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CLERK OF SUPREME COURT
STATE OF WASHINGTON

WASHINGTON STATE SUPREME COURT

JEFF GRIFFIN,
Petitioner,

v.

THURSTON COUNTY and its BOARD OF HEALTH,
Respondent

and

BRUCE CARTER, SHARI RICHARDSON, GEORGIA BICKFORD,
BARBARA BUSHNELL and JANE ELDER BOGLE,
Interested Parties.

**THURSTON COUNTY'S ANSWER TO
PETITION FOR REVIEW**

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SUPREME COURT

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I. INTRODUCTION

Thurston County, Respondent, answers Jeff Griffin's Petition for Review. Pursuant to RAP 13.4(b), the Supreme Court will only accept review of a decision of the Court of Appeals:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or
- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

In this case Griffin contends that review should be granted pursuant to RAP 13.4(b)(3) and (4). Petition for Review at 10. Griffin fails on both counts.

First, Griffin cannot establish that the "all requirements" language of the sanitary code is so vague as to deny him fair warning that he may be prohibited from placing an on-site sewage system (OSS) on an undersized lot after seeking waivers from code requirements. Significantly, Griffin concedes that this phrase "all requirements" precludes "small-lot applicants from obtaining discretionary waivers." Petition at 11.

Next, because Griffin disregards the record, his assertion that the

Court of Appeals violated its constitutional role as an appellate court, and made findings of fact, is misplaced. Furthermore, Griffin's failure to develop a factual record precludes this Court from reviewing his substantive due process claim.

Finally, the Court of Appeals' decision in this case addresses the interpretation of a single sanitary code provision applicable only to Thurston County, and not, as Griffin argues, a state health regulation applicable to all 39 counties. Accordingly, this case does not involve an issue of "substantial public interest."

Griffin's Petition for Review is not about airing weighty public interest and constitutional issues. Review should be denied.

II. COUNTER STATEMENT OF THE ISSUES

Pursuant to Const. art. 11, § 11 and RCW 70.05.060, the Thurston County Board of Health (Board) adopted the Thurston County Sanitary Code (TCSC) in order to preserve, promote and improve the public health for its constituents. Article IV of these regulations establish requirements for the location and approval of OSS. An applicant may request a waiver from these "specific requirements." TCSC Art. IV, § 24 (Waiver of Regulations). However, waivers are a bar for developing substandard lots. Pursuant to TCSC Art. IV, § 21.4.5, an applicant may receive approval for an OSS on a lot that does not meet required minimum land area for an

OSS, *provided* that the “proposed system meets *all requirements* of the regulations other than minimum land area.” Emphasis added.

1. When an applicant proposes to build a septic system on a substandard lot, and has received various waivers from specific requirements and setback reductions, has the applicant satisfied “all requirements of these regulations other than minimum land area?”
2. Does the local sanitary code which states that the local health officer may not grant approval for an OSS that does not meet “all requirements” of the sanitary code provide constitutionally adequate notice that the applicant’s OSS application may not be approved?
3. Is it a violation of an applicant’s due process rights when his OSS application is denied because he failed to meet “all requirements” of the sanitary code?
4. Does an administrative body’s application of the plain language of the sanitary code violate the applicant’s right to have his application considered under the rules in effect when he submitted it?
5. Did the Court of Appeals properly decline to address applicant’s constitutional challenge when the record was not adequately developed to review the facts?

III. COUNTER STATEMENT OF THE CASE

In 2003, Griffin purchased a lot on Steamboat Island in Thurston County. Steamboat Island is an eight acre island, containing approximately 42 existing homes, originally platted into 126 lots in 1927. AR 37. Griffin’s lot measures 25 feet on the waterfront, with 114 feet in depth, for a total area of 2,850 square feet. *Id.* An OSS system on this lot

would equate to 15.3 units per acre, while the public health standards for new development in Washington allow a maximum of 3.5 units per acre. AR 43 and 197.

No new homes have been constructed on vacant lots on Steamboat Island in recent years due to the inability of these lots to comply with sanitary code requirements for new OSS. In fact, the lot Griffin purchased is described in the realtor's tax summary report as "not buildable for residential purposes at this time per Thurston Co: Envir. (sp) Health. Recreation use only. . . ." AR 195. Consistent with its status as an unbuildable lot, Griffin purchased Lot 11 for only \$59,000.00 in July 2003. *Id.* Nonetheless, on November 19, 2004, Griffin submitted a project application to install a new OSS for a one bedroom house on Lot 11. AR 14.

All OSS must conform to the requirements of Article IV of the TCSC¹. Upon request, the hearing officer "may grant a waiver from specific requirements in this article." TCSC Art. IV, § 24.1.2.1.

During the processing of his application, Griffin requested and received:

- 1) Two waivers.²

¹ A complete copy of Article IV as it existed at the time Griffin submitted his OSS permit application is attached as Appendix I;

² Griffin requested and received waivers from:

- 2) Three setback reductions.³
- 3) A reduction in minimum flow design.⁴
- 4) Approval to install an OSS on a lot that does not meet the minimum land area requirements⁵.

