

RESOLUTION

No. 74-06

DATE PUBLISHED: May 16, 2006

A RESOLUTION AMENDING CHAPTER 27 OF THE SEDGWICK COUNTY CODE, BY CREATING ARTICLE III, “THE PROPERTY TITLE TRANSFER INSPECTION CODE”; PROVIDING FOR THE INSPECTION OF ONSITE WASTEWATER SYSTEMS, WATER WELLS AND OBTAINING WATER SAMPLES AT THE TIME OF PROPERTY TITLE TRANSFER, AND COLLECTION OF FEES THEREFOR; AND REPEALING ALL OTHER RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH.

WHEREAS, on the 25th day of August, 1993, the Board of County Commissioners adopted Resolution No. 159-1993, which resolution adopted the Sedgwick County Code; and

WHEREAS, the Board of County Commissioners finds that the creation of a Property Title Transfer Inspection Code is necessary and desirable; and

WHEREAS, the Board of County Commissioners is authorized and empowered to adopt such resolutions pursuant to K.S.A. 19-101 through 19-101f and amendments thereto.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that

SECTION 1: AMENDMENTS TO CHAPTER 27.

Chapter 27 of the Sedgwick County Code is hereby amended by the addition of new Article III, which shall hereafter read as follows:

ARTICLE III. PROPERTY TITLE TRANSFER INSPECTION CODE

Sec. 27-59. Title; purpose; jurisdiction; scope

(a) *Title.* The provisions of this resolution shall be known as the Property Title Transfer Inspection Code of Sedgwick County, Kansas, and may be cited as such, and may also be referred to herein as “this code.”

(b) *Purpose.* The provisions of this code are for the purpose of regulating and controlling the maintenance of water wells and onsite wastewater systems in Sedgwick County, Kansas, by requiring inspections of such wells and onsite wastewater systems when title to property is transferred in order that the public health will be protected and the contamination and pollution of the water resources of the County will be prevented.

(c) *Jurisdiction.* The provisions of this code are hereby adopted as the Property Title Transfer Inspection Code for the unincorporated area of Sedgwick County, and for those second- and

third-class cities located therein which have by action of their governing bodies adopted the Property Title Transfer Inspection Code in the same form as herein contained and which have entered into a separate agreement with the county for enforcement within their municipal boundaries and conferring jurisdiction upon the county for all prosecutorial function relating thereto.

(d) Scope. After the effective date of this code, before title to property with any existing water well(s) or onsite wastewater system is conveyed, the grantor shall have such wells or systems inspected for compliance with county and state regulations, and have any water samples taken if needed and found to be acceptable for drinking water standards, all in accordance with the provisions of this code. All deficiencies noted during the inspection shall be corrected and inspected for approval within 30 days of occupancy of the grantee. If the deficiency is determined to be a health or safety issue then it will be corrected before occupancy by the grantee.

Sec. 27-60. Definitions.

(a) Advisory Board, means the Sedgwick County Advisory Board for Water Wells and Property Title Transfer Evaluations.

(b) Department, means the Sedgwick County Department of Code Enforcement.

(c) Director, means the Director of the Sedgwick County Department of Code Enforcement or his/her representative.

(d) Household purposes, means water used for drinking, culinary or ablutionary purposes.

(e) Onsite Wastewater 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.

(f) Water well, means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed, when the intended use of such excavation is for the location, monitoring, diversion, artificial recharge or acquisition of groundwater.

Sec. 27-61. Violations.

(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 \$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 the Sedgwick County Code and subject to the enhancements contained therein, and each and every violation of this code shall be a class G 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.

Sec. 27-62. Property Title Transfer Inspections.

(a) *Applicability.* This section pertains to the inspection of onsite wastewater systems and water wells for compliance with state and county regulations at the time of property title transfer.

(b) *Prohibited Practices.* No property utilizing an onsite wastewater system or private domestic well shall transfer ownership until such time as an inspection has been made to insure compliance of the onsite wastewater system and/or water well with county and state regulations, and this code.

(c) *Submission of Request.* The grantor or his/her authorized representative requesting an inspection shall make application to the Department. Such application will be made on forms provided by the department. Payment for the inspection is required at the time of application, and no inspections will take place until payment is received. Requests for inspections need to be made a minimum of four days in advance of any closing on the property in order for water samples to be collected, tested, and reported.

(d) *Time of Inspection.* Once an application has been received and the appropriate fees paid, the Department shall schedule an inspection with the person requesting the inspection.

(e) *Onsite Wastewater Inspections.* Onsite Wastewater systems will be inspected for compliance with state and county codes and regulations, and will include the following:

- (1) A records search to determine the history of the system including, but not limited to, permits, complaints, and previous inspections.

