifications to enhance percolation or other advanced systems as outlined in EPA design manual entitled, "On-site Wastewater Treatment and Disposal Systems."

d. **Alternating Lateral Fields:** An alternating lateral field system may be allowed by the Administrator if soil percolation tests of the original soil indicate a soil porosity at saturation of one (1) inch absorption or greater within the time period of sixty (60) minutes to one hundred twenty (120) minutes.

- e. **Suitable Site:** No permit shall be issued in accordance with Section 4-104 of this code until a suitable site shall have been approved by the Administrator. A site shall not be approved by the Administrator if:
1. Connection to an approved public wastewater system is feasible or violates the provisions of Section 4-103 of this code.
  2. The site contains less than ten thousand (10,000) square feet of suitable area for immediate and eventual use as a lateral field, exclusive of buildings, roads, streets, driveways, parking areas, patios or other public rights-of-way or easements.
  3. The soil percolation rate is faster than one (1) inch in a minute or slower than one (1) inch in sixty (60) minutes. All percolation rates shall be based on percolation tests performed in accordance with the standard procedures for such tests prescribed by the KDHE in its Bulletin 4-2. Such tests shall be made at the direction of the Administrator or his/her representative.
  4. Impervious layer or rock formations are closer than four (4) feet to the bottom of the lateral trench.
  5. The natural slope of the land is greater than ten percent (10%).
  6. The system and lateral field is closer than:
    - a. one hundred (100) feet from any water well;
    - b. fifty (50) feet from the property line of the premises it serves;
    - c. twenty five (25) feet from a public water supply line.
- f. **Approved Plans:** A septic system shall not be constructed, reconstructed, or modified after the effective date of this code without the plans for the same first having been submitted to and approved by the Administrator. The Administrator shall adhere to recommended standards for design, construction, and location of septic systems such as the latest edition of Bulletin 4-2, RECOMMENDED STANDARDS FOR LOCATING, CONSTRUCTING AND OPERATING SEPTIC TANK SYSTEMS FOR RURAL HOMES.
- g. **Approval of Construction:** All septic systems constructed, reconstructed, or modified after the effective date of this code must be inspected and approved by the Administrator for compliance with the approved plans; and no portion of the system shall be covered or made inaccessible to inspection prior to approval.

- h. Proper Maintenance and Operation:** All septic 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 Administrator shall find any septic system malfunctioning and causing any of the above prohibited conditions, he/she shall order the owner and/or user to correct the condition within thirty (30) days.

**2. Waste Stabilization Ponds:**

- a. Minimum Lot Size:** After the effective date of this code, all property on which a waste stabilization pond is constructed must provide a minimum of ten (10) acres, including dedicated public rights-of-way. This minimum lot size requirement is independent of all other area and separation requirements.
- b. Separation Requirements:** Waste stabilization ponds shall have a minimum horizontal separation of one hundred (100) feet from all water wells, ponds, streams, and lakes. Measurements shall be made from the inside upper edge of the pond berm (dam).

Waste stabilization ponds shall have a minimum horizontal separation of fifty (50) feet from other properties. This distance shall be measured from the maximum water level.

- c. Construction Requirements:** All waste stabilization ponds shall be constructed in conformance with the following standards and requirements:
  - 1. All waste stabilization ponds shall be constructed such that the normal ground water elevation is at least ten (10) feet below the ground surface.
  - 2. The waste stabilization pond shall:
    - a. have dike slopes that are three and one-half (3-1/2) feet horizontal to one (1) foot vertical.
    - b. have a minimum of four (4) feet of width on the top of the dike berm.
    - c. have a minimum of dike freeboard of two (2) feet.
    - d. divert all surface drainage around the pond.
    - e. remove all clods, rocks, etc., from the dike area and smooth all ruts to facilitate mowing and maintenance of the dike area.
  - 3. The waste stabilization pond shall provide an inlet sewer line that:

