

# Skagit County Code 12.05 OSS

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### 12.05.010 Purpose, objectives, and authority.

(1) The purpose of this Chapter is to protect the public health by minimizing:

- (a) The potential for public exposure to sewage from on-site sewage systems; and
- (b) Adverse effects to public health that discharges from on-site sewage systems may have on ground and surface waters.

(2) This Chapter regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems to:

- (a) Achieve long-term sewage treatment and effluent dispersal; and
- (b) Limit the discharge of contaminants to waters of the State.

(3) This Chapter is adopted by the Skagit County Board of Health in accordance with the authority granted in RCW Chapter [70.05](#).

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.020 Administration.

This Chapter shall be administered under the authority and requirements of RCW Chapters [43.70](#), [70.05](#), [70.118](#), [70.118A](#), and the Skagit County on-site sewage system management plan. As authorized under RCW [70.05.060](#)(7), fees may be charged for the costs of administration.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.025 On-site sewage systems rules and regulations adopted.

(1) Washington Administrative Code (WAC) Chapter [246-272A](#), as now enacted or hereafter amended, is adopted by reference. Should any section of this Chapter conflict with WAC Chapter [246-272A](#), the more restrictive regulation shall apply.

(2) Washington State Department of Health's (DOH) Department Standards and Guidance (DS&G) documents, as now published or hereafter amended, are adopted by reference. Should any section of this Chapter or Health Department policies conflict with the DS&Gs, the more restrictive standard shall apply.

- (a) When multiple DS&Gs are used in concert with each other, the more restrictive standard shall apply if conflicts arise.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.030 Definitions.

(1) Terms and acronyms in WAC [246-272A-0010](#) are adopted by reference.

(2) Additional Acronyms Used in This Chapter.

“CEU” means continuing education unit. One CEU is equivalent to eight credit hours of Health Officer-approved training. One CEU is equivalent to one-half year of experience for operations and maintenance specialists and one-quarter year for installers.

“DOH” means Washington State Department of Health.

“O&M” means operations and maintenance.

“OSS” means on-site sewage system.

“SCC” means Skagit County Code.

### (3) Additional Definitions Used in This Chapter.

“Abandoned septic tank” is a septic tank that is permanently taken out of service, following the procedures set in SCC 12.05.190.

“Area of special concern” means an area of definite boundaries delineated through public process, where the Health Officer determines additional requirements for on-site sewage systems which may be necessary to reduce potential failures or minimize negative impact of on-site systems upon public health.

“Bedroom” means any room normally used for sleeping and indicated as such on building plans. The minimum number of bedrooms per square foot of floor area (basement, first, second, etc.) shall be:

	1000 sq ft	1 bedroom
1001 -	2000sq ft	2 bedrooms
2001 -	3000 sq ft	3 bedrooms
Each additional 500 sq ft		1 bedroom
or portion thereof shall		

Use of 1-bedroom applies only to a secondary structure being served by an existing on-site sewage system (e.g. a studio ADU and a 3-bedroom single family residence served by system designed for 4-bedrooms).

“Board of Health” means the Skagit County Board of Health defined in RCW Chapter [70.05](#).

“Campground” means an area of land developed for recreational use in temporary occupancy, such as two or more tents and/or recreational vehicles.

“Certified” means approved by the Health Officer to have met qualifications established by these rules and regulations to practice as a pumper, installer, or operations and maintenance specialist in Skagit County.

“Closed record hearing or appeal” means a proceeding based upon the existing record.

“Conventional gravity system” means an on-site sewage system consisting of a septic tank and a subsurface soil absorption system with gravity distribution of the effluent and flow is maintained by use of gravity only.

“Conventional pressure distribution system” means an on-site sewage system consisting of a septic tank and a subsurface soil absorption system with pressure distribution of the effluent using only public domain technologies. A subsurface drip system is not considered a conventional pressure distribution system.

“Days” unless otherwise specified, “days” means calendar days, not business or working days. If days in reference to a timeline or due date and the due date falls on a weekend or major federal holiday, then the end of the timeline or due date shall be the next working day.

“Dump station” means an area used for emptying recreational vehicle wastewater holding tanks.

“Health Department” means Skagit County Public Health.

“Health Officer” means the Health Officer of Skagit County within the State of Washington, or a representative authorized by and under the direct supervision of the Health Officer.

“Health Officer-approved training” means courses provided by Washington On-Site Sewage Association, National Onsite Wastewater Recycling Association, or other on-site specific training, as approved by the Health Officer on a case-by-case basis.

“Level 1 Installer” means an OSS installer who is certified to install conventional gravity systems, conventional pressure distribution systems, and gravity with pump systems.

“Level 2 Installer” means an OSS installer who is certified to install public domain system types (mound, sand filters, etc.) as well as proprietary or alternative systems in which they provide documentation of specific training from the manufacturer.

“Level 1 Operation and Maintenance Provider” means an individual certified to inspect conventional gravity systems, conventional pressure distribution systems, and gravity with pump systems.

“Level 2 Operation and Maintenance Provider” means an individual certified to inspect other public domain system types (mound, sand filters, etc.) as well as proprietary alternative systems in which they provide documentation of specific training from the manufacturer.

“Maintenance agreement covenant” means a recorded agreement stating certain activities and/or practices are required or prohibited.

“Management Plan” means the Skagit County on-site sewage management plan.

“Manufactured home” means a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation. Manufactured homes do not include recreational vehicles.

“Manufactured or mobile home park” means a single lot of record, under the ownership or management of one person, firm, or corporation, for the purposes of locating two or more mobile or manufactured homes for residential dwelling purposes. It does not include a

temporary manufactured home that meets the definition of a temporary manufactured home under this Chapter.

“Marine recovery area” or MRA means an area of definite boundaries where the Health Officer, or the Washington State Department of Health, in consultation with the Health Officer, determines that additional requirements for existing on-site sewage systems may be necessary to reduce potential failing systems or minimize negative impacts of on-site sewage systems.

“Open record hearing or appeal” means a proceeding where new information relevant to the matter can be introduced.

“Operational permit” means a permit that is issued to a non-residential facility as outlined in 12.05.163 for a term of one year and renewed annually upon receipt of a complete application and fee. At the time of initial permit application or at the time of permit renewal the department may impose such permit conditions, requirements for system improvements, and compliance schedules as it determines are reasonable and necessary to ensure that the system functions as intended.

“Operations and maintenance specialist” means a person certified by the Health Department to independently inspect an OSS.

