

## RESOLUTION NO. 06-2011

### SEWER USE RESOLUTION

A RESOLUTION REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF; IN THE SEWER DISTRICTS WITHIN THE COUNTY OF CHEROKEE, STATE OF KANSAS.

Whereas, the Board finds that it is a proper exercise of the police power of government to regulate throughout the unincorporated areas of Cherokee County, Kansas, the subjects contained herein, in order to assure the health, welfare and safety of the community by enacting standards for sewage disposal.

Whereas, the Board may perform powers of local legislation and administration it deems appropriate under K.S.A. 19-101a, subject only to its limitations, which do not prohibit the provision hereinafter set forth.

BE IT RESOLVED BY THE COMMISSION OF THE COUNTY OF CHEROKEE, STATE OF KANSAS, AS FOLLOWS:

#### ARTICLE I - DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Resolution shall be as follows:

Sec. 1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

Sec. 2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage

pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5) meters outside the inner face of the building wall.

Sec. 3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

Sec. 4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

Sec. 5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Sec. 6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Sec. 7. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Sec. 8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

Sec. 9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Sec. 10. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle, greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

Sec. 11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sec. 12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

Sec. 13. "Sewage" shall mean a combination of the water-carried wastes from residents, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters, as may be present.

Sec. 14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

Sec. 15. "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sec. 16. "Sewer" shall mean a pipe or conduit for carrying sewage.

Sec. 17. "Shall" is mandatory; "May" is permissive.

Sec. 18. "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quality of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Sec. 19. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Sec. 20. "Superintendent" shall mean the Cherokee County, Kansas, Health Department Head, or her or his authorized deputy, agent, or representative.

Sec. 21. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Sec. 22. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

## **ARTICLE II – SEWAGE DISPOSAL**

Sec. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private within the County of Cherokee, in any area under the jurisdiction of said County, any human or animal excrement, garbage, or other objectionable waste.

Sec. 2. It shall be unlawful to discharge to any natural outlet within the County of Cherokee, or in any area under the jurisdiction of said County, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Resolution.

Sec. 3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Sec. 4. The owner of all houses, buildings, or properties used for human employment, recreation, or other purposes, situated within the County and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the County, is

hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Resolution, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet, 30.5 meters, of the property line.

### **ARTICLE III - PERMITS**

Sec. 1. Where a public sanitary or combined sewer is not available under the provisions of Article II, Section 4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Sec. 2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the County, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$35.00 (\$10.00 for the permit and \$25.00 for the inspection) shall be paid to the County at the time the application is filed.

Sec. 3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within Ninety-Six (96) hours of the receipt of notice by the Superintendent.

Sec. 4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of Kansas. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than two (2) acres, unless the Superintendent, after consideration of all relevant factors, and in his or her sole discretion, shall provide written authorization, at the time of the issuance of the said permit, that a lot with an area less than two (2) acres may be built upon. No septic tank or cesspool shall be permitted to discharge to any outlet.

Sec. 5. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article III, Section 4, a direct connection shall be made to the public sewer in compliance with this Resolution, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Sec. 6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the County.

Sec. 7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

Sec. 8. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

#### **ARTICLE IV- PERMITS**

Sec. 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Sec. 2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the County. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$35.00 (\$10.00 for the permit and \$25.00 for the inspection) for an industrial building sewer permit shall be paid to the County at the time the application is filed.

Sec. 3. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the County from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Sec. 5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the [Superintendent], to meet all requirements of this Resolution.

Sec. 6. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and

plumbing code or other applicable rules and regulations of the County. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Sec. 7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 8. No permit shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the county, and the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

Sec. 10. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision for the Superintendent or his representative.

Sec. 11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the County.

#### **ARTICLE V – UNLAWFUL DISCHARGE TO SEWER**

Sec. 1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

Sec. 2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or

unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

Sec. 3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
- (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Sec. 4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F, 65 degrees C.
- (b) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees F, 0 degrees and 65degrees C).

