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**FRANKLIN COUNTY  
2008  
ENVIRONMENTAL SANITATION CODE**

**Official Copy as Incorporated  
By Resolution # 08-023**

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## TABLE OF CONTENTS

<b>CHAPTER I. POLICY, ADMINISTRATION AND ENFORCEMENT</b>	<b>1</b>
<b>ARTICLE 1: GENERAL PROVISIONS</b>	<b>1</b>
<i>Section 1. Title</i>	<i>1</i>
<i>Section 2. Legal Authority</i>	<i>1</i>
<i>Section 3. Findings and Declaration of Policy</i>	<i>1</i>
<i>Section 4. Purpose</i>	<i>1</i>
<i>Section 5. Jurisdiction and Application</i>	<i>2</i>
<i>Section 6. Public Health Jurisdiction and Application</i>	<i>2</i>
<i>Section 7. Severability</i>	<i>2</i>
<i>Section 8. Disclaimer of Liability</i>	<i>2</i>
<i>Section 9. Amendments and Additions</i>	<i>2</i>
<i>Section 10. Repeal and Supersede Effect</i>	<i>3</i>
<i>Section 11. Effective Date</i>	<i>3</i>
<b>ARTICLE 2: ADMINISTRATION</b>	<b>4</b>
<i>Section 1. Administering Authority</i>	<i>4</i>
<i>Section 2. Administrative Actions and Decisions</i>	<i>4</i>
<i>Section 3. Interpretation of Terms or Words</i>	<i>4</i>
<i>Section 4. Definitions</i>	<i>5</i>
<i>Section 5. Technical and Scientific Terms</i>	<i>7</i>
<i>Section 6. Vested Interests</i>	<i>7</i>
<i>Section 7. Compatibility With Other Laws</i>	<i>7</i>
<b>ARTICLE 3: PERMITS AND LICENSES</b>	<b>8</b>
<i>Section 1. Permits and Licenses Required</i>	<i>8</i>
<i>Section 2. Application Forms and Procedures</i>	<i>8</i>
<i>Section 3. Permit Issuance; Investigations</i>	<i>9</i>
<i>Section 4. Permit Conditions</i>	<i>9</i>
<i>Section 5. Standard Fees</i>	<i>10</i>
<i>Section 6. Supplemental to State Regulations</i>	<i>11</i>
<i>Section 7. Administration of State Requirements</i>	<i>11</i>
<b>ARTICLE 4: INSPECTIONS AND INVESTIGATIONS</b>	<b>12</b>
<i>Section 1. Inspections Required</i>	<i>12</i>
<i>Section 2. Inspection Reports</i>	<i>12</i>
<i>Section 3. Inspection Scheduling and Reinspections</i>	<i>13</i>
<i>Section 4. Access and Right of Entry</i>	<i>13</i>
<i>Section 5. Property Resale Inspections</i>	<i>13</i>
<b>ARTICLE 5: ENFORCEMENT PROCEEDINGS</b>	<b>15</b>
<i>Section 1. Emergency Orders</i>	<i>15</i>
<i>Section 2. Suspension of Permit or License</i>	<i>15</i>
<i>Section 3. Revocation of Permit or License</i>	<i>16</i>

