

DOMESTIC WATER WELL CODE OF SEDGWICK COUNTY

Sec. 27-75. - Title; purpose; jurisdiction; scope.

- (a) *Title.* The provisions of this resolution shall be known as the Domestic Water Well 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 development, maintenance and use of water supplies in Sedgwick County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.
- (c) *Jurisdiction.* The provisions of this code are hereby adopted as the domestic water well 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 domestic water well 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, no water well shall be constructed, reconstructed, plugged, or treated, except in accordance with the provisions of this code, and without first obtaining a separate permit. Such permit shall be legally issued only when in compliance with the regulations set forth in this code.
- (e) *Duties and authority of the MABCD.* The Metropolitan Area Building and Construction Department ("MABCD") is designated as the county agency responsible for administering the Water Well Code.

Sec. 27-76. - Definitions.

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

- (a) *Abandoned water well* means a water well meeting any one of the following criteria:
 - (1) Whose use has been permanently discontinued;
 - (2) In which pumping equipment has been permanently removed;
 - (3) Which is either in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer, or both;
 - (4) Which poses actual or potential health and safety hazards;
 - (5) An inactive water well found not to be maintained in accordance with the criteria listed in KDHE's Article 30, regardless of inactive status designation;
 - (6) Which is in such a condition it cannot be placed in active or inactive status.
- (b) *Advisory board* means the Sedgwick County Domestic Water Well Advisory Board.

- (c) *Aquifer* means an underground formation that contains and is capable of transmitting groundwater.
- (d) *Construct* or *construction* means all acts necessary to obtain groundwater by any method for any use, including without limitation, the location of and excavation for a water well, and any act necessary to complete the development of the well that would require entry into the sanitary well seal or casing.
- (e) *Department* means the MABCD.
- (f) *Director* means the Director of the MABCD or his/her authorized representative.
- (g) *Domestic purposes* means the use of water by any person, family unit or entity for household purposes or commercial, governmental, or other non-industrial applications; or for the watering of livestock, poultry, farm or domestic animals; or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns; or for residential lawn sprinkler systems.
- (h) *EPA* means the United States Environmental Protection Agency.
- (i) *Environmental audit* means an internal assessment, evaluation or review, which may or may not be required by environmental law, that is performed by the owner or operator, the owner's or operator's employees, or a qualified auditor for the express and specific purpose of determining whether a facility, operation within a facility or facility management system complies with environmental laws.
- (j) *Groundwater* means that part of the subsurface water that is in the zone of saturation.
- (k) *Heat pump hole* means a hole drilled to install piping for an earth coupled water source heat pump system, also known as vertical closed loop system.
- (l) *Household purposes* means water used for drinking, culinary or ablutionary purposes.
- (m) *Inactive status* means a water well that is not presently operating but is maintained in such a way that it can be put back in operation with minimum effort.
- (n) *KDHE* means the Kansas Department of Health and Environment.
- (o) *License* means a document issued by KDHE to qualified persons making application therefor, authorizing such persons to engage in the business of water well contracting.
- (p) *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.
- (q) *Plugging* or *plug* means the act of permanently terminating a water well from operation by following those procedures as described in K.A.R. 28-30-1, et seq.
- (r) *Potable water* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming to the most recent KDHE/EPA primary drinking water standards.

