

RESOLUTION NO. 093-2022

Published on:

Effective Upon Publication

**A RESOLUTION AMENDING CHAPTER 23, ARTICLE V OF THE  
SEDGWICK COUNTY CODE, REGARDING THE INSTALLATION OF  
ONSITE WASTEWATER TREATMENT SYSTEMS AND LICENSING  
AND REGULATION OF ONSITE WASTEWATER TREATMENT  
SYSTEM INSTALLERS**

**WHEREAS**, the Board of County Commissioners is authorized by K.S.A. 19-3701, *et seq.* and K.S.A. 19-101, *et seq.* to officially adopt sanitary codes pursuant to statutory requirements; and

**WHEREAS**, Chapter 23, Article V of the Sedgwick County Code is commonly referred to (and referred to within this resolution) as the “Wastewater Code” for Sedgwick County and was adopted by the Board of County Commissioners with Resolution No. 103-2007 on April 18, 2007; and

**WHEREAS**, the Wastewater Code is a “sanitary code” as defined by K.S.A. 19-3701 and the Wastewater Code has not previously been approved by the Kansas Department of Health and Environment (“KDHE”); and

**WHEREAS**, the Board of County Commissioners believes that the amendments to its Wastewater Code and formal approval of amendments to such code by the KDHE are necessary for the protection of the health and welfare of the public; and

**WHEREAS**, the Board of County Commissioners deems the Wastewater Code necessary for the control of environments and environmental conditions that may adversely affect the health and well-being of the public, as well as for the promotion of public health and comfort; and

**WHEREAS**, the Board of County Commissioners has designated the Metropolitan Area Building and Construction Department (“MABCD”) as the county agency with authority and responsibility for administering the Wastewater Code; and

**WHEREAS**, the MABCD shall maintain a copy of the Wastewater Code available for public inspection; and

**WHEREAS**, on October 6, 2021, the Board of County Commissioners approved the submission of proposed amendments to the Wastewater Code to the KDHE; and

**WHEREAS**, on January 31, 2022, pursuant to K.S.A. 19-3704, the KDHE approved the proposed amendments to the Wastewater Code; and

**WHEREAS**, the proposed amendments the KDHE approved on January 31, 2022 are the same amendments proposed within this resolution; and

**WHEREAS**, consistent with the requirements of K.S.A. 19-3704, notice of the public hearing was published and a public hearing was held by the Board of County Commissioners on May 18, 2022.

**NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS CHAPTER 23, ARTICLE V OF THE SEDGWICK COUNTY CODE, A CODE REGARDING THE INSTALLATION OF ONSITE WASTEWATER TREATMENT SYSTEMS AND LICENSING OF REGULATION OF ONSITE WASTEWATER TREATMENT SYSTEM INSTALLERS TO READ AS DESCRIBED HEREIN:**

**SECTION 1. Updated Wastewater Code Attached.**

Attached and incorporated into this resolution as the new Wastewater Code in Sedgwick County, Kansas is the document entitled "Sedgwick County, Kansas Code, Chapter 23 – Sewers and Sewage Disposal, Article V. Installation of Onsite Wastewater Treatment Systems and Licensing and Regulation of Onsite Wastewater Treatment System Installers." Such document has been reviewed and approved by the KDHE, and shall repeal and replace Chapter 23, Article V of the Sedgwick County Code.

**SECTION 2. Publication and Effective Date.**

Upon adoption of this resolution, the Sedgwick County Clerk shall publish this resolution once in the official county newspaper. This resolution shall become effective upon publication.



Commissioners present and voting were:

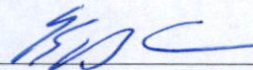

PETER F. MEITZNER  
SARAH LOPEZ  
DAVID T. DENNIS  
LACEY D. CRUSE  
JAMES M. HOWELL


Aye \_\_\_\_\_  
Aye \_\_\_\_\_  
Aye \_\_\_\_\_  
Aye \_\_\_\_\_

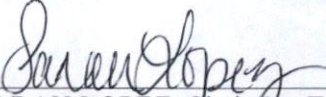
Dated this 18<sup>th</sup> day of May, 2022.

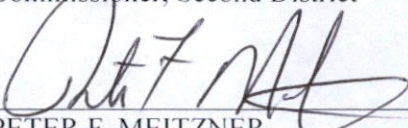
BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

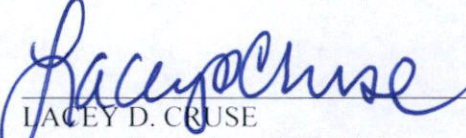
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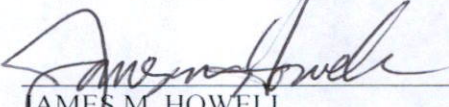
  
KELLY B. ARNOLD, County Clerk  


  
DAVID T. DENNIS, Chairman  
Commissioner, Third District

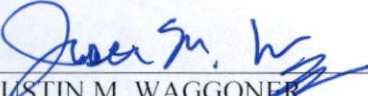
  
SARAH LOPEZ, Chair Pro Tem  
Commissioner, Second District

  
PETER F. MEITZNER  
Commissioner, First District

  
LACEY D. CRUSE  
Commissioner, Fourth District

  
JAMES M. HOWELL  
Commissioner, Fifth District

APPROVED AS TO FORM:

