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ADMINISTRATIVE PROCEDURES

SECTION 1-1 AUTHORITY AND POLICY

1-1.1 Legal Authority

This code is adopted under authority granted to the Board of County Commissioners by K.S.A. 19-3701 through 19-3709 as amended.

1-1.2 Declaration of Finding and Policy

The County Commissioners find that provisions are necessary and desirable for adequate and reasonable control of environmental conditions in unincorporated areas of the county and that it is necessary to adopt a sanitary code to:

- a. Eliminate and prevent the development of environmental conditions that are hazardous to health and safety, and
- b. Promote economical and orderly development of land and water resources of the county.

It will be the policy of the Board of County Commissioners to amend this code with respect to any matters affecting environmental sanitation and safety.

1-1.3 Purpose

The purpose and intent of this code is:

- a. To prescribe the administrative procedures to be followed in administering this sanitation code or any amendments thereto.
- b. To prescribe rules and regulations for controlling practices to minimize health and safety hazards.
- c. To establish administrative procedures to facilitate fair and equitable regulations.
- d. To recognize the rights of affected persons and to receive prompt processing and/or the right to appeal administrative decisions.

1-1.4 Title

This title shall be known and referred to as the Sanitation Code of Pottawatomie County.

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 upon its adoption by County resolution upon approval by KDHE and the Board of County Commissioners.

SECTION 1-2 DEFINITION OF TERMS

The following words and phrases, used in this code, shall have the meanings defined by them in this section, unless indicated otherwise.

1-2.1 Administrative Rules

Rules and regulations contained in Chapter 1 of this code prescribe general procedures to be followed in the administration of the code.

1-2.2 Sanitation Code

Whenever the term "code" is used herein, such reference shall be to the Sanitation Code of Pottawatomie County, Kansas. Procedures, standards, and regulations adopted by the county and are designed to minimize and/or control those environments and

environmental conditions that may adversely affect the health and well being of the public. Such environments and environmental conditions may include, but are not restricted to: wastewater and wastewater disposal, water supply; food and food handling.

1-2.3 Administrative Agency

The Pottawatomie County Environmental Health Department; also, called herein "Agency."

1-2.4 Sanitarian

The appointed Environmental Officer of Pottawatomie County Environmental Health Department or his/her duly authorized representative.

1-2.5 Health Officer

The Director of the Pottawatomie County Health Department as appointed by the Board of County Commissioners

1-2.6 Board of Health

The Pottawatomie County Board of County Commissioners.

1-2.7 Authorized Representative

An employee of Pottawatomie County who is designated by the Administrative Agency to administer this code.

1-2.8 Hearing Officer

Any person or board appointed by Board of Health to conduct hearings regarding violations, or orders.

1-2.9 County Counselor

Appointed legal council for Pottawatomie County.

1-2.10 Person

Any municipality, political subdivision, institution, corporation, partnership, association, or individual.

1-2.11 Premises

Any lots or tracts of land, including all buildings, structures, or facilities placed thereon.

1-2.12 Board of County Commissioners

The Board of County Commissioners of Pottawatomie County, Kansas.

1-2.13 Agricultural Purpose

Growing crops or pasture and functions related thereto, and/or the feeding of livestock, including feed lots, by the resident on the land, but does not include the dwelling unit. According to K.S.A.

19-3706, plots of land must be greater than twenty contiguous acres to be considered agricultural.

1-2.14 Dwelling Unit

Any building or structures occupied on either a full time or part time basis.

1-2.15 KDHE

Kansas Department of Health and Environment.

SECTION 1-3 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 Right of Entry

Upon presentation of credentials, representatives of the administrative agency and/or its designees shall have the right to enter upon private property to inspect, to examine, and/or to survey for any purpose related to enforcement of this code, but in no event shall such representation force entry when denied access by property owner.

1-3.2 Obstruction of Administrative Agency

No person shall willfully and knowingly impede or obstruct representatives of the administrative agency in the discharge of official duties under the provisions of this code. Any representative denied access to any premises for the purposes authorized in this code shall have authority to seek such injunctive or other legal or equitable relief from the District Court as is necessary to ensure access and compliance with this code.

1-3.3 Applications for Permits and Licenses. All persons required by this code to obtain a permit or license shall apply for such permits or license to the Agency on standard forms provided for that purpose.

1-3.31 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 Sanitarian shall begin such investigations and inspections as he or she 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 thirty (30) days. If the permit or license is denied, the Sanitarian shall send the applicant a written notice with the reasons for rejection stated thereon.

1-3.32 Permit Transfer. Permit or license may be transferable, upon approval of Sanitarian.

1-3.33 Standard Fees. For the purpose of defraying all or part of the costs of administration of this code, the Board of County Commissioners shall establish a schedule of fees for all permits and licenses required. Fees are payable upon submission of the application for such permits or license.