Ultimately, the health officer approved the OSS. *See* AR 37.

Respondents Bruce Carter, et al., timely filed an appeal of this approval to the administrative hearing officer. *Id.*

On appeal, the administrative hearing officer made the following conclusions and reversed the approval of Griffin's permit for an OSS:

▪ The principal decision in this case is whether the health officer should allow a substantial number of waivers and setback reductions in order to allow the development of

-
- The requirement in Article IV, Section 11.4.1 that requires a complete winter water evaluation of sites where deep trench systems are proposed was waived. AR 18.
 - The requirement in Article IV, Section 10.1, Table 10.1 that requires a 10 foot separation between the septic tank and water supply line was waived. AR 21.

³ Griffin requested and received reductions from:

- The horizontal setback between the disposal component and the building foundation was reduced from ten (10) feet to two (2) feet. AR 58.
- The horizontal setback between the disposal component and the adjacent property line was reduced from five (5) feet to two and one half (2.5) feet. AR 57.
- The horizontal separation between the disposal component and surface water (Puget Sound) was reduced from one hundred (100) feet to seventy-five (75) feet. *See* 22.

⁴ Griffin requested and received a reduction in the minimum design flow from 240 to 120 gallons per day for a single-family residence. AR 59.

⁵ Griffin received approval to install an on-site sewage system on a lot that does not meet the minimum land area requirements stated in Article IV. AR 22.

a small waterfront lot. . . . Article IV gives the health officer considerable discretion when deciding whether to approve on-site systems on lots that fail to meet the minimum land area provisions of Article IV. . . . Section 21.4.5 states the health officer may permit the installation of an on-site sewage system providing other permit criteria are satisfied.

- When looking at Section 21.4.5 and the permitting of on-site systems on undersized lots, it must be recognized that minimum land area and density are significant public health issues. It is well recognized that even properly operating on-site systems discharge pollutants that can be detrimental to public health at some concentration. To address this issue public health regulations limit the density of on-site sewage systems. In Washington, new developments are limited to a maximum number of 3.5 homes per acre served by on-site sewage systems under ideal conditions. This correlates to a minimum lot size of 12,500 square feet.

- For the permit in question the applicant proposes to build a residence on a 2850 square foot lot. This represents a density of approximately 15.3 units per acre, which is well in excess of the maximum of 3.5 units per acre allowed for new subdivisions. This suggests that the other code provisions should be rigorously applied when minimum land area requirements are set aside.

- As noted above, the development of the subject lot can only occur if a substantial number of waiver requests and horizontal setback reductions are also approved. While the public health significance of some of these is debatable, others are clearly significant, such as the separation between the disposal component and surface waters. Sewage system permitting requirements in Washington have increased the horizontal separation between disposal components and marine waters from 50 feet to 100 feet since the time that Steamboat Island was platted.

• The design approval was based on various setback reductions from the disposal component to the home foundation. The design and analysis associated with this element of the proposal are incomplete, and for this reason the sewage system design should not have been approved.

• The health officer should not have approved the permit for an on-site sewage system on a lot that does not meet the minimum land area requirements or lot size because all requirements of Article IV other than minimum land area could not be met, as discussed above.

AR 43-44.

Griffin appealed the administrative hearings officer decision to the Board. The Board denied the appeal, adopted the administrative hearing officers findings and conclusions, and upheld the denial of the OSS permit. AR 1-4. The Board's decision, like the health officer's decision, was based on the fact that Griffin could not satisfy § 21.4.5 of the TCSC.

This provision provides:

The health officer *may*:

Permit the installation of an OSS, where the minimum land area requirements or lot sizes cannot be met, *only* when all of the following criteria are met:

....
TCSC 21.4.5.3 The proposed system meets *all requirements* of the regulations other than minimum land area.

Emphasis added.

The Court of Appeals agreed with the administrative hearing officer and the Board using the following reasoning:

We must give effect to all provisions of an ordinance and may not interpret an ordinance in a way that renders a portion meaningless or superfluous. Under this principle, the “all requirements” portion of the ordinance at issue here cannot include “requirements” that have been waived or set back. If “all requirements” included waivers and setbacks, the language would be meaningless and superfluous. Every OSS petitioner, regardless of lot size is required to comply with the TCSC’s provisions or else obtain waivers and setbacks. Thus the phrase is meaningful only if the application’s sole deficiency is lot size. The Board properly construed the ordinance to mean that an undersized lot must meet “all requirements” without waivers and setbacks in order to trigger the health officer’s authority to exercise discretion and grant an OSS permit to an undersized lot.

Griffin v. Board of Health, 137 Wn. App. 609, 618, ¶17 (2007).