- a. has a minimum pipe diameter of four (4) inches.
  - b. is constructed of steel, plastic, P.V.C. or A.B.S. freeze breakage resistant material.
  - c. provides a capped clean out line at the nearest point that the flowline is above the maximum pond water level.
  - d. has a minimum slope of the inlet sewer line of one-eighth (1/8) inch fall for each one (1) foot of run; and terminates within the pond a minimum of one (1) foot from the bottom of the pond.
4. The waste stabilization pond shall be pre-watered to a minimum depth of two and one-half (2 1/2) feet. The maximum water depth shall be five (5) feet. The pond must be constructed to maintain the minimum two (2) feet of freeboard above the maximum water depth.
5. The waste stabilization pond shall be adequately fenced to prevent the entrance of unauthorized personnel and livestock. The fencing required shall:
- a. be a minimum of four (4) feet in height and made of woven or welded wire with the maximum openings or two (2) inches by four (4) inches.
  - b. have a maximum fence post spacing of sixteen and one-half (16 1/2) feet.
  - c. provide a gate with a minimum width of four (4) feet to allow access for mowers and/or other maintenance equipment.
  - d. be located away from the edge of the waste stabilization pond far enough to allow proper mowing and maintenance.
6. The waste stabilization pond bottom and interior dike slopes to within two (2) feet of the top of the berm shall be sterilized with a herbicide at the manufacturer's recommended sterilization rate. Care shall be taken not to apply the sterilization herbicide above the top two (2) feet of dike berm elevation where grass will be seeded.
7. The waste stabilization pond exterior dike slopes, top of dike berm, and top two (2) feet of the interior dike slopes shall be seeded with a densely growing, short rooted grass suitable to the area.
- d. **Approval of Construction:** All waste stabilization ponds constructed, reconstructed, or modified after the effective date of this code must be inspected and approved by the Administrator for compliance with the approved plans; and no pond shall be made inaccessible or used prior to approval.

- e. **Proper Maintenance and Operation:** All waste stabilization ponds shall be maintained in good working condition and shall be kept free from plant growths within the water area of the ponds. All fencing shall be maintained in good condition. The grass cover required by this code shall be regularly mowed. Any areas on the waste stabilization pond where the required ground cover is lost, for whatever reason, shall be immediately reseeded so as to prevent erosion or degradation of the integrity of the dike. Whenever the Administrator shall find any waste stabilization pond malfunctioning and/or causing any of the above prohibited conditions, he/she shall order the owner and/or user to correct the condition within thirty (30) days.

### 3. Alternative Wastewater Systems:

- a. **Approval of Plans:** After the effective date of this code, no person shall construct or permit to be constructed any alternative wastewater system until the plans and specifications for such system have been submitted to and approved by the Administrator, who may require the system to be designed by a professional engineer and who may ask for review of the proposal by KDHE. Additional monitoring and reporting requirements of alternative systems may be required by the Administrator.
- b. **Permit for Use:** No person shall use, or permit to be used, any alternative wastewater system until he/she has applied for and received a permit to use such system from the Administrator.
- c. **Proper Maintenance and Operation:** All alternative wastewater 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, or produce offensive odors, or become a breeding place for flies, mosquitoes or rats. Whenever the Administrator shall find any alternative wastewater system malfunctioning and causing any of the above prohibited conditions, he/she shall order the owner and/or user to correct the condition within thirty (30) days.

### 4. Privies:

- a. **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 Administrator. Plans for all new privies shall conform with the provisions of KDHE's Bulletin 4-3, THE SANITARY PRIVY.
- b. **Approval of Construction:** A person shall not use or make available for use any newly constructed or modified privy until the construction has been inspected by the Administrator and found to be in conformity with the plans approved under in Section 4-107(4)(a) above.

- c. **Proper Maintenance:** A person shall not use or offer for use any privy that is not maintained in a clean and sanitary condition. In this regard, all privies shall be a sealed and self-contained unit and shall be regularly pumped by a Sanitary Services provided licensed in accordance with the provision of Section 4-109 herein.

Privies that permit insects or rodents access to the waste material in the pit shall be repaired within a reasonable time or condemned by the Administrator from further use.

- d. **Vault Required in Certain Areas:** In areas where the elevation of the groundwater is within ten (10) feet of the top of the ground, a water tight concrete vault shall be provided in lieu of the standard pit, at the direction of the Administrator.

e. **Location:**

1. A pit privy shall not be installed less than three hundred (300) feet from an existing or proposed water well.

2. A pit privy shall not be constructed or reconstructed on any premises 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 Administrator and all homeowners within five hundred (500) feet of the privy are notified of the proposed construction.

- f. **Zoning Regulations:** A privy shall not be constructed or approved for construction in any location where zoning regulations prohibit such facilities.

**4-108 Requirements for Subdivision Developments:** After adoption of this code, no person shall plan, plat and/or develop any subdivision of land which will rely on the use of on-site wastewater disposal until the plans for the proposed subdivision of land has been submitted to and approved by the Administrator.

**4-109 Sanitary Services:**

1. **License Required:** No person shall remove, haul or transport, or offer to remove, haul or transport any domestic sewage, industrial or commercial waste, or human excreta from any private sewage facility or privy unless said person holds a valid license obtained from the Administrator.
2. **Application and Inspection Fee:** Every persons wishing to obtain a sanitary service license shall make application for a license on forms provided by the Administrator and shall pay the applicable fees, as set by the Board of County Commissioners, to the Administrator for inspection of the equipment and evaluation of the persons operation procedures.