<b>ARTICLE 6: APPEALS</b>	<b>17</b>
<i>Section 1. Appeal for Hearing</i>	17
<i>Section 2. Hearing Officer</i>	17
<i>Section 3. Conduct of Hearing</i>	17
<i>Section 4. Decision</i>	17
<i>Section 5. Proceedings of Hearings</i>	17
<i>Section 6. Application of Sate Law Procedures</i>	18
<b>ARTICLE 7: VIOLATION AND PENALTIES</b>	<b>19</b>
<i>Section 1. Unlawful Conduct</i>	19
<i>Section 2. Notice of Violation</i>	20
<i>Section 3. Penalties</i>	20
<i>Section 4. Prosectuion</i>	20
<b>CHAPTER II. SEWAGE DISPOSAL</b>	<b>21</b>
<b>ARTICLE 1: GENERAL PROVISIONS</b>	<b>21</b>
<i>Section 1. Purpose</i>	21
<i>Section 2. Scope</i>	21
<i>Section 3. Requirements for Subdivision Development</i>	21
<i>Section 4. Definitions</i>	21
<i>Section 5. Rules of Application</i>	24
<i>Section 6. Rule Exceptions</i>	26
<b>ARTICLE 2: PUBLIC SEWAGE DISPOSAL SYSTEMS</b>	<b>28</b>
<i>Section 1. Regulation of Municipal or Public District Systems</i>	28
<i>Section 2. Policy Regarding Public Sewage Disposal Systems</i>	28
<i>Section 3. Types of Public Wastewater Disposal Systems</i>	28
<b>ARTICLE 3: PRIVATE SEWAGE DISPOSAL SYSTEM</b>	<b>29</b>
<i>Section 1. Types</i>	29
<i>Section 2. Proper Maintenance and Operation</i>	29
<i>Section 3. Location of a Private Sewerage or Private Sewage Disposal System Within Fifty Feet of Well</i>	29
<i>Section 4. Connections to Public Sewage Disposal Systems</i>	30
<i>Section 5. Repairs and Corrections</i>	30
<i>Section 6. Location of Private Wastewater Systems Below Flood/Full Pool</i>	30
<i>Section 7. Location of Private Wastewater Disposal Systems Within a 100-Year Floodway</i>	31
<i>Section 8. General System Requirements</i>	31
<i>Section 9. Application Procedure</i>	31
<i>Section 10. Field Data Requirements</i>	32
<i>Section 11. Plans &amp; Specifications</i>	33
<i>Section 12. Inspections Required For System Approval</i>	33
<i>Section 13. Applicable Building Codes</i>	33

ARTICLE 4: REGULATIONS FOR SEPTIC SYSTEMS _____	35
<i>Section 1. Permits Required</i> _____	35
<i>Section 2. General System Requirements</i> _____	35
<i>Section 3. Application Requirements</i> _____	35
<i>Section 4. Field Data Requirements</i> _____	35
<i>Section 5. Inspection Requirements</i> _____	36
<i>Section 6. Construction Specifications</i> _____	37
ARTICLE 5: REGULATIONS FOR MOUND SYSTEMS _____	41
<i>Section 1. Permits Required</i> _____	41
<i>Section 2. Permit Qualification</i> _____	41
<i>Section 3. General Requirements and Standards</i> _____	41
<i>Section 4. Design</i> _____	41
ARTICLE 6: REGULATIONS FOR COMPOSTING/WATERLESS TOILETS _____	42
<i>Section 1. Permits Required</i> _____	42
<i>Section 2. Construction Standards</i> _____	42
<i>Section 3. Maintenance</i> _____	42
<i>Section 4. Privies and Waterless Toilets</i> _____	42
ARTICLE 7: REGULATIONS FOR HOLDING TANKS _____	43
<i>Section 1. Scope</i> _____	43
<i>Section 2. Authorized Usage</i> _____	43
<i>Section 3. Permits Required</i> _____	43
<i>Section 4. Permit Qualifications</i> _____	43
<i>Section 5. General Requirements</i> _____	44
<i>Section 6. Standards and Specifications</i> _____	44
<i>Section 7. Changes In Use</i> _____	45
ARTICLE 8: REGULATIONS FOR WASTEWATER STABILIZATION	
PONDS (LAGOONS) _____	46
<i>Section 1. Permits Required</i> _____	46
<i>Section 2. Lagoon Design Requirements</i> _____	46
<i>Section 3. Lagoon Separation Distances</i> _____	47
ARTICLE 9: REGULATIONS FOR OTHER SYSTEMS _____	48
<i>Section 1. Approval</i> _____	48
<i>Section 2. Permits Required</i> _____	48
<i>Section 3. Permit Qualifications</i> _____	48

