

Marion County Code - Review Comments

- 1-102 last paragraph, 2nd line up from bottom. Does "as necessary" or "as required" read better and make more sense than "from time to time"? This is not a required change but "from time to time" sounds extremely casual. (BH)
- 1-106 1st paragraph, 4th line up from bottom. "shall" IS mandatory and directory OR "shall" is mandatory and not discretionary. (BH)
- 1-106 2 a. & b. Is it necessary to define what the county considers as an adequate time period to imply "permanent"? (BH)
- 1-106 7 e. "or" should be "of". (BH)
- 1-106 10 Should the last word be "captured"? (BH)
- 1-106 18 When "code" is used in this document isn't it a self-referral and "code" means the Marion County sanitation Code unless other wise noted such as the Marion County Zoning Code? (BH)
- 1-106 19 Please insert "construction of" between "and" and "water well systems". (BH)
- 1-106 21 Would it be appropriate to say: Distances, as defined in this code, shall refer to the (minimal straight-line horizontal measurement between the closest portions of the objects or structures of concern? (BH)
- 1-106 23 "produces" should be "produced". (BH)
- 1-106 65 "weal" should be "seal". (BH)
- 2-102 3 A set period of days, with an option for an extension with mutual agreement, would seem more acceptable than an undefined period of time which would be left to the discretion of the administrator. Discretionary time frames are easily abused if personalities or interests conflict. Set time frames for responses from public administrators are much easier to defend within the "due process" requirements. What is reasonable depends on your position relative to the proposed action. (BH)
- 2-103 "reasonable" is more acceptable in this context. (BH)
- 1-3

2-103 2 If we expect the public to be responsive enough to file an appeal "within ten (10) working days", as public officials should commit to a similar set time frame for responding to their needs. All time frames should be expressed in one format, working or calendar days. (BH)

2-103 2 Add at the end of the paragraph, "except for Emergency Orders as defined in Article 2-103 5 of this code." (BH)

4-102 In response to recent inquiries regarding K.S.A. 19-3706 (agricultural exemption), KDHE Legal Staff have advised that it is in the best interest of the counties to specify an acreage limit for land to which the code applies. A copy of their recommendation is attached for your information. The acreage limit should be reasonable in terms of the size of property the county believes it necessary to regulate in order to fulfill the purpose of the code. It should also be reasonable in terms of what size of lands under one ownership one would expect to find in the county. In other words, excessively large acreage such as the entire county should not be used. A sample of wording you may wish to use is: The provisions of this chapter shall apply to all premises containing less than ~~40~~ acres under one ownership and located in the unincorporated areas of _____ County, Kansas. (BH)

insert

4-104 2 2nd line up from bottom. Should "creates" be "creating"? (BH)

4-104 3 This is good but is there a need to define any criteria for what "available" means? Some counties use 400 feet. If it is constructing 400 feet of line through bedrock and pumping up hill to the line, is that "available"? I recognize the need for the county to have some discretion and this is just something to think about. (BH)

4-105 1 Should "required approval before construction and to obtain a permit before use" be changed to read "required written approval before construction and to obtain a permit before use"? There is not a definition of what constitutes "approval" but such "approval" to construct should be based on the information

submitted and written so both parties clearly know what is expected. (BH)

4-107 1a The Model Code recommends a 3 acre minimum lot size to minimize the chances of groundwater pollution occurring. The increase to a 3 acre minimum requirement is intended to (1) ensure adequate space for an alternate site upon failure of the original system, this must include all distances from wells and structures, and (2) prevent the dense development of homesites with private systems which increases the potential for groundwater contamination. This is a strong recommendation but the state has no statutory authority to require such an acreage. (BH)

4-107 1c4 Just a question, does the county have any soils which allow a very fast perc rate in which the wastewater may move through to fast for adequate treatment to occur?
(BH)

4-107 2cb The state recommendation per The Environmental Health Handbook (page WP-16, 8-92) is for a 4 foot width to the top of the dike berm. (BH)

4-107 4 The use of privies which are not a sealed and self contained unit and regularly pumped by a licensed septage hauler with an approved disposal plan should be discouraged. If any other privies are to be used they should be required to utilize a water tight vault in all cases. Properties served with water under pressure should not be allowed to use constructed privies and 300 to 500 feet should be the minimum distance between constructed privies and any well. These are strong recommendations. (BH)