“Record drawing” means an accurate graphic and written record of the location and features of the OSS - developed by a Skagit County certified OSS individual, Washington State Licensed On-Site Wastewater Designer, or Washington State Licensed Professional Engineer - that are needed to properly monitor, operate, and maintain that system. Also known as an "as-built" drawing. Homeowner drawn record drawings are accepted when the homeowner is the designer or installer of record as authorized under SCC 12.05.120 and 12.05.140 respectively.

“Redesign” means changes made to a previously approved and issued permit design prior to the approved design being installed. A redesign must meet all the permit requirements in section 12.05.090.

“Renew” means extending the expiration date of a certification or permit prior to the existing expiration date.

“Residential sewage effluent” means effluent that does not exceed a five-day biochemical oxygen demand (CBOD<sub>5</sub>) of 228 milligrams per liter, total suspended solids of 80 milligrams per liter, and O&G of 20 milligrams per liter.

“Revision” means a change to a septic design for a permit that has been assigned a permit number, where the change is made before the permit is approved and issued. These may be required changes following the Health Department review or changes based on recommendations or requests to the designer.

“Site evaluation” means the process of evaluating the proposed site capabilities to accept the expected wastewater based on environmental conditions, physical features, and

wastewater characteristics as described in [Onsite Wastewater Treatment Systems Manual](#), Chapter 5.5

“Soil evaluation” means the evaluation of the soil horizon’s texture, structure, compaction, and other characteristics to determine the Soil Type as defined in WAC Chapter [246-272A-0220 Table V](#).

“Soil type” means one of seven numerical classifications of fine earth particles and coarse fragments as described in WAC Chapter [246-272A](#) and this Chapter.

“Temporary manufactured home” means the temporary placement of one manufactured home on a parcel with an existing residence to accommodate the housing needs of disabled or elderly family members or to house one farm worker and their immediate family.

“Training” means education or field experience in a subject area.

“Variance” means a deviation or exemption from Skagit County Code Chapter 12.05.

“Waiver” means an exemption from Washington Administrative Code Chapter 246-272A as authorized under RCW 70.05.072 and WAC 246-272A-0420.

“Water recreation facilities” means any artificial basin or other structure containing water used or intended to be used by the public for recreation, bathing, relaxation, or swimming, where body contact with the water occurs or is intended to occur and includes auxiliary buildings and appurtenances. The term includes, but is not limited to:

- (a) Conventional swimming pools, wading pools, and spray pools;
- (b) Recreational water contact facilities as defined under RCW [70.90.110](#) and regulated under WAC Chapter [246-262](#);
- (c) Spa pools and tubs using hot water, cold water, mineral water, air induction, or hydrojets.

(Ord. O20160001 (Att. A); Ord. O20110012 Att. A (part); Ord. O20070010 (part); Ord. 17443 (part), 1999; Ord. 16438 (part), 1997)

### **12.05.040 Applicability.**

The provisions of this Chapter shall be applicable to:

- (1) OSS treating sewage and dispersing effluent from residential sources with design flows through any common point up to 3,500 gallons per day; and
- (2) OSS for nonresidential sources of sewage if treatment, siting, design, installation, and operation and maintenance measures provide treatment and effluent dispersal equal to that required of nonresidential sources.
- (3) All structures capable of producing sewage must have an approved wastewater disposal method.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.045 Connection to public sewer system.

(1) See WAC [246-272A-0025](#).

(2) New development within a public sewer system service area must provide written documentation of the utilities approval to install a new OSS within their service area or documentation that sewer service cannot be available in a timely and reasonable manner.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.050 Sewage treatment and distribution technologies.

(1) Only the following treatment and distribution technologies may be permitted for use with on-site sewage systems:

(a) Proprietary treatment, bacteriological reduction, and distribution technologies that are registered with the DOH.

(2) The Health Officer may require performance monitoring or sampling of any proprietary device or method.

(3) Approved waterless toilets (e.g. composting, incinerating, vault and pit toilets) registered with the DOH may be permitted under Health Officer approval and adherence to current regulations and current DS&G.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.060 Product development permits.

(1) See WAC [246-272A-0170](#), as adopted in 12.05.025.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.090 Permit requirements.

(1) See WAC [246-272A-0200](#), as adopted in 12.05.025.

(2) Except for a minor repair, a person proposing the installation, repair, modification, connection to, or expansion of an OSS, shall submit an application and obtain a permit from the Health Officer prior to beginning construction. The permit application must include the following:

(a) General information including:

(i) Name and address of the property owner and the applicant at the head of each page of the submission;

(ii) Parcel number and if available, the address of the site;

(iii) Source of drinking water supply;

(iv) Identification if the property is within the boundaries of a recognized sewer utility;

(v) Size of the parcel;



- (vi) Type of permit for which application is being made. For example, new installation, repair, expansion, modification, or operational;
  - (vii) Source of sewage. For example, residence, restaurant, or other type of business;
  - (viii) Location of utilities;
  - (ix) Name of the site evaluator;
  - (x) Name, signature and stamp of the designer;
  - (xi) Date of application; and
  - (xii) Name and signature of the fee simple owner, the contract purchaser of the property, or the owner's authorized agent.
- (b) The soil and site evaluation as specified under WAC 246-272A-0220;
- (c) A dimensioned site plan of the proposed initial OSS, the reserve area and those areas immediately adjacent that contain characteristics impacting design including:
- (i) Designated areas for the proposed initial OSS and the reserve area;
  - (ii) The location of all soil logs and other soil tests for the OSS;
  - (iii) General topography and slope;
  - (iv) Drainage characteristics;
  - (v) Horizontal separations as noted in Table IV in WAC 246-272-0210;
  - (vi) The location of existing and proposed encumbrances affecting OSS placement, including legal access documents if any component of the OSS is not on the lot where the sewage is generated;
  - (vii) An arrow indicating north;
  - (viii) A legend of symbols used;
  - (ix) Plan scale and a graphic scale bar;
  - (x) Vertical datum used (such as "assumed," "North American Vertical Datum of 1988 (NAVD 88)," "National Shoreline Reference Station (NSRS)," or "unknown");
  - (xi) An elevation benchmark and relative elevations of system components;
  - (xii) Name, signature, stamp, and contact information of the designer; and
  - (xiii) A statement on limitation of use indicating the site plan is not a survey.
- (d) A detailed OSS design meeting the requirements under WAC 246-272A-0230, 246-272A-0232, 246-272A-0234, and 246-272A-0238 including:

(i) A drawing showing the dimensioned location of components of the proposed OSS, and the system designed for the reserve area if reserve site characteristics differ significantly from the initial area;

(ii) Vertical cross-section drawings showing:

(A) The depth of the soil dispersal component, the vertical separation, and depth of cover material; and

(B) Other new OSS components constructed at the site.