3. **License Fees:** An annual fee, as established by the Board of County Commissioners, shall be paid to the Administrator following approval of the application or renewal of the license.
4. **Contracting with Unlicensed Persons Prohibited:** No person responsible for operating a private sewage facility, privy, or disposing of industrial or commercial waste 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 Administrator.
5. **Standards for Sanitary Service Equipment:** All equipment used in rendering a 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 sewage facilities, privys, and industrial or commercial establishments will be transported to the designated point of disposal without spillage of the waste onto the road or street. All equipment shall be in good working condition and the operator shall demonstrate that the equipment is in good operating condition and will perform its function without leakage or spillage. Disposal of hauled sewage is to be made at a public sewage treatment plant or as otherwise authorized by the Administrator.

**4-110 Variances:** The standards and procedures proscribed within this Article for the construction, installation and/or use of private wastewater disposal systems are the minimum standards and procedures for such systems and shall be met or exceeded in all cases. However, when conditions are felt to be unique to a particular property that will warrant a variance from these minimums, an application for a variance may be submitted to the Hearing Officer on forms provided by the Administrator. For purposes of this code, it is the declaration of the Marion County Board of Health that the Marion County Board of Zoning Appeals be, is hereby designated, and shall serve as the Hearing Officer.

A formal public hearing will be held by the Marion County Board of Zoning Appeals, in accordance with the procedures for holding a public hearing specified within the Marion County Zoning Regulations. The Marion County Board of Zoning Appeals shall take testimony from the Administrator and the applicant regarding the request for a variance from this code, shall hear comments and concerns from surrounding property owners and other interested persons, either in person or in writing, and, at the conclusion of the submission of all material evidence so submitted, close the public hearing. Following due deliberation based on the testimony and evidence before it on the particular case, the Marion County Board of Zoning Appeals shall render a decision on the variance request in writing within forty-five (45) days of the conclusion of the public hearing.

In all applications for a variance, the Marion County Board of Zoning Appeals may consult with, seek the advice of, and look for guidance in its deliberations from KDHE. In particular, when a request for a variance concerns any alternative wastewater disposal system, whether public or private, an additional review may be required as specified in Kansas Administrative Regulation (K.A.R.) 28-5-9.

Further, the Marion County Board of Zoning Appeals shall not have the authority to grant a variance to the separation requirements between a private wastewater disposal system and a private water well. A request for a variance of this nature must be submitted to and approved by the Kansas Department of Health and Environment since it is regulated by Article 30 of K.A.R.

Any person aggrieved by any order or determination of the Marion County Board of Zoning Appeals on a variance request from this code may bring an action in the District Court of Marion County, Kansas, to determine the reasonableness of any such order of determination.

**ARTICLE 5**  
**WATER SUPPLIES**

**Sections:**

- 5-101 Purpose and Intent
- 5-102 Applicability
- 5-103 Compliance Required
- 5-104 Requirements for Public Water Supplies
- 5-105 Requirements for Private Water Supplies
- 5-106 Minimum Requirements for Groundwater Supplies
- 5-107 Pumps and Pump Installation
- 5-108 Water Well Plugging Requirements
- 5-109 Variances

**5-101 Purpose and Intent:** The provisions of this Article have been adopted for the purposes of regulating and managing the development, maintenance and use of public and private water supplies in Marion County to the end that public health will be protected and the safeness of the water resources preserved.

**5-102 Applicability:** The provisions of this Article shall apply to all unincorporated areas of Marion County, Kansas.

**5-103 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 Article.

**5-104 Requirements for Public Water Supplies:**

1. **State Permit:** No person shall operate a public water supply without obtaining a public water supply permit from KDHE.
2. **State Approved Plans:** After the effective date of this code, no person shall construct any public water supply on property subject to this code until the plans and specifications have been submitted to and approved by KDHE.

**5-105 Requirements for Private Water Supplies:**

1. **Permit:** No person shall drill, develop or construct any private water supply on any premises subject to this code until said person shall obtain a permit therefor from the Administrator.
2. **Approved Plans:** No permit to drill, develop or construct a private water supply on any premises subject to this code shall be issued until the plans showing the location and construction of the supply have been approved by the Administrator.

**3. Use Limitation:**

- a. No permit for construction or use of a private water supply shall be issued to any owner of property that is served or can be served at a reasonable cost by a public water supply.
- b. Any public water supply or water well proposed to replace an existing water well as a private water supply shall require that the old well be plugged in accordance with Section 5-108 of this code BEFORE the new well may be used.
- c. Use of surface water (lakes, ponds or streams) as a source of water for a private water supply shall not be permitted where a satisfactory groundwater source is available nor where said surface water receives any drainage or discharges from septic tanks or sewage treatment plants, unless adequate treatment is provided. In no case shall surface water be used without filtration and chlorination.
- d. All private water supplies which serve two (2) to nine (9) service connections shall:
  - a. mechanically chlorinate the water delivered to the connections;
  - b. test for bacteriological quality at least every three (3) months;
  - c. maintain logs to verify chlorine residuals and bacteriological quality for a period of at least one (1) year.

