

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

<b>SECTION 3</b>	<b>JOHNSON COUNTY CODE OF HEALTH REGULATIONS</b>	<b>5</b>
3.1	GENERAL PROVISIONS AND ADMINISTRATION	5
3.1.1	NAME OF CODE AND PURPOSE:	5
3.1.2	AUTHORITY:	5
3.1.3	DEFINITIONS:	5
3.1.3.1	Health Officer:	5
3.1.3.2	Health Official:	5
3.1.3.3	Hearing:	5
3.1.3.4	JCCHS:	5
3.1.3.5	Last Known Address:	6
3.1.3.6	Person:	6
3.1.3.7	Premises:	6
3.1.3.8	Property Occupant:	6
3.1.3.9	Property Owner:	6
3.1.3.10	Public Health Hazard:	6
3.1.3.11	Public Health Nuisance:	7
3.1.4	ADMINISTRATION AND ENFORCEMENT:	7
3.1.4.1	Health Officer and Officials, Appointment and Duties:	7
3.1.4.2	Interference with Health Officials and Employees Prohibited:	7
3.1.4.3	Inspections:	7
3.1.4.4	User Fees:	8
3.1.4.5	Interpretation and Severability:	8
3.1.5	JURISDICTION:	8
3.1.6	PENALTIES AND REMEDIES:	9
3.1.7	REPEAL OF REGULATIONS:	9
3.1.8	HEADINGS, TITLES, AND CATCH LINES:	9
3.1.9	MAINTENANCE OF CODE:	10
3.2	AN ORDINANCE REGULATING THE CONSTRUCTION, MAJOR MODIFICATION, AND LOCATION OF ONSITE WASTEWATER TREATMENT SYSTEMS	11
3.2.1	PURPOSE:	11
3.2.2	AUTHORITY and SCOPE OF REGULATIONS:	11
3.2.2.1	Permit Is Not to Be Construed:	11
3.2.2.2	County Does Not Design System:	11
3.2.2.3	Formal Complaint:	11
3.2.2.4	Timeframe for Abatement of Complaints:	11
3.2.2.5	Where People Live, Work or Assemble:	12
3.2.2.6	Public Health Nuisance, Malfunctioning or Failing OWTS:	12
3.2.2.7	Violation to Construct or Perform Major Modification Without Permit:	12
3.2.2.8	Violation to Construct or Perform Major Modification Without Valid Installer's License:	12
3.2.3	DEFINITIONS:	12
3.2.3.1	Adjacent Land Owner:	13
3.2.3.2	Aerobic Treatment Unit:	13
3.2.3.3	Aggrieved Person:	13
3.2.3.4	Applicant:	13
3.2.3.5	Approved:	13
3.2.3.6	Appeals Panel:	13

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

3.2.3.7	Community or Publicly Owned Treatment Works (POTW) Wastewater System: 13	
3.2.3.8	Construction and/or Installation:.....	14
3.2.3.9	Detailed Plans: .....	14
3.2.3.10	Emergency Construction and/or Major Modification:.....	14
3.2.3.11	Licensed Installer:.....	14
3.2.3.12	Major Modification:.....	14
3.2.3.13	Minor Modification:.....	14
3.2.3.14	Onsite Wastewater Treatment System (OWTS):.....	14
3.2.3.15	Permit or OWTS Permit: .....	15
3.2.3.16	Private Water Well:.....	15
3.2.3.17	Public Health Nuisance, Malfunctioning or Failing OWTS:.....	15
3.2.3.18	Public Water System:.....	15
3.2.3.19	Routine Maintenance: .....	15
3.2.3.20	Sewage (Wastewater, Blackwater, and Graywater):.....	16
3.2.3.21	Site Visit/Evaluation: .....	16
3.2.3.22	Soil Morphology: .....	16
3.2.3.23	Soil Profile: .....	16
3.2.3.24	Stop Order:.....	16
3.2.3.25	Written Notice of Violation – Notice Provision: .....	16
3.2.4	ADOPTION:.....	17
3.2.5	EXCEPTIONS:.....	17
3.2.5.1	3000 Gallons or Less of Wastewater Each Day:.....	17
3.2.5.2	Loan Evaluations Will Not Be Performed: .....	17
3.2.5.3	Metal Sewage Tanks:.....	18
3.2.5.4	Tanks Other Than Concrete:.....	18
3.2.5.5	Abandoned Septic Tanks, Aerobic Treatment Units and Wastewater Stabilization Ponds (Lagoons): .....	18
3.2.5.6	Abandoned Private Water Wells:.....	18
3.2.5.7	Wastewater Stabilization Ponds (Lagoons) Require Fence:.....	18
3.2.5.8	Wastewater Stabilization Ponds (Lagoons) On Property Less Than 5 Acres Require Pretreatment:.....	19
3.2.5.9	Current License:.....	19
3.2.5.10	Discretion of Inspections: .....	19
3.2.5.11	Lot Sizes Smaller Than One Acre: .....	19
3.2.5.12	Replacement OWTS Alternate Site: .....	20
3.2.5.13	New Technical Advances: .....	20
3.2.5.14	Facilities Regulated Under Other Programs: .....	20
3.2.6	INSTALLER’S LICENSE: .....	20
3.2.6.1	Homeowner Acting As Installer License Exemption: .....	20
3.2.6.2	Any Other Person Other Than Homeowner Who Performs Major Modification: 21	
3.2.6.3	Renewal: .....	21
3.2.6.4	Official Roster of Licensed Installers, Suspensions and Revocations:.....	21
3.2.6.5	Installer’s Licenses Will Be Granted When.....	21
3.2.6.6	Suspension of License – Notice Provision:.....	22
3.2.6.7	Reasons for Installer’s License Notice of Violation: .....	23
3.2.6.8	Revocation of License – Notice Provision:.....	23
3.2.6.9	Permits In Noncompliance:.....	24

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

<b>3.2.6.10</b>	License Denial: .....	24
<b>3.2.7</b>	<b>PERMITS: .....</b>	<b>25</b>
<b>3.2.7.1</b>	Permit Name: .....	25
<b>3.2.7.2</b>	Prior to Beginning Construction: .....	25
<b>3.2.7.3</b>	Fee Submittal: .....	25
<b>3.2.7.4</b>	Permit Application Requirements: .....	25
<b>3.2.7.5</b>	Detailed Plans Drawn to Scale: .....	26
<b>3.2.7.6</b>	Soil Testing Requirements: .....	26
<b>3.2.7.7</b>	Application Review: .....	26
<b>3.2.7.8</b>	Site visit(s): .....	26
<b>3.2.7.9</b>	Ingress and Egress: .....	26
<b>3.2.7.10</b>	Surveying Transit Requirement: .....	26
<b>3.2.7.11</b>	Location of the OWTS Components: .....	26
<b>3.2.7.12</b>	Completed Permit Applications: .....	27
<b>3.2.7.13</b>	Permit Denial Accompanied By Written Reasons: .....	27
<b>3.2.7.14</b>	Permit Issuance: .....	27
<b>3.2.7.15</b>	Permit Posting: .....	27
<b>3.2.7.16</b>	Notification of Installation: .....	27
<b>3.2.7.17</b>	Final and/or Partial Inspections: .....	27
<b>3.2.7.18</b>	Deviations from Application and Permit: .....	27
<b>3.2.7.19</b>	Unauthorized Changes, Deviations or Modifications: .....	27
<b>3.2.7.20</b>	The Following General Conditions Shall Be Applicable to All OWTS Construction Permits: .....	28
<b>3.2.7.21</b>	Transfer of Permits: .....	28
<b>3.2.7.22</b>	Emergency Construction and/or Major Modification: .....	28
<b>3.2.7.23</b>	Construction Permit Denied: .....	29
<b>3.2.7.24</b>	Suspended or Revoked Permit: .....	29
<b>3.2.7.25</b>	Reasons for Permit Suspension: .....	29
<b>3.2.7.26</b>	Reasons for Permit Revocation: .....	30
<b>3.2.7.27</b>	Revoke or Suspend Permit With Written Notice – Notice Provision: .....	30
<b>3.2.7.28</b>	Rescinded Permit: .....	31
<b>3.2.7.29</b>	When a Permit is Revoked, the Applicant May Apply for a New Permit: .....	31
<b>3.2.8</b>	<b>STOP ORDER, NOTICE OF VIOLATION: .....</b>	<b>31</b>
<b>3.2.8.1</b>	Stop Order: .....	31
<b>3.2.8.2</b>	Temporary Holding Facility: .....	31
<b>3.2.9</b>	<b>APPEALS PANEL: .....</b>	<b>32</b>
<b>3.2.10</b>	<b>EXISTING OWTS: .....</b>	<b>33</b>
<b>3.2.11</b>	<b>PENALTIES AND REMEDIES: .....</b>	<b>33</b>
<b>3.2.11.1</b>	Constructing or Performing Major Modification Without a Valid Installer’s License: .....	33
<b>3.2.11.2</b>	Constructing or Performing Major Modification Without a Valid Installer’s License is a Class A Misdemeanor: .....	33
<b>3.2.11.3</b>	Constructing Without a Permit: .....	33
<b>3.2.11.4</b>	Constructing or Performing Major Modification of an OWTS Without a Valid Permit is a Class A Misdemeanor: .....	34
<b>3.2.11.5</b>	Anticipation of the Construction: .....	34
<b>3.2.11.6</b>	Beginning Construction Without an OWTS Permit is a Class A Misdemeanor: 34	

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

<b>3.2.11.7</b>	Constructing or Performing Major Modification of an OWTS in Deviation From the Permit:.....	34
<b>3.2.11.8</b>	Constructing or Performing Major Modification of an OWTS in Deviation From the Permit is a Class A Misdemeanor:.....	35
<b>3.2.11.9</b>	The Administrative Authority or Johnson County Courts Are Authorized:.....	35
<b>3.2.11.10</b>	Penalties Shall Not Be Construed:.....	35
3.3	EFFECTIVE DATE:.....	36
3.4	AN ORDINANCE REGULATING THE OPERATION OF FOOD ESTABLISHMENTS	37
3.4.1	PURPOSE.....	37
3.4.2	AUTHORITY.....	37
3.4.3	SCOPE.....	37
3.4.4	ADOPTION.....	38
3.4.5	DEFINITIONS.....	38
<b>3.4.5.1</b>	APPROVED FOOD SAFETY PROGRAM.....	38
<b>3.4.5.2</b>	BUSINESS HOURS.....	38
<b>3.4.5.3</b>	CODE.....	38
<b>3.4.5.4</b>	CRITICAL VIOLATION.....	38
<b>3.4.5.5</b>	FOOD.....	39
<b>3.4.5.6</b>	FOOD EMPLOYEES.....	39
<b>3.4.5.7</b>	FOOD ESTABLISHMENT.....	39
<b>3.4.5.8</b>	FOOD ESTABLISHMENT PLANS.....	42
<b>3.4.5.9</b>	IMMINENT HEALTH HAZARD.....	42
<b>3.4.5.10</b>	NON-PROFIT ORGANIZATION.....	42
<b>3.4.5.11</b>	OPERATOR.....	43
<b>3.4.5.12</b>	OPERATION.....	43
<b>3.4.5.13</b>	PERSON.....	43
<b>3.4.5.14</b>	POTENTIALLY HAZARDOUS FOOD.....	43
<b>3.4.5.15</b>	PUBLIC HEALTH PRIORITY ASSESSMENT.....	44
3.4.6	PERMIT REQUIREMENTS.....	44
<b>3.4.6.10</b>	APPROVED FOOD SAFETY PROGRAM.....	45
3.4.7	PERMIT COMPLIANCE.....	46
<b>3.4.7.1</b>	FOOD ESTABLISHMENT INSPECTIONS.....	46
<b>3.4.7.2</b>	VIOLATION CORRECTION.....	47
<b>3.4.7.3</b>	CLOSING ORDER AND PERMIT REVOCATION.....	48
3.4.8	APPEAL.....	50
3.4.9	PENALTY.....	50
3.4.10	SAVING CLAUSE.....	50
3.5	BE IT ORDAINED AS FOLLOWS:.....	51