- (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be neutralized or not.
- (d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (e) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- (f) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State and Federal regulations.
- (h) Any waters or wastes having pH in excess of 9-5.
- (i) Materials which exert or cause:
  - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (k) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight of suspended solids, or (3) having an average flow greater than 2 percent of the average sewer flow of the County shall be subject to the review of the (Superintendent). Where necessary in the

opinion of the (Superintendent), the owner shall provide, at his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the [Superintendent] and no construction of such facilities shall be commenced until said approvals are obtained in writing.

Sec. 5. If any wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes,
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers,
- (c) Require control over the quantities and rates of discharge, and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 10 of the Article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, Resolutions and laws.

Sec. 6 Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or private dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

Sec. 7. Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Sec. 8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Sec. 9. All measurements, tests, and analyses of the characteristics of wastes and wastes to which reference is made in this Resolution shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hours composite of premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

Sec. 10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the County and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the County for treatment, subject to payment therefore, by the industrial concern.

#### **ARTICLE VI – DAMAGE TO SEWAGE WORKS**

Sec. 1 No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be guilty of the misdemeanor offense of INTERFERENCE WITH THE

PUBLIC SEWER WORKS, and on conviction thereof shall be fined in the amount not exceeding \$500.00 dollars for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

### **ARTICLE VII - SEWAGE WORKS INSPECTION**

Sec. 1 The Superintendent and other duly authorized employees of the County bearing proper credentials and identification shall be permitted to enter all properties for the purpose of in section, observation, measurement, sampling, and testing in accordance with the provisions of this Resolution. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatments.

Sec. 2 While performing the necessary work on private properties referred to in Article VII, Section 1 above, the Superintendent or duly authorized employees of the County shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the County employees and the County shall indemnify the company against loss or damage to its property by County employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article V, Section 8.

Sec. 3 The Superintendent and other duly authorized employees of the County bearing proper credentials and identification shall be permitted to enter all private properties through which the County holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

### **ARTICLE VIII – VIOLATION; PENALTY**

Sec. 1 Any person found to be violating any provision of this Resolution except Article VI shall be served by the County with written notice stating the nature of

the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Sec. 2 Any person who shall continue any violation beyond the time limit provided for in Article VIII, Section 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$500<sup>00</sup> dollars for each violation. Each 24-hour period in which any such violation shall continue shall be deemed a separate offense.

Sec. 3 Any person violating any of the provisions of this Resolution shall become liable to the County for any expense, less, or damage occasioned the County by reason of such violation.

#### **ARTICLE IX – REPEAL; SAVINGS CLAUSE**

Sec. 1 All Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

Sec. 2 The invalidity of any section, clause, sentence, or provision of the Resolution shall not affect the validity of any other part of this Resolution which can be given effect without such invalid part or parts.

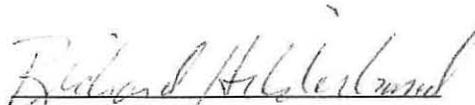
#### **ARTICLE X – EFFECTIVE DATE**

Sec. 1 This resolution shall take effect and be in full force from and after its passage and publication once in the official county newspaper.

Adopted this 18<sup>th</sup> day of April, 2011, by the BOARD OF COMMISSIONERS OF CHEROKEE COUNTY, KANSAS.



Patrick W. Collins  
County Commissioner

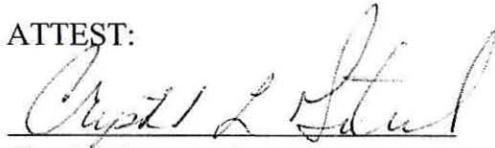


Richard J. Hilderbrand  
County Commissioner

  
Jack G. Garner, Chairman

County Commissioner  
Chairman

ATTEST:

A handwritten signature in cursive script, appearing to read "Crystal Gatewood", written over a horizontal line.

Crystal Gatewood  
County Clerk of Cherokee County,  
Kansas  
Resolution No. 06 - 2011

Prepared by:  
Kevin Cure, Attorney