- (s) *Private water supply* means a water supply used for domestic purposes, excluding public water supplies and semi-public water supplies.
- (t) *Premises* means a lot, plot or parcel of land, including structures located thereon.
- (u) *Property* means any real property within the county which is not a street or highway.
- (v) *Public water supply* means a water supply that provides water to the public for human consumption and has at least ten (10) service connections or serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.
- (w) *Reconstruct or reconstruction* means the repair or alteration of any kind to an existing water well. This term shall include minor repairs, replacements, treatment and alterations of any above ground components or any pumping components of the water well.
- (x) *Sanitary well seal* means a manufactured seal installed at the top of the well casing which, when installed properly, creates an air tight and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.
- (y) *Semi-public water supply* means a water supply used for household purposes serving two (2) to nine (9) service connections or up to twenty-four (24) individuals daily at least sixty (60) days of the year. Related family members would be excluded from these criteria.
- (z) *Service connection* means any connection or arrangement between a water well and any plumbing fixture through which it may be possible to supply water to be utilized for domestic purposes.
- (aa) *Surface water* means lakes, ponds, rivers, or streams.
- (bb) *Test hole* means any excavation constructed for the purpose of determining geologic, hydrologic or water quality and quantity characteristics of underground formations.
- (cc) *Treat, treating, or treatment* means the stimulation or production of groundwater from a water well, through the use of hydrochloric acid, muriatic acid, sulfamic acid, calcium or sodium hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing iron and manganese hydroxide and oxide deposits, calcium and magnesium carbonate deposits and slime deposits associated with iron or manganese bacterial growths which inhibit the movement of groundwater into the well. This term shall not include chlorinating of water supplies for bacterial removal as referred in section 27-85 of this code.
- (dd) *Uncased test hole* means any test hole in which casing has been removed or in which casing has not been installed.
- (ee) *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.
- (ff) *Water well contractor or contractor* means any licensed individual, firm, partnership, association, corporation, or other entity, who constructs, reconstructs, plugs or treats a water well. The term shall not include: (1) an individual constructing, reconstructing, or

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

(gg) *Water supply* means one (1) or more water wells that supply water for domestic purposes.

Sec. 27-77. - 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, except that a violation of subsection 27-78(a), water well contractor registration, 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.

Sec. 27-78. - Water well contractor.

- (a) *Registration.* No person, firm, corporation, or other entity shall engage in the business of constructing, reconstructing, plugging or treating a water well in the unincorporated areas of Sedgwick County, without:
- (1) Holding a valid license, and meeting all licensing and continuing education requirements as set forth in the most current edition of K.A.R. 28-12-1, et seq. or 28-30-1, et seq.
 - (2) Maintaining continuous liability insurance in the amount of three hundred thousand dollars (\$300,000) and provide proof of such annually to the Department.
 - (3) Registering as a water well contractor with the Department on forms provided for that purpose.
- (b) Violations; advisory board; appeals.
- (1) Registration as a water well contractor in Sedgwick County may be suspended or revoked if, after a hearing of the advisory board, the holder of such registration is found incompetent, negligent, in violation of any provision of this code or K.A.R. 28-12-1, et seq. or 28-30-1, et seq., or to have made any fraudulent misrepresentation in making application for a permit to construct, reconstruct, plug or treat a domestic water well, or if the insurance required under this section has been cancelled.
 - (2) For the first violation hereunder, the suspension period shall not exceed thirty (30) days. A second 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 registration for a term to be determined by the advisory board.
 - (3) Any contractor feeling aggrieved because of any action of the advisory board under this code may appeal in writing to the Sedgwick County Board of County Commissioners. Any such appeal must be submitted within thirty (30) days of the action being appealed.
 - (4) The director shall notify KDHE of any suspensions or revocations issued under this code within five (5) business days of the date of issuance.

Sec. 27-79. - Water wells; permits.

- (a) No person shall construct, reconstruct, or plug any water well until that person has obtained an approved permit from the Department.
- (b) No permit shall be approved until the plans and specifications for such water well have been submitted to the Department as required by the Director.
- (c) A water well permit shall be obtained prior to the issuance of a building permit on any premises where a water well is to be utilized as a private water supply.

- (d) Permits shall be valid for a period of one year from the date of issuance and are transferable.
- (e) Permit fees are non-refundable and shall be assessed as follows:
 - (1) Water well permit: \$50.00.
 - (2) Semi-public water supply permits: \$200.00.
 - (3) Semi-public water supply annual operating permits: \$50.00.

The processing, approval, or denial of the permit will not take place until such permit fee is paid.