The Court of Appeals, like the trial court, also summarily rejected Griffin’s constitutional challenges to TCSC § 21.4.5.3. First, the Court of Appeals found that § 21.4.5.3 was not unconstitutionally vague. It noted that the “all requirements” language was clear as to put Griffin on notice that “a landowner who seeks an OSS permit for an undersized lot cannot receive waivers and setbacks in lieu of satisfying all requirements other than lot size.” *Id.* at 621, ¶ 16.

On Griffin’s substantive due process claim, the Court of Appeals found that Griffin failed to develop a sufficient factual record, and

therefore Griffin waived this claim. *Id.* At 622, ¶25.

IV. ARGUMENT

A. Griffin's Concession That The "All Requirements" Provision Precludes A Small Lot Applicant From Obtaining Waivers Demonstrates That This Language Is Not Vague And Puts Him On Notice That He May Be Prohibited From Placing An OSS On An Undersized Lot If He Sought Waivers From Code Requirements.

The trial court, like the Court of Appeals, found no merit in Griffin's claims that his constitutional rights were violated. RP at 6. With respect to his vagueness claim the Court of Appeals found that the "all requirements" provision allows a person of common intelligence to understand that a landowner who seeks an OSS permit for an undersized lot cannot receive waivers and setbacks in lieu of satisfying all requirements other than lot size. *Griffin* at 621.

Significantly, Griffin even concedes that this "phrase precludes small-lot applicants from obtaining discretionary waivers." Petition at 11. In this case, Griffin explicitly received two waivers as discussed above. These waivers are attached as Appendix 2. Thus even under Griffin's own argument, he is precluded by this phrase from obtaining an OSS because he sought and received two waivers. *Id.*

Furthermore, the Court of Appeals' rejection of Griffin vagueness claim is not only supported by the clear language of the regulation at issue,

but also the context in which this provision is used. The “all requirements” language concerns a public health regulation dealing with OSS on undersized lots. As the administrative hearing officer pointed out:

It must be recognized that minimum land area and density are significant public health issues. It is well recognized that even properly operating on-site systems discharge pollutants that can be detrimental to public health at some concentration. To address this issue public health regulations limit the density of on-site sewage systems. In Washington, new developments are limited to a maximum number of 3.5 homes per acre served by on-site sewage systems under ideal conditions.

AR 43. Since OSS placed on smaller lots and at a density greater than 3.5 per acre are already jeopardizing public health, the code’s language that “all requirements” of the code must be met cannot include waivers from these “specific requirements.” The Court of Appeals properly rejected Griffin’s vagueness claim.

B. Because Griffin Disregards The Record, His Assertion That The Court Of Appeals Violated Its Constitutional Role As An Appellate Court, And Made Findings Of Fact Is Misplaced.

Griffin asserts the Court of Appeals abdicated its role as an appellate court and entered a purported finding of fact that Griffin had knowledge that his lot was unbuildable. Petition at 13. Griffin argues that “there is no evidence in the record to support this claim,” this “‘fact’ simply is not true,” and “this ‘fact’ was, at a minimum, disputed.” Petition at 13.

Griffin mischaracterizes the Court of Appeal's action. The Court did not set out to make findings of fact. Instead, the Court reviewed and weighed the evidence in the record. As an appellate court in a LUPA proceeding, its fundamental duty is to review the record and consider all of the evidence and *reasonable inferences* in light most favorable to the party who prevailed in the highest forum that exercised fact finding authority." Emphasis supplied. *Cingular v. Thurston County*, 131 Wn. App. 756, 768, paragraph 25, 129 P.3d 300 (2006).

In this case, the Board was the highest forum that exercised fact finding authority, and Griffin was *not* the prevailing party. A review of the record before the Board reflects that there is ample evidence to support the Court of Appeal's "reasonable inference" that Griffin was put on notice that his lot was not buildable. The record included two separate declarations and supporting documentation on this claim. See AR 3, No. 16. (The Board considered evidence submitted by Carter, which included the two declarations and other documentation); AR 5 (which identifies the declarations submitted by Carter and other related documentation, and included as the list of exhibits before the Board); AR 81 (Declaration of Dennis Bickford); and AR 88-94 (Declaration of Bruce Carter); and AR 195 (realtor listing describing land as unbuildable).

Further, contrary to Griffin's argument, there is nothing in the record to support his claim that the relevant fact was disputed. The record reflects Griffin was put on notice of this "fact", and had several opportunities to counter this "fact." As discussed above, this fact was initially raised in the administrative hearing before the hearing officer, and the Board of Health. In addition, Respondent Carter raised this specific "fact" as an affirmative defense to Griffin's LUPA action, and in subsequent pleadings before the trial court: CP 15 (Answer and Affirmative Defense); and CP 35 (Brief in Opposition to Motion to Dismiss.) While Griffin attempted to dismiss Carter's affirmative defense, the court denied his motion. CP 15 Thus, Griffin was well aware that this issue was alive before the trial court, and yet he did not seek to supplement the record as authorized by RCW 36.70C.120.