  
JUSTIN M. WAGGONER  
Assistant County Counselor

**ARTICLE V. INSTALLATION OF ONSITE WASTEWATER TREATMENT SYSTEMS AND  
LICENSING AND REGULATION OF ONSITE WASTEWATER TREATMENT SYSTEM  
INSTALLERS<sup>1</sup>**

**Sec. 23-126. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Advisory board* means the Sedgwick County Board of Onsite Wastewater System Installers and Sewage Haulers.
- (b) *Agricultural purposes* means a purpose related to the production of livestock or crops.
- (c) *Alternative/Advanced onsite wastewater treatment system* means any system that includes enhanced treatment of wastewater resulting in effluent quality going into the soil absorption field that is of higher quality than effluent from a conventional septic tank. Includes but is not limited to all media filters, aerated tanks and mounds, followed by soil absorption, including drip irrigation, which meet the testing standards set by the director.
- (d) *Blackwater* means the portion of wastewater stream that originates from toilet fixtures, dishwashers, and food preparation sinks.
- (e) *Community sewer system* means a sewage treatment system designed to serve a limited number of properties in a limited geographic area, including but not limited to two (2) or more lots within a single plat or adjoining properties. Often referred to as cluster systems or decentralized systems.
- (f) *Conventional system* means a standard septic tank (one (1) or two (2) compartment) followed by soil absorption including at-grade and shallow in ground, chambers, rock and pipe, gravelless pipe, with or without effluent filter, gravity flow only, no pumps.
- (g) *Director* means the director of the Metropolitan Area Building and Construction Department (MABCD) or his or her authorized representative.
- (h) *Domestic wastewater* means all waterborne wastes produced in connection with ordinary living including kitchen, toilet, laundry, shower, and bathtub wastewater. Surface water runoff from roof, paved areas, or other areas; subsurface drainage from springs, foundation drains and sump pumps; cooling water; industrial or commercial wastewater from shops, manufacturing, car washes, etc. is not domestic wastewater and these types of wastewater shall not be mixed with domestic wastewater.
- (i) *Graywater* means water captured from nonfood preparation sinks, showers, baths, spa baths, clothes washing machines, and laundry sinks.

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<sup>1</sup>Editor's note(s)—Section 1 of Res. No. 103-2007, adopted Apr. 18, 2007, amended Ch. 23, Art. V in its entirety to read as herein set out. Former Art. V, consisted of §§ 23-126—23-129, pertained to similar subject matter and derived from Res. No. 150-2002, adopted Oct. 16, 2002; Res. No. 74-04, adopted May 12, 2004; and Res. No. 147-05, adopted Sept. 7, 2005.

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- (j) *Health department* means the Sedgwick County Department of Health.
  - (k) *Health officer* means the local health officer or his or her authorized representative.
  - (l) *Lagoon/wastewater stabilization lagoon* means a diked earthen excavation designed to retain wastewater in order that biological treatment may be accomplished.
  - (m) *Lateral field* means a system of perforated or open joint sewer pipe positioned underground within crushed rock beds or trenches, chambers, gravelless pipe or other approved material to effect transfer of septic tank effluent to soil for final treatment and dispersal.
  - (n) *Modified conventional system* means a standard septic tank (one (1) or two (2) compartment) followed by soil absorption, including at-grade and shallow in ground, chambers, rock and pipe, gravelless pipe, with or without effluent filter, with pumps, alarms, or other mechanical equipment, but no additional enhanced treatment, such as an aerated tank, media filter or sand filter.
  - (o) *New construction* means initial construction or enlargement of the onsite wastewater treatment system, modification of the method or extent of sewage treatment, or replacement of a significant portion of the existing onsite wastewater treatment system.
  - (p) *Onsite wastewater treatment system* means the arrangement of devices, structures and mechanisms to treat and modify wastewater from a structure, in locations where a public sewerage system is not available, in such a fashion as to prevent sewage from being a public health hazard, a detriment to environmental or natural resources, or a water pollutant. All onsite wastewater treatment systems, of any type whatsoever, shall be deemed to include the dispersal area or soil absorption field for purposes of installation and maintenance.
  - (q) *Onsite wastewater treatment system installer* means any person engaged in the business of installing, altering, repairing, or excavating for any portion of an onsite wastewater treatment system.
  - (r) *Onsite wastewater treatment system installer's license* means the written license issued annually by the director authorizing a person to engage in the business of installing, altering, repairing, or excavating onsite wastewater treatment systems.
  - (s) *Onsite Wastewater System Service Provider, O & M* means a professional who performs operation and maintenance on a wastewater treatment system.
  - (t) *Onsite Wastewater System Service Provider's License* means the written license issued annually by the director authorizing a person to engage in the business of providing service and repair of onsite wastewater treatment systems.
  - (u) *Operation & Maintenance (O&M)* means all action taken to keep a wastewater system in a serviceable condition or to restore it to a serviceability. It includes things such as inspections, testing, servicing and repair or rebuilding.
  - (v) *Owner* means any person who, alone or jointly or severally with others:
    - (1) Has record legal title to any property or structure thereon with or without accompanying actual possession thereof; or
    - (2) Has charge, care or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.
  - (w) *Percolation rate* means the measured ability of the soil to transmit water downward by gravity.
  - (x) *Premises* means a lot, plot or parcel of land, including structures located thereon.
  - (y) *Property* means any real property within the county which is not a street or highway.