(iii) Calculations and assumptions supporting the proposed design, including:

(A) System operating capacity and design flow;

(B) Soil type;

(C) Hydraulic loading rate in the soil dispersal component; and

(e) Any additional information as deemed necessary by the Health Officer.

(f) A complete DOH waiver or County variance form, if one is required for the design to be approvable.

(g) For repair designs, a short narrative of the evaluation as to the cause of the failure as required by WAC 246-272A-0280.

(3) Upon receipt of a complete application, the Health Department will respond to the application with either approval, denial, or pending per [RCW 70.05.074](#).

(4) Permit applications submitted without payment of the associated fees within 120 calendar days shall be void. A new application will be required to be submitted and meet any additional requirements effective at that time.

(5) Permits for installation of a new OSS will expire three years after the date issued.

(a) Upon application, a new OSS installation permit may be renewed for an additional three years.

(b) Only one renewal is allowed.

(6) Permits for repairs to an OSS will expire one year after the date issued.

(7) Upon expiration of a permit to install a new or make a repair to an OSS, a new permit application and fee is required.

(Ord. O20160001 (Att. A); Ord. O20070010 (part): Ord. 16438 (part), 1997)

## 12.05.100 Location.

(1) See WAC [246-272A-0210](#), as adopted in 12.05.025.

(Ord. O20160001 (Att. A); Ord. O20070010 (part): Ord. 16438 (part), 1997)

### 12.05.110 Soil and site evaluation.

(1) See WAC [246-272A-0220](#), as adopted in 12.05.025.

(2) When a new system design is being proposed, a minimum of three soil evaluation test pits must be characterized. Two test pits in the proposed primary drainfield area and one in the proposed reserve area are recommended. One soil test pit in the primary area may be accepted if previous soil evaluations were approved after July 22, 1984.

(a) A minimum of one soil evaluation test pit is required when the design proposal is for a repair design of an existing system without a reserve area designated on the original system design. Two test pits are recommended.

(3) When insufficient information is available to determine the highest seasonal water table, persons performing soil and site evaluations shall measure and document water table measurements during the wet season.

(a) Wet season review may consist of multiple site visits to the test pits generally between November and April. Season may vary based on actual conditions.

(b) When the site and soil evaluation indicate the depth of soil to a water table is less than 18 inches, a wet season review may be completed to confirm that there are at least 12 inches.

(4) Soil evaluation test pits must be constructed in a manner consistent with DOH's Guidelines for Test Pit Construction for On-site Sewage Systems ([Publication 337-110](#)) and [USEPA Onsite Wastewater Treatment Systems Manual](#) (February 2001) Chapter 5 Section 5.6.

(a) A small diameter excavation may be accepted on a case-by-case basis and may be pre-approved by the Health Officer, in their sole discretion.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.120 Design requirements—General.

(1) See WAC [246-272A-0230](#), as adopted in 12.05.025.

(2) On-site sewage systems shall be designed by engineers licensed under RCW Chapter [18.43](#) or on-site wastewater treatment system designers licensed under RCW Chapter [18.210](#).

(3) Designers and engineers shall verify previously approved soil and site evaluations prior to design to ensure conditions have not changed and the soil and site evaluations contain accurate information. Soil and site evaluations approved prior to July 22, 1984, are no longer valid and cannot be used in a current design.

(4) A resident owner of a single-family residence may design an on-site sewage system for their residence only when the following applies:

(a) The OSS is a conventional gravity system;

(b) The resident owner of the single-family residence has not designed more than one on-site sewage treatment system in the preceding five-year period;

(c) The property is not within 200 feet of a marine shoreline;

(d) The resident owner certifies that the design was not prepared by any other person; and

(e) The site will not require waivers or variances.

(5) When proposing the use of an OSS for nonresidential sewage, the designer shall provide to the Health Officer:

(a) Documentation showing the sewage is not industrial wastewater;

(b) Documentation establishing the sewage's strength characteristics (CBOD<sub>5</sub>, total suspended solids, and O&G levels) and identification of chemicals found in the sewage that are not found in residential sewage; and

(c) A design providing treatment equal to that required of residential sewage effluent.

(6) The property owner shall record a maintenance agreement covenant with the County Auditor whenever a proprietary treatment product (PTP), registered by the DOH, is used in the system design.

(a) Historic product specific recorded maintenance agreements shall be accepted to meet the requirement in 12.05.120(6) so long as the current maintenance requirements are not less strict.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.122 Design requirements—Septic tank sizing.

(1) See WAC [246-272A-0232](#)(1), as adopted in 12.05.025.

(2) In lieu of the volumes listed in Table VII of WAC [246-272A-0232](#)(2), septic tanks for single-family residences and dwellings shall have the following minimum liquid volumes:

Number of Bedrooms	Required Minimum Liquid Tank Volume in Gallons
≤ 3	1,000
4	1,250
Each Additional Bedroom	250

(3) For systems receiving wastewater flow from multiple structures, the system may have:

(a) A single septic tank, sized to meet the combined total bedroom/flow minimum tank volume; or

(b) A septic tank for each structure that meets the minimum tank volume for that structure.

(4) The second compartment of a septic tank shall not be utilized as a pump basin or lift station. A separate tank or an additional compartment must be utilized if pumping of wastewater is necessary to meet the requirements of this section.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.123 Design requirements—Pump Chambers

(1) See WAC [246-272A-0233](#), as adopted in 12.05.025.

### 12.05.125 Design requirements—Soil dispersal components.

(1) See WAC [246-272A-0234](#), as adopted in 12.05.025.

(2) Reserve areas cannot be between trenches unless authorized by the Health Officer, in their sole discretion.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.127 Design requirements—Facilitate operation, monitoring, and maintenance.

(1) See WAC [246-272A-0238](#), as adopted in 12.05.025.

(2) Diagnostic tools, such as dose-cycle counters and hour meters on the sewage stream, or flow meters on both the water supply and sewage stream are required for systems using pumps.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.130 Holding tank sewage systems.

(1) See WAC [246-272A-0240](#), as adopted in 12.05.025.

(2) Holding tank sewage systems may be used only if the tank meets the DOH DS&G for holding tank sewage systems.

(3) An operational permit and recorded agreement, or otherwise exempt and approved by the Health Officer, in their sole discretion, are required for permanent use of a holding tank.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.140 Installation.