- (f) The issuance or approval of a permit shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions hereof shall be valid, except insofar as the work or use that it authorized is lawful.
- (g) Only a registered contractor meeting the criteria designated in section 27-78 of this code shall be permitted to apply for a permit unless such applicant is the individual constructing, reconstructing, or plugging a water well located on land owned by the individual, when the well is used by the individual for farming, ranching, agricultural or domestic purposes to serve only the individual's place of abode. In such case, the owner shall be permitted to apply for the permit and shall be required to adhere to all requirements of this code.
- (h) The intended use of a water well must be declared at the time permits are applied for. Such uses would include, but not be limited to, household, lawn and garden, livestock, heat pump, and monitoring. Permits shall be issued only for the declared use and wells shall not be utilized for any other such use without notification and prior approval by the Department. Such approval may require an inspection of the water well by the Department, and may be subject to the water quality assurance testing requirements of section 27-86. The fee for such inspection shall be fifty dollars (\$50.00), and shall be the responsibility of the owner.
- (i) After completion of the work to the point where an inspection is required, the contractor shall notify the Department of the completion and shall request an inspection. If installation or workmanship does not meet the requirements of this code and any additional permitting requirements, the Director shall order corrections and cause a subsequent inspection to be made.
- (j) The contractor shall submit a copy of the log as required in K.A.R. 28-12-1, et seq. to the Department within thirty (30) days of the completion of such work.
- (k) Any water well constructed, after the effective date of this code without notification to the Director or without having an approved permit shall be plugged if so ordered by the Director. Any person constructing such water well shall be subject to violations and penalties as described in section 27-77 of this Code.
- (l) When the water well has been satisfactorily constructed, inspected and required water analysis results and drilling log approved, the Director shall approve use.
- (m) Whenever the Director finds that an emergency exists which requires immediate action to protect the public health or water resources of Sedgwick County, the Director may without notice or hearing, issue an order reciting the existence of such an emergency and require that

such action be taken as the Director deems necessary to meet the emergency, including the suspension of the permit or use of the water well.

Sec. 27-80. - Same—Use limitations.

- (a) No water well permit for household purposes shall be issued when the water to be accessed constitutes a significant health risk.
- (b) No use of surface water as a source of water for household purposes shall be permitted when the water to be accessed constitutes a significant health risk.
- (c) No person shall construct or locate on any property any new residence or agricultural or commercial structure and utilize an existing water well for domestic purposes, until such water well and any other wells located on such property have been inspected by the Department and found to comply with the provisions of this code.

Sec. 27-81. - Same—Construction.

All persons constructing, reconstructing, plugging or treating a water well shall comply with the minimum requirements for construction as established in the most current edition of K.A.R. 28-12-1, et seq. and 28-30-1, et seq., in addition to any construction standards established by the advisory board, approved by the Sedgwick County Board of County Commissioners.

Sec. 27-82. - Same—Location.

- (a) *Located in mapped flood plains.* Any water well constructed after the effective date of this code which is located within the one (1) percent annual chance flood zone (100-year flood plain) shall be subject to special permitting conditions as determined by the Director, to include but not limited to:
 - (1) The new well casing shall extend to a minimum of two (2) feet above the base flood elevation and shall be protected. Verification of the finished casing elevation shall be made in writing to the Department.
 - (2) Any abandoned water well shall be plugged in accordance with the requirements of section 27-83 of this code.
- (b) *Located at established minimum pad elevations.* Water wells constructed, reconstructed or treated on any premises with an established minimum pad elevation shall have the casing extend to the point at or above the established minimum pad elevation.
- (c) *Located in sensitive groundwater areas.* Water wells located in sensitive groundwater areas may be subject to special permitting requirements as determined by the Director and approved by the Board of County Commissioners in order to protect the public health and water resources of Sedgwick County. The Director may recommend to the Board of County Commissioners the areas or conditions located in the unincorporated areas of Sedgwick

County that qualify as "sensitive groundwater areas." The owner of any property declared a "sensitive groundwater area" may request the Board of County Commissioners to reconsider the action..