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## SECTION 3 JOHNSON COUNTY CODE OF HEALTH REGULATIONS

### 3.1 GENERAL PROVISIONS AND ADMINISTRATION

#### 3.1.1 NAME OF CODE AND PURPOSE:

There is hereby adopted a Code of Health Regulations, to be known as the Johnson County Code of Health Regulations, which may be referred to as “the Code” or “Code,” and shall be comprised of all of the health regulations of Johnson County, Missouri. The Code shall be organized into chapters, sections, subsections and parts thereof under a suitable system of codification adopted, approved and from time to time revised by or under the direction of the County Clerk of the county, with the approval of the County Commission.

#### 3.1.2 AUTHORITY:

The Code and the regulations adopted thereunder are enacted under the general authority vested in the County Commission of Johnson County, Missouri by section 192.300 RSMo. Supp. 1989 as enacted by S.B. 68 of the 85th General Assembly, and any other special authority applicable under the Revised Statutes of Missouri as now and hereafter in effect.

#### 3.1.3 DEFINITIONS:

##### 3.1.3.1 Health Officer:

The Administrator of Johnson County Community Health Services, employed by the County Health Board of Trustees, shall be appointed the County Health Officer by the Johnson County Commission to supervise the administration of this code or such other person so designated on a temporary basis by order of the Johnson County Commission.

##### 3.1.3.2 Health Official:

An employee of the Johnson County Community Health Services or any other person so appointed by the Health Officer to administer or enforce the provisions of this code.

##### 3.1.3.3 Hearing:

A gathering of persons to hear appeals of persons affected by decisions of the JCCHS.

##### 3.1.3.4 JCCHS:

The Johnson County Community Health Services (hereinafter known as JCCHS) or its authorized representative. All references to “department”

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

or “department of health” or “administrative authority” in the referenced rules shall mean the JCCHS or its authorized agents.

## **3.1.3.5**     Last Known Address:

Property owner(s) last known address shall be the primary contact address located on record in the Johnson County Recorder of Deeds and/or Assessor’s Offices.

## **3.1.3.6**     Person:

Any individual, group of individuals, association, trust, partnership, corporation, business, or person doing business under an assumed name, the state of Missouri or any department thereof, or any political subdivision of this state.

## **3.1.3.7**     Premises:

A definite portion of real estate or land together with its appurtenances, and including any building or part of a building. This shall include but not be limited to residential dwellings, commercial or industrial structures, apartments, condominiums, and townhouses.

## **3.1.3.8**     Property Occupant:

Any person who owns real property upon which a public health hazard or nuisance exists, and any person in possession or charge of real property who has created, allowed, maintained, or otherwise facilitated a health hazard or nuisance upon such property.

## **3.1.3.9**     Property Owner:

The person in whose name legal title to the real estate is recorded. For the purpose of Section 3.2.6 of this Code, the term “property owner” shall not be construed to include, but not be limited to, any person who is a developer, builder, or contractor who is building a structure for sale, rent, lease, common promotional plan or real estate speculation, and therefore, a licensed installer is required for the construction or major modification of OWTS for any such structure.

## **3.1.3.10**    Public Health Hazard:

Any condition upon real property which poses an immediate and direct hazard to human health due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals, or other means of transmission or infection.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.1.3.11**      Public Health Nuisance:

A condition on real estate creating a potential danger or hazard to human health if left unremedied due to the condition or due to the potential transmission of disease through insects, animals or other means of transmission or infection.

## **3.1.4**      **ADMINISTRATION AND ENFORCEMENT:**

The provisions of this Code shall be administered as follows:

### **3.1.4.1**      Health Officer and Officials, Appointment and Duties:

The Johnson County Commission shall appoint the Administrator of JCCHS to supervise the administration of this Code. The Health Officer is hereby authorized to appoint or designate such other officials authorized by this Code for the purpose of assisting the Health Officer in administering or enforcing the provisions of this Code.

### **3.1.4.2**      Interference with Health Officials and Employees Prohibited:

No person shall knowingly interfere with any person appointed under the provisions of this Code in the performance of his or her official duties as prescribed by this Code or as provided by state law.

### **3.1.4.3**      Inspections:

Persons requiring permits under this Code shall be obligated to authorize Health Officials charged with enforcement of this Code to conduct inspections as reasonably necessary to determine compliance with the regulations applicable to such permits, Health Officials are hereby authorized to enter private property for the purpose of conducting inspections to determine compliance with permits issued or required under this Code. Inspections shall be conducted outside of homes, sheds, outbuildings or other enclosures or structures, and are otherwise outside areas which an ordinary and reasonable person would believe the owner or occupant intended to be an area of privacy shielded from public view; such inspections shall be conducted during normal business hours except in cases of emergency or other exigent circumstance and such inspections shall be conducted in a manner which does not infringe upon ordinary, reasonable expectations of privacy. Any other inspection conducted for purposes of determining compliance with or enforcement of these regulations shall be pursuant to a lawfully issued search warrant except in those cases when a search warrant is not required by law or the Code.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.1.4.4**      User Fees:

The Johnson County Commission and the JCCHS Board of Trustees may by order from time to time, establish or ratify the establishment or imposition of reasonable fees recommended by the Health Officer or determined by the Health Officer to be reasonably necessary in order to pay for any costs incurred in carrying out the administration and enforcement of the Code, however, the establishment or imposition of such fees shall not deny personal health services to those individuals who are unable to pay such fees or impede the prevention or control of communicable disease. Fees generated shall be paid to and deposited in the accounts of JCCHS. All fees generated under the provisions of this Code shall be used to support public health activities; any such fees shall be established by a schedule submitted by the JCCHS Board of Trustees, to the County Commission, and approved by the County Commission.

## **3.1.4.5**      Interpretation and Severability:

The regulations enacted in this Code are intended to be supplementary to other provisions or remedies authorized or prescribed by law or rule or regulation enacted thereunder. The invalidity of any particular regulation enacted herein shall not affect the validity of any other provision and all regulations hereunder shall be construed as consistently and harmoniously as possible with each other and other applicable provisions of law. In the event these regulations irreconcilably conflict with another law, rule or regulations, the law, rule or regulations which affords the greater protection to the public health or safety shall prevail except in the case of conflict with any rules or regulations made by the Missouri Department of Health & Senior Services or the Missouri Department of Natural Resources pursuant to Chapter 198 RSMo, in which case the regulations of the State thereunder shall prevail. These regulations also shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which they are intended.

## **3.1.5 JURISDICTION:**

Unless and except as otherwise specifically provided in a chapter of this Code dealing with a particular aspect of public health, the regulations contained in this Code shall be applicable to all unincorporated areas within Johnson County, Missouri. Any incorporated area in Johnson County not included in these regulations may be declared included by order of the Johnson County Commission only after petition for such declaration has been filed by the governing body of such incorporated area and after public hearing thereon.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.1.6 PENALTIES AND REMEDIES:**

Any person who violates any requirement or provision of this Code shall be deemed guilty of a class A misdemeanor, unless a lesser classification of offense is specifically provided for herein. Punishments provided for all such misdemeanors shall be as set forth in 558.011 and 560.016 of the Revised Statutes of Missouri or as otherwise provided by law. A separate offense is committed for each day a violation occurs. Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons or as principal, agent or accessory, shall be guilty of such unlawful act, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision hereof shall likewise be guilty. Every day any violation of any regulation of this Code shall continue shall constitute a separate offense unless otherwise specifically provided herein. The penal remedy provided herein shall not be exclusive and the Health Officer or any health official may seek and obtain in the name of the County any other judicial relief provided for in equity or at law, including but not limited to imposition of civil fines for violations of this Code, and such other declaratory and injunctive relief as may be appropriate under the circumstances.

## **3.1.7 REPEAL OF REGULATIONS:**

The repeal of any regulation or part of any regulation shall not affect any act done or right accrued or established in any proceeding, action, suit or prosecution had or commenced prior to the time when such repeal shall take effect, but every such act, right or proceeding shall remain and continue as valid and effectual as if such repeal has not taken place. No offense committed, and no fine, forfeiture or penalty incurred previous to the time when the repeal of any regulation shall take effect, shall be affected, released or in any way discharged by such repeal, but the trial, conviction and punishment of all such offenses and the recovery of all such fines, forfeitures and penalties shall be had in all respects as if such repeal had not taken place. No action, prosecution, suit or proceeding pending at the time the repeal of any regulation or part of an regulation shall take effect shall be affected by such repeal. Each such action, prosecution, suit or proceeding as set out in the preceding paragraph shall be continued and prosecuted to a final determination, or judgment or execution, as if such repeal had not taken place.

## **3.1.8 HEADINGS, TITLES, AND CATCH LINES:**

The headings, titles and catch lines of the chapters and sections of this Code are intended as mere summary descriptions to indicate the contents of the chapter, section, or subsection, and shall not be deemed or taken to be headings, titles, or catch lines imparting special meaning to such chapters, sections, or subsections, nor to be a part of the chapter, section, or subsection, nor, unless expressly so provided, shall they be so deemed when any of such chapters or sections or subsection, including the headings, titles and catch lines, are amended or reenacted.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## 3.1.9 MAINTENANCE OF CODE:

The original and supplements to this Code shall be prepared and printed whenever authorized or directed by the County Clerk and the Code shall be maintained by the County Clerk or such persons or officers as the County Commission may otherwise direct from time to time by order of the Commission. A supplement to the Code shall include all substantive permanent and general parts of regulations passed by the County Commission during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest regulations included in the supplement. In preparing a supplement to this Code, all portions of the Code, which have been repealed, shall be excluded from the Code by the omission thereof from reprinted pages. When preparing a supplement to this Code, the County Clerk or other person or officer designated as provided herein may make formal, non-substantive changes in regulations and parts of regulations included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, but not by way of limitation, the County Clerk or other designated person or officer may: publish the Code in printed form and in electronic media; organize the Code and provide appropriate headings, titles, and catch lines for the chapters, sections, subsections and other parts of the Code; prepare tables of contents, indexes, appendices, covers, and other publication features in original electronic or printed form and in supplement; make changes in such headings, titles and catch lines; assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subsection or part numbers; change the words "this regulation" or words of the same meaning to "this chapter, " "this section, " "this subsection, " etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_ (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the regulations incorporated into the Code); but in no case shall the County Clerk or other designated person or officer make any change in the meaning or effect of regulation material included in the supplement or already embodied in the Code.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2 AN ORDINANCE REGULATING THE CONSTRUCTION, MAJOR MODIFICATION, AND LOCATION OF ONSITE WASTEWATER TREATMENT SYSTEMS**

### **3.2.1 PURPOSE:**

These regulations are enacted for the purpose of regulating the design, construction and major modification of all onsite wastewater treatment systems (hereafter known as OWTS) as the term is defined in these regulations in order to protect and promote the public health and to prevent the entrance and emergence of infectious, contagious, communicable or dangerous diseases into Johnson County, Missouri.