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(z) *Reconstruction/Rebuild* means building again after it has been damaged or destroyed; to restore to a previous condition.

(aa) *Replace* means to put something new in place of.

(bb) *Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc.*

"Seepage pits" and "cesspools" means an excavation (deeper than it is wide) which receives septic tank effluent and from which the effluent seeps into the surrounding soil through the bottom and openings in the side of the pit; emphasis is on disposal rather than treatment.

A "drywell" is a seepage pit but the bottom of the drywell is above the water table, leaving it dry except when wastes are discharged into it.

A "rathole" is a well or shaft drilled to some depth that is intended to receive untreated waste or effluent.

"Abandoned mine shafts" are sometimes used to receive untreated wastewater or effluent.

"Leach pit" or "soak pit" may be similar to a seepage pit or may be an open surface depression or excavation that receives wastes or effluent.

*\*All the above, Seepage pits, cesspools, drywells, ratholes, leach pits, soak pits, mine shafts etc. are prohibited by this code.*

(cc) *Septic tank* means a water-tight, covered receptacle for treatment of sewage; receives the discharge of sewage from a building, separates settleable and floating solids from the liquid, digests organic matter by anaerobic bacterial action, stores digested solids through a period of detention, allows clarified liquids to discharge for additional treatment and final dispersal, and attenuates flows.

(dd) *Septage* means liquid and residuals removed from a septic tank or other pretreatment device, portable toilet, type III marine sanitation device, or similar domestic wastewater treatment works that receives only domestic waste.

(ee) *Sewage* means untreated waste consisting of blackwater and graywater from toilets, baths, sinks, lavatories, laundries and other plumbing fixtures in places of human habitation, employment, or recreation.

(ff) *Soil profile* means an open pit, which exposes the soil to a specified depth for evaluation by a trained person. This evaluation includes examining the pit side walls, determining the soil texture, structure, color, consistence, measuring soil depth and looking for evidence of a high water table or other restrictions.

(Res. No. 103-2007, § 1, 4-18-07)

## **Sec. 23-127. Installation of onsite wastewater treatment systems.**

(a) *Submission of plans; permit.*

(1) For each onsite wastewater treatment system, it is the responsibility of the licensed wastewater installer to obtain all required onsite wastewater treatment permits ("construction permits") before construction begins, and after construction to obtain an operating permit before the system is put into use. The administrative procedure for securing such construction and operating permits is as follows:

a. A licensed wastewater installer shall apply to the director on a Metropolitan Area Building and Construction Department (MABCD) application form for a permit to construct or modify an onsite wastewater treatment system ("construction permit"). The licensed wastewater installer shall submit a specific design proposal, which must include, but is not limited to, specific information

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to fully disclose the intended usage, site, type of onsite system to be installed, location and site characteristics, including the results of percolation tests and other soil and groundwater data as required by the director. Percolation tests, borehole testing or soil profiling shall be the responsibility of the installer and may be required to be certified by a qualified engineer or geologist as determined by the director. If the licensed wastewater installer intends to install an alternative treatment system, the system shall have been previously approved by the director per the requirements set forth below and the installer must meet the additional construction permit conditions set forth below for an alternative onsite wastewater treatment system. If the system design, the site and the intended usage are found acceptable, the director will issue the construction permit.

- b. In order to be classified as an alternative onsite wastewater treatment system, a system must achieve a twenty (20) mg/l or less CBOD<sub>5</sub> (carbonaceous biochemical oxygen demand), and twenty (20) mg/l or less TSS (total suspended solids). The manufacturer must provide a six-month compilation of actual test data for the system, with a 30-day average. Said testing must be conducted by an independent third party professional, who must attest to the results. In addition, the actual testing protocol must be provided to the director. After reviewing the data, the director will decide whether or not to allow installation of that type of system in Sedgwick County. Any system which claims fifty (50) percent or better nitrogen reduction must demonstrate same as part of the data requested above. If the director allows the installation of a particular type of system, prior to issuance of a construction permit the manufacturer or installer must provide a current best management practices manual, which shall contain details of any proprietary features as well as procedures for installation and maintenance of all system components, including but not limited to a checklist of maintenance items.
- c. After completion of construction to the point where an inspection is required, the installer shall notify the director and request an inspection. Within forty-eight (48) hours of the request, the director shall make an inspection of the system. A subsurface disposal system may not be covered prior to this inspection, and it shall be the responsibility of the installer to ensure that the system has been inspected prior to backfilling.
- d. If installation or workmanship of the system does not meet the requirements of the director, the director shall order corrections and cause a subsequent inspection to be made as set forth above.
- e. Any system installation which is completed without notification to or inspection by the director, shall be uncovered for inspection if so ordered by the director.
- f. If a licensed wastewater installer covers a system without notification to or inspection by the director, his license may be suspended or revoked by the director.
- g. When the system has been inspected by the director, he shall issue an operating permit to the owner of the structure or residence connected to the system. Every owner who has an alternative onsite wastewater treatment system installed will be required to file a restrictive covenant that provides for perpetual maintenance of the system. Such covenant shall be filed with the register of deeds and a copy provided to the director before any operating permits are issued. The form of the restrictive covenant must be in the format provided by the director.
- h. If an onsite system is not satisfactorily constructed or is not completed within one (1) year of the construction permit issuance date, the construction permit becomes void.
- i. A construction permit issued under this code is not transferable. A contractor or builder can unilaterally cancel a construction permit issued to a licensed wastewater installer, but only after written notice is provided to the licensed wastewater installer who applied for the permit. A copy of such written notice must also be provided to the director, and the original permit will not be cancelled and a new permit issued until seven (7) business days after the date on the notification