- (2) Inspect the plumbing to determine if all domestic wastewater is routed to the onsite wastewater system.
- (3) Onsite wastewater systems shall be inspected as follows:
 - a. Septic Systems: The septic tank will need to be pumped, by a septage pumper licensed in Sedgwick County, in order to inspect the interior of the tank for structural integrity and to determine if there are baffles, tees, or elbows in place at the inlet and outlet of the tank. If at the time the tank lid is exposed for pumping the lid is below grade, a riser to grade shall be added in order to bring the lid to grade. The lateral field will be located and probed to estimate the amount of lateral line. If the lateral field cannot be located it shall be noted on the inspection report. The lateral field area will be inspected for indications of failure. If necessary in the discretion of the Department, a portion of the field may be required to be exposed.
 - b. Lagoons: The number of cleanouts in the line serving a lagoon will be quantified and inspected for compliance. The lagoon will be inspected for overall condition, including but not limited to vegetative growth in and around the lagoon, signs of burrowing animals, and drainage around the lagoon. The fence will also be inspected, including the presence or absence of a fence and condition of the fence.
 - c. Advanced Wastewater Systems: The disposal field area will be inspected for condition. The system will need to operate in manual mode to review the function of the system, including verifying the field pressures. Alarms will need to be operated to insure they are in working order. A copy of any paperwork pertaining to maintenance on the system will need to be given to the Department. Within 60 days of closing on the property, a copy of a new maintenance contract will need to be filed with the county.
- (4) The inspection will note corrective action needed for the wastewater system located on the property. A wastewater permit will need to be obtained before any corrections are performed, the permit and any work performed under that permit shall be completed by a wastewater installer licensed in Sedgwick County. After all corrections have been made a follow-up inspection will take place in order to determine if the required corrective action was taken and to determine whether the wastewater system is in compliance.
- (5) Inspections are valid for a period of one-hundred eighty (180) days, including signed off permits for new construction. Initial inspections are valid for 30 days with no re-inspection required. Between 30 days and 180 days a follow-up inspection shall be performed to insure the initial findings are still valid. This inspection will be performed at no additional cost and not require the

tank to be pumped. After 180 days a new inspection and tank pumping shall be required.

(f) *Water Well Inspections.* All water wells located on the property will be inspected for compliance with state and county codes and regulations, including the following:

- (1) A records search to determine the history of the system including, but not limited to permits, complaints and previous inspections.
- (2) The inspection will note corrective action needed to for each well located on the property. A water well permit will need to be obtained before any corrections are performed. After all corrections have been made a follow-up inspection will take place in order to determine if the required corrective action was taken and to determine whether the well is in compliance. If corrective actions may contaminate the well then no water samples will be collected until the repairs have been made and the well has been disinfected.

(g) *Water Sampling and Testing.* If the residence is served by a water well for household purposes, a water sample shall be collected and delivered to an approved laboratory for testing, in addition to the inspection. If the residence is served by public water, no sample shall be required.

- (1) Water samples will be tested at a minimum for the presence of bacteria and nitrates. Testing for additional parameters may be performed at the request of the parties involved.
- (2) If either parameter is above the recommended limit, corrective action will need to be taken to remedy the problem. After corrective action has been completed, additional sampling and testing shall be performed to determine if the corrective action was successful.
- (3) Once a sample has been reported as acceptable then no further water samples will be required.

(h) Inspections and testing results are valid for a period of one-hundred eighty (180) days, including finalized permits for new construction. Initial inspections are valid for 30 days with no re-inspection required. Between 30 days and 180 days a follow-up inspection shall be performed to insure the initial findings are still valid. This inspection will be performed at no additional cost. After 180 days a new inspection shall take place as well as a new water sample collected.

(i) *Inspection Fees.* Inspection fees are non-refundable and shall be assessed as follows:

- (1) Onsite wastewater system inspection only: \$60.00
- (2) Water well(s) inspection only: \$50.00
- (3) Onsite wastewater system and water well(s) inspection: \$100.00
- (4) Water sampling and testing: Actual cost of testing.

- (5) The preceding fee schedule includes one re-inspection if needed. Any additional inspections shall be performed at the rate of \$50.00 per visit.

Sec. 27-63. Appeals.

(a) Any person feeling aggrieved by a decision of the Director made under this code may be appealed in writing to the Advisory Board. Any such appeal must be submitted within thirty (30) days of the action being appealed.

(b) Any decision of the Advisory Board made under this code may be appealed in writing to the Sedgwick County Board of County Commissioners.

Secs. 27-64 to 27-69. Reserved.

SECTION 2: ADOPTION OF RULES AND REGULATIONS.

The Director of the Sedgwick County Department of Code Enforcement shall have the authority to promulgate such rules and regulations as are necessary to carry out the purpose of this code.

SECTION 3: REPEAL OF FORMER RESOLUTIONS.

All prior resolutions, or parts thereof, adopted by the Board of County Commissioners of Sedgwick County, Kansas, in conflict herewith are hereby repealed.

SECTION 4: RESERVATION OF SECTIONS.

Secs. 27-59 to 27-69 are hereby reserved.

SECTION 5: SAVING CLAUSE.

All rights and remedies of Sedgwick County, and the property owners and residents thereof, are expressly saved as to any and all violations of any resolutions repealed or amended by this resolution, that have accrued at the time of the effective date of this resolution. The court shall have all the powers that existed prior to the effective date of this resolution as to all such accrued violations.

SECTION 6: SEVERABILITY CLAUSE.

Should any section, clause or provision of this resolution be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this resolution as a whole, or any part thereof, other than the part so declared to be invalid.

SECTION 7: PUBLICATION AND EFFECTIVE DATE.

The Sedgwick County Clerk is directed to publish this resolution once in the official county newspaper. This resolution shall take effect upon its publication once in the official county newspaper.

Commissioners present and voting were:

DAVID M. UNRUH	<u>AYE</u>
TIM NORTON	<u>AYE</u>
TOM WINTERS	<u>AYE</u>
LUCY BURTNETT	<u>ABSENT</u>
BEN SCIORTINO	<u>AYE</u>

Dated this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

BEN SCIORTINO, Chairman
Commissioner, Fifth District

ATTEST:

LUCY BURTNETT, Chair Pro Tem
Commissioner, Fourth District

DON BRACE, County Clerk

DAVID M. UNRUH
Commissioner, First District

APPROVED AS TO FORM:

TIM NORTON
Commissioner, Second District

AARON T. BLASE
Assistant County Counselor

THOMAS G. WINTERS
Commissioner, Third District