Griffin made a choice not to submit evidence in the record to refute this fact. At this late stage in the proceedings, Griffin's blatant disregard of the record does not support his claim that the Court of Appeals acted outside of its authority in pointing out that Griffin had knowledge that his lot was not buildable.

C. Griffin's Failure To Adequately Develop A Factual Record Precludes This Court From Reviewing His Substantive Due Process Claim.

In rejecting Griffin's substantive due process claim, the Court of

Appeals correctly determined that it could not address this issue because there was not a sufficient factual development of the record. *Griffin*, at 622. Furthermore, as the Court of Appeals noted, these claims are “highly fact specific.” *Id.*

In cases where the court is asked to determine whether a land use ordinance as applied to a particular homeowner is unduly oppressive, the Court considers the following factors:

On the public side, the seriousness of the public problem, the extent to which the owner’s land contributes to it, the degree to which the proposed regulation solves its, and the feasibility of the less oppressive solutions would all be relevant. *On the owner’s side, the amount and percentage of value loss, the extent of remaining uses, past, present and future uses, temporary or permanent nature of the regulation, the extent to which the owner should have anticipated such regulation and how feasible it is for the owner to alter present or currently planned uses.*

Emphasis added. *Guimont v. Clarke*, 121 Wn.2d 586, 610, 854 P.2d 1 (1993), *cert. denied*, 510 U.S. 1176 (1994).

In this case, there is no information about the amount and percentage of value loss. The only thing in the record on this fact is that Griffin purchased a waterfront lot for only \$59,000 in 2003. AR 195. There is scant information on the extent of remaining uses: past, present and future uses. What is in the record is that Griffin’s property “is not buildable for residential purposes at this time per Thurston Co. Envior. (sp.) Health. Recreation use only.” AR 195. In addition, there is

absolutely no evidence in the record which reflects whether Griffin anticipated the regulation, or how feasible it is for him to alter present or currently planned uses. Finally, and perhaps most significantly, there is nothing in the record to support Griffin's contention that he "purchased the lot intending to build a one-bedroom house on it into which he and his wife could retire." Petition at 4. The only citation to the record Griffin offers on this point is to AR 355. However, AR 355 is simply his counsel's opening argument before the Board. Argument by counsel is not factual evidence. Griffin elected not to testify before the Board, nor before the administrative hearing officer. Furthermore, Griffin never supplemented the record in the LUPA proceeding pursuant to RCW 36.70C.120.

Griffin made a tactical decision not to testify. Without his testimony, and on the current record before the Court, the Court of Appeals properly declined to review Griffin's substantive due process claim.

D. The Interpretation Of A Single Sanitary Code Provision Applicable Only To Thurston County, And Not A State Health Regulation Applicable To All 39 Counties, Does Not Rise To The Level Of A "Substantial Public Interest" Case.

Griffin, without any citation to the record or any source for which judicial notice may be taken, asserts that the TCSC provision at issue here

“has been incorporated into the sanitary codes promulgated by local jurisdictions throughout the state.” Petition for Review at 9. Based on this unfounded claim, Griffin then argues that the Court of Appeals’ interpretation of Thurston County’s code provision “presents a question of substantial public interest.” Petition at 12.

Griffin’s unsupported claim that local jurisdictions across the state will be affected by this decision is simply a “naked casting” into the sea of public interest and “is not sufficient to command judicial consideration and discussion.” *See In Re Rosier*, 105, Wn.2d 606, 616, 717 P.2d 1353 (1986). Furthermore, because each local Board of Health promulgates their own local health regulations, RCW 70.05.060(5), the Court of Appeals’ interpretation of the TCSC code provision on the specific facts of this case does not warrant review pursuant to RAP 13.4(b)(4).

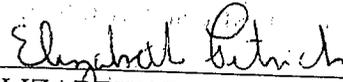
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V. CONCLUSION

For the reasons discussed above, Griffin fails to meet the criteria of RAP 13.4(b). Therefore, this Court should deny review.

DATED this 20th day of August, 2007.

EDWARD G. HOLM
PROSECUTING ATTORNEY



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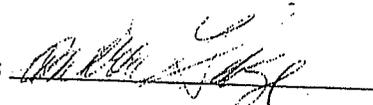
A copy of this document was properly addressed and mailed, postage prepaid, to the following individual(s) on August 20, 2007.

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I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Olympia, Washington.

Date: August 20, 2007

Signature: 

APPENDIX

1. Article IV, Thurston County Sanitary Code
2. Waivers
 - a. Waiver of Winter Water Study Requirement
 - b. Waiver of Setback From Pressured Water Supply Line

APPENDIX 1

ARTICLE IV
RULES AND REGULATIONS OF THE THURSTON COUNTY BOARD OF HEALTH
GOVERNING DISPOSAL OF SEWAGE

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ARTICLE IV

RULES AND REGULATIONS OF THE THURSTON COUNTY BOARD OF HEALTH

GOVERNING DISPOSAL OF SEWAGE

SECTION 1 PURPOSE, OBJECTIVES, AND AUTHORITY.