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letter to the installer. At that point the original permit becomes void and fees shall not be refunded or transferred to a new permit.

- (2) Permit fees shall be nonrefundable. The permit fee must be paid at the time the construction permit application is filed. Such permits are not transferable.

(b) *Variances.*

- (1) The director may grant a variance of the standards subject to the following considerations:
- a. The features of the site for which the variance is requested are not compatible with the requirements.
  - b. Alternate methods or design features are available which will attain the objectives.
  - c. The director determines that the variance will not adversely affect natural resources and the public health and safety.
  - d. In the granting of any variance, the director may impose conditions regarding screening, location or other measures the director may deem appropriate under the circumstances.
  - e. Any party denied a variance by the director may appeal that determination to the Board of County Commissioners.
- (2) An application for a variance must be filed with and approved by the director prior to construction or modification of the onsite wastewater treatment system.

(c) *Site requirements.*

- (1) All new plats or property on which an onsite wastewater treatment system is to be constructed must provide a lot size with a minimum of forty-three thousand, five hundred sixty (43,560) square feet. This minimum size requirement is independent of all other area and separation requirements, which may necessitate a larger property. Any plat or property shall have preliminary soil profiling completed before platting in order to determine the type of wastewater system(s) options that are permissible and if there is sufficient area for the onsite wastewater system as well as an area for future replacement, ensuring adequate area exists for construction and maintenance and minimum setbacks are maintained.
- (2) If a lateral field is utilized, both the lateral field and an area of equal size to be reserved for future replacement must be suitable for the location of the lateral field, and must meet the following conditions:
- a. Soil percolation tests for a lateral field area shall indicate a soil porosity at saturation such that a one-inch absorption or greater occurs within five (5) to sixty (60) minutes.
  - b. The area must have four (4) feet or more of permeable soil average depth above any clay, shale or rock formation.
  - c. The area must have a groundwater elevation at least four (4) feet below the bottom of the wastewater system as indicated by a soil profile.
  - d. The area must not be subject to inundation by floodwaters as determined by a flood of record plus three (3) feet or the 100-year floodplain as determined by FEMA, whichever is lesser.
- (3) The onsite wastewater treatment system must have a minimum of fifty (50) feet horizontal separation from any domestic water supply well and one hundred (100) feet horizontal separation from any public water supply well.
- (4) Wastewater stabilization lagoons must have a minimum horizontal separation of fifty (50) feet from the designed operational water surface to other properties, allowing public rights-of-way to be



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counted as part of the separation. A minimum of three (3) acres shall be provided for a single-family dwelling served by a wastewater stabilization pond. Lots less than 3 acres may apply for a variance to install a lagoon, however all setbacks must be met and additional requirements may apply pursuant to Section 23-127(b)(1)(d). Any platted lot that prohibits lagoon by covenant is not eligible for a variance.

