

RESOLUTION NO. 103-2007

Date Adopted: 4/18/07

Date Effective: 04/25/07

**A RESOLUTION PROVIDING FOR THE INSTALLATION OF
ONSITE WASTEWATER TREATMENT SYSTEMS AND THE
LICENSING AND REGULATION OF ONSITE WASTEWATER
TREATMENT SYSTEM INSTALLERS**

WHEREAS, K.S.A. 19-101a confers home rule powers on the Board of County Commissioners of Sedgwick County to perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, on October 16, 2002, the Board of County Commissioners enacted Sedgwick County Resolution No. 150-02, effective October 21, 2002, providing for the licensing and regulation of onsite wastewater treatment system installers; and

WHEREAS, on May 12, 2004, the Board of County Commissioners enacted Sedgwick County Resolution No. 74-04, effective May 19, 2004, amending and rescinding Resolution No. 150-02; and

WHEREAS, on September 7, 2005, the Board of County Commissioners enacted Sedgwick County Resolution No. 147-05, effective September 14, 2005, amending and rescinding Resolution No. 74-04; and

WHEREAS, the Sedgwick County Board of County Commissioners finds it necessary to further amend such licensing and other requirements for onsite wastewater treatment system installers, and in addition to set forth the requirements for installation of onsite wastewater treatment systems necessary to minimize and control those environmental conditions that may adversely affect the health and well-being of the public; and

WHEREAS, the enactment of this resolution will rescind Resolution No. 147-05.

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

SECTION 1: AMENDMENTS TO CHAPTER 23.

Chapter 23 of the Sedgwick County Code is hereby amended by the amendment of Article V, which shall hereafter read as follows:

Article V. Installation of Onsite Wastewater Treatment Systems and Licensing and Regulation of Onsite Wastewater Treatment System Installers

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 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) *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 or more lots within a single plat or adjoining properties. Often referred to as cluster systems or decentralized systems.

(E) *Conventional system* means a standard septic tank (one or two 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.

(F) *Director* means the Director of the Sedgwick County Department of Code Enforcement or his or her authorized representative.

(G) *Domestic Wastewater* means all waterborne wastes produced at family dwellings 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.

(H) *Health department* means the Sedgwick County Department of Health.

(I) *Health officer* means the local health officer or his or her authorized representative.

(J) *Lagoon/Wastewater stabilization lagoon* means a diked earthen excavation designed to retain wastewater in order that biological treatment may be accomplished.

(K) *Lateral field* means a system of perforated or open joint sewer pipe positioned underground within rock or gravel beds or trenches, chambers, gravelless pipe or other approved material to affect transfer of septic tank effluent to soil for final treatment and dispersal.

(L) *Modified conventional system* means a standard septic tank (one or two 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.

(M) *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.

(N) *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.

(O) *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.

(P) *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.

(Q) *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.

(R) *Percolation rate* means the measured ability of the soil to transmit water downward by gravity.

(S) *Premises* mean a lot, plot or parcel of land, including structures located thereon.

(T) *Property* means any real property within the county which is not a street or highway.

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

Seepage pits and cesspools are excavations or structures constructed with unlined side walls or side walls lined with open joints or perforations and may or may not have an open bottom, or may be a pit filled with rubble or gravel.

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 for this same purpose. 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

(V) *Septic tank* means a structure for the receipt of wastewater and clarification by settling into a liquid portion ready for further treatment by other methods and concentration of solids and organic matter for storage and digestion within the facility.

(W) *Septage* means the sludge and liquid contents of a septic tank, which are removed during periodic pumping (cleaning) of the septic tank.

(X) *Sewage* means any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or chemical or other wastes from domestic (refers to sewage originating from the kitchen, bathroom and laundry sources) manufacturing or other forms of industry.

(Y) *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.

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 Sedgwick County Department of Code Enforcement 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 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 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 20 mg/l or less CBOD₅ (carbonaceous biochemical oxygen demand), and 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 thirty (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 50% 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 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 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 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.

(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 if there is sufficient area for the for the primary dispersal or soil absorption system as well as a reserve area for the dispersal or soil absorption system. An area of equal size to the primary dispersal or soil absorption area shall to be held in reserve for future replacement of same. Once the primary area for the dispersal or soil absorption system and the reserve area for the dispersal or soil absorption system are determined, no work shall begin until such time as those areas are marked or fenced sufficiently to prevent traffic or construction material from encroaching on the area.

(2) If at any time during construction any part of the primary or reserve dispersal or soil absorption areas are disturbed then building construction may be halted by order of the director until such time as the extent of damage can be determined, or an alternate area for the dispersal or soil absorption field can be located. Additional soils work may be required as part of the determination. If both the primary and reserve areas have been disturbed and as a result are found to be unusable, a new design shall be completed and approved by the director before construction may resume.

(3) 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 ten (10) feet below the ground surface 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.

(4) 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.

(5) 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 counted as part of the separation. A minimum of five (5) acres shall be provided for a single-family dwelling served by a wastewater stabilization pond.