- 1.1 The purpose of this article is to protect the public health by:
 - 1.1.1 Minimizing the potential for public exposure to sewage from on-site sewage systems; and
 - 1.1.2 Minimizing adverse effects to public health that discharges from on-site sewage systems may have on ground and surface waters; and
 - 1.1.3 Setting conditions for the withdrawal or revocation of approvals, for the cessation of use of on-site sewage systems and for the elimination of health hazards; and
 - 1.1.4 Setting conditions of project approval for integration with other water quality, land use, and wastewater management plans.
- 1.2 This article regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems to:
 - 1.2.1 Achieve long-term sewage treatment and effluent disposal; and
 - 1.2.2 Limit the discharge of contaminants to waters of the state.
- 1.3 This article is adopted by the Thurston County Board of Health in accordance with the authority granted in 70.05 RCW and WAC 246-272 to establish minimum requirements for the treatment and disposal of sewage and the regulation of on-site sewage disposal systems.

SECTION 2 ADMINISTRATION.

The health officer shall administer this article under the authority and requirements of chapter 70.05 RCW and WAC 246-272. Under chapter 70.05.060(7) RCW, fees may be charged for this administration.

SECTION 3 DEFINITIONS. As used in this article, the terms defined in this section shall have the meanings indicated unless the context clearly indicates otherwise.

"Addition" means any proposed building activity that will not increase sewage flows but will result in an increase in the square footage of:

- (a) Living space (other than number of bedrooms) outside the envelope (the exterior shell) of the structure's existing living space for residential structures. This includes the construction of a garage or outbuildings on a parcel containing a residential structure.
- (b) The structure outside the envelope (the exterior shell) of the existing structure for non-residential structures.

"Additive" means a commercial product added to an on-site sewage system intended to affect performance or aesthetics of an on-site sewage system.

"Alternative system" means an on-site sewage system other than a conventional gravity system or conventional pressure distribution system. Properly operated and maintained alternative systems provide equivalent or enhanced treatment performance as compared to conventional gravity systems.

"Approved" means a written statement of acceptability, in terms of the requirements in this article, issued by the health officer or the secretary.

"Approved list" means "List of Approved Systems and Products", developed annually and maintained by the secretary and containing the following:

- (a) List of proprietary devices approved by the secretary;
- (b) List of specific systems meeting treatment standard 1 and treatment standard 2;
- (c) List of experimental systems approved by the secretary;
- (d) List of septic tanks, pump chambers, and holding tanks approved by the secretary.

"Area of special concern" means an area of definite boundaries delineated through public process, where the board of health, or the secretary in consultation with the health officer, determines additional requirements for on-site sewage systems may be necessary to reduce potential failures, or minimize negative impact of on-site systems upon public health.

"Board of Health" means the Thurston County Board of Health established pursuant to 70.05.030 RCW.

"Building Sewer" means the tightline between the building stub-out and the inlet of the septic tank.

"Cesspool" means a pit receiving untreated sewage and allowing the liquid to seep into the surrounding soil or rock.

"Community On-site Sewage System (COSS)" means any on-site sewage system designed to serve more than one single family residence and/or with a design flow, at any common point, more than one thousand (1,000) gallons per day and less than or equal to three thousand five hundred (3,500) gallons per day, except when dealing with issues and proposals within the designated Thurston County Urban Growth Management Area and/or covered by the Thurston County Sewerage General Plan, the lower design limit shall be six hundred (600) gallons per day.

"Conforming system" means any on-site sewage system, except an experimental system, that meets any of the following criteria:

- (a) The system is in full compliance with all requirements for new construction as specified in this article, including the provision of a reserve area. This includes:
 - (i) A repair system that meets the requirements for new construction as specified in this article; or
 - (ii) A new or repair system was permitted, but a waiver had to be obtained as per section 24 of this article; or
- (b) The system is an existing on-site sewage system approved, installed, and operated under a previous edition of this article; or
- (c) The system or repair was permitted through the waiver process which assure public health protection by higher treatment performance or other methods; or
- (d) The system is existing, not in failure, and its use is consistent with its size and design, and, where required, is in full conformance with a valid operational certificate.

"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.

"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. The acceptable design, operation and

maintenance, and performance monitoring requirements are described in "Guidelines for Pressure Distribution Systems" by the Washington state department of health, September 1984, as thereafter updated.

"Covenant" means an agreement recorded with the Thurston County Auditor stating certain activities and/or practices are required or prohibited.

"Cover" means soil material that is used to cover a subsurface disposal area.

"Cut or bank" means any naturally occurring or artificially formed slope greater than one hundred percent (forty-five degrees) as follows:

"Department" means the Thurston County Public Health and Social Services Department.

"Design" means a detailed on-site sewage system plan developed in accordance with section 12 of this article and containing the details outlined in section 9.1.4.

"Design Firm" means a firm certified by the health officer to design on-site sewage systems in Thurston County.