### **3.2.2 AUTHORITY AND SCOPE OF REGULATIONS:**

These regulations are enacted under authority vested in the County Commission of Johnson County, Missouri, by Sections 192.300 RSMo and 701.047 RSMo.

#### **3.2.2.1 Permit Is Not to Be Construed:**

The permit system established through these regulations governs only the construction and major modification of OWTS. The permit is not to be construed as being a building permit, zoning compliance permit, or any other permit that may be required by other agencies or offices to erect a structure in Johnson County.

#### **3.2.2.2 County Does Not Design System:**

These rules establish the minimum sizes and distances adopted in Johnson County. The County does not design the system nor does the permit bind or obligate the County to guarantee the successful or proper function of any OWTS.

#### **3.2.2.3 Formal Complaint:**

The JCCHS may not investigate a sewage complaint except when necessary as part of a communicable disease investigation unless the complaint is received from an adjacent property owner or an aggrieved person on a form provided by the JCCHS and signed and completed by the property owner or aggrieved person.

#### **3.2.2.4 Timeframe for Abatement of Complaints:**

JCCHS shall require the property owner(s) or property occupant(s) to abate a public health nuisance, malfunctioning or failing OWTS and require construction, major modification or minor modification of an

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

OWTS on the premises for which the complaint was received, not later than the thirtieth day from which the property owner(s) or property occupant(s) receives written notice of violation from the JCCHS regarding the public health nuisance, malfunctioning or failing OWTS. If weather conditions prevent the abatement of the public health nuisance, malfunctioning or failing OWTS within the thirty-day period or if the Property owner(s) or property occupant(s) is unable to obtain the services of a licensed installer within the thirty-day period, the abatement of the public health nuisance, malfunctioning or failing OWTS shall be made, weather permitting, no later than sixty days after notification. Such extension for abatement shall be submitted to the JCCHS and subject to approval by the Appeals Panel.

## **3.2.2.5** Where People Live, Work or Assemble:

Property owners and/or property occupants of all buildings where people live, work or assemble shall provide for such premises indoor and/or approved toilet facilities for the sanitary disposal of all waste utilizing disposal methods approved by law and this Code.

## **3.2.2.6** Public Health Nuisance, Malfunctioning or Failing OWTS:

It shall be unlawful to own, operate or make available for use a malfunctioning or failing OWTS.

## **3.2.2.7** Violation to Construct or Perform Major Modification Without Permit:

It shall be unlawful to construct or perform major modification of an OWTS without a permit.

## **3.2.2.8** Violation to Construct or Perform Major Modification Without Valid Installer's License:

It shall be a violation of these regulations to construct or perform major modification of an OWTS unless the installer holds a valid Johnson County OWTS Installer's License, unless otherwise stated in these regulations. A property owner constructing or performing major modification of an OWTS for his or her own residence upon his or her own property shall not be required to have an installer's license. (See Section 3.2.6).

## **3.2.3 DEFINITIONS:**

As used in this chapter, the words and terms listed below shall have the following meanings.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.3.1**      Adjacent Land Owner:

Any property owner or property occupant for premises adjacent to the property for which a complaint is made. “Adjacent” means property contiguous to a complainant property. Contiguous property is, therefore, property that is touching, or in contact with a complainant property. “Contiguous” shall be interpreted to have its standard meaning of “touching” or “in contact.”

## **3.2.3.2**      Aerobic Treatment Unit:

A mechanical onsite treatment unit that provides secondary wastewater treatment by mixing air (oxygen) and aerobic and facultative microbes with the wastewater.

## **3.2.3.3**      Aggrieved Person:

An aggrieved person is any person having some interest directly affected by a public health nuisance, public health hazard or alleged violation of this code. An aggrieved person shall not be construed to mean property owners or property occupants, which received a written notice of violation for any violation of this Code.

## **3.2.3.4**      Applicant:

Any person, institution, public or Private Corporation, partnership or other entity or business that submits an application for a permit to install, construct or perform major modification of an OWTS.

## **3.2.3.5**      Approved:

The official consent given in writing by the JCCHS and/or the Health Officer or their representative.

## **3.2.3.6**      Appeals Panel:

A committee of three persons as further described in these regulations charged with determining requests and appeals authorized by these regulations.

## **3.2.3.7**      Community or Publicly Owned Treatment Works (POTW) Wastewater System:

Wastewater treatment facilities owned or operated by city, town, municipal corporation, county, or state, or other ownership approved by the Missouri Department of Natural Resources, consisting of a collection system and necessary trunk lines, pumping facilities, and means of final

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

treatment and disposal, and under permit from the Missouri Department of Natural Resources.

## **3.2.3.8**     Construction and/or Installation:

Any act of building and/or installing a new OWTS system in order to make it operational and functional.

## **3.2.3.9**     Detailed Plans:

A drawing of the OWTS with all calculations, alterations, lengths, depths and other information as needed.

## **3.2.3.10**    Emergency Construction and/or Major Modification:

An act or work done to correct a system due to failure which has created an immediate health hazard or the threat of an immediate health hazard, and when the health officer has given prior written consent to start construction and/or major modification. In this instance, a permit application must be submitted to JCCHS within five (5) working days after the emergency construction and/or major modification has been made. (See section 3.2.7.22)

## **3.2.3.11**    Licensed Installer:

An individual that holds a current license, issued by the JCCHS, to construct or perform major modification of an OWTS under the terms of these regulations. May also be referred to as “contractor” or “installer.”

## **3.2.3.12**    Major Modification:

Any act or work done to an existing OWTS, which changes the size, design, or function of the system other than routine maintenance. It may also mean changing the flow into a system by changing or adding dwelling units, or by building structures over the system.

## **3.2.3.13**    Minor Modification:

Work on the OWTS, which is necessary to the proper functioning of the OWTS, but does not change its size or location. It shall include, but not be limited to, baffle repairs, new pump installation, new electrical control panels and alarms, and repair of collapsed and/or crushed wastewater conveyance lines.

## **3.2.3.14**    Onsite Wastewater Treatment System (OWTS):

Any subsurface sewage treatment system, lagoon disposal system or other domestic waste disposal method employing basic hydrologic or

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

engineering principles which receives three thousand (3000) gallons or less of waterborne waste per day.

## **3.2.3.15** Permit or OWTS Permit:

Written authorization issued, under the provisions of this ordinance/regulation, by the JCCHS or its representative allowing construction, installation, and major modification of an OWTS treatment system. This permit does not regulate the operation of an OWTS.

## **3.2.3.16** Private Water Well:

A potable water supply used for human consumption, which has at least one (1), but no more than fourteen (14) service connections, or which serves less than twenty-five (25) people.

## **3.2.3.17** Public Health Nuisance, Malfunctioning or Failing OWTS:

Any OWTS not properly performing shall include but not be limited to:

**3.2.3.17.1** OWTS that have sewage or effluent overflow from any of their component parts that ponds or flows on the ground surface. Discharging lagoons meeting the requirements of this code, applicable state laws and regulations shall be considered compliant with this code unless the discharging effluent generated from a lagoon is determined to be a public health nuisance or hazard.

**3.2.3.17.2** OWTS which cause sewage or effluent to backflow into any portion of the building or plumbing system.

**3.2.3.17.3** OWTS with failed structural components.

## **3.2.3.18** Public Water System:

A piped water system, provided to the public for human consumption, which has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

## **3.2.3.19** Routine Maintenance:

Actions taken to keep the OWTS properly functioning. It shall include, but not be limited to, adjusting the flow from the distribution box, pumping the tank, cleaning filters and mowing.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.3.20**      Sewage (Wastewater, Blackwater, and Graywater):

Human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste and other similar waste from household or establishment appurtenances. Blackwater is waste carried off by toilets, urinals and kitchen drains. Graywater is waste that includes, but is not limited to, bath, laboratory, laundry and sink waste.

## **3.2.3.21**      Site Visit/Evaluation:

An investigation required prior to approval for a permit, and performed by the JCCHS at a proposed OWTS installation site. The investigation “site visit/evaluation” is usually done in cooperation with the property owner or their representative i.e., the installer.

## **3.2.3.22**      Soil Morphology:

A report of soil characteristics for the proposed OWTS installation site which includes texture, structure, porosity, consistency, color and other physical, mineral and biological properties of various horizons, and the thickness and arrangement of the horizons in the soil profile. A soil morphology examination must be performed by persons qualified as stated in 19 CSR 20-3.080.

## **3.2.3.23**      Soil Profile:

A vertical section of the soil through its horizons as read by a registered soil professional wherein at least one of the required readings must be taken from a soil pit at least five (5) feet deep or until a non-penetrating layer is met. Additional pits or borings may be made. The main pit must be in the proposed location of the OWTS. Additional profiles may be required.

## **3.2.3.24**      Stop Order:

A written order issued by the Board of Trustees, County Health Officer or designated representative to stop all construction, installation, modification or operation of an OWTS.

## **3.2.3.25**      Written Notice of Violation – Notice Provision:

Having verified a complaint, the JCCHS shall notify all property occupants and property owners of the premises subject of the complaint at least 18 years of age in writing of the complaint advising of the nature and manner of the violation of this ordinance. Such written notice shall be given by at least one of the following notification methods in sequential order:

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

- 3.2.3.25.1** First Notification Attempt. Mailing by certified mail, restricted delivery. Notice shall be deemed given upon mailing to the last known address for such property occupant or owner, even if such mail is returned unclaimed, returned unsigned or is otherwise non-deliverable; or
- 3.2.3.25.2** Second Notification Attempt. By hand or personal delivery to such property occupant or owner. Delivery of notice shall be deemed given even if such property occupant or owner refuses to accept such notice when it is tendered; or
- 3.2.3.25.3** Final Notification Attempt. Posting such notice in at least two prominent places upon the subject premises. Delivery of such notice shall be deemed given upon posting.