1-3.4 Notice of Violations. When the Administrative Agency determines that there is a violation of any provision of this code, notice of such violation shall be issued to the person responsible. The notice:

- a.* Shall be in writing;
- b.* Shall identify the code violation and the factual basis there of;
- c.* Shall specify necessary corrective action;
- d.* Shall specify a reasonable period for corrective action and/or work required by the notice, and;
- e.* Shall be properly served upon the occupant and/or owner of the premises; provided, that such notice shall be deemed properly served upon such owners or occupant, when a copy there of has been sent by registered or certified mail to the last known address of the owner or occupant as identified on the latest county tax rolls.
- f.* Shall provide for right to appeal.

1-3.41 Appeal for Hearing. Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this code may request, and shall be entitled to a hearing. The Board of County Commissioners or a Hearing Officer as appointed by the Board of County Commissioners shall conduct a hearing as provided if such person shall file with the Administrative Agency.

- a.* Within ten (10) working days after the date of receipt of the notice or order, a written petition requesting a hearing and setting forth the grounds, upon which the objection is made.
- b.* Hearing shall be commenced no later than ten (10) working days after the date on which the petition was filed; .
- c.* The filing of the request for hearing shall operate as a stay of the notice or order, except as provided in paragraph 1-3.43.

d. Upon receipt of such petitions, the Sanitarian shall:

1. Set a time and place for the hearing
2. Give the petitioner written notice thereof.

e. At the hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn.

f. The Administrative Agency may postpone the hearing for a reasonable time beyond such ten (10) day period, when in the Agency's judgment the petitioner has submitted justifiable reason for such postponement

1-3.42 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 receipt of the report from Hearing Officer, the Administrative Agency shall consider the report, 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 Section 1-3.4.

1-3.43 Emergency Orders. Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public health, the Agency may request the Health Officer to issue an order reciting the existence of such an emergency, specifying action to be taken as the Agency deems necessary to meet the emergency, including the suspension of the permit, without notice or hearing. Aside from any other provisions of this code, such order shall be effective immediately and shall be enforceable in Pottawatomie County District Court.

1-3.5 Permit Applications. Applications for permits or licenses required by this code shall be filed with the Administrative Agency.

1-3.51 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 Administrative Agency.

1-3.6 Disclaimer of Liability

This code shall not be construed or interpreted as imposing upon the County or its officials or employees any guarantee or assurance to the property owner that any system installation or portion thereof constructed or repaired under permits and inspections required by this code will function properly.

1-3.7 Separability

No decision of a court of competent jurisdiction declaring any section, subsection,

paragraph, sentence, clause or phrase of this code invalid, shall affect the remaining portion of this code, which shall remain in full force and effect. To this end, the provisions of this code are hereby declared to be severable and shall be presumed to have been adopted knowing that the part of section declared invalid would be so declared.

1-3.8 Enforcement Procedures

Either the County Attorney or the County Counselor shall enforce the provisions of this code and other sanitary codes adopted by the County and are hereby authorized 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

WASTEWATER AND DISPOSAL

SECTION 2-1 PURPOSE AND INTENT OF CODE

The provisions of this chapter are adopted for regulating and controlling the location, construction, maintenance, and use of septic systems, waste stabilization ponds, alternate wastewater systems, privies, and the removal and disposal of materials from such facilities to protect the health of the citizens and environment of Pottawatomie County.

SECTION 2-2 APPLICABILITY

Pursuant to K.S.A. 19-3706, the provisions of this chapter shall apply to all unincorporated land in Pottawatomie County.

SECTION 2-3 DEFINITIONS - CHAPTER 2

2-3.1 Domestic Wastewater

All water-borne wastes produced in 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, cooling water, industrial and commercial wastewater.

2-3.2 Industrial and Commercial Wastewater

Any liquids or water-borne wastes produced in connection with any industrial or commercial process or operation, other than domestic wastewater.

2-3.3 Private Wastewater System

A wastewater system used or designed to be used for the collection and treatment of domestic wastes from a household or commercial facility producing less than 1000 gallons of domestic wastewater daily.

2-3.4 Public Wastewater System

A wastewater system 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 is required to hold a valid permit from KDHE.

2-3.5 Soil Absorption

A septic tank-soil absorption system used for the collection and disposal of domestic wastewater.

2-3.6 Alternative Wastewater System

A wastewater system other than a septic tank-soil absorption system used or designed to be used to collect, treat, hold or discharge domestic wastewater from residential, industrial or commercial property. This includes such systems as evapo-transpiration fields, mechanical treatment systems, and wastewater stabilization ponds, sand filters, or other approved waste water collection system.

2-3.7 Vault/Septic Tank

A watertight receptacle for the retention of sewage either before, during or after treatment.