"Designer" means an engineer, a registered sanitarian, or a person who is certified by the health officer to perform site and soils evaluations and to develop and submit designs by matching site and soil characteristics with appropriate on-site sewage technology, who is employed by a design firm, and who maintains the continuing education requirements described in this article.

"Development" means the creation of a residence, structure, facility, mobile home park, subdivision, planned unit development, site, area, or any activity resulting in the production of sewage.

"Disposal component" means a subsurface absorption system (SSAS) or other soil absorption system receiving septic tank or other pretreatment device effluent and transmitting it into original, undisturbed soil.

"Effluent" means liquid discharged from a septic tank or other on-site sewage system component.

"Engineer" means a person who is licensed and in good standing under chapter 18.43 RCW.

"Expansion" means a change in a residence, facility, site, or use that:

- (a) Results in an increase in the strength of the sewage or in the average daily volume of sewage that may cause an on-site sewage system to exceed its existing treatment or disposal capability. Examples include, but are not limited to, when the number of bedrooms in a residence is increased, or a change in use from an office to a restaurant or from a residential use to a commercial use; or
- (b) Reduces the treatment or disposal capability of the existing on-site sewage system or the reserve area, for example, when a building is placed over existing system components or a reserve area.

"Experimental system" means any alternative system:

- (a) Without design guidelines developed by the secretary; or
- (b) A proprietary device or method which has not yet been evaluated and approved by the secretary.

"Failure" means a condition of an on-site sewage system that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

- (a) Sewage on the surface of the ground;
- (b) Sewage discharged directly to surface water or upon the surface of the ground unless the discharge is under permit from the Washington state department of ecology. This does not apply to septage or sewage sludge handled under a valid permit issued in accordance with article V of this code;
- (c) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;
- (d) Sewage leaking from a septic tank, pump chamber, holding tank, or collection system;
- (e) Inadequately treated effluent contaminating ground water or surface water. This may be demonstrated upon testing by currently adopted

sanitary survey procedures, where the following occurs: (1) positive tracing dye results and (2) a fecal coliform count of at least 200 organisms per 100 milliliters OR above established background concentrations at a sampling point (pipe, drainage channel, seep) from which a direct discharge to surface or ground water or to the surface of the ground occurs;

- (f) Surface or ground water intrusion into a septic tank, pump chamber, holding tank, or collection system;
- (g) Cesspools;
- (h) Seepage pits where site specific evidence of ground or surface water quality degradation exists.

"Ground water" means a subsurface water occupying the zone of saturated soil, permanently, seasonally, or as the result of the tides. Indications of ground water may include:

- (a) Water seeping into or standing in an open excavation from the soil surrounding the excavation; or
- (b) Spots or blotches of different color or shades of color interspersed with a dominant color in soil, commonly referred to as mottling. Mottling is a historic indication for the presence of groundwater caused by intermittent periods of saturation and drying, and may be indicative of poor aeration and impeded drainage. Also see "Water table".

"Health officer" means the Thurston County health officer, or a representative authorized by and under the direct supervision of the health officer, as defined in chapter 70.05 RCW.

"Holding tank sewage system" means an on-site sewage system which incorporates a holding tank, the services of a sewage pumper/hauler, and the off-site treatment and disposal for the sewage generated.

"Industrial wastewater" means the water or liquid carried waste from an industrial process. These wastes may result from any process or activity of industry, manufacture, trade or business, from the development of any natural resource, or from animal operations such as feedlots, poultry houses, or dairies. The term includes contaminated storm water and leachate from solid waste facilities.

"Installation firm" means a firm certified by the health officer to install, modify, or repair an on-site sewage system or any of its components in accordance with the provisions contained in this article.

"Installer" means a person meeting the requirements of section 23 of this article.

"Large on-site sewage system (LOSS)" means any on-site sewage system with design flows, at any common point, greater than 3,500 gallons per day.

"May" means discretionary, permissive, or allowed.

"Minor repair" means the repair of one of the following on-site sewage system components: tightline pipe between a structure and a septic tank; tightline between a septic tank and the disposal component; a pump; or an interceptor drain. It shall also include the replacement of a small section of the SSAS damaged as the result of digging into it as part of a system evaluation.

"Modification" means an alteration to an on-site sewage system that is not the result of new construction, a repair, or an expansion.

"Monitoring firm" means a firm certified by the health officer to operate, maintain, and/or monitor an on-site sewage system.

"Monitoring specialist" means a person meeting the requirements of section 23 of this article.

"Non-conforming system" means an on-site sewage system which is not in failure but which is: not in compliance with the conditions stipulated on the On-site Sewage System Application; or not being operated consistent with its size and design; or is not in full conformance with a valid operational certificate where one is required. A repair which is placed in the originally designated reserve area shall be considered a conforming system as long as the system is not in failure.

