

ENVIRONMENTAL CODE
KEARNY COUNTY, KANSAS

CHAPTER 1

Administrative Procedures

SECTION	1-1.0	<u>AUTHORITY AND POLICY</u>
	1-1.1	<u>Legal Authority.</u> This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-3301 et. seq., as amended.
	1-1.2	<u>Declaration of Finding and Policy.</u> 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 health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt and amend a environmental code to provide current regulation of practices that affect health and safety.
	1-1.3	<u>Purpose.</u> The purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this environmental code or any amendments thereto.
	1-1.4	<u>Title.</u> This code shall be known and referred to as the Kearny County Environmental Code.
	1-1.5	<u>Applicability.</u> The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.
	1-1.6	<u>Effective Date.</u> This code shall become effective_____.
	1-2.0	<u>DEFINITIONS:</u> 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	<u>Administrative Agency</u> means the entity authorized to administer and implement the provisions of this code. The Administrative Agency for Kearny County is

- 1-2.2 designated as the Board of Kearny County Commissioners.
Administrative Rules means those rules and regulations 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 Kearny County Commissioners.
Board of Health means the Kearny County Board of Health as in 12.5. (K.S.A. 65-201)
- 1-2.5 Health Officer means the County Health Nurse
- 1-2.6 Hearing Officer means an individual, appointed by the Administrative Agency, to hear appeals from decisions made by the Health Officer relating to the enforcement and administration of this code. (Local Health Department K.S.A. 19-3701.)
- 1-2.7 Person means an individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.
- 1-2.8 Premise means any lot or tract of land and all buildings, structures, or facilities located thereon.
- 1-2.9 State Department of Health 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 for compliance with the Kearny 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. (K.S.A. 19-3702.)
- 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 owner or agent. Such notice shall be deemed properly served when a copy has been sent by registered mail to the last known address of the owner or agent.
- 1-3.3.2 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this 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 notified 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 the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgment the petitioner 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 appellant in the same manner as is provided for in Section 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, specifying action 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.

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 other environmental codes adopted by the county and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of these codes and shall be governed by the provisions of the Kansas Code of Civil Procedure.

1-3.5.2 Penalties. In addition to, and independently of, the enforcement procedures provided in section 1- 3.5.1 herein, any violation of any provision of a environmental code shall be deemed to be misdemeanor and punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense. K.S.A. 19-3707.

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

1-3.5.4 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 judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

ENVIRONMENTAL CODE

KEARNY 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 Kearny County.
- SECTION 2-2.0 APPLICABILITY.
The provisions of this chapter shall apply to all unincorporated areas located in Kearny County, Kansas.
- SECTION 2-3.0 DEFINITIONS.
- 2-3.1 Abandoned on-site wastewater systems means an on-site waste water system determined by the Administrative Agency to be a system:
- (1) In which the use has been permanently discontinued;
 - (2) Which is in a state of disrepair that it cannot be used to treat effluent, or it has the potential for transmitting effluent into the aquifer or both; or
 - (3) Which poses potential health and safety hazards.
- 2-3.2 Beneficial Use means the use of water for any of the following purposes: agricultural water; aquatic life; domestic water supply; groundwater recharge; industrial water supply; recreation.
- 2-3.3 Cesspool means a dry well that receives untreated domestic waste.
- 2-3.4 Domestic Waste means any sewage consisting of wastewater originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage-grinding, toilets, baths, showers and sinks.
- 2-3.5 Dry Well means a well completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
- 2-3.6 Nuisance means conditions or activities on properties both public and private, which have or threaten to have a detrimental effect on the health of the public or its members.
- 2-3.7 Private Wastewater System means any private wastewater system not required to hold a Kansas Water Pollution Control Permit pursuant to

K.S.A. 65-165. This includes wastewater disposal systems of domestic waste, which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

- 2-3.8 Sanitary Privy means a facility designed for the disposal of nonwater carried wastes from the human body.
- 2-3.9 Sanitary Service means the pumping out and/or removal of sewage, domestic waste, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater systems; and the transportation of such material to a point of final disposal.
- 2-3.10 Seepage Pit means a dry well that receives only septic tank effluent.
- 2-3.11 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.
- 2-3.12 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.
- 2-3.13 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.
- 2-3.14 Vaults/Holding Tank means a water-tight receptacle for the retention of sewage either before, during, or after treatment.