2-3.8 Privy

A facility designed and/or used for the collection of human excreta.

2-3.9 Sanitary Service

The pumping out and/or removal of wastes, sludge, or human excreta from privies, septic systems, or alternative wastewater systems, and the transportation of these materials to a point of final disposal.

2-3.10 Septage

The sludge and liquid contents of a waste disposal treatment system.

2-3.11 Nuisance

Conditions or activities on properties both public and private, which have or threaten to affect the environment and/or the health of the public.

2-3.12 KDHE

The Kansas Department of Health and Environment.

2-3.13 Subdivision

Any tract of land that is or has been subdivided into two or more lots for sale or building development, whether immediate or future, including the streets, alleys or other portions thereof intended to be dedicated for public use; and any re-subdivision of lands or lots.

2-3.14 Wastewater (Sewer) District

A special district authorized and empowered by state statutes to plan, construct and operate a public wastewater system.

2-3.15 Distances

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

2-3.16 Percolation Test

Measurement of the downward movement of water through a soil, for purposes of determining type and sizing of waste disposal system.

2-3.17 Soil Profile Hole

Excavation of soil with a large hole to determine properties of soil, this includes soil depth, layering, texture, structure, consistency and color.

SECTION 2-4 PROHIBITED PRACTICES

2-4.1 Use of Existing Wastewater Systems

Private wastewater systems installed prior to the adoption of this code are exempt from meeting the requirements of this code unless the existing wastewater system is failing or in any way poses a hazard to waters of the State and/or public health as referred to in Section 2-4.3.

2-4.2 Use of Alternative Wastewater System, Septic System, and/or Privy Within 400 Feet of Public Wastewater Systems (Sewer)

No private wastewater system shall continue in use or be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds connection to such a sewer is not feasible and that a private wastewater system, satisfying the purposes and requirements of this code, can be constructed on that property. The Administrative Agency will certify that the purposes of this code will not, in anyway, be compromised by such action.

2-4.3 Use of Non-Approved Wastewater Systems

No individual, business, company or corporation shall use, or cause to be used, any private wastewater system, or privy constructed after adoption of this sanitary code until it has been inspected and approved by the Administrative Agency or if it:

- a.* Has been temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction;
- b.* Fails to comply with the provisions of this sanitation code, and written notice thereof has been given by the Health Officer to the owner or responsible person;
- c.* Discharges inadequately treated wastes onto the surface of the ground, or waters of the State as defined in K.S.A. 65-161;
- d.* Receives non-domestic wastewater or causes vector breeding, or produces offensive odors or any condition that is detrimental to health and comfort.
- e.* The use of cesspools and/or seepage pits are strictly prohibited according to K.A.R. 28-5-8 revoked May 10, 1996.

2-4.4 Location of Private Wastewater Systems Below Full/Flood Pool

No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir.

2-4.5 Location of a Private Wastewater System Within a 100-Year Flood Plain

No portion of private wastewater system shall be located within the 100-year flood plain, as established by the Federal Emergency Management Agency, of any stream, river, or water course.

2-4.6 Location of a Private Wastewater System Within 100 Feet of a Well

No portion of a private wastewater system, except transmission lines, shall be located less than 100 feet from a private water well.

a. A minimum horizontal distance of ten feet shall be maintained between parallel water and sewer transmission lines.

b. Minimum horizontal distance of 10 feet shall be maintained between water and sewer line. At points where sewers cross water mains, the sewer shall be constructed of cast iron, plastic pipe with solvent welded joints, or pipe encased in concrete for a distance of 10 feet in each direction of the crossing unless the water main is at least 2 feet above the sewer.

2-4.7 Location of Private Wastewater System Within 10 Feet of Property Line

The wastewater system shall be no closer than ten (10) feet to the property line unless approved by the Administrative Agency.

2-4.8 Connection to Non-Approved Public Wastewater System

No premises shall be permitted to connect to any public wastewater system that does not hold a valid permit from KDHE as required in Section 2-5.2.

2-4.9 Approval of Plats

No township or county planning commission or zoning board, authorized to review plats of subdivisions of land, shall recommend for approval any plat containing one or more lots or building sites without prior approval from Administrative Agency.

SECTION 2-5 REQUIREMENTS FOR PUBLIC WASTEWATER SYSTEMS

2-5.1 Approval of Plans and Specifications

Plans and specifications for all public wastewater systems shall be submitted to and approved by KDHE before starting any construction of such systems. Copies of such systems shall be filed with the Health Officer.

2-5.2 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 operation until the owner has obtained the required permit.

2-5.3 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 the responsibility is transferred to a duly constituted public agency.