<b>ARTICLE 10: REGULATIONS FOR INSTALLER</b>	<b>49</b>
<i>Section 1. License Required</i>	49
<i>Section 2. License Term and Renewal</i>	49
<i>Section 3. Standards of Performance</i>	49
<i>Section 4. Installation Bonds</i>	49
<i>Section 5. Certificate of Insurance</i>	50
<i>Section 6. Code Compliance</i>	50
<i>Section 7. License Revocation</i>	50
<b>ARTICLE 11: REGULATIONS FOR SANITARY DISPOSAL CONTRACTORS</b>	<b>51</b>
<i>Section 1. License Required</i>	51
<i>Section 2. License Term and Renewal</i>	51
<i>Section 3. Standards of Performance</i>	51
<i>Section 4. License Revocation</i>	52
<b>ARTICLE 12: REGULATIONS FOR ONSITE WASTEWATER AND</b>	
<b>WATER WELL INSPECTORS</b>	<b>53</b>
<i>Section 1. License Required</i>	53
<i>Section 2. License Term and Renewal</i>	53
<i>Section 3. Standards of Performance</i>	53
<i>Section 4. Inspector's Bonds</i>	53
<i>Section 5. Certificate of Insurance</i>	53
<i>Section 6. Code Compliance</i>	54
<i>Section 7. License Revocation</i>	54
<b>CHAPTER III. WATER SUPPLY</b>	<b>55</b>
<b>ARTICLE 1: WATER SUPPLIES</b>	<b>55</b>
<i>Section 1. Purpose and Intent</i>	55
<i>Section 2. Area of Applicability</i>	55
<i>Section 3. Compliance Required</i>	55
<i>Section 4. Definitions</i>	55
<i>Section 5. Requirements for Private Water Supplies</i>	57
<i>Section 6. Minimum Standards for all Groundwater Supplies</i>	57
<b>ARTICLE 2: APPEALS</b>	<b>58</b>
<i>Section 1. Appeal</i>	58
<i>Section 2. Hearing Officer</i>	58
<i>Section 3. Conduct of Hearing</i>	58
<i>Section 4. Decision</i>	58
<i>Section 5. Proceedings of Hearing</i>	58
<i>Section 6. Variance / Exception</i>	58
<b>TABLES</b>	
<i>Table 1: Minimum Separation Distances For Private Wastewater Systems</i>	29
<i>Table 2: Minimum Design and Construction Standards For Laterals</i>	40

# CHAPTER I. POLICY, ADMINISTRATION AND ENFORCEMENT

## ARTICLE 1: GENERAL PROVISIONS

### **Section 1. Title.**

This Code shall be known and referred to as the Franklin County Environmental Health Sanitary Code.

### **Section 2. Legal Authority.**

This Code is adopted under the authority granted to the Board of County Commissioners under application of Federal Law and the Laws of the State of Kansas, including K.S.A. 19-3701 et seq., as amended, and pursuant to the powers and authorities of the Board of County Commissioners under K.S.A. 19-101a; and Section 5 of Article 12 of the Kansas Constitution and by K.S.A. 12-3301 et seq., if adopted by any city in Franklin County.

### **Section 3. Findings and Declaration of Policy.**

A fundamental duty of government is the protection of the health and safety of its citizens and to thereby promote the public welfare as well as the economical and planned development of the land and water resources of the County. Pursuant to K.S.A. 19-3702 the Board of County Commissioners hereby finds, determines, and declares that it is necessary to adopt a uniform system of rules, regulations and standards to eliminate and prevent environmental conditions that are or may be hazardous to the public health, safety and welfare and to thereby promote the safe, economical and orderly development and conservation of the land and resources of the County.

### **Section 4. Purpose.**

The purpose of this Code is:

- A. To promote the public health, safety, comfort and well-being of the public; and
- B. To prescribe the procedures to be followed in administering this Code; and
- C. To prescribe rules, regulations, standards and enforcement procedures to minimize, control or eliminate potential or actual sources or causes of disease, infection, contamination or pollution; and
- D. To protect the integrity of water, air, soil and natural resources, including aquatic, biota, flora, fauna and wildlife through the prevention of pollution and degradation of the environment by regulation of activities, which may affect environmental conditions.

**Section 5. Jurisdiction and Application.**

This Code and all authorized rules, regulations, restrictions and requirements shall apply from and after the effective date of adoption, to and throughout the unincorporated areas of Franklin County, Kansas, and to all persons, property, establishments and business activities located or conducted, regardless of ownership and acreage, within Franklin County, Kansas and outside the municipal boundaries of any City.

**Section 6. Public Health Jurisdiction and Application.**

This Code and any or all rules, regulations, restrictions and requirements shall apply to and throughout all areas of Franklin County, Kansas, including those areas located within the municipal boundaries of any City, whenever authorized or required under application of the Laws of the State of Kansas or of the United States, whether by statute, contract, rule or regulation, or pursuant to the jurisdiction of the Franklin County Board of County Commissioners.

**Section 7. Severability.**

If any clause, sentence, paragraph, section or subsection of this Code shall be adjudged invalid for any reason whatsoever, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof found to be invalid.