## **3.2.4 ADOPTION:**

The JCCHS Board of Health Trustees and the Johnson County Commissioners adopt by reference the State Statutes as defined in Sections 701.025 – 701.059 of the Missouri Laws Accompanied by Missouri Department of Health and Senior Services Rules Governing Onsite Sewage Disposal Systems, including amendments. Also adopted by reference are the following: (1) Environmental Health Operational Guidelines (2) 19 CSR 20-3.060 Minimum Construction Standards for Onsite Sewage Disposal Systems, (3) 19 CSR 20-3.080 Requirements for Percolation Testers or Onsite Soils Evaluators and Registered Onsite Wastewater Treatment System Installers. The same being incorporated by reference as if fully set out in this regulation verbatim, except to the extent the same is modified by these regulations. The full copy of the regulation is on file with the JCCHS and County Clerk of Johnson County, Missouri.

## **3.2.5 EXCEPTIONS:**

### **3.2.5.1** 3000 Gallons or Less of Wastewater Each Day:

This ordinance shall apply to all properties requiring OWTS generating 3000 gallons or less of wastewater each day, except where the Missouri Department of Natural Resources may have precedence. This code does not allow an acreage exemption for the construction or major modification of an OWTS except as provided for in Section 3.2.6.1.

### **3.2.5.2** Loan Evaluations Will Not Be Performed:

Section 19 CSR 20-3.070 of the Missouri Laws Accompanied by Department of Health Rules Governing Onsite Sewage Systems is omitted from this ordinance. JCCHS will not inspect or evaluate an existing OWTS upon the request from a lending institution for the purpose of providing a loan. However, a copy of all OWTS licensed loan

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

inspections/evaluations performed in Johnson County shall be submitted to JCCHS within 30 days of the date performed.

### **3.2.5.3**     Metal Sewage Tanks:

Metal Sewage Tanks shall NOT be used in the construction or major modification of any OWTS.

### **3.2.5.4**     Tanks Other Than Concrete:

Tanks (septic tanks, aerobic treatment units and pumping tanks) other than concrete such as polyurethane, plastic, fiberglass, etc. shall be accepted if construction and operation specifications meet the minimum standards set forth by the Missouri Department of Health & Senior Services and/or the National Sanitation Foundation.

### **3.2.5.5**     Abandoned Septic Tanks, Aerobic Treatment Units and Wastewater Stabilization Ponds (Lagoons):

Abandoned or discontinued septic tanks, aerobic treatment units and wastewater stabilization ponds, but not limited to these, shall be pumped and the pumped waste shall go to a POTW or other approved facility regulated under the Missouri Department of Natural Resources. Septic tanks and aerobic treatment units shall then be removed and/or collapsed in place, filled with a coarse aggregate, sand or soil, and shall be capped with soil for the remaining 12 inches from original grade. Wastewater stabilization ponds shall be physically destroyed in place once the wastewater is removed.

### **3.2.5.6**     Abandoned Private Water Wells:

Abandoned private water wells that are located on the property for which a construction or major modification OWTS permit is issued must be plugged prior to construction and/or major modification according to the Missouri Department of Natural Resources Code of State Regulations 10 CSR 23-3.110 Plugging of Wells, unless the well(s) can meet the requirements of this regulation to stay in operation.

### **3.2.5.7**     Wastewater Stabilization Ponds (Lagoons) Require Fence:

A wastewater stabilization pond shall be enclosed with a fence that meets the Missouri Department of Health & Senior Services lagoon fencing standards.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.5.8**      Wastewater Stabilization Ponds (Lagoons) On Property Less Than 5 Acres Require Pretreatment:

A properly sized septic tank or aerobic treatment unit shall be installed as the primary treatment device prior to discharging into a wastewater stabilization pond on a property less than 5 acres. A primary pretreatment device is recommended for all wastewater stabilization ponds regardless of acreage.

## **3.2.5.9**      Current License:

All installers shall hold a current license with the JCCHS unless approval is granted during the application process. A property owner constructing or performing major modification of an OWTS for his or her own residence upon his or her own property shall not be required to have an installer's license. (See Sections 3.2.6.1 and 3.2.6.2)

## **3.2.5.10**     Discretion of Inspections:

Inspections will be performed at the discretion of the JCCHS; however, JCCHS shall inspect up to sixty percent (60%) of OWTS new constructions and major modifications performed by licensed installers and one hundred percent (100%) for new constructions and major modifications performed by property owners. Section 701.043 (4) RSMo allows the administrative authority to accept certification without onsite inspection under Sections 701.046 to 701.048 and Section 701.050, from a registered contractor not required to provide a performance bond under Section 701.052, that a system is properly designed, installed, modified or repaired pursuant to the state standard. This Code shall extend this authority to all OWTS installations and major modifications performed by licensed installers and granted by JCCHS to backfill the OWTS components without an onsite inspection, provided however that licensed installers shall provide on the Certification of OWTS Without Onsite Inspection form issued by the JCCHS that the OWTS was installed or major modification performed pursuant to the state standard and this Code. (See Sections 3.2.6.1 and 3.2.6.2)

## **3.2.5.11**     Lot Sizes Smaller Than One Acre:

Lot sizes of one acre or more are recommended by the JCCHS for sites requiring an OWTS. Lot sizes smaller than one acre will be considered only if the applicant or his/her representative provides information indicating that the site is capable of handling water and sewage, and meeting the requirements of 10 CSR 20-6.030 Disposal of Wastewater in Residential Housing Developments. Each lot will be considered separately. Minimum set back distances as set forth in 19 CSR 20-3.060

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

Minimum Construction Standards for Onsite Sewage Disposal Systems, must be met for such sites and adjoining properties.

## **3.2.5.12** Replacement OWTS Alternate Site:

An OWTS alternate site location is recommended to be shown on the detailed plans within the platted boundaries of the property to reserve a secondary location for a replacement OWTS in case of failure of the initially installed OWTS.

## **3.2.5.13** New Technical Advances:

New technical advances may be developed that could extend the life of a system and improve quality of effluent.

## **3.2.5.14** Facilities Regulated Under Other Programs:

Sanitation inspections conducted by JCCHS at Regulated Food Establishments, Licensed Child Care Facilities, Licensed Lodging Establishments and other Missouri Department of Health & Senior Services Core Public Health Contract programs require the routine inspection of the OWTS for applicable facilities as a component of the inspection procedure. Formal complaints shall not be required for JCCHS to inspect the OWTS for these facilities. The property owner(s) and/or property occupant(s) for facilities that are determined to be operating an OWTS that is a public health nuisance, in a malfunctioning or failing state shall be subject to the provisions of these regulations and shall be required to apply for an OWTS permit in order to construct or perform major modification of the existing system within such time as stated in Section 3.2.2.4 or allowed by permit.

## **3.2.6** **INSTALLER'S LICENSE:**

It shall be unlawful for any person, firm, partnership, corporation, company, or other business entity, except as delineated in this section, to knowingly construct or perform major modification of an OWTS within Johnson County unless that person or representative for any firm, partnership, corporation, company or other business entity holds a valid Johnson County OWTS Installer's License. A licensed installer must be present during the construction or major modification unless provided for herein.

### **3.2.6.1** Homeowner Acting As Installer License Exemption:

A license is not required for the installation or major modification, of an OWTS by a homeowner performing such work on the premises of their personal residence, provided however that any homeowner claiming such license exemption must in fact be the operator of any and all excavation

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

equipment, backhoes, trenchers, and all other equipment utilized in such installation, modification or repair.

## **3.2.6.2** Any Other Person Other Than Homeowner Who Performs Major Modification:

Any person other than the homeowner who performs work using excavation equipment, backhoes, trenchers, and all other equipment utilized in such installation or major modification must be licensed; provided however that a homeowner of a single family residence lot consisting of 3 acres or more may perform major modification of their OWTS without complying with the requirements of Section 3.2.6.1. This license exemption for lot sizes of 3 acres or more shall not exempt any person from the requirement to obtain a permit for major modification as provided herein.

## **3.2.6.3** Renewal:

The Installer's License shall be renewed annually at no cost.

## **3.2.6.4** Official Roster of Licensed Installers, Suspensions and Revocations:

The JCCHS shall provide an official roster of licensed installers, license suspensions and license revocations to the County Clerk's office and upon request.

## **3.2.6.5** Installer's Licenses Will Be Granted When.

Installer's Licenses will be granted by the JCCHS when the following requirements are met:

**3.2.6.5.1** A completed Johnson County installer's application has been submitted.

**3.2.6.5.2** Applicant has attended training required and provided by JCCHS. Training will consist of but not necessarily be limited to orientation to Johnson County's OWTS Ordinance and Missouri Department of Health and Senior Service's OWTS Installers Certification Course.

**3.2.6.5.3** Applicant is a licensed installer when not in violation of Sections 3.2.6.5 through 3.2.6.8 of this Code. Any installer found in violation of Sections 3.2.6.5 through 3.2.6.8 of this code must reapply for license and repeat training before license is granted.

**3.2.6.5.4** Installer's Licenses shall be valid from January 1 through December 31 of each year.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.2.6.5.5** Installer's License renewal will be granted upon receipt of the application for renewal on or before January 31 of each consecutive year.

**3.2.6.5.6** Installers' Licenses are not transferable.

**3.2.6.5.7** Installers who are a part of a crew working for a licensed installer, but offer services separate from the licensed installer are required to have their own installer's license.

**3.2.6.6** Suspension of License – Notice Provision:

The installer's license shall be suspended by the JCCHS for a period not to exceed six (6) months upon receiving their second (2<sup>nd</sup>) notice of violation within one (1) year of the issuance of the first (1<sup>st</sup>) notice of violation. OWTS construction and major modification by all persons covered by the installer's license must cease in Johnson County. The JCCHS shall notify the licensee in writing advising of the nature and manner of the violation of this ordinance. A hearing before the Appeals Panel; may be requested by the licensee. This request must be in writing and made within ten (10) days of receipt of their 2<sup>nd</sup> notice of violation. After the suspension period is over, the licensee may return to work in the county if in good standing with the Missouri Department of Health & Senior Services 19 CSR 20-3.080 Registered OWTS Installer regulations, and has completed eight OWTS continuing education units (CEU) since the suspension of their license. Such written notice to the licensee shall be given by at least one of the following notification methods in sequential order:

**3.2.6.6.1** First Notification Attempt. Mailing by certified mail, restricted delivery. Notice shall be deemed given upon mailing to the last known address for such licensee as appears in JCCHS records, even if such mail is returned unclaimed, returned unsigned or is otherwise non-deliverable; or

**3.2.6.6.2** Second Notification Attempt. By hand or personal delivery to such licensee. Delivery of notice shall be deemed given even if licensee refused to accept such notice when it is tendered; or

**3.2.6.6.3** Final Notification Attempt. Posting such notice in at least two prominent places upon the subject premises if applicable. Delivery of such notice shall be deemed given upon posting.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.6.7**      Reasons for Installer’s License Notice of Violation:

The JCCHS shall issue an installer’s license notice of violation due to noncompliance with the terms of the license or current regulations. Reasons for a notice of violation may include but not be limited to the following:

- 3.2.6.7.1**      Having constructed or performed major modification of an OWTS without a valid permit.
- 3.2.6.7.2**      Installing an OWTS in violation of these regulations.
- 3.2.6.7.3**      The JCCHS was not called for inspection as stated in Section 3.2.7.16.
- 3.2.6.7.4**      The installer offered false information concerning a system installation or location.
- 3.2.6.7.5**      The installer submits three (3) consecutive permit applications or submits three (3) permit applications within a three (3) year period, which contain insufficient information for review or in violation of these regulations.
- 3.2.6.7.6**      Unapproved modifications in design or construction.
- 3.2.6.7.7**      Falsified information submitted in the application for permit.
- 3.2.6.7.8**      Changing site conditions.
- 3.2.6.7.9**      Misrepresentation concerning compliance with these regulations or any other reasons necessary for protection of the public health or safety.
- 3.2.6.7.10**     For installation of lines too deep, trenches not level, system placed in a part of the land that did not have the soils evaluated and/or for a system that was not approved or evaluated.

