

# MORTON COUNTY ENVIRONMENTAL CODE

## CHAPTER 1 ADMINISTRATIVE PROCEDURES

### SECTION 1-1.0 AUTHORITY AND POLICY

- 1-1.1 Legal Authority.** This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-3301 et. seq. as amended.
- 1-1.2 Declaration of Finding and Policy.** The commissioners find that the provisions of adequate and reasonable control over environmental conditions in Morton County are necessary and desirable. An Environmental Code establishes standards to eliminate and/or prevent the development of conditions that could potentially damage or degrade the soil and water and threaten the health and safety of the County Residents that depend upon these Resources. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt this Environmental Code and amend it as needed to provide current specifications and meet regulations.
- 1-1.3 Purpose.** The purpose and intent of this chapter is to prescribe the Administrative Procedure to be followed in administering this Environmental Code or any amendments thereto.
- 1-1.4 Title.** This code shall be known and referred to as the Morton County Environmental Code.
- 1-1.5 Applicability.** The procedures prescribed in this chapter shall be followed in administering this code and amendments thereto.
- 1-1.6 Effective Date.** This code shall become effective on July 12, 1999.
- 1-2.0 Definitions.** The following words, terms and phrases appear in more than one chapter of this code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this code may be found in that particular chapter.
- 1-2.1 Administrative Agency** means the entity authorized to administer and implement the provisions of this Code. The Administrative Agency for Morton County is designated as the Morton County Health Department.

- 1-2.2 Administrative Rules** means those Rules and Regulations contained in Chapter One of this Environmental Code which prescribe general procedures to be followed in the administration of the Environmental Code adapted by Morton County.
- 1-2.3 Authorized Representative** means any person who is designated by the Administrative Agency to administer this Code.
- 1-2.4 Appropriate Authority** means the Board of County Commissioners of Morton County.
- 1-2.5 Health Officer** means the County Health Nurse.
- 1-2.6 Hearing Officer** means an individual, appointed by the Administrative Agency, to hear appeals from decisions made by the Authorized Representative or the Health Officer relating to the administration of this Code.
- 1-2.7 Permit** means a plan with design specifications developed by the Authorized Representative or a plan with design specifications approved by the Authorized Representative. The plan and specifications will comply with current laws, regulations and guidelines.
- 1-2.8 Person** means an individual, corporation, partnership, association, State or political subdivision thereof, Federal, State Agency, Municipality, Commission or Interstate Body, or other Legal Entity recognized by law as the subject of rights and duties.
- 1-2.9 Premises** means any lot or tract of land and all buildings, structures, or facilities located thereon.
- 1-2.10 State Department of Health** means the Kansas Department of Health and Environment (KDHE).
- 1-3.0 ADMINISTRATIVE POWERS AND PROCEDURES**
- 1-3.1 Right of Entry.** The Authorized Representatives of the Administrative Agency shall have the power and authority to inspect wastewater systems for compliance to the permit and the Morton County Environmental Code.
- 1-3.2 PERMIT**

- 1-3.2.1 Application for Permit.** All persons are required by this code to obtain a permit and shall make application for such permit through the Administrative Agency prior to commencement of construction.
- 1-3.2.2 Issuance of Permit.** After receipt of an application, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit should be issued or denied, and shall issue or deny the permit within 30 days of such receipt. If the permit is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.
- 1-3.2.3 Permit Transferals or Alteration.** No permit issued by the Administrative Agency shall be transferred or altered, except by the Authorized Representative.
- 1-3.2.4 Permit Revocation.** All permits are subject to revocation for reasons of noncompliance or misrepresentation.
- 1-3.2.5 Fees and Services.** The Administrative Agency shall establish a fee schedule sufficient to recover direct and indirect costs of processing all permits required by this code, and said fees shall be paid to the Administrative Agency. The Administrative Agency shall not process any application for a permit until the required fee has been paid. (K.S.A. 19-3702)

