

Adopted Code: March 28, 1994
Effective date 5/~~1~~^{3PM}/94

ENVIRONMENTAL/SANITARY

CODE

Pawnee COUNTY, KANSAS

CHAPTER 1

ADMINISTRATIVE PROCEDURES

SECTION 1-1.0 AUTHORITY AND POLICY

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. and amendments thereto.

1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. An environmental code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to the health and well being of the public, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County

Commissioners to adopt, and amend when necessary, an environmental code for control of those environments and environmental conditions that may adversely affect the health and well being of the public.

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

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

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

1-1.6 Effective Date. This code shall become effective on and after May 3, 1994.

SECTION 1-2.0 DEFINITIONS

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

particular chapter.

- 1-2.1 Administrative Agency means the entity authorized to administer and implement the provisions of this code. The Administrative Agency for Pawnee County is designated as Pawnee County Commissioners.
- 1-2.2 Administrative Rules means those rules contained in chapter one of this environmental code which prescribe general procedures to be followed in the administration of the environmental code adopted by the county.
- 1-2.3 Authorized Representative means any person who is designated by the Administrative Agency to administer this code.
- 1-2.4 Board of County Commissioners means the Board of County Commissioners of Pawnee County, Kansas.
- 1-2.5 Board of Health means the Pawnee County Board of Health.
- 1-2.6 Hearing Officer means an individual, appointed by the Administrative Agency, to hear appeals from decisions relating to the administration of this code.
- 1-2.7 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, federal agency, state

agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.

1-2.8 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.

1-2.9 State Department means the Kansas Department of Health and Environment.

SECTION 1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES

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

1-3.2 Permit and License.

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

1-3.2.2 Issuance of Permit or License. After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within 30 days of such receipt. If the

permit or license is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.

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

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

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

1-3.3 Notices, Orders, Appeals.

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

(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; and,

(4) be properly served upon the person or designated agent.

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

1-3.3.2 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this environmental code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency, within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the Administrative Agency shall 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 working days after the date on which the petition was filed; provided, that upon request of either party, the Hearing Officer may postpone the hearing for a reasonable time beyond such ten-day period, when in the Hearing Officer's judgement either party has submitted justifiable reason for such postponement.

1-3.3.3 Report of Hearing. Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrative Agency. 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 Administrative Agency shall consider the report and issue an order confirming, modifying or withdrawing the notice or order, and shall notify the petitioner in the same manner as is provided for in Sec. 1-3.3.1.

1-3.3.4 Emergency Orders. Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public,

the Administrative Agency may issue an order reciting the existence of such an emergency, and specifying such action or actions to be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply immediately.

1-3.4 Records.

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

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

1-3.4.3 Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order 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. The cost of said transcripts shall be the sole responsibility of the appellant.

1-3.5 General Provisions.

1-3.5.1 Enforcement Procedure. The County Attorney or County Counselor shall enforce the provisions of this code 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 may be utilized for enforcement of these codes and shall be governed by the provisions of the Kansas Code of Civil Procedure. K.S.A. 19-3701 et seq. and amendments thereto.

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

1-3.5.3 Disclaimer of Liability. This code shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and

inspections required by the code will function properly.

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

ENVIRONMENTAL/SANITARY CODE

Pawnee COUNTY, KANSAS

CHAPTER 2

ON-SITE WASTEWATER MANAGEMENT

SECTION 2-1.0 PURPOSE AND INTENT

Sewage is a potential source of disease and water pollution, and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Pawnee County.

SECTION 2-2.0 APPLICABILITY

The provisions of this chapter shall apply to all unincorporated areas located in Pawnee County, Kansas. The provisions of this chapter shall also apply to all premises containing less than 640 acres under one ownership and located in the unincorporated areas of Pawnee County.

SECTION 2-3.0 DEFINITIONS

2-3.1 Beneficial Use means the use of water for any of the following purposes: agricultural water supply; aquatic life; domestic water supply;

groundwater recharge; industrial water supply; recreation.

2-3.2 Nuisance means conditions or activities on properties both public and private, which have or threaten to have a detrimental effect on the environment or the health of the public.

2-3.3 Private Residential Wastewater System means any system which does not hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 1991 Supp. 65-165 as amended by P.L. Chapter 64, Section 1. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

2-3.4 Sanitary Privy means a facility designed for the disposal of non-water carried wastes from the human body.

2-3.5 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater disposal systems; and the transportation of such material to a point of final disposal.

2-3.6 Seepage Pit means a subsurface excavation, which is filled with rock or gravel and receives effluent from treatment devices.

- 2-3.7 Sewage means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.
- 2-3.8 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 redivision of lands.
- 2-3.9 Wastewater System means any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.
- 2-3.10 Vaults/Holding Tank means a water-tight receptacle for the retention of sewage either before, during, or after treatment.
- 2-3.11 Domestic Wastewater means wastewater originating primarily from kitchen, bathroom, and laundry sources; including waste from food preparation, dishwashing, garbage-grinding, toilet, baths, showers and sinks.