- (d) *Located in contaminated areas.* Water wells located within one thousand (1,000) feet of any area that has a confirmed contaminated condition present (whether water, soil or other) may be subject to special permitting requirements as determined by the Director. Such requirements may include, but not be limited to, specific construction, reconstruction or plugging specifications, water quality assurance testing, monitoring, the denial of a permit to construct or reconstruct, and plugging of existing water wells. A confirmed contaminated area in this case shall mean an area designated by official action of EPA or KDHE, or during the course of an environmental audit, as having contamination to an extent that requires remediation, or similar action, or is providing treatment for remediation for the protection of human health and environment.

Sec. 27-83. - Same—Plugging of abandoned wells and cased and uncased test holes.

- (a) All abandoned water wells and cased and uncased test holes shall be plugged in accordance with K.A.R. 28-30-1, et seq., as amended. Owners may seek to obtain written approval from KDHE to maintain wells in an inactive status rather than being plugged if the landowner can present evidence as to the condition of the well and as to the owner's intentions to use the well in the future. Owners shall comply with KDHE Article 30 requirements to seek inactive status and shall file a copy of the written approval of such status with the Department.
- (b) Failure to obtain an inactive status for an abandoned water well or to provide written approval of such status to the Department shall require the well to be plugged within a reasonable time following notification from the Department.

Sec. 27-84. - Same—Separation from pollution sources.

Water well locations shall be approved by the Department with respect to distances from potential pollution sources. The following minimum standards shall be observed:

- (a) The horizontal distances between the water well and the listed potential source of pollution or contamination shall be as follows:
 - (1) Water well to sewer lines, septic tanks, lateral fields and subsurface drip irrigation fields shall be fifty (50) feet or more. If the sewer line is watertight then the separation shall be ten (10) feet or more.
 - (2) Water line to septic tanks, lateral fields and subsurface drip irrigation fields shall be ten (10) feet or more and of water tight construction.
 - (3) Water line to sewer line shall be twelve (12) inches and constructed of approved materials as described in subsection 27-84(a)(7), otherwise the distance shall be ten (10) feet.

- (4) When crossing a water line and a sewer line, all materials shall be water tight and be constructed of approved materials as described in subsection 27-84(a)(7), otherwise sleeving shall be required on one (1) of the lines, whichever was installed last, at the crossing plus ten (10) feet on either side of the crossing.
- (5) Water well to pit privy, seepage pits, fuel or fertilizer storage, pesticide storage, feed lots or other areas of repetitive livestock feeding or watering, or barnyards shall be fifty (50) feet or more.
- (6) Any other separation to a potential source of pollution or contamination not specifically mentioned in this code shall be fifty (50) feet or more as determined by the advisory board.
- (7) Water pipe shall be one hundred sixty (160) psi or greater. Sewer line shall be Sch40 or greater.
- (b) Proper drainage in the vicinity of the water well shall be provided so as to prevent the accumulation and ponding of surface water within fifty (50) feet of the well. The well shall not be located in a ravine or any other drainage area where surface water may flow into the well.
- (c) All wells shall be twenty-five (25) feet or more from the nearest property line, allowing public right-of-ways to be counted; however, a well used only for cooling purposes or lawn irrigation may be located closer than twenty-five (25) feet to an adjoining property where:
 - (1) Such adjoining property is served by a sanitary sewer and does not contain a septic tank system, a non-heat pump disposal well or other source of contamination or pollution; and
 - (2) The property to be provided with the proposed well is served by both a sanitary sewer and a public water supply.

Sec. 27-85. - Same—Disinfection.

All persons constructing, reconstructing or treating a water well, removing the pump or pump column, replacing a pump or water lines, or otherwise performing any activity which has potential for contaminating or polluting the well system or groundwater supply shall chlorinate the well, well system and appurtenances thereto for adequate disinfection.