SECTION 2-6 REQUIREMENTS FOR PRIVATE WASTEWATER SEPTIC SYSTEMS AND LATERAL FIELD INSTALLATION

2-6.1 Suitable Site

Permits shall not be issued until a suitable site has been approved by the Administrative Agency. No one shall occupy a residence until the Sanitarian has approved the installed septic tank system. Before a permit shall be issued, the site must meet the following requirements:

- a.* There must be a minimum of three (3) acres of ground, when serviced by a public water supply, no more than one-half acre of which may be roads, streets, lakes or waterways. If property is to be served by private water supply there shall be a minimum of five (5) acres. No more than (1) acre of which may be roads, streets, lakes or waterways, except for lots of record in recorded subdivisions, or in legally surveyed tracts that existed prior to the adoption of the Pottawatomie County Sanitary Code of December 1980, Provided that:
 1. These lots, or combinations of recorded contiguous lots shall have a total gross area of no less than .50 acre. This square footage computation may include right-of-way and granted easements.
 2. An applicant shall prove by submitting suitable, plans, and documentation, or by expert testimony, that the subject property will be capable of safely and effectively disposing of wastewater. The applicant shall demonstrate that necessary water conservation and waste ejection measures have been undertaken.
 - b.* A request for a reduction in the lot size may be granted if suitable plans, documentation, and/or expert testimony is provided by the applicant that demonstrates

that the property is capable of effective and safe disposal of wastewater. A public water supply shall be utilized.

All lots shall have a minimum of 1.5 acres, with at least two approved lateral field sites available for each proposed dwelling or household. This square footage computation may include right-of-way and granted easements.

c. The natural slope of the land shall be such as to accommodate installation of a wastewater system as approved by the Administrative Agency.

d. The septic tank shall have a minimum of a 1,000 gallon capacity (residential use) and be constructed of solid concrete and contain at least two compartments. It shall be installed a minimum of at least 10 feet from the house or structure if set below the lowest floor or 25 feet or more if installed above the lowest floor and shall be a minimum of 100 feet from any water well and 10 feet from private water lines, 25 feet from public water supply lines.

e. All sewage must go into a septic tank unless served by a waste stabilization pond.

f. Each lateral line shall not exceed 100 feet in length from where it is fed, unless approved by the Administrative Agency.

g. All standard gravel and pipe systems shall use pipe that is four (4) inches in diameter. Most lots are not level, installations of laterals MUST be along contour lines so that TRENCHES of uniform depth can be constructed. The bottom of the lateral trench is to be level. Approved material shall be used to cover lateral rock. A 12-inch depth of 3/4 to 1 1/2 inches lateral rock shall be provided. Washed or clean rock may be required, at the discretion of the Administrative Agency. The earth cover over the lateral rock must be of uniform depth. All lateral trenches must be 36 inches wide unless otherwise approved by Administrative Agency. Depth of trenches shall be 18-inch minimum, 36-inch maximum.

h. The gravel and pipe laterals/chambers shall have 5 feet of undisturbed soil between trenches; 10 feet from the house, septic tanks, house service lines, other buildings, driveways, foundation drains; and drop offs, etc., 25 feet from basements, cellars, public water supply lines, etc., 50 feet from cisterns, ponds creek banks; and 100 feet from water wells.

i. Each lateral/chamber line should be level with a rate of fall no greater than 2-3 inches per one hundred (100) feet. Individual applications will vary and care should be taken to avoid a rate of fall that would cause pooling of effluent at the end of the trench. The rate of fall should be achieved by varying the depth of rock in the trench rather than using a deeper trench bottom in a gravel type system.

- j.* All sewage and lateral pipe shall be marked to show it meets or exceeds a 1,500 pound "crush test" rating. All "solid" pipe from the structure to the lateral field shall be type SDR-20 pipe or stronger.
- k.* Leaching Chamber type lateral fields shall be installed according to requirements of the Administrative Agency. Each brand, style or type of chamber shall be approved by the Administrative Agency before it may be used in the County
- l.* Each line or level must have at least one inspection port, or a minimum of one per 100 lineal feet.

SINGLE FAMILY RESIDENCE

1000 gallon septic tanks with two compartments or larger as required, each compartment shall have an access manhole (20 inches minimum smallest dimensions), for each compartment. All septic tanks must be easily accessible from the surface, water tight risers may be required to allow access on deeper tank installations.

For a percolation rate below 1" per hour, no standard lateral field septic systems will be installed unless system is designed by qualified personnel and approved by Administrative Agency. Administrative Agency reserves the right to deny the permit on basis of soils percolation.

Chamber Systems. For a percolation rate greater than 2" per hour to 12" per hour a minimum of 300 lineal feet of 36" wide chamber is required for up to a 3-bedroom home. For each additional bedroom above 3, add 50 lineal ft.

For a percolation rate from 1" to 2" per hour a minimum of 400 lineal feet of 36" wide chamber is required for up to a 3-bedroom home. For each additional bedroom above 3, add 100 lineal feet.