"On-site sewage system (OSS)" means an integrated arrangement of components for a residence, building, industrial establishment or other places not connected to a public sewer system which:

- (a) Convey, store, treat, and/or provide subsurface soil treatment and disposal on the property where it originates, upon adjacent or nearby property; and
- (b) Includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas.

"On-site Sewage System Application (OSSA)" means an application, including a site plan and design, by which the health officer shall evaluate and may approve or disapprove a particular lot or tract of land for the installation, modification, or repair of an on-site sewage system.

"On-site Sewage System Permit (OSSP)" means a permit issued by the health officer after reviewing and concluding an On-site Sewage System Application meets all the requirements of this article. This permit grants authority to the permit holder to install an on-site sewage system in accordance with the approved design.

"Operational Certificate" means a certificate issued for a specified period by the health officer to a person for the operation and/or use of an on-site sewage system. The operational certificate shall contain conditions for the operation, maintenance, and monitoring of the subject on-site sewage system.

"Ordinary high-water mark" means the mark on lakes, streams, and tidal waters, found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland with respect to vegetation, as that condition exists on the effective date of this article, or as it may naturally change thereafter. The following definitions apply where the ordinary high-water mark cannot be found:

- (a) The ordinary high-water mark adjoining marine water is the elevation at mean higher high tide; and
- (b) The ordinary high-water mark adjoining freshwater is the line of mean high water.

"Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of any such entities.

"Planned unit development" means a development characterized by a unified site design, clustered residential units and/or commercial units, and areas of common open space.

"Preliminary design" means a detailed design required by the health officer prior to preliminary or final plat approval to evaluate whether a proposed lot or lots can meet the site and location requirements of this article.

"Pressure distribution" means a system of small diameter pipes equally distributing effluent throughout a trench or bed, as described in the "Guidelines for Pressure Distribution Systems" by the Washington state department of health, September 1984, as thereafter updated. Also see "conventional pressure distribution."

"Proprietary device or method" means a device or method classified as an alternative system, or a component thereof, held under a patent, trademark or copyright.

"Public sewer system" means a sewerage system:

- (a) Owned or operated by a city, town, municipal corporation, county, or other approved ownership consisting of a collection system and necessary trunks, pumping facilities and a means of final treatment and disposal; and
- (b) Approved by or under permit from the Washington state department of ecology, the Washington state department of health and/or the Thurston County health officer.

"Pumper" means a person meeting the requirements of section 23 of this article.

"Pumping firm" means a firm certified by the health officer to remove and transport wastewater or septage from on-site sewage systems.

"Registered Sanitarian" means a person who is licensed and in good standing with the Washington State Board of Registered Sanitarians.

"Repair" means restoration, by reconstruction, addition to, or modification or replacement of an existing on-site sewage system or component of the system due to failure.

"Reserve area" means an area of land approved for the installation of an OSS and dedicated for replacement of the OSS upon its failure.

"Resident Owner" means a person who after demonstrating competency designs, installs, or repairs an on-site sewage system for a single-family residence owned and occupied or to be owned and occupied by him/her. A resident owner is limited to designing, installing, or repairing a limit of one on-site sewage system per two-year period.

"Residential sewage" means sewage having the constituency and strength typical of wastewater from domestic households. Some typical values for residential sewage prior to entering a septic tank are: 5-day biochemical oxygen demand (BOD₅) - 230 mg/l; total suspended solids (TSS) - 250 mg/l; and total nitrogen - 40 to 50 mg/l as N.

"Restrictive layer" means a stratum impeding the vertical movement of water, air, and/or growth of plant roots, such as hardpan, claypan, fragipan, caliche,

some compacted soils, bedrock and unstructured clay soils. This also includes a water table.

"Secretary" means the Secretary of the Washington state department of health and his/her authorized representative.

"Seepage pit" means an excavation more than three feet deep where the sidewall of the excavation is designed to dispose of septic tank effluent.

"Septage" means the mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other OSS components.

"Septic tank" means a watertight pretreatment receptacle receiving the discharge of sewage from a building sewer or sewers, designed and constructed to permit separation of settleable and floating solids from the liquid, detention and anaerobic digestion of the organic matter, prior to discharge of the liquid.

"Sewage" means any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments or other places. For the purposes of these regulations, "sewage" is generally synonymous with domestic wastewater. Also see "residential sewage."

"Shall" means mandatory.

"Site Plan" means a to-scale drawing of a residential or non-residential project proposed on a parcel. This drawing includes all plan detail relating to property access; drinking water and wastewater system components; designated building envelope(s); setbacks; zoning; critical areas; and other planning issues; and other pertinent aspects depending on the specific proposal.

"Soil log" means a detailed description of soil characteristics providing information on the soil's capacity to act as an acceptable treatment and disposal medium for sewage.

"Soil type" means a numerical classification of fine earth particles and coarse fragments as described in subsection 11.2.5.

"Subdivision" means a division of land or creation of lots or parcels, described under chapter 58.17 RCW, now or as hereafter amended, including both long and short subdivisions, planned unit developments, and mobile home parks.