- (5) Lateral fields must have a minimum horizontal separation of ten (10) feet from other properties when such property is served by a public water supply. The minimum horizontal separation shall be twenty-five (25) feet when such property is served by private water wells, allowing public rights-of-way to be counted as part of the separation.
  - (6) In areas of the county which have been determined to be sensitive groundwater areas pursuant to the data on file with the Metropolitan Area Building and Construction Department (MABCD) an onsite system must be installed which achieves fifty (50) percent or better nitrogen reduction. If it has not been previously provided as part of the approval as an alternative onsite wastewater treatment system, the manufacturer must provide a six-month compilation of actual test data for the system, with a 30-day average that demonstrates nitrogen reduction. Said testing must be conducted by an independent third party who must attest to the results. In addition, the actual testing protocol must be provided. After receipt and review of the data, it will be the decision of the Metropolitan Area Building and Construction Department (MABCD) whether or not the system meets the nitrogen reduction requirements in Sedgwick County.
- (d) *Testing of soil in proposed subdivisions.* Before a township, city, county, joint planning or zoning board or any other body authorized to review and recommend approval of plats of subdivisions of land in the unincorporated area can recommend approval of any plat, the suitability of the soil for private onsite wastewater treatment systems shall be determined by the director based on the results of soil borings, or soil profile analysis.
- (e) *Design standards.*
- (1) Design and construction requirements for onsite wastewater treatment systems shall be as set forth in the design and construction policies of the director, including, but not limited to, Bulletin 4-2 of the Division of Environment of the Kansas Department of Health and Environment and the Environmental Health Handbook.
  - (2) All onsite wastewater tanks shall be watertight and of durable construction sufficient to include support of conventional septic tank servicing vehicles. Structural integrity of septic tanks must meet the requirements of the Kansas Department of Health and Environment ("KDHE") Bulletin No. 4-2.
  - (3) Any onsite wastewater treatment system designed with a surface water overflow or discharge must meet all state and federal requirements and effluent standards, and must be approved and permitted by KDHE.
  - (4) All lagoons shall be fenced as set forth in the design policies of the director. Fences shall be in place before any operating permits are issued to the owner.
- (f) *Operation and maintenance.*
- (1) The owner shall be responsible for the operation of the onsite wastewater treatment system.
    - a. All owners of alternative treatment systems must obtain an annual operating permit from the director, which must be renewed January 1 of each year. All annual operating permits expire on December 31 regardless of when the initial operating permit was issued.
    - b. Before the annual operating permit will be issued, the owner must provide a copy of a signed maintenance agreement with a licensed alternative onsite wastewater treatment system maintenance provider for the coming year, as well as any documentation relating to inspections and maintenance performed throughout the prior year. Said maintenance agreement shall cover

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each and every component of the system, including but not limited to the treatment system and the entire dispersal or soil absorption area.

- c. If the permit is not renewed within thirty (30) days of the renewal date, the owner will be subject to penalties pursuant to section 23-129 of the Sedgwick County Code.
  - d. All lagoons shall be maintained in good working order. All dikes shall be mowed, cattail and tree growth removed from the interior of the lagoon, and fences maintained. Any vegetation that covers the surface of the lagoon shall be removed. Upon observation of any lagoon that fails to comply with these conditions, the director shall order the owner or user to correct the condition within thirty (30) days.
- (2) All onsite wastewater treatment systems shall be operated and maintained in a fashion to prevent water pollution and to be free of public health hazards or nuisances, including the surfacing or unapproved discharging of treated or untreated sewage.
  - (3) The owner or user shall correct operational or design deficiencies within a stipulated time as directed in writing by the director. The deadline for correction of operational or design deficiencies shall be reasonable in relation to the circumstances and hazards involved, but in no case shall it be greater than sixty (60) days. Severe public health hazards shall be corrected within twenty-four (24) hours.
  - (4) Wastewater stabilization lagoons designed and permitted as non-discharging systems must be operated in such a fashion as to ensure that no discharge occurs. The director may authorize emergency use of controlled irrigation upon agricultural cropland or grassed areas not used for recreation. The irrigation water shall be applied in such a fashion and at such times that no surface runoff leaves the property. Property which is used for irrigation must be under the control of the owner of the system and may not be within one hundred (100) feet of a water supply well, or fifty (50) feet of other properties. Care shall be exercised to minimize combining fresh or untreated sewage and sewage solids with the irrigation water.
- (g) *Suspension or revocation of permit.*
- (1) The director may suspend any permit if the holder thereof does not comply with the requirements of this Code.
  - (2) The director may revoke a permit for serious or repeated violations of any of the requirements of this Code or for interference with the department of code enforcement in the performance of its duties.
  - (3) The suspension or revocation shall become effective immediately upon the director issuing a written order of suspension or revocation, which shall advise the holder of the permit or the person in charge of the establishment or premises subject to the permit of the specific reasons for the suspension or revocation.
  - (4) The holder of any such permit, or any other aggrieved party, may request a hearing in accordance with subsection 23-128(J).

(Res. No. 103-2007, § 1, 4-18-07)

### **Sec. 23-128. Licensing for onsite wastewater treatment system installers.**

- (a) *Onsite wastewater treatment system installer's license.* It shall be unlawful for any person, firm, corporation, or other entity to install, maintain, alter, repair, or excavate an onsite wastewater system without a valid onsite wastewater treatment system installer's license issued by the director. On or after January 1, 2003, such license shall be issued only after the applicant has demonstrated a basic knowledge of the proper design and function of onsite wastewater treatment systems and knowledge of Metropolitan Area Building

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and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the director. Prior to testing, the applicant shall provide proof to the director of a minimum of one (1) year of experience in installation of onsite wastewater treatment systems. Said experience shall consist of a minimum of six (6) installations within a 12-month period or a demonstration of equivalent experience by the applicant to the director.