4-110 The administrative agency named for the code
5-109 is the Marion County Health Department. Why is the Marion County Board of Zoning Appeals named as the agency to grant waivers or variances? This is a sanitary code adopted under the authority to provide SANITATION CONTROLS to be approved by the Kansas Department of Health and Environment. The county commission may designate an agency other than the health department to administer the code (19-3703) but the relationship between any agencies administering different aspects of the code needs to be clarified. Normally waivers are granted by appeal to a

hearing officer, through the County Board of Health and the County Commission. It may well be that the County Commission is the Board of Health is the County Board of Zoning Appeals but some clear administrative relationship between the designated administrative agency and the appeal to the Zoning Board needs to be established. (BH)

5-105 3b Consider changing this to read, "Any public water supply or water well proposed to replace an existing water well as a private water supply ... before the new water supply may be used." (BH)

5-106
Table 1 In the sections referring to separation distances between sewer lines change "equally tight" to "equally water tight". (BH)

NOTE: Additional comments from Richard Harper of the Water Well section, BOW, KDHE are attached. Please see refer to these comments in revising the code.

State of Kansas
DEPARTMENT OF HEALTH & ENVIRONMENT
Bureau of Water

MEMORANDUM

RECEIVED

JUL 8 1993

K. D. H. E.
NORTHEAST DISTRICT

TO: Bob Hipple, BODO, LEPP/NEDO
FROM: Richard Harper, BOW
DATE: July 7, 1993
SUBJECT: Marion County Sanitary Code Review

Listed below are the Environmental Geology Unit's comments on the water well section of the above reference code.

<u>Section</u>	<u>Comment</u>	<u>Type of Comment</u>
5-106 (1.)	The last sentence states, "The Administrative Agency shall have the right to determine minimum separation distance between the water supply and other sources of contamination which may be identified but are not listed in Table 1." K.A.R. 28-30-8(a) of Article 30 states in part, "The horizontal distance between the well and the potential source of pollution or contamination... shall be 50 feet or more as determined by the department." The county may determine minimum separation distance between the water supply and sources or contamination providing the distances are greater than 50 feet as required in Article 30.	Required
	The minimum separational distance from water wells and streams, lakes and ponds must be 50 feet to be consistant with K.A.R. 28-30-8(b) of Article 30.	Required
5-106 (2.)	Reference made to, Bulletin No. 4-1, "A Manual of Recommended Standards for Locating, Constructing, and Equipping Water Wells for Rural Homes", March 1983, KDHE Division of Environment; should be completely removed from the code as this manual is completely outdated and not within the regulations of the State of Kansas. The manual is no longer published by KDHE. All references should be made, solely to Article 30, "Water Well Contractor's License; Water Well Construction and <u>Abandonment</u> ."	Strongly Recommended

Section	Comment	Type of Comment
5-106 (2a.)	K.A.R. 28-30-6(e) of Article 30 states in part, "The well casing shall terminate not less than one foot above the finishing ground surface." All reference to 6" above grade should be changed to one foot above grade.	Required
	In Table 2, "Minimum Standards of Dimensions and Weights for Wrought Iron or Steel Well Casing," the standards and dimensions stated in the table are less stringent than Article 30. The standards and dimensions stated in Article 30 must be the minimum adopted.	Required
5-106 (2b.)	K.A.R. 28-30-6(b)(2) states in part, "To facilitate grouting, the grouted interval of the well bore shall be drilled to a minimum diameter at least three inches greater than the maximum outside diameter of the well casing." All reference to two inches should be changed to three inches.	Required
	The last three words, "bentonite clay mud" should be changed to read "bentonite clay grout" which is defined in K.A.R. 28-30-2(k)(3) of Article 30.	Required
5-106 (2c.)	The second line, "sealed water into the bore of the pump or equipped with a ...", should be changed to read, "sealed water tight into the bore of the pump and equipped with a ...".	
5-106 (2h.)	K.A.R. 28-30-6(f), states in part, "Well vents shall be used" The verbiage in this section of your code must be changed to require a well vent as required in Article 30.	Required
5-109	A variance to any part of this code may be granted by the Marion County Board of Zoning Appeals providing the condition for which a granted variance is issued remains within the regulations as stated in Article 30, Water Well Contractor's License; Water Well Construction and Abandonment. If a variance is requested for a condition <u>not</u> in compliance with Article 30, the variance request must be directed and considered by KDHE's Water Well Program. The county may grant a waiver to requirements set by the county, providing the county requirements are more stringent than Article 30. The waiver must comply to Article 30 before the county may consider it.	Required

If you have questions, please contact me at 296-3565.