## **3.2.6.8**      Revocation of License – Notice Provision:

An installer’s license shall be revoked by the JCCHS if the licensed installer is found guilty of a class A misdemeanor in violation of any provision of these regulations regardless of whether or not such person, firm, partnership, corporation, company or other business entity intended any violation. The JCCHS shall notify the licensee in writing advising of the nature and manner of the violation of this ordinance. A hearing before the Appeals Panel will be held to revoke the license. A license may be

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

suspended for cause prior to being revoked. OWTS construction and major modification by all persons covered by the installer's permit must cease in Johnson County. The decision of Appeals Panel shall be final except as any appeal thereafter as prescribed by Chapter 536 RSMo. The revocation shall be effective for 12 months from the date of the revocation hearing. Such written notice shall be given to the licensee by at least one of the following notification methods in sequential order:

- 3.2.6.8.1** First Notification Attempt. Mailing by certified mail, restricted delivery. Notice shall be deemed given upon mailing to the last known address for such licensee as appears in JCCHS records, even if such mail is returned unclaimed, returned unsigned or is otherwise non-deliverable; or
- 3.2.6.8.2** Second Notification Attempt. By hand or personal delivery to such licensee. Delivery of notice shall be deemed given even if the licensee refused to accept such notice when it is tendered; or
- 3.2.6.8.3** Final Notification Attempt. Posting such notice in at least two prominent places upon the subject premises. Delivery of such notice shall be deemed given upon posting.

## **3.2.6.9** Permits In Noncompliance:

The permits for all projects under a suspended or revoked installer are considered to be in noncompliance. All construction and major modification that an installer is working on when the license is suspended or revoked must stop. The property owner and/or his representative can reverse the permit suspension when a new licensed installer is found who agrees to comply with all of the conditions of the permit or when license is returned to the installer. The property owner may choose to wait with the project until the license suspension or revocation is over. The permits for the installer's other projects may expire in some cases.

## **3.2.6.10** License Denial:

A license to install OWTS in Johnson County shall be DENIED for any of the following reasons:

- 3.2.6.10.1** The requirements of Section 3.2.6.5 are not met.
- 3.2.6.10.2** License application is made within twelve (12) months after the applicant has had a license revoked.
- 3.2.6.10.3** Failure to comply with Johnson County OWTS Ordinance.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.2.6.10.4** The licensee has had a license revoked twice.

**3.2.6.10.5** The licensee owes fines, court costs or has an unpaid judgement in favor of Johnson County, JCCHS, or the State of Missouri related to an action, whether criminal or civil, commenced pursuant to this ordinance or Chapter 701 of the Revised Statutes of Missouri, or both, or if the licensee has unpaid, past due fees owed to JCCHS due pursuant to this ordinance.

## **3.2.7 PERMITS:**

It shall be unlawful for any person, partnership, company, corporation, or other business entity to knowingly construct or perform major modification of an OWTS within Johnson County unless that person holds a valid OWTS permit issued by the JCCHS.

### **3.2.7.1 Permit Name:**

The permit shall be in the name of the person for which the specific construction or major modification is proposed.

### **3.2.7.2 Prior to Beginning Construction:**

Prior to beginning any construction activity (including soil disturbance) in anticipation of the construction of buildings where people will live, work or assemble, the property owner or their agent shall contract for a soil morphology or percolation test in the proposed area of the OWTS and apply for an OWTS permit.

### **3.2.7.3 Fee Submittal:**

A permit fee must be submitted to the JCCHS.

### **3.2.7.4 Permit Application Requirements:**

All permit applications shall include detailed plans and specifications to demonstrate in writing and graphically that the proposed OWTS to be constructed or major modification performed shall conform or be in compliance with the design standards and requirements included in these regulations. All permit applications shall include a current Warranty Deed issued by the Johnson County Recorder of Deeds Office, Parcel Identification Number (Parcel Card) and Aerial Photograph of the site issued by the Johnson County Assessor's Office.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.7.5**      Detailed Plans Drawn to Scale:

All detailed plans shall be prepared on blue or white prints, or application designated area, and shall be drawn to scale.

## **3.2.7.6**      Soil Testing Requirements:

A soil morphology evaluation from a certified soil scientist or, a percolation test performed by a licensed percolation tester must be obtained for the specific area of the proposed soil absorption area or lagoon.

## **3.2.7.7**      Application Review:

The JCCHS shall review all permit applications for completeness. Incomplete applications shall be returned to the applicant, but may be resubmitted to the JCCHS after completion.

## **3.2.7.8**      Site visit(s):

Site visit(s) by the JCCHS are required to evaluate or determine the suitability of the property for the installation of the proposed OWTS prior to approving issuance of the Construction Permit.

## **3.2.7.9**      Ingress and Egress:

The applicant shall grant the JCCHS rights of ingress and egress to the property for the purposes of conducting an evaluation and determining site suitability. The installer and/or property owner should be present during the site visit.

## **3.2.7.10**     Surveying Transit Requirement:

All installations of OWTS and their components shall require the use of professional survey equipment that includes at a minimum a conventional site transit, tripod and stadia rod to assure proper leveling and slope. Laser technology survey equipment meeting these minimum requirements shall be acceptable. Laser technology survey equipment shall be required three (3) years from the effective date of this ordinance for all installations of OWTS and their components.

## **3.2.7.11**     Location of the OWTS Components:

The location of the OWTS components and other necessary features as listed in the setback requirements shall be marked by field markings, such as paint, flags, etc. with proposed soil absorption trenches indicated or located at ten (10) foot intervals along the length of the trench.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.7.12**      Completed Permit Applications:

The JCCHS shall take final action on all completed permit applications following the required site visit by either (1) approving the proposed plan and site by issuing the permit to construct, or (2) by denying the permit.

## **3.2.7.13**      Permit Denial Accompanied By Written Reasons:

Any permit denied by the JCCHS shall be accompanied by written reasons for the denial and may include recommendations for corrective action or request to provide additional information.

## **3.2.7.14**      Permit Issuance:

When the application is adequately completed and reviewed by JCCHS, and when the site evaluation conducted by JCCHS is satisfactory, then JCCHS will issue the permit for construction of the OWTS.

## **3.2.7.15**      Permit Posting:

The Permit for Construction must be posted in a conspicuous and visible area at the specific site during construction of the system.

## **3.2.7.16**      Notification of Installation:

It is required that notification of installation be given to JCCHS PRIOR to beginning the installation of an OWTS. Final inspections may or may not be required and will be at the discretion of JCCHS.

## **3.2.7.17**      Final and/or Partial Inspections:

Final and/or partial inspections of the installation may be required for approval of the system.

## **3.2.7.18**      Deviations from Application and Permit:

No OWTS shall knowingly be constructed or major modification performed in deviation from the terms and conditions set forth in the original approved application and permit to construct without amending the application original documents. The JCCHS must approve the amendment prior to starting construction or major modification activity.

## **3.2.7.19**      Unauthorized Changes, Deviations or Modifications:

Unauthorized changes, deviations or modifications shall constitute a violation of the permit and may subject the applicant to permit suspension, revocation and/or prosecution.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## **3.2.7.20**      The Following General Conditions Shall Be Applicable to All OWTS Construction Permits:

- 3.2.7.20.1**      All OWTS permits shall be valid for one year after date of issuance. If the OWTS is not constructed or major modification performed within one year, the permit is void and a new permit must be issued.
- 3.2.7.20.2**      If an OWTS is installed or major modification performed after the initial permit has been officially voided, this shall constitute a violation.
- 3.2.7.20.3**      The JCCHS is not obligated in any way to issue a second permit, should the initial permit be allowed to expire. If reapplication for another permit is made, additional information may be required to be in full compliance with the regulations that exist at that time.
- 3.2.7.20.4**      Any changes in plans, details or specifications of construction or major modification of the OWTS not approved by the JCCHS representative after the permit has been issued, will invalidate the permit.
- 3.2.7.20.5**      There will be no reimbursement of fees received for the issuance of any permit to any applicant.

## **3.2.7.21**      Transfer of Permits:

OWTS construction permits may be transferred only to successor property owners prior to completion of construction or major modification for which the permit is issued. Requests to transfer ownership must be made by completion of ownership transfer documents issued and then approved by the JCCHS. All terms and conditions of issued permits for construction or major modification shall be automatically applicable to any successor property owner upon transfer of ownership of said property.

## **3.2.7.22**      Emergency Construction and/or Major Modification:

Emergency construction and/or major modification shall meet or exceed the adopted minimum design standards as described in Department of Health and Senior Services Rules Governing Onsite Sewage Systems, Sections 701.025 – 701.059, including Minimum Construction Standards for Onsite Sewage Disposal Systems 19 CSR 20-3.060. The property owner or agent shall obtain prior written consent from the health officer to start construction and/or major modification, and submit a permit application within five (5) working days after beginning emergency construction and/or major modification. No part of the emergency

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

construction and/or major modification shall be backfilled without the written approval of the JCCHS.

## **3.2.7.23**     Construction Permit Denied:

The JCCHS may deny any OWTS permit. In the event the JCCHS denies issuance of a permit the applicant shall be notified in writing of the reason(s) for denial. Reasons for denial may include, but not be limited to:

- 3.2.7.23.1**     Violation of Design and/or Construction Standards.
- 3.2.7.23.2**     Incomplete Application.
- 3.2.7.23.3**     Problems and Inconsistencies Found During Site Visit.
- 3.2.7.23.4**     Violation of Applicable Building, Subdivision or Zoning Regulations.
- 3.2.7.23.5**     Location within 200 Feet of Sanitary Sewer of Community or POTW Wastewater Systems if allowed/approved by the authority of such systems to connect.
- 3.2.7.23.6**     Non-Compliance from another Jurisdiction.

## **3.2.7.24**     Suspended or Revoked Permit:

Construction or major modification of an OWTS must cease when a permit is Suspended or Revoked.