### **1-3.3 NOTICES, APPEALS, ORDERS.**

- 1-3.3.1 Notice of Violations, Noncompliance, and Misrepresentation.** When the Administrative Agency determines that there has been a violation of any provision of this Code or permit, notice of such violation shall be issued to the person responsible. The notice shall:
- (1) Be in writing;
  - (2) Include a statement of why the notice is being issued;
  - (3) Allow a reasonable period of time for performance of any work required by this notice, and;
  - (4) Be properly served upon the owner or agent. Such notice shall be deemed properly served when a copy has been sent by registered mail to the last known address of the owner or agent.
- 1-3.3.2 Appeal for Hearing.** Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this Environmental Code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency within ten working days after the date of issuance of the notice or order a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of notice or order. Upon receipt of such petition, the Administrative Agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be nullified or withdrawn. The hearing shall be commenced no later than ten working days after the date on

which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such period, when in the Agency's judgment, the petitioner has submitted justifiable reason for such postponement.

**1-3.3.3 Report of Hearing.** Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrative Agency, with recommendation that the order be sustained, modified, or withdrawn. Upon receipt of the report of the Hearing Officer, the Administrative Agency shall consider the report and issue an order, confirming, modifying or withdrawing the notice or order, and shall notify the appellant in the same manner as is provided for in Section 1-3.3.1.

**1-3.3.4 Emergency Orders.** Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of an emergency, specifying action to be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply immediately.

#### **1-3.4 RECORDS**

**1-3.4.1 Permit Applications.** Applications for permits required by this code shall be filed with the Administrative Agency.

**1-3.4.2 Official Actions.** A written record of all Official Actions taken on applications for permits required by this Environmental Code shall be kept on file by the Administrative Agency.

**1-3.4.3 Proceedings of Hearings.** The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

#### **1-3.4.4 GENERAL PROVISIONS**

**1-3.5.0 Enforcement Procedure.** The County Attorney or County Counselor shall enforce the provisions of this Code and other Environmental Codes adopted by Morton County, and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions, injunctions, mandamus, and quo warranto may be utilized for enforcement of these Codes and shall be governed by The Kansas Code of Civil Procedure.

**1-3.5.1 Penalties.** In addition to, and independent of, the enforcement procedure provided in section 1-3.5.1 herein, failure to follow or secure the permit or to comply with the Environmental Code will be a violation on the part of the person, and shall be deemed a misdemeanor and punishable by a fine not to

exceed \$200.00 for each offence. Each day's violation may constitute a separate offense. (KSA 19-3707)

**1-3.5.2 Disclaimer of Liability.** This Code and other Environmental Codes adopted shall not be considered or interpreted as imposing upon the Administrative Agency or its officials, employees, or Authorized Representatives, on the County or its officials or employees:

- (1) Any liability or responsibility for damages to any property, or
- (2) Any warranty that any system installation or portion thereof that is constructed or repaired under permit and inspection required by Code will function properly.

**1-3.5.3 Separability.** If any clause, sentence, paragraph, section or subsection of this Code shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

## **CHAPTER 2 ON-SITE WASTEWATER MANAGEMENT**

### **Section 2-1.0 PURPOSE AND INTENT.**

Sewage is a potential source of disease and water pollution, and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Morton County.

**2-2.0 Applicability.** The provisions of this chapter shall apply to all unincorporated areas located in Morton County, Kansas.

### **2-3.0 Definitions.**

**2-3.1 Abandoned On-Site Wastewater Systems** means an on-site wastewater system determined by the Administrative Agency to be a system:

- (1) In which the use has been permanently discontinued;
- (2) Which is in a state of disrepair that cannot be used to treat effluent, or which has the potential for transmitting effluent into the aquifer or both; or
- (3) Which poses potential health and safety hazards.

**2-3.2 Approved Contractor** means a contractor that has a license from the Appropriate Authority for the disposal of wastewater and sewage.