SECTION

- 2-4.0 PROHIBITED PRACTICES.
- 2-4.1 Use of Non-Approved Private Systems. No person shall use, or cause to be used, any private wastewater system, or sanitary privy constructed or reconstructed after adoption of this environmental code until it has been inspected and approved by the Administrative Agency or if it:
 - a. has been enjoined as a public health nuisance by a court of competent jurisdiction; or
 - b. fails to comply with the provisions of this environmental code, and written notice thereof has been given by the Administrative Agency; or
 - c. discharges inadequately treated wastes onto the surface of the ground, or waters of the state as defined in K.S.A. 65-161 (a) or,
 - d. causes vector breeding, produces offensive odors or any condition that is detrimental to health and comfort.
 - e. Abandoned waste water systems are not exempt from this chapter and shall be abandoned in accordance with 2-5.5.
- 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.

- 2-4.2a Existing systems located within 400 Feet of a Public Sewer. It is not mandatory for existing wastewater systems located within 400 ft of a public sewer to connect as long as the private wastewater system works satisfactorily. When the system fails, connection is mandatory if a gravity interconnection can be made or interconnection is economically viable.
- 2-4.3 Location of Private Wastewater Systems Within 50 ft. of Full/Flood Pool. No portion of a private wastewater system shall be located within 50 feet of a flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir unless written approval is obtained from the appropriate Administrative Agency.
- 2-4.4 Location of a Private Wastewater System Within 50 Feet of Private Water Supply Well. No portion of a private wastewater system shall be located less than 50* feet from a private water supply well or water line from a water well, unless the facility is of water tight construction. No sanitary sewer line, regardless of construction, shall be located less than 10* feet from a water well or a water line from a water well.
- 2-4.5 Only domestic waste shall be directed to a private wastewater systems.
- 2-4.6 Cesspool & Seepage Pit Prohibition. Construction and use of cesspools and seepage pits is prohibited.

SECTION

- 2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER SYSTEMS.
- 2-5.1 Approval of Plans.
 - (a) 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.
 - (b) The Administrative procedures, Construction Guidelines (KDHE Bulletin No. 4-2) and other references approved by the Kansas Department of Health and Environment and the Administrative Agency will be used as a guide for approving the plans for a private wastewater system.
- 2-5.2 Sanitary Service. No person shall engage in the cleaning of a private wastewater system or the transportation of waste water to a disposal site unless he holds a valid system cleaners license from the Administrative Agency.
- 2-5.3 Contracting with unlicensed persons prohibited. No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary services unless that person holds a valid license.
- 2-5.4 System contractor. No contractor shall install, or modify a private wastewater system unless he holds a valid system contractor license,

from the Administrative Agency.

- 2-5.5 Abandoned systems to be disconnected, plugged, dismantled, pumped, removed, and filled. Abandoned wastewater systems shall be disconnected from buildings or facilities, pipes plugged, and receptacles dismantled or removed; and any void space in which such receptacles were contained shall be filled with soil. Before filling, receptacle contents shall be pumped out and disposed of in accordance with Section 2-5.2. Any soil absorption systems that received non-domestic waste must be reported and closed in accordance with KDHE requirements.
- 2-5.6 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.
- 2-5.7 Maintenance. All persons holding a permit for use of a private wastewater system and responsible for its operation shall operate and maintain the system in conformity with standard operation practices.
- 2-5.8 Suitable Site. No site shall be approved if:
- a. connection to an approved public wastewater system is feasible or the site violates the provisions of Section 2-4.0 of this code; or,
 - b. the site contains less than two acres of land exclusive of roads, streets, or other public rights-of-way or easements, provided this area requirement may be reduced to one acre if the property is served by an approved public water supply; or,
 - c. the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.
- 2-5.9 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; and no portion of the system shall be covered or made inaccessible to inspection prior to approval.
- 2-5.10 Proper Maintenance and Operation. All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency shall find any private wastewater system malfunctioning, the owner and/or user shall be ordered to correct the condition.
- 2-5.11 Waiver. The Administrative Agency shall have the authority to grant exceptions, to this chapter when reliable information is provided which can justify the exception without compromising the environment.

SECTION

2-6.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY.