## **3.2.7.25**     Reasons for Permit Suspension:

The JCCHS shall suspend a permit before or during construction or major modification of an OWTS due to noncompliance with the terms of the permit or current regulations. Reasons for suspension shall include but not be limited to the following:

- 3.2.7.25.1**     The installer currently has a suspended or revoked installer's license.
- 3.2.7.25.2**     Installing an OWTS in violation of these regulations.
- 3.2.7.25.3**     The JCCHS was not called for inspection as stated in Section 3.2.7.16.
- 3.2.7.25.4**     The installer offered false information concerning a system installation or location.
- 3.2.7.25.5**     Unapproved modifications in design or construction.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

- 3.2.7.25.6** Falsified or incorrect information submitted in the application for permit.
- 3.2.7.25.7** Changing site conditions.
- 3.2.7.25.8** Falsified or incorrect soil evaluation data.
- 3.2.7.25.9** Misrepresentation concerning compliance with these regulations or any other reasons necessary for protection of the public health or safety.
- 3.2.7.25.10** For installation of lines too deep, trenches not level, system placed in a part of the land that did not have the soils information for a system that was not approved or evaluated.

## **3.2.7.26** Reasons for Permit Revocation:

The JCCHS shall revoke a permit before or during construction or major modification of an OWTS due to noncompliance with the terms of the permit or current regulations. Reasons for revocation shall include but not be limited to the following:

- 3.2.7.26.1** The OWTS is not constructed or major modification performed within one year of permit issuance.
- 3.2.7.26.2** Falsified or incorrect information submitted in the application for permit that in turn violates provisions of this ordinance and would prohibit any designed OWTS.
- 3.2.7.26.3** Changing site conditions.

## **3.2.7.27** Revoke or Suspend Permit With Written Notice – Notice Provision:

JCCHS may revoke or suspend the permit or stop construction or major modification of an OWTS at any time and will give written notice. Such written notice shall be given by at least one of the following notification methods in sequential order:

- 3.2.7.27.1** First Notification Attempt. Mailing by certified mail, restricted delivery. Notice shall be deemed given upon mailing to the last known address for such permit holder, even if such mail is returned unclaimed, returned unsigned or is otherwise non-deliverable; or
- 3.2.7.27.2** Second Notification Attempt. By hand or personal delivery to such permit. Delivery of notice shall be deemed given

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

even if the permit holder refused to accept such notice when it is tendered; or

**3.2.7.27.3** Final Notification Attempt. Posting such notice in a prominent place upon the subject premises. Delivery of such notice shall be deemed given upon posting.

**3.2.7.28** Rescinded Permit:

A suspension will be rescinded when the conditions causing the suspension are removed. If the conditions cannot be corrected, the permit will be revoked.

**3.2.7.29** When a Permit is Revoked, the Applicant May Apply for a New Permit:

When a permit is revoked, the applicant may apply for a new permit by submitting an application adequately completed and reviewed by JCCHS, and paying the required permit fee. Thereafter a site evaluation will be conducted by JCCHS, and if the site evaluation is satisfactory, then JCCHS will issue the permit for construction of the OWTS.

## **3.2.8 STOP ORDER, NOTICE OF VIOLATION:**

**3.2.8.1** Stop Order:

A Stop Order, requiring the immediate cessation of operation, construction, or installation of an OWTS, may be issued by the JCCHS for the following reasons:

**3.2.8.1.1** The OWTS is found by the JCCHS to create a public health hazard or nuisance.

**3.2.8.1.2** Substandard materials are being used in construction or major modification of the OWTS.

**3.2.8.1.3** An OWTS is being constructed, major modification performed or operated in violation of any provisions of this ordinance, State Law or Code of Regulations.

**3.2.8.2** Temporary Holding Facility:

The discharge of sewage effluent for an OWTS upon which a written notice of violation or stop order has been issued by the JCCHS shall cease immediately. The owner or operator of the OWTS will be allowed to utilize the septic tank or aerobic treatment unit temporarily as a holding facility until, but not to exceed the allowable timeframe as stated in Section 3.2.2.4, adequate construction, major modification or minor

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

modification can be made to comply with the corrections stated in the written notice of violation or stop order. All sewage effluent from these holding facilities shall be pumped by a septic hauler and disposed of at a Community or POTW Wastewater System or other approved facility regulated under the Missouri Department of Natural Resources.

## **3.2.9 APPEALS PANEL:**

The Johnson County Commission, after receiving panel member recommendations by the JCCHS Board of Trustees, shall appoint an Appeals Panel consisting of three members, to be known as the OWTS Appeals Panel which shall review upon request of the property occupant(s) and/or property owner(s), who has received a written notice of violation concerning the construction or operation of an OWTS based on a complaint received from a citizen as authorized by these regulations, and hear and determine appeals from JCCHS decisions as are authorized and prescribed by these regulations. The specifications contained within the adopted standards of Sections 701.025 through 701.059 RSMo, 19 CSR 20-3.060 and 19 CSR 20-3.080, are minimum regulations mandated by the State of Missouri and are not subject to challenge through the Hearing process. The Appeals Panel qualifications shall include: (1) working knowledge and/or experience with OWTS and Regulations, (2) not currently employed as a politically elected official and (3) available to attend hearings at their own expense for their appointment period. Professional backgrounds of Appeals Panel members may include a combination of: (a) OWTS installer and/or hauler, (b) Environmental Public Health Specialist (may be from another county) (c) Real Estate Inspector, Evaluator, Appraiser, Broker, or Agent (d) Design Engineer or Soil Evaluator, (e) Building Code Inspector, (f) Lending Agents, (g) Citizen of Johnson County. Members on the Appeals Panel shall be initially appointed for staggered terms to cover one, two and three years and thereafter each successive term shall be for a period of three years. With the exception of the Environmental Public Health Specialist, members of the Appeals Panel shall be residents of Johnson County or work extensively in the county. The Appeals Panel shall be entitled to establish rules of procedure and bylaws for the conduct of its business consistent with statutes of the State of Missouri to establish and maintain such, and subject to review, modification and approval by the Johnson County Commission and JCCHS Board of Trustees. A hearing request shall be in writing and received by the Health Officer of the JCCHS within ten calendar days of the administrative decision in question. If the request for the hearing is granted, an administrative hearing shall be held within thirty (30) calendar days from the receipt of the written request to the JCCHS Health Officer. If the request for the hearing is received, the property occupant(s) and/or property owner(s) will be notified within ten (10) calendar days for the time and date of the hearing. Failure of the property occupant(s) and/or property owner(s) to appear for the scheduled hearing will result in default in favor of JCCHS.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## 3.2.10 EXISTING OWTS

All OWTS existing as of the effective date of this chapter shall be presumed to be in compliance with these regulations unless any such OWTS is found to be a malfunctioning or failing OWTS, a public health nuisance or a public health hazard. It is not the intent of this chapter to bring existing OWTS and their components into compliance at the effective date of this chapter, but to bring them into compliance upon future construction, major modification or formal complaints. Upon verification of violation, the property owner(s) shall then be subject to the provisions of these regulations and shall be required to apply for an OWTS permit in order to construct or perform major modification of the existing system within such time as stated in Section 3.2.2.4 or allowed by permit.

## 3.2.11 PENALTIES AND REMEDIES:

### 3.2.11.1 Constructing or Performing Major Modification Without a Valid Installer's License:

A person commits the crime of constructing or performing major modification of an OWTS without a license when, in violation of Section 3.2.6 of this ordinance, any person, firm, partnership, corporation, company or other business entity, knowingly constructs or performs major modification of an OWTS without having first obtained a valid Johnson County OWTS Installer's License. A property owner constructing or performing major modification of an OWTS for his or her own residence upon his or her own property shall not be required to have an installer's license. (See Sections 3.2.6.1 and 3.2.6.2)

### 3.2.11.2 Constructing or Performing Major Modification Without a Valid Installer's License is a Class A Misdemeanor:

Constructing or performing major modification of an OWTS without a valid installer's license is a class A misdemeanor, punishable by confinement in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both such confinement and fine. A separate offense is committed for each day a violation occurs. A property owner constructing or performing major modification of an OWTS for his or her own residence upon his or her own property shall not be required to have an installer's license. (See Sections 3.2.6.1 and 3.2.6.2)

### 3.2.11.3 Constructing Without a Permit:

A person commits the crime of constructing or performing major modification of an OWTS without a permit when, in violation of Section 3.2.7 of this ordinance, any person, firm, partnership, corporation,

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

company or other business entity, knowingly constructs or performs major modification of an OWTS without having first obtained a valid OWTS permit from the JCCHS.

## **3.2.11.4**     Constructing or Performing Major Modification of an OWTS Without a Valid Permit is a Class A Misdemeanor:

Constructing or performing major modification of an OWTS without a valid permit is a class A misdemeanor, punishable by confinement in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both such confinement and fine. A separate offense is committed for each day a violation occurs.

## **3.2.11.5**     Anticipation of the Construction:

A person commits the crime of beginning construction activity without an OWTS permit when, in violation of Section 3.2.7.2 of this ordinance, any property owner or his agent knowingly begins construction activity in anticipation of the construction of buildings where people will live, work or assemble, without first completing a soil morphology or percolation test in the proposed area of the OWTS or obtaining a valid OWTS permit from the JCCHS or meeting the requirements of 10 CSR 20-6.030 Disposal of Wastewater in Residential Housing Developments. (See Section 3.2.5.11)

## **3.2.11.6**     Beginning Construction Without an OWTS Permit is a Class A Misdemeanor:

Beginning construction without an OWTS permit is a class A misdemeanor, punishable by confinement in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both such confinement and fine. A separate offense is committed for each day a violation occurs.

## **3.2.11.7**     Constructing or Performing Major Modification of an OWTS in Deviation From the Permit:

A person commits the crime of constructing or performing major modification of an OWTS in deviation from the permit when, in violation of Section 3.2.7.19 of this ordinance, any person, firm, partnership, corporation, company or other business entity, knowingly constructs or performs major modification of an OWTS in deviation from the terms and conditions set forth in the original approved application and permit to construct without first amending the application and securing the approval of the JCCHS prior to starting the work.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.2.11.8**      Constructing or Performing Major Modification of an OWTS in Deviation From the Permit is a Class A Misdemeanor:

Constructing or performing major modification of an OWTS in deviation from the permit is a class A misdemeanor, punishable by confinement in the county jail for not more than one year or by a fine of not more than one thousand dollars or by both such confinement and fine. A separate offense is committed for each day a violation occurs.

**3.2.11.9**      The Administrative Authority or Johnson County Courts Are Authorized:

The Administrative Authority or Johnson County Courts are authorized to require the property owner(s) and/or property occupant(s) to take necessary action to correct a public health nuisance, malfunctioning or failing OWTS within 30 days of receipt of written notice of violation or within 60 days of receipt of written notice of violation meeting the requirements of Section 3.2.2.4 after which, each day's failure to take corrective action shall be an infraction and punishable by a fine of \$50.00 for each day that the OWTS remains in a public health nuisance, malfunctioning or failing state.