(1) See WAC [246-272A-0250](#), as adopted in 12.05.025.

(2) Final construction inspections must be requested a minimum of two full working days in advance.

(3) A resident owner of a single-family residence may install an on-site sewage treatment system for their residence only when the following applies:

- (a) The OSS is a new conventional gravity system;
- (b) The primary and reserve areas are more than 200-feet from marine waters and 100-feet from surface waters;
- (c) The single-family resident/property owner has not installed more than one on-site sewage treatment system in the preceding five years;
- (d) The resident owner certifies they will advise the Health Department if any installation work will be completed by someone other than the owner;
- (e) The resident owner provides documentation of:
  - (i) Equivalent of two years of employment experience within the construction or excavation industry;
  - (ii) Completing a Washington On-Site Sewage Association installer training, or equivalent; or
  - (iii) Otherwise approved by the Health Officer, in their sole discretion.
- (f) The OSS design did not require waivers or variances for approval;
- (g) The OSS design is not a repair of a failed system; and
- (h) The resident owner received approval from the Health Officer to complete the installation prior to beginning installation and has paid any associated fees.

(4) Installation during the wet season – generally, November 1 to April 1 – must be completed during dry weather times or prior approval by the Health Officer before beginning construction. Season may vary based on actual conditions.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.150 Inspection.

(1) See WAC [246-272A-0260](#), as adopted in 12.05.025.

(2) All installations must be inspected by the Health Department prior to backfilling, except when the installer of record receives written permission from the Health Department.

- (i) The OSS designer shall be responsible for inspecting the final construction and assuring the OSS meets the approved OSS design.

(3) OSS installed by a resident owner must schedule an inspection to meet the Health Department and/or licensed designer and have an inspection:

- (a) Prior to installation,
- (b) During construction, and

(c) At final construction prior to backfilling.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.155 Record drawings.

(1) See WAC [246-272A-0265](#), as adopted in 12.05.025.

(2) The record drawing shall be the responsibility of the designer or installer of record. Only individuals certified in Skagit County as installers or Washington State licensed designers are permitted to develop, certify with stamp/signature and date, and submit record drawings, unless the homeowner is the designer or installer of record.

(3) In addition to the requirements set out in WAC [246-272A-0265](#), the record drawing shall contain:

(a) A permanent landmark, such as a property corner, structure, or geologic feature, by which the OSS can be located at a future date; and

(b) A north arrow; and

(c) Horizontal scale bars at a scale appropriate to fill a minimum eight-and-one-half-inch by 11-inch drawing.

(4) The designer of record or installer shall submit the as-built record drawing and Health Officer approved cover sheet to the Health Officer in a timely manner of the final inspection completed by the department.

(a) For repair permits, expansion permits, and new gravity system permits, the record drawing shall be submitted within 90 calendar days of the final inspection.

(b) For all installations not included in (a), the record drawing shall be submitted prior to department issuing approval for use as referenced in SCC 12.05.210.

(c) For designs using filter media – coarse sand media or ASTM C-33 sand, a copy of the written certification from the supplier that the media conforms to the media specifications outlined in DOH RDS&G may be requested.

(Ord. O20160001 (Att. A); Ord. O20160001 (Att. A); Ord. O20070010 (part))

### 12.05.160 Operation, monitoring, and maintenance.

(1) In addition to the requirements set out in WAC [246-272A-0270](#), owners of on-site sewage systems with proprietary treatment products are required to ensure the OSS is inspected by an operations and maintenance specialist certified under SCC [12.05.230](#)(6) annually, or more frequently as determined by the Health Officer, in their sole discretion.

(2) Before any property transfer, an operations and maintenance inspection must be completed by a certified O&M specialist, except when a complete O&M inspection has been conducted within six months prior to the property transfer by a certified O&M specialist.

(3) Applications for building permits that will utilize an existing OSS shall be current with routine O&M inspection requirements before the department will approve the use.

(a) Applications for administrative special use may require an OSS modification permit and/or to be current with the inspection requirement.

(4) Persons performing operations and maintenance inspections must meet the requirements of SCC [12.05.230](#).

(a) Homeowners may be eligible to conduct their own routine inspection if the following criteria is met:

(i) The OSS is a conventional gravity system;

(ii) A record drawing or site plan developed by a certified Skagit County individual or Washington state licensed designer is on record; and

(iii) The drainfield components of the OSS is 200-feet or more from marine waters and 100-feet or more from surface waters.

(iv) Have a routine inspection completed by a certified operation and maintenance provider within the last three cycles.

(v) Other requirements may apply as outlined in policy.

(b) Upon approval for a homeowner to conduct their own routine inspections, they must agree to possible follow-up quality assurance visits by Health Department staff.

(c) Eligibility for homeowner inspections may be revoked at any time.

(d) A Homeowner Inspection Authorization is valid for the period of ownership of the specific onsite sewage system/s listed in the initial property/system registration. Reauthorization is required for a new property or new onsite sewage system on the property.

(5) An inspection must include, at a minimum:

(a) The address of the property served by the OSS;

(b) The date of the inspection;

(c) The permitted type and design flow for known OSS;

(d) Inspection and evaluation of:

(i) The status of all sewage tanks including baffles, effluent filters, tank contents such as water level, scum, sludge, solids, water tightness, and general structural conditions;

(ii) The status of all lids, accesses, and risers;

(iii) The OSS and reserve area for any indicators of OSS failure or conditions that may impact system function, operation, or repair; and

(iv) Any other components such as distribution boxes and pumps;



(e) A review of the record drawing and related documents, if they exist, including previous reports to confirm the system is operating as designed. Verification that the record drawing is accurate, if it exists, or an OSS site plan showing the location of all system components relative to structures and prominent site features.; and

(f) Any proprietary products following the procedures of the accepted operations and maintenance manual associated with those products.

(6) Following inspection or pumping, certified O&M specialists and certified pumpers must:

(a) Submit an on-site sewage system report to the Health Officer, the property owner, and if applicable, the property buyer, within 30 calendar days following the inspection or pumping; and

(b) Immediately – within seven calendar days – report potential failures to the Health Officer. Submit photo(s) of the potential failure observed when possible.

(7) The Health Department may require corrective action if any component of an OSS is observed to be encroached upon, drainfield is reported to not accept effluent, or documentation shows the operating capacity or wastewater strength exceeds the approved design, or other situations deemed a public health hazard by the Health Officer. Corrective action may include, but not limited to, a system evaluation and/or permit to modify the system to meet current requirements. A compliance schedule may be developed.