SECTION 2-4.0 PROHIBITED PRACTICES

2-4.1 Use of Nonapproved Private Systems.

A. New Systems: No person shall use, or cause to be used, any private wastewater system or sanitary privy constructed after adoption of this environmental code until it has been inspected and approved by the Administrative Agency.

This pertains only to private on site wastewater not to existing facilities which are covered by KDHE (Kansas Department of Health and Environment) permits.

B. Existing Systems: A private wastewater system in use before adoption of this code may be required to comply with the provisions of this code with due consideration to existing lot size and conditions if it:

- a. has been enjoined as a public health nuisance by a court of competent jurisdiction; or,
- b. discharges onto the surface of the ground, or waters of the state as defined in K.S.A. 65-161 (a) or,
- c. receives domestic wastewater causing vector breeding, or produces offensive odors or any condition that is detrimental to health and comfort.

2-4.2 Use of Private Wastewater Systems Within 400 Feet

of Public Sewer. No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the requirements of this code, can be constructed on that property.

2-4.3 Location of Private Wastewater Systems Below Full/Flood Pool. No portion of a private

wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir.

2-4.4 Location of a Private Wastewater System Within 50 Feet of a Nonpublic Water Supply Well. No

portion of a private wastewater system shall be located less than 50 feet from a nonpublic water supply well or a water line from a water well. No sanitary sewer line, regardless of construction, shall be located less than 10 feet from a nonpublic water supply well or a water line from a water well.

2-4.5 Prohibited Discharges into a Private Wastewater System No cooling water, discharge from roof drains, discharge from footing tile drains or

swimming pool wastewater shall be directed to the private sewage disposal or wastewater treatment system. No automotive grease, oil, antifreeze, or toxic or hazardous waste from a commercial or manufacturing business or waste other than domestic waste shall be discharged to a private sewage disposal or wastewater treatment system.

SECTION 2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER DISPOSAL SYSTEMS

2-5.1 Approval of Plans. After adoption of this code no person shall develop any private wastewater system until the plans and specifications for such system have been approved by the Administrative Agency. References approved by the State Department may be used as a guide by the Administrative Agency in reviewing and approving plans for private wastewater disposal systems.

2-5.2 Permit. No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.

2-5.3 Suitable Site. No site shall be approved if:
a. connection to an approved public wastewater

system is feasible or the site violates the provisions of Section 2-4.0 of this code; or,
b. new sites contain less than two acres of land exclusive of roads, streets, or other public rights-of-way or easements; or,
c. the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.

2-5.4 Construction Approval. All private wastewater systems developed or modified after the effective date of this environmental code must be inspected and approved by the Administrative Agency for compliance with the approved plans. No portion of the system shall be covered or made inaccessible to inspection prior to approval.

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

2-5.6 Waiver. The Administrative Agency shall have the authority to grant exceptions when reliable information is provided which can justify the exception and which will still protect the

beneficial uses of the waters of the state and not create a nuisance.

SECTION 2-6.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY

No private wastewater system shall be constructed on any lot of any size unless minimum standards for soil, topography, geology as established in KDHE Bulletin 4-2 are met.

SECTION 2-7.0 REQUIREMENTS FOR SANITARY PRIVIES

2-7.1 Approval of Plans. No person shall construct or modify any sanitary privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

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

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

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

2-7.5 Location of a Privy Within 50 Feet of a Well. No sanitary privy shall be installed less than 50 feet from an existing non-public well. No source of pollution shall be allowed within 100 feet of a public water supply well.

SECTION 2-8.0 SANITARY SERVICES

2-8.1 Permit Required. No person shall remove or transport any wastes from any private wastewater system or privy, unless that person holds a valid permit from the Administrative Agency. Individuals who wish to remove wastes from their own wastewater system or privy and apply the septage onto their own property are not required to obtain a permit but should dispose of the wastes in accordance with county standards to prevent contamination of water reserves and to protect the public health.

2-8.2 Contracting With Non-permitted Persons Prohibited. No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid permit.

2-8.3 Minimum Standards for Sanitary Service Equipment. All equipment used for rendering of sanitary service shall be of watertight construction and

maintained in good working condition. This ensures that all materials removed from private wastewater disposal systems or privies will be transported to an approved point of disposal without spillage of the waste.

2-8.4 Disposal of spillage. Any person removing or transporting any wastes from any private wastewater system or sanitary privy shall be responsible for any and all spillage.