**(b) *Alternative onsite wastewater treatment system installer's license for installation, maintenance, alteration, repair and excavation.***

- (1)** It shall be unlawful for any person, firm, corporation, or other entity, to engage in the business of installing, maintaining, altering, repairing, or excavating alternative onsite wastewater treatment systems without a valid alternative onsite wastewater treatment system installer's license issued by the director. Such license shall be issued only after the applicant has proved a basic knowledge of the proper design and function of alternative onsite wastewater treatment systems and knowledge of Metropolitan Area Building and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the director. Prior to testing for an alternative onsite wastewater treatment installer's license, applicant must first take and pass the onsite wastewater treatment system installer's license exam. Upon passing both exams, the applicant must provide proof of alternative onsite wastewater treatment installation training, in the form of a certificate from the manufacturer, to Metropolitan Area Building and Construction Department (MABCD).
- (2)** Proof of such installation and maintenance training will need to be submitted for each brand of system that the installer intends to install, as well as a copy of the training materials provided to the installer. Said training shall include of a minimum of two (2) onsite installations in Sedgwick County with a qualified representative from the manufacturer on site during the entire installation. An installation shall consist of a minimum of sixteen (16) contact hours with both the installer and the manufacturer's representative present. The director may require additional training installations before accepting a certificate of installation and maintenance training from the manufacturer. The certificate of installation and maintenance training must include but is not limited to the following information:

  - a. A statement that the installer has completed two (2) installations consisting of sixteen (16) contact hours per installation as set forth above; and
  - b. A statement that the installer has received a copy of and fully understands the best management practices and maintenance manual for manufacturer's system which includes a checklist of routine maintenance activities; and
  - c. A statement setting out the name and contact information of the manufacturer's representative who supervised the training installations, as well as facts demonstrating that said individual had the experience and training to fully demonstrate installation and maintenance of all system treatment and dispersal components, including but not limited to electrical panels, alarms, tanks, controls, and any proprietary components; and
  - d. A statement by the installer indicating that he/she is adequately trained in installation and maintenance of the system treatment and dispersal components; and
  - e. The signatures of both the manufacturer's representative who supervised the training installations and the installer.
- (3)** If the installer passes the examination and provides an acceptable certificate of maintenance and installation training from the manufacturer, the initial onsite wastewater treatment system installer's license shall be amended to designate that such license holder is also a license holder for alternative onsite wastewater treatment systems. An installer who already holds such an amended license, and is otherwise in good standing, but intends to install an additional type of alternative onsite wastewater

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treatment systems, will be required to provide the certificate of installation and maintenance training for each additional type of system he intends to install.

- (4) If at any time an alternative onsite wastewater treatment system installer's license is revoked, the director will review the installer's work practices to determine if said installer has been incompetent, negligent, in violation of any provision of this article, or has made a fraudulent misrepresentation in making application for a permit to construct an alternative onsite wastewater treatment system. If at that time the installer has not been found in violation of any of the above then it may be determined that said installer may continue to install and service said systems.
  - (5) A service provider is responsible for providing MABCD with a copy of contracts for service and copies of any service reports completed. Failure to submit all required documents shall be punishable by Sec 23-129.
- (c) *Alternative onsite wastewater treatment system license for service provider, O&M.*
- (1) It shall be unlawful for any person, firm, corporation, or other entity, to engage in the business of maintaining or repairing alternative onsite wastewater treatment systems without a valid alternative onsite wastewater treatment system service provider, O&M license issued by the director. Such license shall be issued only after the applicant has demonstrated a basic knowledge of the proper design and function of alternative onsite wastewater treatment systems and knowledge of Metropolitan Area Building and Construction Department (MABCD) standards of construction by successfully completing an examination conducted by the Metropolitan Area Building and Construction Department (MABCD). In order to test for an alternative onsite wastewater treatment system service provider O&M license applicant must first take and pass the onsite wastewater treatment system installer's license exam. Upon passing both exams the applicant must provide proof of alternative onsite wastewater treatment maintenance and repair training in the form of a certificate from the manufacturer, to the Metropolitan Area Building and Construction Department (MABCD).
  - (2) Proof of such service provider, O&M training will need to be submitted for each brand of system that the service provider intends to maintain and repair, as well as a copy of the training materials provided to the license holder. Said training can consist of either training at the manufacturer's plant or on existing installed systems in Sedgwick County. Training at the manufacturer's plant shall consist of eight (8) contact hours of training. Training on existing systems shall consist of a minimum of six (6) service calls within twelve (12) months in Sedgwick County with a qualified representative from the manufacturer present during the entire service call. The director may require additional service training before accepting a certificate of service training from the manufacturer. The certificate of service provider, O&M training must include but is not limited to the following information:
    - a. A statement that the service provider has completed six (6) service calls within a 12-month period as set forth above or eight (8) contact hours of training at manufacturer's plant; and
    - b. A statement that the service provider has received a copy of and fully understands the best management practices and maintenance manual for manufacturer's system, which includes a checklist of routine maintenance activities; and
    - c. A statement setting out the name and contact information of the manufacturer's representative who supervised the service provider, O&M training, as well as facts demonstrating that said individual had the experience and training to fully demonstrate service of all system treatment and dispersal components, including but not limited to electrical panels, alarms, tanks, controls, and any proprietary components; and
    - d. The signatures of both the manufacturer's representative who supervised the service provider, O&M training.