(Ord. O20160001 (Att. A); Ord. O20070010 (part))

(Ord. O20160001 (Att. A); Ord. O20110012 Att. A (part); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.163 Operation, monitoring, and maintenance—Special requirements.

(1) Food service establishments served by an OSS regulated by the Health Department shall:

(a) Have inspections of the OSS annually;

(b) Obtain Health Department approval for continued use of the OSS if Health Department inspections or plan reviews document the potential for changes to the establishment's sewage quality or quantity; and

(c) Pay any associated fees as listed in the Schedule of Charges for renewing OSS operation when renewing the food establishment permit.

(2) The following facilities served by an OSS require a Health Department operational permit and O&M inspections annually:

(a) Campgrounds;

(b) Mobile home parks;

(c) Water recreation facilities other than natural bathing waters subject to WAC Chapters [246-260](#) and [246-262](#); and

(d) Vault toilets and dump stations, where not addressed in 12.05.130.

(3) The following facilities served by an OSS require O&M inspections annually:

- (a) Transient Accommodations and short-term rentals;
- (b) Schools, educational, and childcare facilities – public and private;
- (c) Group homes such as but not limited to nursing homes and treatment centers; and
- (d) Other non-residential establishments that may produce effluent other than residential sewage, such as, but not limited to, stores, offices, and churches.

(4) In the event there are multiple OSSs on a single parcel serving facilities listed in section 2 or 3 above, a Health Officer approved compliance schedule may be developed for having routine inspections completed in a feasible manner.

(5) Upon request, any non-residential establishments shall supply the Health Department with water usage data and effluent wastewater strength tested by an accredited laboratory.

- (a) The Department may require a septic permit to modify the existing system to treat the demonstrated wastewater strength and flow.

(Ord. O20160001 (Att. A); Ord. O20110012 Att. A (part); Ord. O20070010 (part))

### 12.05.167 Areas of special concern and marine recovery areas.

(1) The local Board of Health shall hold public hearing(s) to identify and delineate areas of special concern or marine recovery areas and determine appropriate action to minimize public health risk. The board shall cause notice of the hearing(s) to be published in the County newspaper of record at least 30 calendar days before the hearing date. The public may submit written comment and/or give testimony during said hearing(s).

(2) The Health Officer may investigate and take appropriate action to minimize public health risk in formally designated areas such as:

- (a) Shellfish protection districts or shellfish growing areas;
- (b) Sole source aquifers designated by the U.S. Environmental Protection Agency;
- (c) Areas with a critical recharging effect on aquifers used for potable water as designated under Washington Growth Management Act, RCW [36.70A.170](#);
- (d) Designated public water supply wellhead protection areas;
- (e) Up-gradient areas directly influencing water recreation facilities designated for swimming in natural waters with artificial boundaries within the waters as described by the Water Recreation Facilities Act, RCW Chapter [70.90](#);
- (f) Areas designated by the Department of Ecology as special protection areas under WAC [173-200-090](#), Water Quality Standards for Ground Waters of the State of Washington;
- (g) Wetland areas under production of crops for human consumption;

(h) Frequently flooded areas including areas delineated by the Federal Emergency Management Agency or designated under the Washington State Growth Management Act, RCW Chapter [36.70A](#);

(i) Areas where nitrogen has been identified as a contaminant of concern; and

(j) Other areas designated by the Health Officer, in their sole discretion.

(3) Permits issued by the Health Department may impose more stringent requirements on new development, repairs, or renewals to protect public health in areas of special concern or marine recovery areas, including:

(a) Additional location, design, and/or performance standards for OSS;

(b) Larger land areas for new development;

(c) Prohibition of development;

(d) Additional operation, maintenance, and monitoring of OSS performance;

(e) Requirements to upgrade existing OSS;

(f) Requirements to abandon existing OSS; and

(g) Monitoring of ground water or surface water quality.

#### **12.05.168 Marine recovery areas adopted.**

(1) Designated marine recovery areas are listed in the Skagit County on-site sewage system management plan, as now enacted, or hereafter amended. (Ord. O20160001 (Att. A); Ord. O20110012 Att. A (part); Ord. O20080011)

#### **12.05.169 Remediation**

(1) See WAC [246-272A-0278](#), as adopted in 12.05.025 and DOH's *DS&G Remediation Technologies and Processes* ([Publication 337-012](#)).

#### **12.05.170 Repair of failures.**

(1) See WAC [246-272A-0280](#), as adopted in 12.05.025 and RCW [43.20.065](#).

(2) Upon application of a repair permit, if the existing septic or pump tank are undersized or structurally deficient, the Department may require that the tank be replaced with a tank that meets current tank sizing code.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

#### **12.05.172 Minor Repair of Malfunctions.**

(1) See WAC [246-272A-0282](#), as adopted in 12.05.025.

#### **12.05.180 Expansions.**

(1) See WAC [246-272A-0290](#), as adopted in 12.05.025.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.190 Abandonment.

(1) Persons seeking to permanently abandon a septic tank, seepage pit, cesspool, or other sewage container shall:

- (a) Have a current and issued permit for a repair/replacement with the Health Department or permit to connect to sewer with the local authority. Other situations will be reviewed on a case-by-case basis.
  - (i) Submit an abandonment application and pay the associated fee when abandonment is not completed as part of a repair or tank replacement permit;
- (b) Have the septage removed by an approved pumper and reported to the county as required in 12.05.200;
- (c) Remove or destroy the lid;
- (d) Fill the void with soil or gravel; and
- (e) Notify the Health Department within 30 calendar days of abandonment by submitting the appropriate abandonment form provided by the Health Department.

(2) A septic tank, seepage pit, cesspool, or other sewage container is required to be permanently abandoned when property structures are connecting to a public sewer system, except when the tank or container is a functional component of the connection to the public sewer system.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.200 Septage management.

(1) In addition to the approval and requirements under WAC [246-272A-0310](#), persons removing septage from an OSS shall:

- (a) Submit reports on forms approved by the Health Officer within 30 calendar days of the service provided; and
- (b) Dispose of septage directly into a:
  - (i) Sewage treatment works where the septage is treated through the wastewater treatment plant system; or
  - (ii) Facility authorized under SCC Chapter [12.16](#).

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 17443 (part), 1999; Ord. 16438 (part), 1997)

### 12.05.210 Developments, subdivisions, and minimum land area requirements.

(1) See WAC [246-272A-0320](#), as adopted in 12.05.025.