Standard Trench Gravel & Pipe Systems. For a percolation rate greater than 2" per hour to 12" per hour a minimum of 400 lineal feet of lateral pipe is required for up to a 3-bedroom home. For each bedroom after 3 add an additional 100 lineal feet of lateral pipe.

For a percolation rate below 2" per hour a Standard Trench Gravel & Pipe system shall be designed by qualified personnel approved by Administrative Agency.

NOTE: *The values above are minimums. It is highly recommended that 100-200 feet of additional lateral pipe be added to the lateral field. The minimum required field allows little room for the field to operate during wet weather, frozen or saturated soil conditions.*

Alternative Soil Absorption Systems. Soils with less than 4 feet depth from bottom of the trench to a limiting condition of groundwater, bedrock, or layers of restricted permeability, are not suited to conventional trenches. There are sometimes options depending on soil depth to the limiting condition that may be used as alternatives to a standard soil absorption system. Any alternative waste disposal system must be approved by the Administrative Agency. The

Administrative Agency may require the alternative system to be designed by a professional sanitary engineer.

COMMERCIAL

Commercial Septic Tanks.

1000 gallon septic tanks with two compartments or larger as required, each compartment shall have an access manhole (20 inches minimum smallest dimensions), for each compartment. All septic tanks must be easily accessible from the surface, water tight risers may be required to allow access on deeper tank installations.

Lateral field sewage disposal systems shall be designed on loading and anticipated water usage and sewage produced, for users of 1000 gallons per day or less. The size of commercial lateral field shall be determined by the Administrative Agency or the Administrative Agency may require that the system be designed by a sanitary engineer and submitted for approval by the Administrative Agency.

All commercial food establishments shall have a grease trap installed and approved by the Administrative Agency. Only domestic waste may be discharged into a septic system at a commercial facility.

ALL SEPTIC SYSTEMS

- a.* All waste water systems shall be constructed in the area of the percolation test. Area's for percolation tests shall have flagged corners, for points of reference.
- b.* If water usage exceeds good design limits for a septic tank, lateral field sewage disposal systems, a different type of sewage disposal system shall be required. These standards are based on soil conditions found in Pottawatomie County. The total number of lineal feet of required lateral may be increased if soil conditions found are unacceptable by the Administrative Agency. The ground surface of the lateral field area shall be so graded as to prevent the accumulation of surface water and to reduce the flow of surface water over the lateral field. Test holes, diverter ditches or flow control devices may be required under some circumstances. At times, preparing the ground for the lateral field may be necessary, such as removal of rocks, trees, replacement of soil, etc.
- c.* A successful percolation test does not guarantee a successful system. Upon excavation soil conditions may warrant additional requirements by the Administrative Agency.

2-6.2 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 Administrative Agency and containing the following:

On the drawing (8 ½" x 11"), show the following:

- a. Name, address and phone number of applicant and owner;
- b. Location of building site, including legal description with section, township, and range;
- c. Size of the house in number of bedrooms, number of persons to live in the home and list all water using appliances, including fixtures in shops or out buildings. (If not residential, please show or indicate: anticipated water usage, number of persons and all water using equipment appliances);
- d. A drawing of the lot or site, showing:
 1. Overall dimensions:
 2. Location of buildings, driveways, and any geographical features near the proposed lateral field;
 3. Location and type of water supply, and location of water service lines.
 4. Layout of entire disposal system: tank, distribution box, if used, laterals and interconnecting lines; and
- e. Others as required by Administrative Agency.
- f. Arrow indicating North direction.

2-6.3 Approval of Construction

All septic systems constructed, reconstructed or modified after the effective date of this Sanitation Code shall 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 without prior approval.

2-6.4 Proper Maintenance and Operation

All septic systems shall be maintained in good working condition and shall not discharge onto the surface of the ground, drain into any stream or roadside ditch, produce offensive odors or become a breeding place for flies, mosquitoes or rats. Whenever the Administrative Agency shall find any septic system malfunctioning and causing any of the above prohibited conditions, it shall order the owner and/or user to correct the condition.

If Administrative Agency finds that there is an immediate threat to the health and welfare of the public or the waters of the state an emergency order may be imposed as referred to in Section 1-3.43.

2-6.5 Waste Stabilization Ponds (Lagoons)

The site, design, and the construction of individual waste stabilization ponds, usually called "lagoons", shall be approved by the Administrative Agency. A valid Health Permit is required for the construction and use of the lagoon.

a. There must be a minimum of three (3) acres of ground, when serviced by a public water supply, no more than one-half acre of which may be roads, streets, lakes or waterways. If property is to be served by private water supply there must be a minimum of five (5) acres, no more than (1) acre of which may be roads, streets, lakes or waterways, except for lots of record in recorded subdivisions, or in legally surveyed tracts that existed prior to the adoption of the Pottawatomie County Sanitary Code of December 1980, provided that:

1. These lots, or combinations of recorded contiguous lots shall have a total gross area of no less than 1.0 acre. This square footage computation may include right-of-way and granted easements.

