

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

10
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

15
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

20
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

24
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

28
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;

33
34 NOW, THEREFORE, BE IT ORDAINED:

35
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:

38
39 **1.05.020 Definitions.**

40
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

3
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.

8
9 "Director" means the director of the Snohomish County Health Department or
10 representative.

11
12 "Health Department" or "Department" means the Snohomish County Health Department
13 (SCHD).

14
15 "Health Officer" means the Health Officer of the Snohomish County Health Department,
16 as defined in RCW 70.05.010, or representative.

17
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.

28
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
40 "Snohomish County Code" or "SCC" means the official code of Snohomish County as
41 adopted and amended by the Snohomish County Council.

42
43 "Variance" means a written decision issued by the department under SCBHC 1.05.100
44 granting a modification to one or more requirements of this code.

45
46 "Waiver" means a written decision issued by the department under SCBHC 1.05.100

1 granting an exception to one or more requirements of this code.

2
3 Section 2. A new section is added to Chapter 1.05 of the Snohomish County
4 Board of Health Code to read:

5
6 **1.05.100 Variances or waivers.**

- 7
8 A. *General.* A person may seek a variance or waiver from certain requirements as
9 allowed under this code. Where a variance or waiver is allowed a person may
10 request a variance or waiver from the department to allow actions or activities
11 that do not fully comply with one or more code requirements. Applicants seeking
12 a variance or waiver shall identify the specific code requirement(s) that cannot be
13 met and propose an alternative method or mitigation measure that meets the
14 intent and achieves the same objectives as the original code requirement.
15
- 16 B. *Applicability.* The department may only grant variances or waivers from
17 provisions of this code when specifically allowed. Variances or waivers from state
18 rules and regulations may only be considered if the Washington State
19 Department of Health or the Washington State Department of Ecology has
20 explicitly granted the local health officer or jurisdictional health department the
21 authority to make such a decision.
22
- 23 C. *Application for a variance or waiver.* Any person requesting a variance or waiver
24 shall submit an application on a form provided by the department and pay all
25 applicable variance or waiver fees required under chapter 1.40 SCBHC. The
26 health officer may request additional information from the applicant prior to
27 issuing a decision. An application must demonstrate how it meets the decision
28 criteria set forth in SCBHC 1.05.100(E). Any applications that are incomplete or
29 not paid in full may be denied.
30
- 31 D. *Notice of variance or waiver request.* The department shall provide notice of a
32 variance or waiver request to an aggrieved person when required by state
33 regulations or administrative rules. Notice shall be deemed complete when done
34 in accordance with SCBHC 1.05.060.
35
- 36 E. *Decision.* The health officer shall consider the information provided by the
37 applicant and if applicable, may seek recommendations from state agencies
38 when making a decision on the variance or waiver request. If applicable state
39 agencies recommend the denial of a variance or waiver request, the department
40 may follow the state agency's recommendation and deny the variance or waiver
41 request. A variance or waiver request may be approved or denied in part or in
42 whole. The health officer may impose conditions on the approval of a variance or
43 waiver request. The health officer may grant the variance or waiver request upon
44 finding:
45 1. Strict adherence with the code requirement(s) is impractical or impossible
46 and cannot be met by the applicant;

2. The proposed alternative method or mitigation measure meets the intent and achieves the same objectives as the original code requirement(s);
3. A health hazard or nuisance will not result from the variance or waiver; and
4. Either:
 - a. The proposed alternative method or mitigation measure will result in equivalent or superior protection of public health, safety, and/or the environment compared to the standard from which the variance or waiver is sought; or
 - b. The action or activity for which a variance or waiver is requested is subject to other regulations or requirements that, in the opinion of the health officer, will result in equivalent or superior protection of public health, safety, and/or the environment compared to the standard from which the variance or waiver is sought.

F. *Notification of the decision.* The department shall provide the health officer's written decision to the applicant regarding the approval or denial of a variance or waiver.

G. *Appealing the decision.* Any aggrieved person may appeal the health officer's decision on a variance or waiver request in accordance with chapter 1.20 SCBHC.