No private wastewater system which is dependent upon soil absorption for the disposal of wastewater, shall be constructed on any lot of any size unless minimum standards for percolation rates, soil profiles and depth to impervious rock or groundwater are met.

- SECTION 2-7.0 REQUIREMENTS FOR SANITARY PRIVIES.
- 2-7.1 Approval of Plans. No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.
- 2-7.2 Approval of Construction. No person shall use, or make available for use, any newly constructed or modified privy until the construction has been inspected by the Administrative Agency for compliance with approved plans.
- 2-7.3 Proper Maintenance. No person shall use, or offer for use, any privy that is not maintained in a clean 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 Private Water Supply Well. No privy shall be installed less than 50 feet from an existing well.

- SECTION 2-8.0 SANITARY SERVICES
- 2-8.1 Permit Required. No person shall remove or transport any wastes from any wastewater system or privy, unless that person holds a valid permit from the Administrative Agency.
- 2-8.2 Contracting With Non-Permitted Persons Prohibited. 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.

- 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 CODE
KEARNY COUNTY, KANSAS

CHAPTER 3

Non-public 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 Kearny 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 Kearny County, Kansas.
- SECTION 3-3.0 DEFINITIONS.
Domestic Uses means the use of water by any persons or family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.
- 3-3.1 Potable Water means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the latest drinking water standards.
- 3-3.2 Pump Installer means any contractor, firm, partnership, association or corporation who shall install pumps, treat or otherwise service any water well or any system directly connected to a water well, such as the distribution system, to the first connection up to and including the water pressure tank.
- 3-3.3 Non-public Water Supply means all water supplies not meeting the definition of Public Water Supply.
- 3-3.4 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 (K.S.A. 65-162a).
- 3-3.5 Abandoned Water Well means a water well determined by the Administrative Agency to be a well:
- (1) in which the use has been permanently discontinued;
 - (2) in which pumping equipment has been permanently removed;
 - (3) which is in 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;

- (4) which poses potential health or safety hazards; or
- (5) which is such a condition it cannot be placed in active or inactive status.

3-3.6 Water Well Contractor means any individual, firm, partnership, Association, or corporation who shall construct, reconstruct or treat a water well the term shall not include:

- (1) An individual constructing, reconstructing or treating a water well located on land owned by the individual when the well is used by the individual for farming, ranching, or agricultural purposes or for domestic purposes at the individuals place of abode.
- (2) an individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractors supervision.

SECTION 3-4.0 REQUIREMENTS FOR NON-PUBLIC WATER SUPPLIES.

3-4.1 Permit. No person shall develop, use, sell or lease any water supply subject to regulations of this code until a permit has been obtained from the Administrative Agency.

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

3-4.3 Nonpublic Water Supplies which Serve Six to Nine Service Connections. All non-public water supplies which serve six to nine service connections shall:

- (a) mechanically chlorinate the water delivered to the connections; and
- (b) test for bacteriological quality at least every three months; and,
- (c) maintain logs to verify chlorine residuals and bacteriological quality for a period of at least one year.

SECTION 3-5.0 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES.

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

TABLE 1

<u>OBJECT</u>	<u>Minimum Separation</u>	<u>Recommended Separation*</u>
Subsurface absorption field for septic tank effluent.....	50 ft.	100 ft
Pit privy.....	50 ft.	100 ft
Septic tank	50 ft.	100 ft
Barn yards, stables, manure piles, animal pens, etc.....	50 ft.	100 ft
Streams, lakes and ponds.....	50 ft.	50 ft.
Sewer lines, not constructed of cast iron or other equally tight construction.....	50 ft.	100 ft
Sewer lines constructed of cast iron or other equally tight construction.....	10 ft.	10 ft

3-5.2 Construction. The enforcement of this section of the Sanitary Code shall be regulated in accordance with K.A.R. 28-30-1 through 28-30-10 et seq. as amended. Recommended standards for design, construction and location; and practices consistent with current approved technology shall be followed.

3-5.3 Abandoned wells. All abandoned wells whether they are cased or uncased shall be plugged in accordance with K.A.R. 28-30-7.

3-5.4 Pump installers. All pump installers desiring to engage in the business of pump installing, servicing or treating water wells shall be licensed by the administrative agency.

3-5.5 Well Contractors. All well contractors must be licensed in accordance with K.A.R. 28-30-3 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.