2. Applicants shall demonstrate by submitting suitable, plans, and documentation, or by expert testimony, that the subject property will be capable of safely and effectively disposing of wastewater.

b. The completed construction of the facility shall conform to the plans and specifications approved by the Administrative Agency.

c. The facility shall be operated in such a manner that a public health nuisance or water pollution problem will not arise.

d. If public sewers become available to the property, hookup to public sewer may be required and the waste stabilization pond abandoned. The permit for the waste stabilization pond may be rendered invalid following a reasonable period.

e. A separation of 35 feet between the proposed water's edge of the pond (at the five-foot water depth) and the property line of another owner shall be provided or a minimum of 10 feet from toe of the berm to the property line, or a separation of a minimum of 100 feet between proposed waters edge of the pond and any water supply well, pond, stream or lake

f. When the pond excavation penetrates or terminates in either a rock strata or a porous (sand or gravel) strata, the Agency shall be contacted. The excavation shall be extended a minimum distance of one foot on both the bottom and side slopes. The area of supplemental excavation shall be filled and compacted with a nonpermeable earthen material to limit seepage from the pond to a maximum value of one-fourth inch per day, This may normally be accomplished by using a clayish soil that is free of rocks. If a clayish soil is not available, the fill soil shall be mixed with bentonite clay at the manufacturer's recommended rate and compacted.

- g.* Once the pond is constructed according to size and shape, the builder shall smooth the dike so that no clods, rocks, or ruts will interfere with a mower.
- h.* A stand of grass shall be established on the dike. This grass should be short-rooted perennial such as blue, fescue, or brome and shall be mowed regularly. Pond dikes shall be maintained free of trees, brush, erosion and rodent intrusions. Ponds shall also be kept free of aquatic growth.
- i.* The entire pond shall be fenced with minimum four-foot high woven or welded wire fencing with 2" x 4" maximum openings. This fence is to discourage entry by unauthorized persons (especially children), pets and livestock. When lagoon fencing is to be accessible to livestock a minimum of three-foot high woven or welded wire hog-tight fencing with 6" x 6" maximum openings and two strands of barbed wire for a total of 48" high fence, or other approved fencing..
- j.* A locked gate of sufficient size 4' wide minimum to accommodate the entrance of a mower shall be provided.
- k.* Roof drains may not be discharged to the waste stabilization pond unless an approved control arrangement is provided to readily facilitate diversions from the sewer system.
- l.* Abandonment Procedure: Dewater the pond according to approved procedure and push the dikes in to fill lagoons. A slight elevation is desirable in the center of the former pond as settling may occur over time creating an area that can hold water.

2-6.6 Requirements for Privies

- a.* **Approval of Plans.** No person shall construct, repair, or modify any privy until the plans and specifications for the proposed construction, reconstruction, and/or modifications have been approved by the Administrative Agency.
- b.* **Approval of Construction.** No person shall use, or make available for use, any newly constructed, repaired, or modified privy until the construction has been inspected and approved by the Administrative Agency for compliance with approved plans.
- c.* **Proper Maintenance.** No person shall use, or offer for use, any privy that is not maintained so that odors are controlled, insects are excluded from the vault/pit, and water is excluded from the vault/pit.
- d.* **Vault Required.** A watertight vault shall be provided.
- e.* **Location.**

1. No privy shall be installed less than 100' from an existing well. No privy shall be constructed less than 100 ft. from any dwelling other than that of the owner of the privy.

2. No privy shall be constructed or reconstructed on any premise served by a public water supply, or on which water is delivered to any building under pressure, unless special permission for use of a privy is obtained from the Administrative Agency.

2-6.7 Registration of Wastewater system installers.

All installer businesses operating in Pottawatomie County shall be registered with the Administrative Agency before the installation of any waste disposal system.

SECTION 2-7 JOINT SEWERAGE SYSTEM

All dwellings (no more than two residences) and related outbuildings of the same property used for agricultural purposes may be served by a common individual wastewater treatment system. Properties not under same ownership shall not use a common individual wastewater treatment system.