SECTION 2-9.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

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

ENVIRONMENTAL/SANITARY CODE

Pawnee COUNTY, KANSAS

CHAPTER 3

NONPUBLIC WATER SUPPLIES

SECTION 3-1.0 PURPOSE AND INTENT

The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than Public Water Supplies in Pawnee County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

SECTION 3-2.0 APPLICABILITY

The provisions of this chapter shall apply to all unincorporated areas located in Pawnee County, Kansas. The provisions of this chapter shall also apply to all premises containing less than 640 acres under one ownership and located in the unincorporated areas of Pawnee County, Kansas.

SECTION 3-3.0 DEFINITIONS

3-3.1 Domestic Water Supply means all water supplies meeting the definition of a non-public water supply used by any person or family unit or

household for household purposes.

3-3.2 Public Water Supply means a system that has at least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

3-3.3 Nonpublic Water Supply means all water supplies not meeting the definition of Public Water Supply.

SECTION 3-4.0 REQUIREMENTS FOR NONPUBLIC WATER SUPPLIES

3-4.1 Permit. No person shall develop any domestic water supply until a permit has been obtained from the Administrative Agency.

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

3-4.3 Domestic Water Supplies Which Serve Two to Nine Private Residential Service Connections. All domestic water supplies which serve two to nine service connections shall require the following water quality tests:

a. An initial bacterial analysis.

- b. An initial chemical analysis for nitrate and chloride.
- c. Other tests may be required to verify the satisfactory condition of the supply.

SECTION 3-5.0 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES

3-5.1 Location. All wells used as sources of water for nonpublic and domestic water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table I. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated. No Source of pollution shall be allowed within 100 feet of a public water supply well.

TABLE I

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

<u>Source of Pollution</u>	<u>Minimum Separation*</u>
Subsurface absorption field for septic tank effluent50 feet
Pit privy	50 feet
Septic tank	50 feet
Barnyards, stables, manure piles, animal pens, etc.50 feet
Streams, lakes and ponds.	25 feet
Sewer lines, not constructed of cast iron or other equally tight construction	50 feet
Sewer lines constructed of cast iron or other equally tight construction	10 feet

* As required by K.A.R. 28-10-10

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

SECTION 3-6.0 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code no person shall develop any subdivision until the plans and specifications for water supply provision and/or protection have been approved by the Administrative Agency.

LEGALS

(First published in The Tiller and
Toller, February 24, 1994)31s
NOTICE OF HEARING
TO THE RESIDENTS OF
PAWNEE COUNTY,
KANSAS

The Board of Pawnee County Commissioners hereby announce that, as per K.S.A. 19-3704, a public hearing will be held at 10:00 AM, on Monday, March 28, 1994, in the Commissioners Room on the second floor of the Courthouse, 715 Broadway, Larned, Ks., 67550, for the purpose of allowing all interested parties an opportunity to be heard in regard to the proposed Pawnee County Environmental Code.

An Environmental Code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of Pawnee County, Kansas.

To provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Pawnee County, Kansas.

To regulate and control the development, maintenance, and use of all water supplies other than public supplies in Pawnee County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

Boundaries of the area to be subjected to the code are: all unincorporated areas within the boundaries of Pawnee County, Kansas.

Copies of the proposed environmental code are available for public inspection at the Pawnee County Clerks' Office, second floor in the Courthouse (715 Broadway).

SIGNED AND SEALED in my office this 23rd day of February, 1994.
RUTH M. SEARIGHT
PAWNEE COUNTY CLERK

(

(

(

RESOLUTION 94-2

RESOLUTION OF THE BOARD OF PAWNEE COUNTY COMMISSIONERS

WHEREAS, a notice of public hearing concerning the adoption of a Sanitary Code for Pawnee County, Kansas, was given pursuant to K.S.A. 19-3704, and

WHEREAS, a public hearing was held at 10:00 A.M., on Monday, March 28, 1994, in the Commission Chambers on the Second Floor of the Pawnee County Courthouse, Larned, Kansas 67550, for the purpose of allowing all interested parties an opportunity to discuss said Sanitary Code.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF PAWNEE COUNTY COMMISSIONERS OF PAWNEE COUNTY, KANSAS, that adoption of a Sanitary Code is necessary for the protection of the general health and welfare of the public, and

BE IT FURTHER RESOLVED, that the boundaries of the area subject to the sanitary code are all the unincorporated areas within Pawnee County, Kansas, and

BE IT FURTHER RESOLVED, that this resolution shall be published once in the official county newspaper and shall be effective upon its date of publication.

This resolution is officially adopted this 28th day of March, 1994, by the Board of County Commissioners, Pawnee County, Kansas.

BOARD OF COUNTY COMMISSIONERS
OF PAWNEE COUNTY, KANSAS

Donna Pelton
Donna Pelton, Chairman

Kathy Bowman
Kathy Bowman, Member

Vern Steffen
Vern Steffen, Member

ATTEST:
Ruth Searight
Ruth Searight
Pawnee County Clerk

To be published May 3, 1994

()

()

()