- 2-3.3 Beneficial Use** means the use of water for any of the following purposes: agricultural water, aquatic life, domestic water supply, groundwater recharge, industrial water supply, and/or recreation.
- 2-3.4 Nuisance** means conditions or activities on properties both public and private, which have or threaten to have a detrimental effect on the health of the public or its members.
- 2-3.5 Private Wastewater System** means any system which is not required to hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.
- 2-3.6 Sanitary Privy** means a facility designed for the disposal of non-water carried wastes from the human body.
- 2-3.7 Sanitary Service** means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater systems, and the transportation of such material to a point of final disposal.
- 2-3.8. Sewage** means any substance that contains any excrementitious waste products or other discharge from the bodies of human beings or animals, or chemical or other wastes from domestic, manufacturing or other forms of industry.
- 2-3.9 Subdivision** means any tract of land that is, or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any re-dividing of lands.
- 2-3.10 Wastewater System** means any system, along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.
- 2-3.11 Vaults/Holding Tank** means a water-tight receptacle for the retention of sewage, either before, during, or after treatment.
- 2-3.12 Drywell (rat hole)** is a well completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
- 2-3.13 Cess Pool** means a drywell that receives solely untreated sanitary waste, and which sometimes has an open bottom or perforated sides. This is prohibited.
- 2-3.14 Public Health Hazard** means anything which is injurious to health, offensive to the senses, or interferes with the comfortable enjoyment of life or property; or adversely affects any substantial number of persons.

## **2-4.0 PROHIBITED PRACTICES**

**2-4.1 Use of Non-Approved Private Systems.** No person shall use, or cause to be used, any private wastewater system, or sanitary privy constructed or modified after adoption of this Environmental Code until it has been inspected and approved by the Administrative Agency or if it:

- (1) Has been enjoined as a public health nuisance by a court of competent jurisdiction; or
- (2) fails to comply with the provisions of this Environmental Code, and written notice thereof has been given by the Administrative Agency; or
- (3) discharges inadequately treated wastes onto the surface of the ground, or into waters of the State as defined in K.S.A. 65-161 (a); or
- (4) causes vector breeding, produces offensive odors, or any condition that is detrimental to health and comfort.
- (5) Abandoned wastewater systems are not exempt from this chapter and shall be abandoned in accordance with section 2-5.5.
- (6) Is a rat hole. Rat holes shall be abandoned in accordance with section 2-5.5.

**2-4.2 Use of Private Wastewater Systems Within 400 Feet of Public Sewer.** No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the requirements of this Code, can be constructed on that property.

**2-4.2a Existing Systems Located Within 400 Feet of a Public Sewer.** It is not mandatory for existing wastewater systems located within 400 feet of a public sewer to connect, as long as the private wastewater system works satisfactory.

**2-4.3 Location of Private Wastewater Systems Within 50 Feet of Full Flood Pool.** No portion of a private wastewater system shall be located within 50 feet of a flood pool elevation of any reservoir or full pool elevation of any pond, lake, or water supply reservoir unless written approval is obtained from the appropriate Administrative Agency.

**2-4.4 Location of a Private Wastewater System Within 50 Feet of Private Water Supply Well.** No portion of a private wastewater system shall be located less than 50 feet from a private water supply well or water line from a water well, unless the facility is of water-tight construction. No sanitary sewer line, regardless of construction, shall be located less than 10 feet from a water well or a water line from a water well.

**2-4.5 Only Domestic Sewage Shall be Directed to Private Wastewater Systems.**

**2-4.6 Cess Pool.** The construction or modification of a cess pool is prohibited.

**2-4.7 Rat hole.** The Construction or modification of a rat hole is prohibited.

## **2-5.0 REQUIREMENTS FOR PRIVATE WASTEWATER SYSTEMS.**

### **2-5.1 Approved Private Wastewater System.**

(1) Private wastewater systems shall have a permit issued by the Administrative Agency prior to construction.

(2) The Environmental Code, Construction Guidelines (KDHE Bulletin 4-2), reference material approved by KDHE and/or material approved by the Administrative Agency will be used as a guide for permits of private wastewater systems.