SECTION 2-8 SANITARY SEPTAGE SERVICES

a. **All Septage haulers.** All Septage haulers operating within Pottawatomie County shall be registered with Administrative Agency before hauling any Septage from or into Pottawatomie County.

b. **Minimum Standards for Sanitary Septage Service Equipment.** All equipment used for rendering of sanitary Septage 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.

c. **Disposal of Septage.** All Septage shall be properly disposed of by discharge to a municipal sewage treatment facility or a permitted and properly managed land disposal site as described in (d). The Septage hauler shall maintain logs of operation that reflect all required information of EPA 503.

d. **Land Disposal of Septage.** Landowners wanting to operate a land disposal site shall apply for a permit to the Administrative Agency. The site shall be evaluated by Administrative Agency to determine that the site is not subject to flooding, is tillable ground suitable for cropping, and will not create any nuisance. Septage discharged to a land disposal site shall be managed so that the Septage is treated as required by EPA-503.

SECTION 2-9 WAIVER

The Sanitarian shall have in limited instances the authority, to grant exceptions when reliable information is provided which will justify the exception and will not impair the quality of groundwater and surface water or otherwise endanger the health and safety of the individuals involved and/or the public. The County may only grant an exception when the exception complies with the requirements of the regulation (K.A.R. 28-30-9).

SECTION 2-10 PENALTIES Any person who shall willfully violate any provision of this code shall be subject to a fine not to exceed two hundred dollars (\$200.00) for each offense. Each day's violation shall constitute a separate offense. (19-3707) Violations may also give rise to the filing of a civil action for injunctive relief

NON-PUBLIC WATER SUPPLIES

SECTION 3-1 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 that are or may be intended for human consumption, other than Public Water Supplies in Pottawatomie 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 APPLICABILITY

The provisions of this chapter shall apply to all unincorporated areas in Pottawatomie County, Kansas.

SECTION 3-3 DEFINITIONS

3-3.1 Public Water Supply

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).

3-3.2 Non-Public Water Supply

All water supplies not meeting the definition of Public Water Supply, and serving two to nine dwellings or facilities, regularly serves less than 25 individuals daily.

3-3.3 Private Water Supply

All water supplies serving less than two facilities and not meeting the definition of a Public Water Supply.

3-3.4 Potable Water

Water that is free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the State of Kansas Drinking Water Standards.

3-3.5 Domestic Purpose

Water used for drinking, culinary, and ablutionary purposes.

3-3.6 Facilities

Household or Business

SECTION 3-4 REQUIREMENTS FOR NON-PUBLIC WATER SUPPLIES

3-4.1 Permit

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

3-4.2 Approved Plans

No permit to develop a non-public water supply subject to regulations of this code shall be issued until the plans detailing locations of facilities, specifications of equipment, and proposed operating standards, have been approved by the Administrative Agency.

3-4.3 Non-Public Water Supplies That Serve Two to Nine Facilities

All non-public water supplies that serve two to nine facilities shall:

- a.* Obtain permits from Administrative Agency to operate Non-Public water supply.
- b.* Test for bacteriological quality of the water supply using a laboratory certified by the State of Kansas, at least every six months; and submit to Administrative Agency; and
- c.* Test for nitrate content of the water supply using a laboratory certified by the State of Kansas, at least once each year; and submit to Administrative Agency; and,
- d.* If appropriate, test for chlorine residual at least once weekly; and,
- e.* Maintain logs to verify bacteriological and chemical quality and any chlorine residual and,
- f.* Should bacteriological and chemical quality of the water supply exceed the United States Environmental Protection Agency's (EPA) maximum contaminant levels, the operator of the water supply system shall immediately notify all users; and Administrative Agency. The operator shall retest water supply system in 30 days.
- g.* After 30 days, should bacterial or chemical quality of the water supply fail to meet EPA criteria for public drinking water supply, the operator of the water supply system shall immediately take corrective action to bring water supply system into compliance.

SECTION 3-5 MINIMUM STANDARDS FOR ALL GROUNDWATER SUPPLIES PRIVATE AND NON-PUBLIC

3-5.1 Location

All wells constructed after adoption of this code 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.

TABLE 1

AREA	MINIMUM SEPARATION
Subsurface Absorption Field for Septic Tank Effluent	100 feet
Pit Privy	100 feet
Septic Tank	100 feet
Barnyards, Stables, Manure Piles, Animal Pens, Etc.	100 feet
Streams, Lakes and Ponds	50 feet
Dwellings or Structures That May Be Treated for Termite Infestation	100 feet
Sewer Lines Constructed of Cast Iron or Other Equally Water-Tight Construction	30 feet

3-5.2 Site Approval

No site shall be approved for well construction if it is subject to contamination or cannot meet separation requirements as set forth in Table I of this Section. A waiver of the minimum separation requirements may be issued by the Administrative Agency for existing dwellings. The County can only grant an exception from minimum separation distances for water wells when the exception complies with minimum separation distances as stated in K.A.R. 28-30-8.

3-5.3 Construction and Enforcement

Well construction and the enforcement of this section of the Sanitary Code shall be regulated according to K.A.R. 28-30-1 through 28-30-10 et seq. as amended.