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- (3) If the service provider passes the examination and provides an acceptable certificate of service provider, O&M training from the manufacturer, the initial onsite wastewater treatment system installer's/service provider license shall be amended to designate that such license holder is also a license holder service provider, O&M of alternative onsite wastewater treatment systems.
  - (4) If at any time an alternative onsite wastewater treatment system service provider, O&M license is revoked, the director will review the service provider's work practices to determine if said service provider has been incompetent, negligent, or in violation of any provision of this article. If at that time the license holder has not been found in violation of any of the above then it may be determined that said service provider may continue to maintain and repair said systems.
  - (5) A service provider is responsible for providing MABCD with a copy of contracts for service and copies of any service reports completed. Failure to submit all required documents shall be punishable by Sec 23-129.
- (d) *Continuing education requirement.* In order to maintain an onsite wastewater treatment system installer's license the licensee shall complete a minimum of eight (8) hours of continuing education within the 12-month period preceding the date of renewal. An hour of continuing education time is defined as an actual contact hour of training, unless said training is provided by director or another group approved by same. The training, to be approved, must be directly related to the knowledge requirements necessary for issuance of the applicable installer's license. Attendance at any workshop conducted, sponsored, or approved by the onsite wastewater treatment system installers and sewage haulers advisory board or any appropriate professional association shall satisfy this continuing education requirement.
- (e) *License application.* In addition to the requirements set forth above, to obtain or renew any onsite wastewater treatment system installer's/service provider license, a person, firm, corporation, or other entity, shall:
- (1) Submit a completed application on a form provided by the director, for an original license to install regular or alternative onsite wastewater treatment systems, or to maintain and repair alternative onsite wastewater treatment systems, and for each renewal thereof.
  - (2) Pay a nonrefundable application/license fee of one hundred dollars (\$100.00) either by cash or a certified check, cashier's check or money order, payable to Sedgwick County. The processing of the application and issuance or denial of the license will not take place until the nonrefundable license fee is paid.
  - (3) Provide proof of continuing education that has been completed during the previous year, if the application is for a renewal of a license.
  - (4) Provide proof of liability insurance to the Metropolitan Area Building and Construction Department (MABCD) in the minimum amount of three hundred thousand dollars (\$300,000.00).
  - (5) Agree to comply with all standards for onsite wastewater treatment systems installation that have been adopted by Sedgwick County.
  - (6) Agree to obtain all required construction and operating permits.
- (f) *Term of license.* Licenses issued under this article are valid for one (1) calendar year, from January 1 through December 31, and are not transferable.
- (g) *License renewal.* To renew any license required by section 23-128, a person, firm, or corporation, or other entity, shall file a new application, and pay the required license fee on or before March 1 following the expiration of a license period.



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- (h) *Lapse of license.* A license that has not been suspended or revoked, but for which the renewal fee has not been submitted on or before March 1 following the expiration of a license period, shall be deemed to have lapsed. Renewal of a lapsed license shall be allowed upon the person's request, filing of a completed application, payment of an application fee, and upon providing proof of the required continuing education before the application will be approved.
- (i) *Violations of license requirements; suspension; revocation.*
- (1) *Suspension of license.*
- a. The director may suspend a license if there is evidence of any of the factors set forth below:
    - i. The licensee demonstrates incompetence or lack of knowledge in matters relating to the license issued.
    - ii. The licensee obtained any permit or his license by fraud or misrepresentation.
    - iii. The licensee transferred, loaned or otherwise allowed another person to use said license for the other person's purpose.
    - iv. The licensee used the license to obtain permits for another person, firm, or corporation.
    - v. The licensee demonstrated carelessness or negligence in providing reasonable safety measures for the protection of the public.
    - vi. The licensee refused to or failed to comply with any lawful and reasonable order(s) of the director, code enforcement officer, or other authorized representative of the MABCD.
    - vii. The licensee committed an act in violation of any provision of this article, the Sedgwick County Sanitary Code, or of any other resolution of Sedgwick County.
  - b. The suspension of any license hereunder shall become effective immediately upon the director issuing a written order of suspension. The order of suspension shall advise the licensee of the specific reasons the license is being suspended.
  - c. The licensee or other aggrieved party may request a hearing in accordance with subsection 23-128(j). After a hearing, the advisory board may uphold or overrule the suspension, or modify it as they see fit, but in no event shall the advisory board enter an order of suspension for a period longer than that set out in the original notice by the director. Both the original order and any order of the advisory board may condition the length of suspension upon correction of the conditions upon which the suspension is based.
  - d. The suspension period for the first violation hereunder shall not exceed thirty (30) days. A second violation in any three-year period shall result in a suspension period of not less than fifteen (15) days and not to exceed one hundred eighty (180) days. The third violation in any three-year period shall result in a suspension period of not less than thirty (30) days and not to exceed one hundred eighty (180) days, and may result in revocation of the license. Every suspended license shall automatically become activated upon the conclusion of any such suspension period, unless the director has specifically required the licensee to petition the director for reactivation.
- (2) *Revocation of license.*
- a. The director may revoke a license for serious or repeated violations of any of the factors identified in subsection 28-128(i)(1)a., or for interference with the MABCD in the performance of its duties. The licensee or other aggrieved party may request a hearing in accordance with subsection 23-128(j).
  - b. The revocation of any license hereunder shall become effective immediately upon the director issuing a written order of revocation. The order of revocation shall advise the licensee of the

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specific reasons the license is being revoked. A licensee that has had his license revoked may reapply for licensure no earlier than one (1) year after the effective date of the revocation, and must meet all applicable requirements for an original license.