H. *Modification or rescission of the variance or waiver.* All approved variances or waivers are subject to conditions set forth by the health officer. The department reserves the right to modify or rescind the approval of a variance or waiver if, in the opinion of the health officer:

1. A health hazard or nuisance has resulted from the approval of the variance or waiver;
2. The person who received the variance or waiver is no longer complying with the conditions of the variance or waiver;
3. New information is discovered by or provided to the department that contradicts the information provided in the variance or waiver application upon which the health officer relied; or
4. New information is discovered by or provided to the department indicating that the information provided in the variance or waiver application on which the health officer relied was fraudulent.

Section 3. Snohomish County Board of Health Code Section 2.15.100, adopted by Ordinance No. BOH24-02 on June 11, 2024, is amended to read:

2.15.100 Variance or waiver requests.

((Refer to WAC 173-350-710(8), Permit Application and Issuance, in paragraph numbered eight titled Variances, as now or hereafter amended.)) Requests for a variance or waiver from the requirements of this title shall follow the variance or waiver

1 application process established in SCBHC 1.05.100. Variance or waiver requests shall
2 not be granted for requirements set forth in chapter 173-350 WAC, except as allowed
3 under WAC 173-350-710, as now in effect or hereafter amended.
4

5 Section 4. A new section is added to Chapter 3.05 of the Snohomish County
6 Board of Health Code to read:
7

8 **3.05.060 Variance or waiver requests.**
9

10 Requests for a variance or waiver from the requirements of this title must comply with
11 WAC 246-215-08115, as now or hereafter amended, and follow the variance or waiver
12 application process established in SCBHC 1.05.100.
13

14 Section 5. A new section is added to Chapter 4.05 of the Snohomish County
15 Board of Health Code to read:
16

17 **4.05.040 Variance or waiver requests.**
18

19 Requests for a variance or waiver from the requirements of this title must comply with
20 WAC 246-260-201, as now or hereafter amended, and follow the variance or waiver
21 application process established in SCBHC 1.05.100.
22

23 Section 6. A new section is added to Chapter 5.05 of the Snohomish County
24 Board of Health Code to read:
25

26 **5.05.020 Waiver requests.**
27

28 Requests for a waiver from the requirements of this title must comply with WAC 246-
29 272A-0420, as now or hereafter amended, and follow the waiver application process
30 established in SCBHC 1.05.100. In addition, requests for a waiver from the
31 requirements of chapter 246-272A WAC will be reviewed and decided in accordance
32 with Washington State Department of Health publication number 337-021, titled
33 “Granting On-site Sewage System Waivers,” dated April 2025 or as hereafter amended.
34

35 Section 7. A new section is added to Chapter 6.05 of the Snohomish County
36 Board of Health Code to read:
37

38 **6.05.040 Waiver requests.**
39

40 Requests for a waiver from the requirements of this title shall follow the waiver
41 application process established in SCBHC 1.05.100. The department shall not grant
42 waivers from requirements of chapter 246-290 WAC or the Federal Safe Drinking Water
43 Act.
44

45 Section 8. Snohomish County Board of Health Code Section 6.15.080, adopted
46 by Ordinance No. BOH24-02 on June 11, 2024, is repealed.

1
2 Section 9. A new section is added to Chapter 9.05 of the Snohomish County
3 Board of Health Code to read:

4
5 **9.05.040 Variance or waiver requests.**

6
7 Requests for a variance or waiver from the requirements of SCBHC 9.10.060 and RCW
8 70.160.075, as now or hereafter amended, must comply with the requirements of those
9 sections and follow the variance or waiver application process established in SCBHC
10 1.05.100. Variance or waiver requests shall not be granted for any other requirements
11 found in this title.

12
13 Section 10. Severability. If any provision of this ordinance or its application to any
14 person or circumstance is held invalid, the remainder of the ordinance or the application
15 of the provision to other persons or circumstances is not affected.

16
17
18 PASSED this ____ day of _____, 2025.

19
20
21
22
23 SNOHOMISH COUNTY BOARD OF HEALTH
24 Snohomish County, Washington

25
26
27 _____
28 Chairperson

29
30
31 ATTEST:

32
33 _____
34 Clerk of the Board

35
36 () APPROVED
37 () EMERGENCY
38 () VETOED

39 DATE: _____
40
41
42

43 Approved as to form only:

44  6/27/25
45 _____
46 Deputy Prosecuting Attorney