Sec. 27-86. - Same—Water quality assurance testing required.

- (a) The Department is authorized to collect samples from any water well for the protection of public and environmental health. These samples may be taken for any analysis deemed appropriate by the Director. The Department can also collect samples at the request of the owner. Any fees associated with a requested water quality analysis shall be the responsibility of the requestor.

- (b) Water quality analysis shall be required on any newly constructed, reconstructed or treated water wells. The Department shall collect all water samples unless otherwise authorized by the Director.
- (c) Samples shall be tested for at a minimum bacteria and nitrate analysis.
- (d) If a water sample result indicates failure to meet a primary drinking water standard, the owner shall take whatever action is deemed necessary by the Director to obtain potable water. Any expenses in meeting such requirements shall be the responsibility of the owner.

Sec. 27-87. - Same—Variances.

- (a) The Director may grant a variance of standards subject to the following considerations:
 - (1) The features of the site for which the variance is requested are not compatible with the requirements.
 - (2) Alternate methods or design features are available which will attain the objectives.
 - (3) The Director determines that the variance will not adversely affect the public health and safety.
- (b) An application for a variance and any specific information deemed necessary by the Director shall be filed with and approved by the Director prior to construction, reconstruction, plugging or treatment of the water well.

Sec. 27-88. - Public water supplies.

- (a) No person shall operate a public water supply without obtaining a permit from KDHE. A copy of the permit shall be filed with the Department.
- (b) No person shall construct any public water supply on any property subject to the provisions of this code until the plans and specifications have been submitted to and approved by KDHE. A copy of the plans and specifications shall be filed with the Department.

Sec. 27-89. - Semi-public water supplies.

- (a) *Requirements for semi-public water supplies.* In addition to the other requirements set forth in this code, no individual, firm, partnership, association, corporation, or other entity shall construct, reconstruct, plug, treat, operate or maintain a semi-public water supply system that has been:
 - (1) Constructed or reconstructed after the effective date of this code until a permit has been issued and a final inspection approved by the Department.
 - (2) Temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction.

- (3) Found by the Director not to comply with the provisions of this code and written notice thereof has been given to the owner.
- (b) *Conditions of use.* The following shall be performed by the property owner and approved by the Department prior to the issuance of a permit:
- (1) Submit plans and specifications for such system to the department as required by the Director, who may require KDHE or a Kansas licensed engineer review such plans.
 - (2) Perform water quality assurance testing as follows:
 - a. An initial test for all contaminants for which primary drinking water standards have been established by KDHE in K.A.R. Chapter 28, Article 15a.
 - b. An initial and at least semi-annual bacterial and nitrate analysis.
 - c. A partial chemical analysis is to be done initially and every three (3) years thereafter. This should include at a minimum analysis for chloride, hardness, iron, manganese, sodium, sulfate and total hardness.
 - d. Other tests such as a screen for pesticides, volatile organic chemicals or other minerals/metals may be required, at the direction of the Director, to protect the public's health.
 - e. If a water sample result indicates failure to meet a primary drinking water standard, the owner shall take whatever action is deemed necessary by the director to obtain potable water. This may include public notification of such failure to the users of such system and or providing supply of a temporary potable water source. Any expenses in meeting such requirements shall be the responsibility of the owner of the water well.
- The Department shall collect all water samples unless otherwise authorized by the Director. All samples shall be sent to the KDHE Lab or other state certified lab for analysis. Payment of the fee for the analysis is the responsibility of the owner of the water well.
- (c) *Annual operating permit required.* After an initial permit and final inspection for use has been issued, no person shall operate or maintain a semi-public water supply system without obtaining an annual permit from the Department, renewable January 1 of each year. To obtain an annual permit, such system shall meet the water quality assurance requirements as stated in this section and any maintenance requirements as deemed necessary by the Director to assure a safe, potable drinking water source.

Sec. 27-90. - 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.

DRAFT FOR KDHE CONSIDERATION