**5-106 Minimum Requirements for Groundwater Supplies:**

1. **Location:** All wells used as sources of water for private water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown Table 1 below. The Administrator shall determine the minimum distances that shall be provided between a well and other sources of contamination. In accordance with Article 30 of K.A.R., Section 28-30-8(a), the horizontal distance between the well and the potential source of pollution or contamination shall be a minimum of fifty (50) feet.

TABLE 1

<u>Area</u>	<u>Minimum Separation</u>
Subsurface absorption field for septic tank	50'
Pit privy	50'
Septic tank	50'
Barnyards, stables, manure piles, animal pens, etc.	50'
Streams, lakes and ponds	50'
Sewer lines not constructed of cast iron or other equally watertight construction	50'
Sewer lines constructed of cast iron or other equally watertight construction	10'

2. **Construction:** Article 30 of the K.A.R. "Water Well Contractor's License; Water Well Construction and Abandonment", is hereby incorporated in this code and all requirements stated therein shall be used in reviewing and approving wells for use as a private water supply. In addition, the following specific requirements shall be regarded as supplemental and additional requirements.

a. **Pumps and Pump Installation:** All power pumps and pumping equipment used or installed at private water supplies shall comply with the provisions of Section 5-107 of this code. Solid base, closed top, hand pumps may also be used for lifting water at private wells. Slotted top, open sprout, or split base hand pumps shall not be used. All pumps shall be designed and installed so as to maintain their prime.

b. **Pump House:** An insulated and heated pump house of ample size to permit easy access to the pump for maintenance and repair shall be provided unless the pumping equipment is of weather-proof and frost-proof construction. The floor of the pump house shall be constructed of impervious material and shall be sloped to drain to the doorway or to a floor drain that discharges to the ground surface at a point at least ten (10) feet from the well.

c. **Protection from Freezing:** All discharge and suction lines from the well to the foundation of heated buildings shall be protected from freezing.

**5-107 Pumps and Pump Installation:**

1. **Power Driven Pumps:** All wells used as a source of water supply for private water systems shall be equipped with properly designed and installed power-driven pumping equipment.
2. **Acceptable Pumping Equipment:** Submersible turbine, ejectors, horizontal turbine or water lubricated positive displacement pumping equipment shall be used for lifting water from wells used as a source of water for a private water system. Use of any other type of pumping equipment shall not be permitted unless approval for installation of said equipment is obtained from the Administrator prior to installation.
3. **Pump Mounting:** All pumps installed directly over wells shall be mounted on a well casing, the pump foundation or the pump stand in such a manner as to provide an effective, watertight seal around the top of the well.

When a pump is not mounted directly over the well and the pump suction pipe emerges from the top of the casing, a watertight, sanitary well seal shall be provided for the cable conduit when submersible pumps are used.

4. **Check Valves:** All submersible pump installations shall provide a check valve above the pump and inside the well casing, provided a check valve may be located in the pump house if the discharge pipe is extended twelve inches (12") or more above the pump house floor and the discharge pipe is sloped to drain back into the well.
5. **Material Restrictions:** No material shall be used on any water well construction or pump installation that will make the water toxic or cause the water to have any objectionable taste, odor or color. All plastic pipe (PVC) shall be NSF approved for the purpose it is to be used.

**5-108 Water Well Plugging Requirements:** All holes drilled in search of a water supply, either public or private, and abandoned shall be plugged in accordance with the standards established by KDHE in its "Plugging Packet". Said "Plugging Packet", and any subsequent amended version(s) thereof, is hereby adopted and incorporated into this code the same as if fully published herein.

**5-109 Variances:** The standards and procedures proscribed within this Article for the construction, installation and/or use of a private water well system are the minimum standards and procedures for such systems and shall be met or exceeded in all cases. However, when conditions are felt to be unique to a particular property that will warrant a variance from these minimums, an application for a variance may be submitted to the Administrator on forms provided by the Administrator. For applications concerning standards set by Article 30 of K.A.R., the variance request shall be submitted to KDHE for a determination.

In all other cases where compliance with one or more of the requirements of this Article are not feasible, the Marion County Board of Zoning Appeals, acting as the Hearing Officer as specified in Section 4-110 herein, shall have the authority to grant a variance from the requirement(s) provided said Board is furnished reliable data to show that such variance does not and will not impair the potability of the water or otherwise endanger the health and safety of the individuals using the supply and/or the general public. The procedures for considering a variance shall be the same as specified in Article 4-110 of this code.

In all applications for a variance, the Marion County Board of Zoning Appeals may consult with, seek the advice of, and look for guidance in its deliberations from KDHE.