(2) Occupancy of a building requiring an OSS shall not occur until the site-specific septic system design has been approved, OSS has been installed, OSS has been inspected by the Health

Department, and final approval has been issued by the Health Department upon acceptance of the record drawing.

(a) Occupancy for existing structures seeking expansion or change in use of the structure may require a septic permit to modify the existing system to meet the proposed change.

(b) Building permits or permit extensions for sewage producing structures shall have a Health Department approved wastewater disposal method.

(3) Additional Requirements for Land Divisions.

(a) Drainfields and reserve areas for subdivisions that will use OSS systems shall be depicted on the plat map prior to final plat approval.

(b) Transport lines that are located off-site for OSS shall be installed prior to final plat approval.

(c) Lines for public sewer and stubs to each parcel shall be installed prior to final plat approval.

(4) As an alternative to construction of transport lines that are off-site for OSS, or public sewer transport lines and stubs to each parcel, the developer may provide a performance bond in favor of the Health Department and sign an agreement with the Health Department. The bond and agreement shall meet the following conditions:

(a) Guarantee that construction will be completed within one year of the date of the approval of the agreement or other time frame as agreed upon with the Health Department;

(b) The bond shall be on a satisfactory form and in an amount based on an estimate prepared by a professional engineer or licensed designer plus 35 percent. (This percentage is made up of 20 percent for a two-year inflationary period, 10 percent for contract expenditures and five percent for administrative costs);

(c) Be to the satisfaction of the Health Officer and legal counsel for Skagit County; and

(d) Release of the bond or assignment will occur only after:

(i) The engineer or licensed designer has submitted and signed a record drawing;

(ii) The engineer or licensed designer states that the installation and testing meets SCC Chapter [14.06](#) or other appropriate construction regulations or guidelines; and

(iii) The construction, where appropriate, has been inspected and approved by all jurisdictional agencies or municipalities.

(5) A design that includes a minimum land area size waiver must comply with all other requirements outlined in WAC, DOH's DS&G, and this chapter.

(6) Minimum land area outlined in Table XI must be met for proposed and existing parcels unless all the following are true:

(a) The lot is registered as a legal lot of record created prior to the effective date of the rule;

(b) The lot is not within an area identified in the local management plan developed under WAC 246-272A-0015 where minimum land area is listed as a design parameter necessary for public health protection; and

(c) The proposed OSS meets all requirements of this chapter without the use of a waiver under WAC 246-272A-0420.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 17443 (part), 1999: Ord. 16438 (part), 1997)

### 12.05.220 Campground—Holding tanks.

(1) Campgrounds providing dump stations must ensure:

(a) The dump station is directly plumbed to a public sewer system; or

(b) The wastewater goes to a holding tank that is emptied by a certified septic tank pumper into a public sewer system.

(2) Dump stations for recreational vehicle holding tanks shall have the following:

(a) Four-inch sewer inlet pipe that is properly trapped; and

(b) Concrete apron sloped to the drain protected by a self-closing, hinged cover;

(c) Water outlet and hose, equipped with a backflow prevention device; and

(d) A sign posted near the water outlet indicating that this water is for flushing and cleaning purposes only.

(3) If a dump station is not provided, the location of the nearest recreational vehicle dump station must be conspicuously posted at the entrance of the campground.

(Ord. O20160001 (Att. A); Ord. O20110012 Att. A (part))

### 12.05.230 Certification of installers, pumpers, and operations and maintenance specialists.

(1) See WAC [246-272A-0340](#), as adopted in 12.05.025.

(2) Except as authorized under SCC [12.05.120](#) and SCC [12.05.140](#), any person engaged in the practice of sewage system installation, pumping, operation, monitoring or maintenance shall be certified by the Health Department. All businesses must have and maintain a current registration with Washington State Office of the Secretary of State and Department of Revenue, as required by business type.

(3) A certificate shall:

(a) Be issued for the calendar year;

(b) Not be transferable;

(c) Be renewed yearly by December 31st; and

(d) Not be issued or renewed if the applicant is found by the Health Officer to be in violation of any of the provisions of this Chapter.

(e) May be issued through reciprocity for a certification from Puget Sound counties as defined in WAC 246-272A.

(i) Documentation must be provided for education, L&I registration, and necessary bond.

(4) Providers are recommended to use NOWRA and WOSSA courses to meet the CEU requirement outlines in this section. Courses not included in the definition of Health Officer-approved training will be considered on a case-by-case basis. The applicant may be required to provide justification or outline how the course is related to onsite septic systems.

(5) **On-Site Sewage System Installer.** An installer applicant shall:

(a) Submit an approved application form provided by the Health Department;

(b) Pass a written examination approved by the Health Officer;

(i) A level 1 installer must pass the WOSSA Level 1 Installer certification examination, or equivalent.

(ii) A level 2 installer must pass the WOSSA Level 2 Installer certification examination, or equivalent. In addition to any product specific training requirements.

(c) Demonstrate any combination of training that is determined by the Health Officer to be equivalent to one of the following:

**Level 1**

(i) Two years of full-time equivalent employment within the preceding five years with an approved installer in any other Puget Sound counties health jurisdiction; or

(ii) Eight CEUs of Health Officer-approved training applicable to OSS installation.

**Level 2**

(i) Four years of full-time equivalent employment within the preceding six years with an approved installer in any other Puget Sound counties health jurisdiction; or

(ii) Sixteen CEUs of Health Officer-approved training applicable to OSS installation; and

(iii) Documented training and experience must include proficiency with mounds, drip irrigation, and company specific approval for individual proprietary systems.

**Renewal**

- (i) One CEU (eight credit hours) of Health Officer-approved training within the previous 12 months applicable to OSS installation. The CEUs shall be credit hours not used to meet previous CEU requirements.
  - (d) Provide written verification of installer applicant requirements listed in this Subsection;
  - (e) Provide evidence of compliance with the State of Washington Department of Labor and Industries requirements for the registration of contractors as found in RCW Chapter [18.27](#);
  - (f) Have no outstanding record drawings for installations completed in the previous 12 months; and
  - (g) Pay all fees applicable to installer certification.
- (6) **On-Site Sewage System Pumper.** Applicants for certification as an OSS pumper, to pump septage from an on-site sewage system, holding tank, or portable toilet shall:
- (a) Submit an approved application on a form provided by the Health Department;
  - (b) Pass the WOSSA O&M Level 1 certification examination, or equivalent;
  - (c) Demonstrate any combination of training that is determined by the Health Officer to be equivalent to:
    - (i) Six months of full-time employment within the preceding three years as a certified septic system pumper in any other Washington state health jurisdiction.
    - (ii) One CEU of Health Officer-approved training applicable to septage pumping, transportation and disposal;
  - (d) Provide a performance bond executed by a surety company that meets the following requirements:
    - (i) Be in a sum of \$20,000;
    - (ii) Be executed by a surety company authorized to do business in the State of Washington;
    - (iii) Be conditioned that the holder of the pumper's certificate, in performing work governed by these rules and regulations, shall exercise all reasonable care and skill, and shall comply with all the terms and conditions of all applicable laws, ordinances and regulations and cover the cost of clean-up of accidental or improper discharges of septage;
    - (iv) Be kept in effect during the period of time for which the pumper's certificate is issued;
    - (v) Remain in force for one year following cancellation of or termination of a pumper's certificate; and
    - (vi) Be in a form satisfactory to the Skagit County Prosecuting Attorney;