(6) 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.

(7) In areas of the county which have been determined to be sensitive groundwater areas pursuant to the data on file with the Sedgwick County Department of Code Enforcement, an onsite system must be installed which achieves 50% 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 Sedgwick County Department of Code Enforcement 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) Effluent from onsite wastewater treatment systems which have a discharge to surface waters of the State must be disinfected to levels approved by KDHE. 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 1st of each year. All annual operating permits expire on December 31st 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 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 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 Section 23-128(J).

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 engage in the business of installing, maintaining, altering, repairing, or excavating onsite wastewater treatment systems 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 Sedgwick County Department of Code Enforcement 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 6 (six) 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 Sedgwick County Department of Code Enforcement 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 and the applicant must provide proof of alternative onsite wastewater treatment installation training, in the form of a certificate from the manufacturer, to the Sedgwick County Department of Code Enforcement.

(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 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 2 installations consisting of 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 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.

(C) *Alternative onsite wastewater treatment system license for maintenance and repair only.*

(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 maintenance and repair 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 Sedgwick County Department of Code Enforcement standards of construction by successfully completing an examination conducted by the Sedgwick County Department of Code Enforcement. In order to test for an alternative onsite wastewater treatment system maintenance and repair license applicant must first take and pass the onsite wastewater treatment system installer's license exam and 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 Sedgwick County Department of Code Enforcement.

(2) Proof of such maintenance and repair training will need to be submitted for each brand of system that the installer intends to maintain and repair, as well as a copy of the training materials provided to the installer. 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 8 contact hours of training. Training on existing systems shall consist of a minimum of six (6) maintenance and repair calls within 12 months in Sedgwick County with a qualified representative from the manufacturer present during the entire maintenance and repair call. Each call must last one hour. The director may require additional maintenance and repair training before accepting a certificate of maintenance and repair training from the manufacturer. The certificate of maintenance and repair training must include but is not limited to the following information:

- (a) A statement that the installer has completed 6 one hour maintenance and repair calls within a 12 month period as set forth above or 8 contact hours of training at manufacturer's plant; 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 maintenance and repair training, as well as facts demonstrating that said individual had the experience and training to fully demonstrate maintenance and repair 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 maintenance and repair of the system treatment and dispersal components; and
- (e) The signatures of both the manufacturer's representative who supervised the maintenance and repair training and the installer.

(3) If the installer passes the examination and provides an acceptable certificate of maintenance and repair 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 maintenance and repair of 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 treatment systems, will be required to provide the certificate of maintenance and repair training for each additional type of system he intends to install.

(4) If at any time an alternative onsite wastewater treatment system maintenance and repair 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. 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 maintain and repair said systems.

(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 twelve-month period preceding the date of renewal. If the licensee is also designated as an alternative onsite wastewater treatment system installer or maintainer/repairer, then 16 hours of continuing education shall be required within the twelve-month period preceding the date of renewal, with at least eight (8) of the 16 hours in the area of alternative onsite wastewater treatment systems. 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 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 Sedgwick County Department of Code Enforcement 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 1st following the expiration of a license period.

(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 1st 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 compliance with the requirements of Sections 23-128(A) or 23-128(B), including retesting.

(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 Department of Code Enforcement.

(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 Section 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 30 days. A second violation in any three-year period shall result in a suspension period of not less than 15 days and not to exceed 180 days. The third

violation in any three-year period shall result in a suspension period of not less than 30 days and not to exceed 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 Section 28-128(I)(1)(a), or for interference with the Department of Code Enforcement in the performance of its duties. The licensee or other aggrieved party may request a hearing in accordance with Section 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 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 Department of Code Enforcement.

- (e) Any aggrieved party may appeal the final decision of the Advisory Board to the Sedgwick County Board of County Commissioners.

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 \$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 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.

Sec. 23-130. Permit Fees.

(A) Permits for the installation of any part of an onsite wastewater treatment system shall be \$100.00, except for the following repairs: (1) lagoon cleaning (sludge removal only), (2) replacement of 25 feet of pipe or less from the house, and (3) tank lid replacement. Permit fees for each of those three (3) items shall be fifty dollars (\$50.00). 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 1st of each year.

SECTION 2: ADOPTION OF RULES AND REGULATIONS.

The director 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. 23-131 to 23-155 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	_____
TIM R. NORTON	_____
THOMAS G. WINTERS	_____
KELLY PARKS	_____
GWEN WELSHIMER	_____

Dated this ____ day of _____, 2007.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

DAVID M. UNRUH, Chairman
Commissioner, First District

THOMAS G. WINTERS, Chair Pro Tem
Commissioner, Third District

ATTEST:

DON BRACE, County Clerk

TIM R. NORTON
Commissioner, Second District

APPROVED AS TO FORM:

KELLY PARKS
Commissioner, Fourth District

ROBERT W. PARNACOTT
Assistant County Counselor

GWEN WELSHIMER
Commissioner, Fifth District