(j) *Appeals to the advisory board.*

- a. Except as otherwise provided, any person aggrieved by any notice, order, denial of a permit or license, or suspension or revocation of a permit or license by the director, may request a hearing on the matter before the Advisory Board if such person files with director within ten (10) days after the date of issuance of the notice, denial, suspension or revocation, a written request for a hearing setting forth the grounds on which the request is made. The filing of the request of hearing shall operate as a stay of any notice or order except an emergency order.
- b. Upon receipt of the request for hearing, the director shall notify the advisory board, which shall set a time and place for a hearing, and shall give the requestor written notice thereof. The hearing shall be commenced not later than thirty (30) days after the date on which the request for hearing was filed; provided that upon request the hearing may be postponed for a reasonable time beyond such 30-day period. A record shall be made at the hearing, and the aggrieved party may be represented by counsel or other authorized person.
- c. Within ten (10) days following the conclusion of the hearing, the advisory board shall issue a written decision either sustaining, modifying, or overruling the decision, order, or other action of the director.
- d. A summary of all proceedings of hearings, including the findings and the decision of the advisory board, together with a copy of every notice related thereto, shall be filed with the MABCD.
- e. Any aggrieved party may appeal the final decision of the advisory board to the Sedgwick County Board of County Commissioners.

(Res. No. 103-2007, § 1, 4-18-07)

**Sec. 23-129. Violations and penalty.**

- (a) *Issuance of uniform complaint and notice to appear.* Whenever the director or a code enforcement officer authorized under this Code has probable cause to believe that a person, firm, or corporation is committing or has committed a violation of any provision of this Code, the director or such code enforcement officer may serve upon such accused person a uniform complaint and notice to appear, or in the alternative, may sign a complaint against the accused person and cause a notice to appear to be issued according to the provisions of K.S.A. 19-4701 et seq., the code for the enforcement of county codes and resolutions. Pursuant to K.S.A. 19-101d, prosecution for any such violation shall be conducted in the manner provided by law in the district court under the code for the enforcement of county codes and resolutions as provided by K.S.A. 19-4701, et seq. Writs or processes necessary for the prosecution of such violations shall be substantially in the form of writs and process as shown in K.S.A. 19-4738. The county shall provide all necessary supplies, forms and records at its own expense.
- (b) *Procedures.* Procedures for prosecution of violations of this code shall be pursuant to chapter 8 of the Sedgwick County Code.
- (c) *Classification of violations and schedule of fines.* An accused person who shall be convicted in the district court for violation of any provision of this code shall be deemed guilty of a violation thereof and in accordance with K.S.A. 19-4716, shall be subject to payment of a fine which shall be fixed by the Court at a sum not to exceed five hundred dollars (\$500.00); provided further, the minimum fine for any violation of this Code shall be assessed according to the classification of violations and schedules of fines in section 8-5 of

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the Sedgwick County Code and subject to the enhancements contained therein, and each and every violation of this article shall be a class H violation, unless otherwise indicated. A violation of section 23-128 shall be a class I violation.

- (d) *Separate offense.* Each day that any violation of this Code occurs after the passage of the reasonable time for performance of any act required by a notice of violation(s) or order(s) to comply has been served in accordance with the terms and provisions hereof shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person, firm or corporation is found guilty of a violation hereunder and it shall appear to the court that the violation complained of as prescribed in this Code is continuing, then in addition to the penalty as set forth, the court may enter such order as it deems appropriate to cause the violation to be abated.
- (e) *Authority to permit.* The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or approval of, any violation of any of the provisions of this article. No permit presuming to give authority to violate or cancel the provisions hereof shall be valid, except insofar as the work or use which it authorized is lawful.
- (f) *Effect of permit.* The issuance or granting of a permit or approval of plans and specifications shall not prevent the director from thereafter requiring the correction of errors in said permit or plans.
- (g) *Appeals.* An appeal may be taken from any judgment under this resolution pursuant to the procedures at K.S.A. 19-4737, as amended.

{Res. No. 103-2007, § 1, 4-18-07}

#### **Sec. 23-130. Permit fees.**

- (a) Permits for the installation of any part of an onsite wastewater treatment system shall be one hundred dollars (\$100.00). Cleaning and jetting of lateral lines shall require a permit and that permit fee shall be one hundred dollars (\$100.00). Alternative onsite wastewater treatment system permits for installation shall be two hundred dollars (\$200.00).
- (b) An annual operating permit for alternative onsite wastewater treatment systems will be twenty-five dollars (\$25.00) due January 1 of each year.

{Res. No. 103-2007, § 1, 4-18-07}

#### **Secs. 23-131—23-155. Reserved.**