- (e) Provide written verification of pumper applicant requirements listed in this Subsection;
- (f) Have no outstanding pump reports for septage pumping completed in the previous 12 months; and
- (g) Pay all fees applicable to pumper certification.

(7) **On-Site Sewage System Operation and Maintenance Specialist.** Applicants for certification as an operations and maintenance specialist shall:

- (a) Submit an approved application form provided by the Health Department;
- (b) Pass a written examination approved by the Health Officer;
  - (i) A level 1 installer must pass the WOSSA O&M Level 1 examination, or equivalent.
  - (ii) A level 2 installer must pass the WOSSA O&M Level 2 examination, or equivalent.
- (c) Demonstrate any combination of training that is determined by the Health Officer to be equivalent to one of the following:

**Level 1**

- (i) Four CEUs of Health Officer-approved training;
- (ii) Thirty-two hours of training related to the operation, monitoring, or maintenance of OSS within the preceding five years; or
- (iii) Two years of full-time equivalent experience providing OSS operation, monitoring, and maintenance services within the preceding five years;

**Level 2**

- (i) Eight CEUs of Health Office-approved training;
- (ii) Sixty-four hours of training related to operation, monitoring, or maintenance of OSS within the preceding five years; or
- (iii) Four years of full-time equivalent experience providing OSS operation, monitoring, and maintenance services within the preceding six years; and
- (iv) Documented training and experience must include proficiency with mounds, drip irrigation, and company specific approval for individual proprietary systems.

**Renewal**

- (i) One CEU (eight credit hours) of Health Officer-approved training within the previous 12 months applicable to OSS installation. The submitted CEUs certification shall not have been used to meet previous certification or renewal CEU requirements.
- (d) Provide written verification of operation and maintenance specialist applicant requirements listed in this subsection;

(e) Have no outstanding inspections reports for inspections completed in the previous 12 months; and

(f) Pay all fees applicable to operations and maintenance specialist certification.

(8) Legacy certification level and effective date for new provider requirements will begin with applications for the 2026 certification year.

(9) **Enforcement.** The Health Officer may deny, suspend, or revoke a certificate for an installer, pumper, or operations and maintenance specialist for any one or more of the following reasons:

(a) Failure to possess the necessary qualifications or to meet the requirements for the issuance or holding of a certificate;

(b) Misrepresentation or concealment of material fact in applications and documentation submitted to the Health Officer;

(c) Willful and repeated disregard or violation of any applicable ordinance, law, or regulation;

(d) Willfully aiding or abetting another person in violation of any applicable ordinance, law or regulation;

(e) Conviction of any crime related to the practice of on-site sewage system pumping, installation, design, or operations and maintenance;

(f) Making false promises or misrepresentations through written or verbal advertising, salespeople, agents, or otherwise in connection with the practice of being an on-site sewage system installer, pumper, or operations and maintenance specialist;

(g) Having two or more unpaid final judgments against them relating to OSS practice; or

(h) Failure to maintain or cancellation or termination of any required performance bond.

(10) If the Health Officer finds that the immediate suspension or revocation of a certificate for an installer, pumper, or operations and maintenance specialist is required to protect public health and safety, the Health Officer may order the suspension or revocation to take effect immediately upon personal service of the order or three business days after mailing by certified mail, return receipt requested. In other cases, the suspension or revocation shall take place 10 business days after service or, should there be a request for reconsideration or an appeal, after administrative appeals have been exhausted.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 17443 (part), 1999: Ord. 16438 (part), 1997)

## 12.05.260 Waivers of regulations.

(1) See WAC [246-272A-0420](#), as adopted in 12.05.025.

(2) Requests for waivers from any requirement in WAC 246-272A must be submitted with DOH's *Request for Waiver from State Regulations* form ([Publication 337-175](#)).

(3) Requests for a variance from any requirement in this Chapter shall be submitted to the Health Officer in writing on forms provided by the Health Department.

(4) Review of waiver and variance requests will begin upon receipt of the completed form and payment of associated fees.

(5) Requests related to a design or OSS permit will be reviewed with and along with the timeline of the OSS permit application. Requests not related to permitting will be reviewed and applicants will be issued a written response within 15 working days.

(Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.270 Inspection/right of entry.

(1) Whenever necessary to make an inspection to enforce or determine compliance with the provisions of any public health rule or regulation, or whenever the Health Officer has reasonable cause to believe that a specific violation of this Chapter has been or is being committed, an inspector may enter any building, structure, property, or portion thereof at reasonable times to inspect the same, and may be accompanied by law enforcement.

(2) Access shall be obtained as follows:

(a) If such residence, building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reason for the inspection, and request entry;

(b) If such building, structure, property, or portion thereof is unoccupied, the inspector shall make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property, or portion thereof, and request entry; or;

(c) If the occupants cannot be located, the inspector shall post a notice in a conspicuous place informing the occupants that an inspection is requested and the reasons therefor. A copy of the posted notice shall be mailed to the owner of record at a reasonably ascertained address. The notice shall ask the owner/occupant to contact the inspector within 72 hours to arrange a time for such inspection.

(3) If permission to enter is denied, the inspector is unable to locate the owner/occupant, or the owner/occupant fails to respond to a request for contact and the Health Officer has reason to believe that conditions therein create an immediate and probable health hazard, the Health Officer may ask the Prosecuting Attorney to assist in obtaining a warrant as outlined in RCW 70A.105.030. (Ord. O20160001 (Att. A); Ord. O20070010 (part); Ord. 16438 (part), 1997)

### 12.05.280 Enforcement.

(1) See WAC [246-272A-0430](#), as adopted in 12.05.025 and [RCW 70A.105](#).

