

1 SNOHOMISH COUNTY BOARD OF HEALTH
2 Snohomish County, Washington

3
4 ORDINANCE NO. BOH25-06

5
6 RELATING TO VARIANCES AND WAIVERS; ADDING NEW DEFINITIONS AND A
7 NEW SECTION TO CHAPTER 1.05 OF THE BOARD OF HEALTH CODE; ADDING
8 NEW AND AMENDING EXISTING SECTIONS TO TITLES 2 THROUGH 6 AND TITLE
9 9 OF THE BOARD OF HEALTH CODE

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11 WHEREAS, under RCW 70.05.060(3) the Snohomish County Board of Health
12 has authority to enact such local rules and regulations as necessary in order to
13 preserve, promote, and improve the public health and provide for the enforcement
14 thereof; and

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16 WHEREAS, variances and waivers, a process which allows the Health
17 Department to grant or deny exceptions or modifications from strict adherence to the
18 Board of Health Code and its adopted state rules and regulations is not clearly defined;
19 and

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21 WHEREAS, in order to clearly define the variance and waiver process, a new
22 definition and new section will be added to chapter 1.05 of the Snohomish County
23 Board of Health Code; and

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25 WHEREAS, a new section will be added to titles 2 through 6 and title 9 of the
26 Board of Health Code to reference the variance and waiver process under chapter 1.05
27 of the Board of Health Code, and

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29 WHEREAS, the Snohomish County Board of Health has determined that adding
30 a variance or waiver application and review process under chapter 1.05 and the
31 relevant titles of the Snohomish County Board of Health Code is necessary to effectively
32 communicate the local rules and regulations to the people of Snohomish County;

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34 NOW, THEREFORE, BE IT ORDAINED:

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36 Section 1. Snohomish County Board of Health Code Section 1.05.020, adopted
37 by Ordinance No. BOH23-01 on October 10, 2023, is amended to read:

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39 **1.05.020 Definitions.**

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41 “Aggrieved Person” means a person whose interests are, or will likely be, specifically
42 and perceptibly harmed by a requirement, permit, order, or decision made by the health
43 officer or representative, and where a decision in favor of that person would substantially
44 eliminate the harm caused, or likely to be caused, by the requirement, permit, order, or
45 decision.

1 “Board of Health” means the Snohomish County Board of Health as defined in RCW
2 70.05.035

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4 “Board of Health Code” or “Code” or “Snohomish County Board of Health Code
5 (SCBHC)” shall mean and comprise the rules and regulations now formulated,
6 promulgated, adopted, and subsequently amended by the Snohomish County Board of
7 Health.

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9 “Director” means the director of the Snohomish County Health Department or
10 representative.

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12 “Health Department” or “Department” means the Snohomish County Health Department
13 (SCHD).

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15 “Health Officer” means the Health Officer of the Snohomish County Health Department,
16 as defined in RCW 70.05.010, or representative.

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18 “Hearing Examiner” or “Examiner” means the hearing examiner or a deputy hearing
19 examiner or pro tem hearing examiner appointed in accordance with chapter 2.02 of the
20 Snohomish County Code (SCC).

21
22 “Nuisance” means unlawfully doing an act, or omitting to perform a duty, which act or
23 omission either annoys, injures or endangers the comfort, repose, health or safety of
24 others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or
25 render dangerous for passage, any lake or navigable river, bay, stream, canal or basin,
26 or any public park, square, street or highway; or in any way renders other persons
27 insecure in life, or in the use of property.

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29 “Permit” means a specific written authorization issued by the Health Officer for the
30 performance, operation, use or repair of a function regulated by this Code.

31
32 “Person” means an individual, partnership, corporation, association, organization,
33 cooperative, public or municipal corporation, or agency of the state or local
34 governmental unit, or an agent or representative thereof.

35
36 “Public Nuisance” means that which is set up, maintained, or continued so as to be
37 injurious to the health, or an obstruction to the use of property by interfering with the
38 health, safety, or life of any considerable number of persons.

39 “Snohomish County Code” or “SCC” means the official code of Snohomish County as
40 adopted and amended by the Snohomish County Council.

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42 “Snohomish County Code” or “SCC” means the official code of Snohomish County as
43 adopted and amended by the Snohomish County Council.

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45 “Variance” means a written decision issued by the department under SCBHC 1.05.100
46 granting a modification to one or more requirements of this code.

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2 “Waiver” means a written decision issued by the department under SCBHC 1.05.100
3 granting an exception to one or more requirements of this code.
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5 Section 2. A new section is added to Chapter 1.05 of the Snohomish County
6 Board of Health Code to read:

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8 **1.05.100 Variances or waivers.**