**Section 8. Disclaimer of Liability.**

This Code shall not be construed or interpreted as imposing upon the County, or its officials or employees: (1) any liability or responsibility for damages to any property; or (2) any warranty that any installation, system, or portion thereof that is constructed or repaired under permits or inspections required by this Code will function properly. In addition, any employee charged with the enforcement of this Code, who acts in good faith and without malice in the discharge of his or her duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage which may occur to any person or property as a result of the discharge of his or her duties.

**Section 9. Amendments and Additions.**

This Code may be supplemented or its provisions may be amended by Resolution adopted by the Board of County Commissioners, as provided by K.S.A. 19-3705, and any such amendments or additions shall be incorporated within and codified as a part of this Code. Any changes, modifications or additional provisions adopted and imposed by State or Federal Law, rule or regulation which are applicable to and administered through the jurisdiction of Franklin County, Kansas, shall be incorporated within and made a part of this Code with or without notice and hearing, as authorized or required by State or Federal law.

**Section 10. Repeal and Supersede Effect.**

This Code shall supersede any and all previously adopted resolutions or regulations, which are, in whole or part, in conflict with any provision of this Code, where applicable, and any rule, regulation or resolution which is or was in effect upon the effective date of this Code shall be repealed to the extent necessary to give this Code full force and effect, and in the case of any conflict of provisions, whether real or apparent, then the provisions of this Code shall govern wherever applicable.

**Section 11. Effective Date.**

This Code shall become effective from and after the date of adoption by the Board of County Commissioners and publication of notice as required by law.

## ARTICLE 2: ADMINISTRATION

### **Section 1. Administering Authority.**

Unless otherwise specifically designated within a separate and particular Chapter or Article of this Code, the Environmental Health Department under the supervision of the Director of the Franklin County Planning & Building Department, shall have the primary authority and responsibility for the administration of this Code.

Under the authority of any particular Chapter or Article of this Code, the Director of the Franklin County Planning & Building Department may implement such administrative procedures, consistent with this Code, as deemed necessary for the effective administration of any regulations or which may be required or imposed under application of the laws of the State of Kansas or the United States.

### **Section 2. Administrative Actions and Decisions.**

It is the intent of this Code to establish regulations and standards for the protection of the public health and safety. To the extent possible, all administrative actions and decisions required or authorized for the administration of this Code shall be made solely in accordance with the standards of the Kansas Administrative Regulations (K.A.R. 28-5-6 to 9) and enumerated in the Code. Whenever, in the course of administration, it is necessary to make an administrative decision or take action for which standards are not provided, then the decision or action shall be made according to the purpose and intent of this Code so that the result will best serve the public health and safety.

### **Section 3. Interpretation of Terms or Words.**

All terms and words used in this Code shall be interpreted and given meaning according to their common understanding and to provide reasonable application of the purpose and intent of the Code. Whenever the context requires, in the application of this Code, the terms and phrases used shall be interpreted in the following manner:

- A. Words appearing in the singular number shall include the plurals and those appearing in the plural shall include the singular.
- B. Words used in the present tense shall include the past tense and future tense, and words used in the future tense shall include the present tense and past tense.
- C. Words appearing in the masculine gender shall include the feminine and neuter genders.
- D. The word “shall” is mandatory; and the word “may” is permissive.
- E. The phrase “this Code” shall refer to the Code and all authorized rules, regulations, restrictions and requirements and the phrase “the regulations” shall include rules, regulations, restrictions and requirements authorized by the Code.

#### **Section 4. Definitions.**

The following words, terms and phrases appear throughout this Code and, thus, have general application and usage. Words, terms and phrases appropriate or applicable to specific Sections within this Code are defined, where necessary, within those Chapters. Unless the context requires or specifies otherwise, the following words, terms or phrases as used in this Code shall be given the meaning defined in this Section.