(2) Allowing or maintaining an OSS that does not comply with the requirements of this Chapter or presents a potential to harm the public health, or the environment is a public nuisance.

(3) Each violation of this Chapter shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(4) The failure to comply with the performance and permitting requirements in this Chapter, including the failure to comply with the conditions in a permit or Health Officer order issued under this Chapter is a continuing offense and shall be a misdemeanor, punishable by imprisonment in the County jail for a maximum term fixed by the court of up to 90 calendar days, or by a fine in an amount fixed by the court of up to \$1,000, or by both such imprisonment and fine.

(5) Civil penalties, when imposed, shall be in accordance with the “Schedule of Charges: Skagit County Health Department.”

(6) A notice of violation or enforcement order shall be served on all persons named as potential violators as follows:

- (a) Personal service by delivering the notice to the person or leaving the notice with a person of suitable age at the person’s residence;
- (b) Mailed via certified mail to the address of the location of the violation or record address of the violator if the violator does not live at the location; or
- (c) Posted on the property at the location of the violation accompanied by mailing of the notice via regular mail to the property address when an address of the violator cannot be reasonably determined.

(7) Service by certified mail is effective upon receipt or three business days after the date of mailing, whichever occurs first.

(Ord. O20160001 (Att. A); Ord. O20070010 (part): Ord. 16438 (part), 1997)

## **12.05.285 Requests for reconsideration and appeals.**

(1) Requests for Reconsideration.

- (a) Persons named in a notice of violation or aggrieved by enforcement of a Health Officer’s order or denial of a permit shall request reconsideration of the notice of violation, order, or permitting decision by filing a request for reconsideration, on a form provided by the Health Department, accompanied by the required filing fee, at the Health Department within 10 business days of service of the notice of violation, order, or permitting decision.
- (b) Requests for reconsideration shall identify alleged errors in the notice of violation, order, or permitting decision and be supported by evidence, including statements and photographs as applicable, and by a written explanation including citation to applicable law and regulations. The Health Officer may rule on the request for reconsideration without a hearing; however, an aggrieved person may request a meeting with the Health Officer, which may be granted at the Health Officer’s discretion.
- (c) The Health Officer shall issue a written decision within 30 calendar days of receipt of the request for reconsideration unless additional time is justified by good cause. Service of the decision shall be effective upon personal service on the person(s) requesting the reconsideration, or three business days after mailing the decision, via certified mail, to the address provided in the request for reconsideration.

(2) Appeals of Health Officer's Decision on a Request for Reconsideration.

(a) Persons aggrieved by the Health Officer's decision on a request for reconsideration may appeal by filing a notice of appeal, on a form provided by the Health Department, accompanied by the required filing fee, at the Health Department within 10 business days of service of the Health Officer's decision.

(b) The following matters shall be heard by the Skagit County Hearing Examiner in an open record appeal hearing:

(i) Applications for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used;

(ii) An interpretative or declaratory decision regarding the application to a specific property of ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(iii) The enforcement of ordinances or orders regulating the improvement, development, modification, maintenance, or use of real property.

(c) Appeals involving other matters, which shall be heard as an open record appeal, and appeals of a Hearing Examiner's decision, which shall be heard as a closed record appeal, shall be heard by the Skagit County Board of Health.

(d) A notice of appeal will not be considered filed unless the appeal fee is paid within 10 business days. The notice of appeal or an attached statement shall:

(i) Identify the decision being appealed;

(ii) Identify the appellant's name, address, and interest in the matter;

(iii) Provide a short statement identifying each error made by the Health Department;

(iv) Explain, including citations to the Skagit County Code, state law or regulation, or judicial decision, how the decision under appeal is erroneous; and

(v) State the desired outcome of changes to the decision.

(3) Procedure for Open Record Appeals.

(a) At least seven business days prior to the date set for an open record hearing, the Health Department shall file a copy of the records pertaining to the decision being appealed and a staff report explaining the decision being appealed or responding to the statements in the notice of appeal. A copy of the records and staff report shall also be mailed or otherwise served on the appellant seven business days prior to the date set for the hearing at the address provided in the appellant's notice of appeal.

(b) Open record hearings before the Hearing Examiner shall be conducted pursuant to the guidance in SCC [14.06.160\(7\)\(b\)](#) (Appeal Hearings).

(4) Procedure for Closed Record Appeals before the Board of Health.

(a) Hearings shall be conducted generally in the following order:

- (i) Staff presentation;
- (ii) Appellant presentation;
- (iii) Respondent presentation (by parties of record only);
- (iv) Rebuttal or clarifying statements by staff and the appellant; and
- (v) Deliberations by the Board.

(b) No new evidence or testimony shall be given or received. The parties to the appeal may submit written statements or arguments prior to the hearing.

(c) The Board of Health shall examine the record, the decision or recommendation, and the arguments presented in the closed record hearing and select one of the following courses of action:

- (i) Remand the matter for further consideration by the Hearing Examiner or the Health Officer, as appropriate;
- (ii) Deny the appeal and affirm the decision under appeal; or
- (iii) If the Board determines the decision under appeal is clearly erroneous, the Board may adopt its own findings, conclusions, and decision.

(5) In all hearings, the appellant bears the burden of proving that the decision under appeal was clearly erroneous.

(6) Unless a hearing is continued for good cause, the hearing shall be held, and a decision rendered within 90 calendar days of the receipt of the notice of appeal. Service of the decision shall be effective upon personal service on the appellant or three business days after mailing the decision, via certified mail, to the address provided in the notice of appeal.

(7) An appeal of the Board of Health's decision shall be to the Superior Court under RCW [7.16.040](#) for statutory writs of review or RCW Chapter [36.70C](#) for matters reviewable under the Land Use Petition Act, as appropriate. Appellants shall be responsible for the costs of preparing a record for appeal.

(Ord. O20160001 (Att. A))

## **12.05.300 Fees.**

(1) Permit fees, certification fees, and Health Officer charges for service(s) shall be established by resolution of the Board of County Commissioners or Board of Health. All fees are payable at the time of application or service.

(2) Non-payment of a fee associated with an application within 120 calendar days shall void the application. If the applicant wishes to pursue the application, the application must be resubmitted based on the requirements at the time of application.

(Ord. O20160001 (Att. A); Ord. O20070010 (part): Ord. 16438 (part), 1997)

### 12.05.310 Severability.

(1) If any provisions of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter, or the application of the provisions to other persons or circumstances, shall not be affected.

(Ord. O20160001 (Att. A); Ord. O20070010 (part): Ord. 16438 (part), 1997)

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