3-5.4 Sewage System Crossings

- a.* A minimum horizontal distance of 10 feet shall be maintained between parallel potable water and sewer transmission lines.
- b.* At points where sewers cross water main, the sewer shall be constructed of approved material with no joints closer than 10 feet from crossing, or pipe shall be encased in concrete for a distance of 10 feet in each direction of the crossing, unless water main is at least 2 feet above the sewer line.

ENVIRONMENTAL HEALTH STANDARDS

SECTION 4-1 DEFINITIONS

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

4-1.1 Abandoned Wells

A well is considered abandoned if it is in such disrepair that it cannot be used to supply water or poses a water contamination hazard, or as outlined in K.A.R. 28-30-2.

4-1.2 Abandoned Vehicle

Shall mean any motor vehicle to which the last registered owner of record has relinquished all further dominion and control.

4-1.3 Agriculture

Shall mean the use of a tract of land of A-1 or AR zoning for growing crops in the open, dairying, pasturage, horticulture, floriculture, and necessary, accessory uses, including the structure necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof.

4-1.4 Animal

All wild or domesticated vertebrate animals of the class Mammalia and Aves, such as but not limited to dogs, cats, fowl, bovines, equine, and other animals that have been tamed, domesticated or captivated.

4-1.5 Bite

Any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin caused by any animal, which is, or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing the bite.

4-1.6 Control Measures

Any chemical, structural or physical procedures or processes designed to eradicate, reduce, prevent or otherwise limit the reproduction and/or infestation of insects and rodents detrimental to community health.

4-1.7 County Engineer

The duly appointed person so designated by the Board of County Commissioners or his authorized representative.

4-1.8 Inoperable Vehicle

Any motor vehicle that 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 that has been inoperative for a period of thirty (30) days shall in such case constitute prima facie presumption that such vehicle is inoperable.

4-1.9 Insects

Shall mean the classes insecta 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.

4-1.10 Manure

The bodily discharge of all animals except humans.

4-1.11 Nuisances

Any condition that is harmful to health, or is a potential health hazard or offensive to senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property by entire community or neighborhood, or by a majority of persons subjected to these conditions; such condition being no less a nuisance because of the extent of the annoyance or damage inflicted is unequal

4-1.12 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 there of; or

b. Shall have charge, care or control of any property or structure thereon as owner, or agent of the owner, or an executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

4-1.13 Person

Any person, firm, partnership, association, corporation, company, agency, club group or organization of any kind.

4-1.14 Premises

A lot, plot, or parcel of land including structures located thereon.

4-1.15 Property

Any real property within Pottawatomie County that is not a street or highway.

4-1.16 Refuse

All putrescible and nonputrescible waste materials such as trash, debris, garbage, dead animals and solid industrial waste but shall not include human or animal excrements.

4-1.17 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.

SECTION 4-2 NUISANCES ABATEMENT

Maintaining or to permit to exist any nuisance as herein described is unlawful for any person. The following conditions or materials may be declared to be harmful to the Health and well being of citizens of the county of Pottawatomie or detrimental to property in the county of Pottawatomie. These conditions are hereby declared to be nuisances with those conditions not herein enumerated but coming under the definition of nuisance as described in Section 4-1.11 of this Sanitation Code.

4-2.1 Non-permitted discharge or non-permitted accumulated waste water

Waste water that could result in direct human contact with sanitary sewage or human or animal excreta, or that could create organic or inorganic pollution of ground or surface water, or that could provide for breeding, harboring or attraction of insects and rodents.

4-2.2 Dead animal disposal

Dead animals except those at slaughterhouses and those considered industrial refuse that are properly maintained for processing shall be disposed of in a sanitary manner, such

as burial, incineration or industry pickup.

4-2.3 Domestic animal confinement

Confinement of domestic animals shall be maintained so as too not cause discomfort to occupants of other premises because of insects or infestations, rodents and manure.

4-2.4 Extermination of Insects, Rodents and Other Vermin

Owner/operator of a building or premises shall be responsible for the extermination of vermin upon the premises upon identification of a Health Hazard.

4-2.5 Plugging Domestic Abandoned Wells

Abandoned wells as defined in K.A.R. 28-30-2 are to be plugged as specified in K.A.R. 28-30-7. Landowners may be notified by the Administrative Agency of the requirement for plugging; failure to comply may result in a referral to the County Attorney or County Counselor for appropriate legal action.

4-2.6 Illegal Dumping on Private Property

If Administrative Agency finds that the generation, accumulation, management or discharge of solid waste by any person is, or threatens to cause pollution of the land, air or waters of the state, or is a hazard to property in the area or to public health and safety, the Agency may order the person to alter the generation, accumulation or management of the solid waste management system as will prevent or remove pollution or hazards.