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10 A. *General.* A person may seek a variance or waiver from certain requirements as
11 allowed under this code. Where a variance or waiver is allowed a person may
12 request a variance or waiver from the department to allow actions or activities
13 that do not fully comply with one or more code requirements. Applicants seeking
14 a variance or waiver shall identify the specific code requirement(s) that cannot be
15 met and propose an alternative method or mitigation measure that meets the
16 intent and achieves the same objectives as the original code requirement.
17
18 B. *Applicability.* The department may only grant variances or waivers from
19 provisions of this code when specifically allowed. Variances or waivers from state
20 rules and regulations may only be considered if the Washington State
21 Department of Health or the Washington State Department of Ecology has
22 explicitly granted the local health officer or jurisdictional health department the
23 authority to make such a decision.
24
25 C. *Application for a variance or waiver.* Any person requesting a variance or waiver
26 shall submit an application on a form provided by the department and pay all
27 applicable variance or waiver fees required under chapter 1.40 SCBHC. The
28 health officer may request additional information from the applicant prior to
29 issuing a decision. An application must demonstrate how it meets the decision
30 criteria set forth in SCBHC 1.05.100(E). Any applications that are incomplete or
31 not paid in full may be denied.
32
33 D. *Notice of variance or waiver request.* The department shall provide notice of a
34 variance or waiver request to those persons as required state regulations or
35 administrative rules. Notice shall be deemed complete when done in accordance
36 with SCBHC 1.05.060.
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38 E. *Decision.* The health officer shall consider the information provided by the
39 applicant and if applicable, may seek recommendations from state agencies
40 when making a decision on the variance or waiver request. If applicable state
41 agencies recommend the denial of a variance or waiver request, the department
42 may follow the state agency’s recommendation and deny the variance or waiver
43 request. A variance or waiver request may be approved or denied in part or in
44 whole. The health officer may impose conditions on the approval of a variance or
45 waiver request. The health officer may grant the variance or waiver request upon
46 finding:

- 1 1. Strict adherence with the code requirement(s) is impractical or impossible
- 2 and cannot be met by the applicant;
- 3 2. The proposed alternative method or mitigation measure meets the intent
- 4 and achieves the same objectives as the original code requirement(s);
- 5 3. A health hazard or nuisance will not result from the variance or waiver;
- 6 and
- 7 4. Either:
- 8 a. The proposed alternative method or mitigation measure will result
- 9 in equivalent or superior protection of public health, safety, and/or
- 10 the environment compared to the standard from which the variance
- 11 or waiver is sought; or
- 12 b. The action or activity for which a variance or waiver is requested is
- 13 subject to other regulations or requirements that, in the opinion of
- 14 the health officer, will result in equivalent or superior protection of
- 15 public health, safety, and/or the environment compared to the
- 16 standard from which the variance or waiver is sought.
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18 *F. Notification of the decision.* The department shall provide the health officer's

19 written decision to the applicant regarding the approval or denial of a variance or

20 waiver.

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22 *G. Appealing the decision.* Any aggrieved person may appeal the health officer's

23 decision on a variance or waiver request in accordance with chapter 1.20

24 SCBHC.

25 *H. Modification or rescission of the variance or waiver.* All approved variances or

26 waivers are subject to conditions set forth by the health officer. The department

27 reserves the right to modify or rescind the approval of a variance or waiver if, in

28 the opinion of the health officer:

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- 30 1. A health hazard or nuisance has resulted from the approval of the
- 31 variance or waiver;
- 32 2. The person who received the variance or waiver is no longer complying
- 33 with the conditions of the variance or waiver;
- 34 3. New information is discovered by or provided to the department that
- 35 contradicts the information provided in the variance or waiver application
- 36 upon which the health officer relied; or
- 37 4. New information is discovered by or provided to the department indicating
- 38 that the information provided in the variance or waiver application on
- 39 which the health officer relied was fraudulent.
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41 Section 3. Snohomish County Board of Health Code Section 2.15.100, adopted

42 by Ordinance No. BOH24-02 on June 11, 2024, is amended to read:

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1 **2.15.100 Variance or waiver requests.**

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3 ~~((Refer to WAC 173-350-710(8), Permit Application and Issuance, in paragraph~~
4 ~~numbered eight titled Variances, as now or hereafter amended.))~~ Variances or waivers
5 of code provisions in this title are allowed. Requests for a variance or waiver from the
6 requirements of this title shall follow the application process established in SCBHC
7 1.05.100. However, variance or waiver requests shall not be granted for requirements
8 set forth in chapter 173-350 WAC, except as allowed under WAC 173-350-710, as now
9 in effect or hereafter amended.

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11 Section 4. A new section is added to Chapter 3.05 of the Snohomish County
12 Board of Health Code to read:

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14 **3.05.060 Variance or waiver requests.**

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16 Variances or waivers of code provisions in this title are allowed. Requests for a variance
17 or waiver from the requirements of this title must comply with WAC 246-215-08115, as
18 now in effect or hereafter amended, and follow the application process established in
19 SCBHC 1.05.100.

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21 Section 5. A new section is added to Chapter 4.05 of the Snohomish County
22 Board of Health Code to read:

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24 **4.05.040 Variance or waiver requests.**

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26 Variances or waivers of code provisions in this title are allowed. Requests for a variance
27 or waiver from the requirements of this title must comply with WAC 246-260-201, as
28 now in effect or hereafter amended, and follow the application process established in
29 SCBHC 1.05.100.

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31 Section 6. A new section is added to Chapter 5.05 of the Snohomish County
32 Board of Health Code to read:

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34 **5.05.020 Waiver requests.**

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36 Waivers of code provisions in this title are allowed. Requests for a waiver from the
37 requirements of this title must comply with WAC 246-272A-0420, as now in effect or
38 hereafter amended, and follow the application process established in SCBHC 1.05.100.
39 In addition, requests for a waiver from the requirements of chapter 246-272A WAC will
40 be reviewed and decided in accordance with Washington State Department of Health
41 publication number 337-021, titled "Granting On-site Sewage System Waivers," dated
42 April 2025 or as hereafter amended.

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44 Section 7. A new section is added to Chapter 6.05 of the Snohomish County
45 Board of Health Code to read:

DATE: _____

Approved as to form only:

Deputy Prosecuting Attorney

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