**2-5.2 Sanitary Service.** No person shall engage in the cleaning of a private wastewater system or the transportation of waste to a disposal site in a way that will cause or create a public health hazard, or pollute the water resources of Morton County or the State of Kansas. A landowner may engage in the cleaning of his own wastewater system, according to EPA 503 septage regulations.

**2-5.3 Contracting with Unlicensed Persons Prohibited.** No person responsible for operating a private wastewater system or privy shall contract with any person for the cleaning and transportation of wastewater to a disposal site unless that person is a licensed contractor.

**2-5.4 System Installation.** Wastewater systems shall be installed, constructed, or modified by a person or an approved contractor and in accordance to a permit issued by the Administrative Agency.

**2-5.5 Abandoned Systems Should be Pumped, Cleaned, Removed, Disconnected, Dismantled, Plugged and Filled.** An abandoned wastewater system shall be disconnected from building or facilities, pipes plugged, and receptacles dismantled or removed; and any void space in which such receptacles are contained shall be filled with soil. Before filling, receptacle contents shall be pumped out and disposed of in accordance with Section 2-5.2. The guidance applies to systems that receive only domestic sewage. If the system has received non-domestic sewage, then closure must be coordinated with KDHE, who may require additional sampling and closure activities.

**2-5.6 Permit.** No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.



**2-5.7 Maintenance.** All persons holding a permit for use of a private wastewater system and responsible for its operation shall operate and maintain the system in conformity with standard operation practices.

**2-5.8 Suitable Site.** No site shall be approved it:

- (1) Connection to an approved public wastewater system is feasible; or
- (2) The site violates the provision of Section 2-4.0 of this code; or
- (3) The soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.

**2-5.9 Construction Approval.** All private wastewater systems developed or modified after the effective date of this Environmental Code must be inspected and approved by the Administrative Agency for compliance with the approved plan and specifications or permit, and no portion of the system shall be covered or made inaccessible to inspection prior to approval.

**2-5.10 Proper Maintenance and Operation.** All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency shall find any private wastewater system malfunctioning, the owner and/or user shall be ordered to correct the condition.

**2-5.11 Waiver.** The Administrative Agency shall have the authority to grant exceptions to this chapter when reliable information is provided which can justify the exception without compromising the environment.

## **2-6.0 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY & GEOLOGY.**

No private wastewater system which is dependent upon soil absorption for the disposal of wastewater, shall be constructed on any lot of any size unless minimum standards for percolation rates, soil profiles and depth to impervious rock or groundwater are met.

## **2-7.0 REQUIREMENTS FOR SANITARY PRIVIES.**

**2-7.1 Approval of Plans.** No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

**2-7.2 Approval of Construction.** No person shall use, or make available for use any newly constructed or modified privy until the construction has been inspected by the Administrative Agency for compliance with the permit.

**2-7.3 Proper Maintenance.** No person shall use, or offer for use, any privy that is not maintained in a clean and sanitary condition.

- 2-7.4 Vault Required in Certain Areas.** In areas where the elevation of the groundwater is within four feet of the bottom of the pit, a watertight vault shall be provided in lieu of the standard pit.
- 2-7.5 Location of a Privy Within 50 Feet of a Private Water Supply Well.** No privy shall be installed less than 50 feet from existing well.
- 2-8.0 SANITARY SERVICES.**
- 2-8.1 Permit Required.** No person shall remove or transport any wastes from any wastewater system or privy, unless that person holds a valid license from the Administrative Agency.
- 2-8.2 Contracting with Non-Permitted Persons Prohibited.** No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid license.
- 2-8.3 Minimum Standards for Sanitary Service Equipment.** All Equipment used for rendering of sanitary service shall be of watertight construction and maintained in good working condition. This ensures that all materials removed from private wastewater disposal systems or privies will be transported to an approved point of disposal without spillage of the waste.
- 2-8.4 Requirements for Subdivision Development.** After adoption of this code, no person shall develop any subdivision until the plans and specifications for on-site wastewater management have been approved by the Administrative Agency.