**3.2.11.10**      Penalties Shall Not Be Construed:

The penalties provided in this section shall not be construed as exclusive, but are intended to be supplementary and in addition to any other remedies provided by law or equity.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## 3.3 EFFECTIVE DATE:

These regulations shall become effective on and after the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2006.

---

William Brenner, Presiding Commissioner

Johnson County, Missouri

ATTEST:

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**Gilbert Powers, County Clerk**

Johnson County, Missouri

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## 3.4 AN ORDINANCE REGULATING THE OPERATION OF FOOD ESTABLISHMENTS

### 3.4.1 PURPOSE

These regulations are enacted for the purpose of regulating the operation of food establishments in Johnson County, Missouri as the term is defined in these regulations in order to protect and promote public health.

### 3.4.2 AUTHORITY

This ordinance is enacted pursuant to Section 192.300, RSMo 2007 (or the most current law), which provides, as follows: The county commissions and the county health center boards of the several counties may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county, but any orders, ordinances, rules or regulations shall not be in conflict with any rules or regulations authorized and made by the department of health and senior services in accordance with this chapter or by the department of social services under chapter 198, RSMo. The county commissions and the county health center boards of the several counties may establish reasonable fees to pay for any costs incurred in carrying out such orders, ordinances, rules or regulations, however, the establishment of such fees shall not deny personal health services to those individuals who are unable to pay such fees or impede the prevention or control of communicable disease. Fees generated shall be deposited in the county treasury. All fees generated under the provisions of this section shall be used to support the public health activities for which they were generated. After the promulgation and adoption of such orders, ordinances, rules or regulations by such county commission or county health board, such commission or county health board shall make and enter an order or record declaring such orders, ordinances, rules or regulations to be printed and available for distribution to the public in the office of the county clerk, and shall require a copy of such order to be published in some newspaper in the county in three successive weeks, not later than thirty days after the entry of such order, ordinance, rule or regulation. Any person, firm, corporation or association which violates any of the orders or ordinances adopted, promulgated and published by such county commission is guilty of a misdemeanor and shall be prosecuted, tried and fined as otherwise provided by law. The county commission or county health board of any such county has full power and authority to initiate the prosecution of any action under this section.

### 3.4.3 SCOPE

This ordinance establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

establishment plan review, permit issuance, inspection, employee restriction, and permit revocation.

This ordinance applies to all incorporated and unincorporated areas of Johnson County, Missouri EXCEPT non-profit organizations.

## **3.4.4 ADOPTION**

The JCCHS Board of Health Trustees and the Johnson County Commissioners adopt by reference the most current version of Missouri Food Code, 19 CSR 20-1.025.

## **3.4.5 DEFINITIONS**

### **3.4.5.1 APPROVED FOOD SAFETY TRAINING PROGRAM**

Food safety training program conducted by JCCHS, a nationally recognized program, that of another health department or that of a specific food establishment, which may be accepted upon review by the administrative authority.

### **3.4.5.2 BUSINESS HOURS**

Johnson County Community Health Services' regularly scheduled hours of operation are Monday thru Friday, 8AM to 5PM, except holidays.

### **3.4.5.3 CODE**

The most up to date version of any of the following legal references: Johnson County Code of Health Regulations, Missouri Food Law, RSMo 196.010 – 196.271, Missouri Food Code, 19 CSR 20-1.025, and U.S. Food and Drug Administration Model Food Code, which is a compilation of the general and permanent laws published in the Federal Register including FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

### **3.4.5.4 CRITICAL VIOLATION**

**3.4.5.4.1** A provision of code that, if in non-compliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

**3.4.5.4.2** Is an item that is denoted in both the FDA and MO Food Codes with an asterisk (\*) including items listed here:

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.4.5.4.3** A provision of code that, if in non-compliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

**3.4.5.4.4** Is an item that is denoted in both the FDA and MO Food Codes with an asterisk (\*) including items listed here:

3.4.5.4.4.1 Imminent health risk;

3.4.5.4.4.2 Hot water not in the facility;

3.4.5.4.4.3 Food employee working with communicable disease transmissible through food;

3.4.5.4.4.4 Food employee working with illness symptoms of vomiting or diarrhea;

3.4.5.4.4.5 Food establishments without facility covering or pest barriers;

3.4.5.4.4.6 Insufficient fulfillment of Food Safety Training/ Certification Permit Requirements;

3.4.5.4.4.7 Repeat non-critical violation identified in consecutive routine inspections.

## **3.4.5.5** FOOD

A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum. (per Missouri Food Code, 19 CSR 20-1.025)

## **3.4.5.6** FOOD HANDLERS

Any individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

## **3.4.5.7** FOOD ESTABLISHMENT

**3.4.5.7.1** “Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption: (per Missouri Food Code, 19 CSR 20-1.025)

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

3.4.5.7.1.1 Such as a restaurant; satellite or central preparation facility; catered feeding location; catering operation if the operation provides food directly to a Consumer or to a conveyance used to transport people; market; vending (location) operation, if the operation provides potentially hazardous foods; conveyance used to transport people; institution; or food bank; and

3.4.5.7.1.2 That relinquishes possession of food to a Consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

## **3.4.5.7.2** “Food establishment” includes:

3.4.5.7.2.1 An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the administrative authority; or

3.4.5.7.2.2 An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

## **3.4.5.7.3** “Food establishment” does not include:

3.4.5.7.3.1 An establishment that offers only prepackaged foods that is not potentially hazardous;

3.4.5.7.3.2 A produce stand that only offers whole, uncut fresh fruits and vegetables;

3.4.5.7.3.3 A food processing plant;

3.4.5.7.3.4 A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a nonprofit organization’s bake sale if allowed by law and if the Consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the administrative authority;

3.4.5.7.3.5 An area where food that is prepared as specified in Subparagraph (3.4.5.7.3.4) of this definition is sold or offered for human consumption;

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

- 3.4.5.7.3.6 A kitchen in a private home, such as a small family daycare provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 4, breakfast is the only meal offered, the number of guests served does not exceed 12, and the Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the administrative authority; or
- 3.4.5.7.3.7 A private home that receives catered or home-delivered food.
- 3.4.5.7.3.8 Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served:
  - 3.4.5.7.3.8.1 Non-potentially hazardous processed foods, except low acid canned and acidified foods as specified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes;
  - 3.4.5.7.3.8.2 The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food;
  - 3.4.5.7.3.8.3 The seller only sells, samples or serves the food directly to the end consumer;
  - 3.4.5.7.3.8.4 All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name of all the ingredients in the food and a statement that the product is prepared in a kitchen that is not subject to inspection by the JCCHS. It is recommended that honey manufacturers/processors include this additional statement to its label, "Honey is not recommended for infants less than twelve (12) months of age"; and
  - 3.4.5.7.3.8.5 The consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to inspection by the JCCHS if the foods specified in Subparagraph (3.4.5.7.3.8.1) are sold, sampled or served in unpackaged, individual portions. JCCHS shall have the final authority in determining whether a food is non-potentially

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

hazardous and may enjoin individuals who violate the provisions of this section from selling, sampling or serving these foods.

## **3.4.5.8**      FOOD ESTABLISHMENT PLANS

Plans must be submitted as part of the permit approval process for new construction, major modification and remodeled facilities regulated under this ordinance. Plans must include information on the intended menu, floor plan, equipment, process flow, mechanical plans, construction materials, facility design, interior finish schedule, and other information that may be required by the administrative authority for proper review to ensure compliance with the code.

## **3.4.5.9**      IMMINENT HEALTH HAZARD

**3.4.5.9.1**    A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

3.4.5.9.1.1    The number of potential injuries;

3.4.5.9.1.2    Missouri The nature, severity, and duration of the anticipated injury.  
(per Food Code, 19 CSR 20-1.025)

3.4.5.9.1.3    May include but is not limited to the following:

3.4.5.9.1.3.1    Overflowing grease trap;

3.4.5.9.1.3.2    Any sewage issue with the facility;

3.4.5.9.1.3.3    Hand washing facility not available by end of inspection;

3.4.5.9.1.3.4    No means of sanitizing multi-service utensils;

3.4.5.9.1.3.5    Evidence of extreme pest infestation.

## **3.4.5.10**     NON-PROFIT ORGANIZATION

“Nonprofit organization” means a corporation that is organized exclusively for charitable, religious, educational, and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501 (c) (3) of the

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

Internal Revenue Code, or corresponding section of any future federal tax code.

## **3.4.5.11**     OPERATOR

The entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent or other person. (per Missouri Food Code, 19 CSR 20-1.025)

## **3.4.5.12**     OPERATION

Any activity in which a food establishment person stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

## **3.4.5.13**     PERSON

An association, corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency. (per Missouri Food Code, 19 CSR 20-1.025)

## **3.4.5.14**     POTENTIALLY HAZARDOUS FOOD

**3.4.5.14.1** "Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: (per Missouri Food Code, 19 CSR 20-1.025)

3.4.5.14.1.1 The rapid and progressive growth of infectious or toxigenic microorganisms;

3.4.5.14.1.2 The growth and toxin production of *Clostridium botulinum*; or

3.4.5.14.1.3 In raw shell eggs, the growth of *Salmonella Enteritidis*.

**3.4.5.14.2** "Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as *specified under Subparagraph (3.4.5.14.1)* of this definition.

**3.4.5.14.3** "Potentially hazardous food" does not include:

3.4.5.14.3.1 An air-cooled hard-boiled egg with shell intact;

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

3.4.5.14.3.2 A food with an  $a_w$  value of 0.85 or less;

3.4.5.14.3.3 A food with a pH level of 4.6 or below when measured at 24°C (75°F);

3.4.5.14.3.4 A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; and

3.4.5.14.3.5 A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an  $a_w$  and a pH that are above the levels specified under Subparagraphs (3.4.5.14.3)( 3.4.5.14.3.2) and (3.4.5.14.3.3) of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.

3.4.5.14.3.6 A food that does not support the growth of microorganisms as specified under Subparagraph (3.4.5.14.3) of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

## **3.4.5.15**     PUBLIC HEALTH PRIORITY ASSESSMENT

Worksheet used to determine a priority rating (low, medium, high) for establishments, given past history of violations, types of food served, preparation requirements of foods served, number of meals served, and population served.

## **3.4.6 PERMIT REQUIREMENTS**

**3.4.6.1**     Food establishments in Johnson County, Missouri must have a valid permit issued by the administrative authority prior to operation.

**3.4.6.2**     Only a person who complies with the requirements of this ordinance and the food code shall be entitled to acquire and retain such a permit.

**3.4.6.3**     The permit shall be obtained by the owner of the establishment or by an officer of the legal ownership. Permits are not transferable.