- A. Access: Entry into or upon any real estate, structure or vehicle including any part thereof.
- B. Administering Agency: The Franklin County Environmental Health Department or such other Agency or official designated by the Board of County Commissioners to administer the provisions of this code.
- C. Administrative Rules: Any regulations adopted by Franklin County, which are determined to be necessary and appropriate to enable the Administering Agency to fulfill its duties and responsibilities under this Code.
- D. Agricultural Purpose: A land use in excess of twenty (20) acres or more related to the production of livestock or crops, including growing crops or pasture and functions immediately and necessarily related thereto, and the feeding of livestock by the resident on the land, as provided by Franklin County Zoning Regulations, but does not include any structure used as a dwelling or the sewage disposal or water well system servicing such dwelling.
- E. Applicant: Any person who submits an application or requests permission to do some act regulated by this Code.
- F. Application: The application form provided by an Administering Agency, including the filing fee and any other supporting documents required by the Agency.
- G. Authorized Representative: A person who is designated by an Administering Agency to administer the provisions of this Code or any Section therein.
- H. Board of Health: The Board of County Commissioners acting as the Board of Health.
- I. Board of County Commissioners: The Board of County Commissioners of Franklin County, Kansas.
- J. Domestic Sewage: Sewage which is normally characterized as and is similar to residential wastewater, not commercial or industrial activity, and which originates primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.
- K. Effluent: The liquid waste discharged from a wastewater system.

- L. **Planning & Building Director:** The legally appointed Planning & Building Director of Franklin County, appointed in accordance with the Franklin County Position Classification and Pay Plan.
- M. **Engineer:** A licensed professional civil engineer and registered with the State of Kansas.
- N. **Establishment:** Any structure or self-contained unit therein, including single and multiple family dwellings, commercial and industrial buildings, schools, churches, and public institutions.
- O. **Flood Plain:** Land which is subject to inundation as a result of flooding having a one percent (1%) chance of occurrence every one hundred (100) years.
- P. **Ground Water Table:** The upper surface of a ground water in the zone of saturation of a geologic formation.
- Q. **Hearing Officer:** The County Public Works Director or such other person designated by the Regulatory Authority, to hear appeals from decisions made by the Administering Agency relating to the enforcement and administration of this Code.
- R. **Law:** Includes Federal, State and local statutes, ordinances, regulations and resolutions.
- S. **Permit:** The written permission to perform some act regulated by this Code, including, for example, permission to construct or permission to operate.
- T. **Person:** An individual, corporation, partnership, association, state or political subdivision thereof, federal Agency, states Agency, municipality, commission or interstate body or other legal entity.
- U. **Point Source:** Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, from which pollutants are or may be discharged.
- V. **Pollution:** Any induced alteration of the physical, chemical, biological, and radiological integrity of water, air, soil (both surface and subsurface) or contamination of food or foodstuffs.
- W. **Premises:** Any lot or tract of land and all buildings, structures or facilities located thereon.
- X. **Regulatory Authority:** The Board of County Commissioners or their appointed representative.
- Y. **Sanitarian:** A County employee determined by the County to be trained in the sanitary sciences (i.e. biology, chemistry, geology, physics and mathematics) who act as an inspector or health official.

- Z. **Schedule of Compliance:** A schedule of remedial measures and times including an enforceable sequence of actions or operations leading to compliance with any regulations or limitation.
- AA. **Sewer District:** Any County-operated municipal sewer system duly formed, authorized and empowered to plan, construct and operate a public sewer system in accordance with K.S.A. 19-27a01
- BB. **Subdivision:** Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of sale, lease or financing of development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. "Subdivision" includes the division or development of residential and nonresidential-zoned land, whether by deed, metes and bounds description, map, plat or other recorded instrument.
- CC. **Toilet, Composting:** A biological composting unit used for the disposal of human excreta.
- DD. **Wastewater:** Liquid or water carrying pollutants or water contaminants from industrial, municipal, agricultural or other sources.

## **Section 5. Technical and Scientific Term.**

Unless otherwise defined, any technical or scientific term used within this Code or within any rule, regulation, restriction or requirement shall be given the meaning most commonly known and applied within the appropriate literature of manuals applicable for that science, industry or technological skill.

## **Section 6. Vested Interests.**

Nothing contained in this Code or any regulations shall be deemed or construed to grant any vested interest or protected right to any person beyond the express limited terms of any permit or ruling issued under this Code, and the Code and regulations are expressly declared to be subject to amendment, change or modification.

## **Section 7. Compatibility With Other Laws.**

Nothing contained in this Code or any regulations shall be deemed to alter or modify the application of any other laws, codes or regulations which are or may be applicable to the property, use, business activity or other object or matter regulated under this Code, and any permit, approval or other condition given or acknowledged under this Code shall be limited in effect to the requirements of this Code and shall not, under any circumstance, relieve the holder from compliance with all other applicable laws, codes, regulations or requirements.