## **CHAPTER 3**

### **NON-PUBLIC WATER SUPPLIES**

- 3-1.0 Purpose and Intent.** The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than Public Water Supplies in Morton 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.
- 3-2.0 Applicability.** The provision of this chapter shall apply to all unincorporated areas located in Morton County, Kansas.
- 3-3.0 Definitions.**
- 3-3.1 Domestic** means the use of water by any persons or family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.

- 3-3.2 Potable Water** means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with the latest drinking water standards.
- 3-3.3 Pump Installer** means any contractor, firm, partnership, association or corporation who shall install pumps or otherwise service any water well, or any system directly connected to a water well, such as the distribution system, to the first connection up to and including the water pressure tank.
- 3-3.4 Non-public Water Supply** means all water supplies not meeting the definition of Public Water Supply.
- 3-3.5 Public Water Supply** means a system that has at least ten services connections or regularly services an average of at least 25 individuals daily at least 60 days out of the year (KSA 65-162a).
- 3-3.6 Abandoned Water Well** means a water well determined by the Administrative Agency to be a well:
- (1) in which the use has been permanently discontinued, or
  - (1) in which pumping equipment has been permanently removed, or
  - (2) which is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into aquifers, or
  - (3) which poses potential health or safety hazards, or
  - (4) which is in such a condition that it cannot be placed in active or inactive status.
- 3-3.7 Water Well Contractor** means any individual, firm, partnership, association, or corporation who shall construct, reconstruct or treat a water well. The term shall not include:
- (1) an individual constructing, reconstructing or treating 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.
  - (1) an individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractor's supervision.
- 3-4.0 Requirements for Non-Public Water Supplies:**
- 3-4.1 Permit.** No person shall develop, use, sell or lease any water supply subject to regulations of this code until a permit has been obtained from the Administrative Agency.

**3-4.2 Installation of Water Supply Systems.** After a permit is obtained, installation can begin. Construction shall follow the permit which details the plan, specifications and guidelines.

**3-4.3 Maintenance of Water Systems.** All non-public water supplies shall:

- (1) be maintained in proper working condition and according to permit; and
- (2) be tested for bacteriological quality at least every six months; and
- (3) maintain records to verify water quality for a period of at least one year.

**3-5.0 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES.**

**3.5.1 Locations.** All wells used as sources of water for non-public water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table I. Such distances may be increased by the Administrative Agency to provide assurances that the well will not be contaminated.

**TABLE I**

<b>AREA</b>	<b>MINIMUM</b>	<b>RECOMMENDED</b>
Subsurface absorption field for septic tank effluent.	50 ft.	100 ft.
Pit Privy	50 ft.	100 ft.
Septic Tank	50 ft.	100 ft.
Barnyards, stables, manure piles, animal pens, etc.	50 ft.	100 ft.
Streams, Lakes and Ponds.	50 ft.	50 ft.
Sewer lines not constructed of PVC with glued joints or other equally tight construction.	50 ft.	100 ft.
Sewer lines constructed of PVC with glued joints or other equally tight construction.	50 ft.	100 ft.

**3-5.2 Construction.** The enforcement of this section of the Environmental Code shall be regulated in accordance with K.A.R. 28-30-1 through 28-30-10 et seq., as amended. Recommended standards for design, construction and location, and practices consistent with current approved technology shall be followed.

**3-5.3 Well Contractors.** all well contractors must be licensed in accordance with K.A.R. 28-30-3 et. seq. as amended.

### **3-6.0 INSPECTIONS**

**3-6.1 Inspection** of new or modified facilities will be conducted as required by the Administrative Agency. Inspection of existing water well facilities will be completed by an Authorized Representative when requested by the owner.

**3-6.2 Right of Entry** allows the Authorized Representatives of the Administrative Agency to inspect new or modified facilities when so required.

### **3-7.0 REQUIRMENTS FOR SUBDIVISION DEVELOPMENT.**

After Adoption of this code, no person shall develop any subdivision until the Morton County Subdivision Regulations have been met and the plans and specifications for water supply provisions and/or protection have been approved by the Administrative Agency.