**3.4.6.4**     Permits shall be renewed annually and shall be valid from July 1 to June 30 each year. Permit applications must be submitted and approved before a permit is issued. Failure to renew a permit by July 1 may result in revocation of permit. A permit shall be valid from the date of issuance

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

until June 30 of that year or until June 30 of the following year if the permit is issued after July 1 and before December 31. There is no cost for a food establishment permit.

- 3.4.6.5** A valid permit shall be posted in the food establishment in a place immediately viewable by customers, protected from external weathering and within five feet (5') of all customer entrances of the food establishment along with most recent inspection report, scoring, closing order and/ or notice of violation placards.
- 3.4.6.6** New establishments must submit application, food establishment plans, design and specifications for regulatory approval no later than 30 business days (6 weeks) prior to opening for business. A pre-opening inspection will be conducted by the administrative authority, to determine if the establishment is in compliance with food code. Permits may be denied until code compliance is attained. New establishments are any food establishment not in operation prior to the effective date of this ordinance.
- 3.4.6.7** If an existing establishment voluntarily closes for a purpose other than holiday, vacation, or regular schedule; a re-opening inspection may be required.
- 3.4.6.8** A change in existing food establishments' ownership; design, layout or function as a result of construction or extensive remodeling; location; or menu to include potentially hazardous food or other extensive revision shall require renewal of the establishment's permit along with administrative authority review of food establishment plans.
- 3.4.6.9** Temporary food establishments require a permit. These establishments are expected to follow the rules and laws contained in the food code and may be inspected as determined by the administrative authority.
- 3.4.6.10** APPROVED FOOD TRAINING SAFETY PROGRAM
- 3.4.6.10.1** Permit holders shall have, at all times of food establishment operation, all persons acting in a management or supervisory capacity and at least one-quarter (25%) of food handlers on duty trained and certified in an approved food safety program.
- 3.4.6.10.2** At all times of food establishment operation, all persons acting in a management or supervisory capacity and at least one-quarter (25%) of food handlers on duty must have documentation of approved food safety program certification available during working hours.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.4.6.10.3** Annual certification of approved food safety program is required for persons acting in management or supervisory capacity and one-quarter (25%) of food handlers.

3.4.6.10.3.1 Certifications of persons through ServSafe® or other nationally recognized food safety programs must be maintained every three (3) years in order to qualify for issuance of an annual food safety certification.

**3.4.6.10.4** Recertification requirements shall be in effect one year from effective date of this ordinance or, if thereafter, three (3) months subsequent to hiring.

**3.4.6.10.5** Temporary food establishments are required to have at least one food employee certified in an approved food safety training program with documentation available at all times of food establishment operation.

**3.4.6.10.6** Non-compliance of approved food safety training program certification and/ or documentation will result in a follow-up inspection.

## **3.4.7 PERMIT COMPLIANCE**

### **3.4.7.1 FOOD ESTABLISHMENT INSPECTIONS**

**3.4.7.1.1** Representatives of the administrative authority, upon identification, shall be permitted to enter any food establishment, have access to the entire facility, and take digital photos at any reasonable time for the purpose of making inspections to determine compliance with this ordinance and food code. The administrative authority shall be allowed to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used; pest control; cleaning; complaints; illness; and personnel.

**3.4.7.1.2** The administrative authority shall perform an inspection of a food establishment at least once annually or more often as determined by the administrative authority, Public Health Priority Risk Assessment and availability of administrative authority personnel. Additional inspections including follow-up inspections may be performed as necessary for the enforcement of this ordinance, food code or other public health concern. Public Health Priority Risk Assessment shall be reviewed for each establishment annually.

**3.4.7.1.3** Temporary food establishments shall have inspections conducted at the discretion of the administrative authority.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

**3.4.7.1.4** Inspection reports may be published by JCCHS as deemed appropriate. Inspections are public record and may be obtained from the administrative authority, within three (3) business days, upon written request.

## **3.4.7.2** VIOLATION CORRECTION

**3.4.7.2.1** The completed inspection form shall specify a correct by date be set for each violation in accordance with the following provisions:

3.4.7.2.1.1 All critical violations shall be corrected as soon as possible, but in any event, within seventy-two (72) business hours following inspection. The permit holder shall contact the administrative authority within three (3) days after the inspection to report correction status.

3.4.7.2.1.2 All non-critical violations shall be corrected as soon as possible, but in any event, at least *three-quarters (75%)* shall be corrected within seventy-two (72) business hours following inspection. The remaining non-critical violation may be corrected by a time mutually agreed upon by person in charge at time of inspection and the administrative authority or next routine inspection. If a non-critical violation yet exists on more than two (2) consecutive routine inspections, the violation will be noted as a critical violation.

3.4.7.2.1.3 In the case of a temporary food establishment, all violations shall be corrected by a time mutually agreed upon by the person in charge at time of inspection and the administrative authority. If violations are not corrected prior to the agreed upon time, the establishment shall cease operations until authorized to resume by the administrative authority.

**3.4.7.2.2** A Notice of Violation Placard will alert customers that the food establishment out of compliance with the code and may be issued at any food establishment until violations or non-compliance is corrected.

3.4.7.2.2.1 A Notice of Violation Placard will be issued to the food establishment by JCCHS and shall be posted in the food establishment in a place immediately viewable by customers, protected from external weathering and within five feet (5') of all customer entrances of the food establishment along with most recent inspection report, scoring, closing order and/ or notice of violation placards.

**3.4.7.2.3** In the event that all critical violations and three-quarters (75%) of non-critical violations identified on the inspection report are not corrected by

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

the end of the first follow-up inspection, the food establishment will be considered to remain in violation of this ordinance and food code.

3.4.7.2.3.1 A second follow-up inspection will be scheduled, fees will be assessed, and a Notice of Violation Placard will be issued for display in plain site at the primary customer entrance of the food establishment.

**3.4.7.2.4** In the event that all critical violations and three-quarters (75%) of non-critical violations identified on the first follow-up inspection report are not corrected by the end of the second follow-up inspection, the food establishment will be considered to remain in violation of this ordinance and food code.

3.4.7.2.4.1 As a result of continued non-compliance with this ordinance and food code, the food establishment permit will be revoked, fees will be assessed, a Closing Order will be issued for display in plain site at the primary customer entrance of the food establishment, and media will be alerted.

## **3.4.7.3**      CLOSING ORDER AND PERMIT REVOCATION

**3.4.7.3.1** If a Closing Order is issued by the administrative authority, the establishment shall immediately cease all food operations until authorized by the administrative authority to resume.

**3.4.7.3.2** A Closing Order will be issued when a permit is revoked. The person may apply for a new permit upon correction of all violations. While under revocation, a food establishment may not be open to the public. A permit may be revoked or a permit application denied if the permit holder or applicant has failed to comply with any part of this ordinance until such time that the administrative authority determines that compliance is attained.

3.4.7.3.2.1 A Closing Order will be issued to the food establishment by JCCHS and shall be posted in the food establishment in a place immediately viewable by customers, protected from external weathering and within five feet (5') of all customer entrances of the food establishment along with most recent inspection report, scoring, closing order and/ or notice of violation placards.

**3.4.7.3.3** A food establishment having received a Closing Order can reapply for a permit upon completion of all critical violations and all non-critical violations identified on the second follow-up inspection report, payment

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

of assessed fees, compliance with all provisions of this ordinance, compliance with food code and completion of involuntary pre-opening inspection.

3.4.7.3.3.1 Re-opening inspections will be completed within twenty-four (24) business hours of having been notified that all violations are corrected. Additional fees may apply each time the administrative authority completes such a re-opening inspection without violations having been corrected.

**3.4.7.3.4** It is unlawful for any food establishment to function as a food establishment while under a Closing Order.

**3.4.7.3.5** A food establishment Permit may be revoked and a Closing Order may be issued for any violation of the food code including the following list of violations:

3.4.7.3.5.1 Imminent Health Hazard found in food establishment.

3.4.7.3.5.2 Failure to acquire and renew a food establishment permit

3.4.7.3.5.3 Failure to secure an approved inspection prior to operating a food establishment

3.4.7.3.5.4 Failure to allow administrative authority access to the entire food establishment and records

3.4.7.3.5.5 Creating a hostile environment or attempting to discourage or prevent administrative authority from completing inspection of entire food establishment

3.4.7.3.5.6 Failure to post JCCHS issued documentation such as permit, inspection report, score, and Notice of Violation placard in plain site of customers, protected from external weathering and within a 5 foot (5 ') radius of all primary customer entrance of the food establishment

3.4.7.3.5.7 Failure to comply with Food Safety Program requirements to have all managers and one-quarter (25%) of food handlers on duty food safety trained and certified

3.4.7.3.5.8 Failure to submit food establishment plans 6 weeks prior to opening a food establishment

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

- 3.4.7.3.5.9 Failure to notify JCCHS of voluntary closing for purpose other than holiday, vacation or regular schedule in order that a re-opening inspection be completed
- 3.4.7.3.5.10 Failure to notify JCCHS for change of ownership; design, layout or function as a result of construction or extensive remodeling; location; or menu to include potentially hazardous food or other extensive revision
- 3.4.7.3.5.11 Failure to pay re-inspection fees
- 3.4.7.3.5.12 Operating a food establishment without a food establishment permit by making potentially hazardous food available to the public

## **3.4.8 APPEAL**

Upon notice of denial or revocation of permit or follow-up inspection, the permit holder may file a written request for a hearing to the Johnson County Health Officer within three (3) business days of the incident for which a hearing is requested. The Johnson County Health Officer is to hold the hearing within ten (10) business day's receipt of the request.

## **3.4.9 PENALTY**

Any person who violates any provision of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1000 or by imprisonment for not more than 60 days, or by both fine and imprisonment. For each day during any portion of which any violation of the provisions of this article is found to exist and is continued, such person or persons is guilty of separate offenses for each day and shall be punished therefore as provided.

## **3.4.10 SAVING CLAUSE**

If any part of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this order.

# JOHNSON COUNTY CODE OF HEALTH REGULATIONS

## 3.5 BE IT ORDAINED AS FOLLOWS:

The County Commission hereby promulgates and adopts the Johnson County Code of Health Regulations Food Ordinance as recommended and requested by the Johnson County Community Health Service and Board of Trustees.

The County Clerk is hereby ordered to have the ordinance printed and available in his/her office for distribution to the public.

A copy of this ordinance shall be published in some newspaper in this county in three successive weeks, with the first publication occurring not later than thirty (30) days after the adoption of this Ordinance.

### EFFECTIVE DATE

This ordinance shall become EFFECTIVE on and after the 1<sup>st</sup> day of July, 2010,

EXCEPT Non-Profit Organizations, passed the 1<sup>st</sup> day of March, 2010.

\_\_\_\_\_  
Presiding Commissioner

\_\_\_\_\_  
Board of Trustees Chairman

\_\_\_\_\_  
Eastern District Commissioner

\_\_\_\_\_  
Board of Trustees Secretary

\_\_\_\_\_  
Western District Commissioner

\_\_\_\_\_  
Board of Trustees Treasurer

ATTEST:

\_\_\_\_\_  
County Clerk