"SSAS" or "subsurface soil absorption system" means a system of trenches three feet or less in width, or beds between three and ten feet in width, containing distribution pipe within a layer of clean gravel designed and installed

in original, undisturbed soil for the purpose of receiving effluent and transmitting it into the soil.

"Surface water" means any body of water, whether fresh or marine, flowing or contained in natural or artificial unlined depressions continuously for at least four consecutive months, including natural and artificial lakes, ponds, springs, rivers, streams, swamps, marshes, and tidal waters.

"Treatment standard 1" means a thirty-day average of less than 10 milligrams per liter of biochemical oxygen demand (5 day BOD₅), 10 milligrams per liter of total suspended solids (TSS), and a thirty-day geometric mean of less than 200 fecal coliform per 100 milliliters.

"Treatment standard 2" means a thirty-day average of less than 10 milligrams per liter of biochemical oxygen demand (5 day BOD₅), 10 milligrams per liter of total suspended solids (TSS), and a thirty-day geometric mean of less than 800 fecal coliform per 100 milliliters.

"Uniform Plumbing Code" means the Uniform Plumbing Code as adopted by Thurston County.

"Unit volume of sewage" means:

- (a) A single family residence;
- (b) A mobile home site in a mobile home park; or
- (c) 450 gallons of sewage per day where the development is not single family residences or a mobile home park.

"Vertical separation" means the depth of unsaturated, original, undisturbed soil of soil types 1B-6 between the bottom of a disposal component and the highest seasonal water table, a restrictive layer, or soil type 1A, as illustrated below by the profile drawing of a subsurface soil absorption system:

"Water table" means the upper surface of the ground water, whether permanent or seasonal. Also see "ground water."

"Wave barrier" means a bulkhead of adequate height and construction protecting the immediate area of on-site sewage system components from wave action.

SECTION 4 APPLICABILITY AND GENERAL REQUIREMENTS.

- 4.1 The health officer:
- 4.1.1 Shall apply this article to OSS treating wastewater and disposing of effluent from residential sewage sources;
 - 4.1.2 Shall apply this article to OSS for sources other than residential sewage, excluding industrial wastewater, if pretreatment, siting, design, installation, and operation and maintenance measures provide treatment and effluent disposal equal to that required of residential sewage.
 - 4.1.3 Shall not apply the location and design requirements in this article to any OSS existing as of the effective date of this article, except when one of the following is proposed:
 - 4.1.3.1 A repair - requirements in section 17 of this article must be met;
 - 4.1.3.2 A modification - requirements in section 17 of this article must be met;
 - 4.1.3.3 An expansion - As noted in section 18 of this article, new construction standards as defined in this article must be met; or
 - 4.1.3.4 An addition - must be served by a conforming OSS and the addition shall not reduce the potential for a repair to the OSS should it fail in the future.
 - 4.1.4 Shall apply requirements consistent with sewerage, water quality and waste management plans to proposed systems. These systems may be required to be abandoned and connection to

sewer for water quality or health hazard cause or when sewer is available, in accordance with section 7.

- 4.2 Preliminary plats specifying general methods of sewage treatment, disposal, system designs and locations approved prior to the effective date of these regulations shall be acted upon in accordance with regulations in force at the time of preliminary plat approval for a maximum period of five years from the date of approval or until January 1, 1996, whichever assures the most lenient expiration date.
- 4.3 A complete, valid, unexpired OSSA submitted, but not approved, prior to the effective date of these regulations:
 - 4.3.1 Shall be acted upon in accordance with regulations in force at the time of application submittal;
 - 4.3.2 May be modified to include additional requirements if the health officer determines that a serious threat to public health exists.
- 4.4 A valid, unexpired OSSA/OSSP (other than for a repair) approved prior to January 1, 1995 shall have a validity period of five years from the date of approval or remain valid until January 1, 1996, whichever assures the most lenient expiration date.
- 4.5 The Washington state department of ecology has authority and approval over:
 - 4.5.1 Domestic or industrial wastewater under chapter 173-240 WAC; and
 - 4.5.2 Sewage systems using mechanical treatment, or lagoons, with ultimate design flows above 3,500 gallons per day.
- 4.6 The Washington state department of health has authority and approval over any Large On-site Sewage System, "LOSS", for which jurisdiction has been transferred to the department of health under conditions of memorandum of agreement with the department of ecology.
- 4.7 The health officer has authority and approval over systems with design flows through any common point up to 3,500 gallons per day and via contract with the secretary up to 14,500 gallons per day.
- 4.8 Where this article conflicts with chapters 90.48 RCW, Water Pollution Control, the requirements under those statutes apply.
- 4.9 Every residence, place of business or other building where persons congregate, reside or are employed, to which a public sewer system is not

physically accessible or available, shall be provided with a water-flush toilet or approved alternative device and shall be connected to a conforming on-site sewage system which shall be operated and maintained in such a manner to meet the requirements of this article. Other places where persons congregate (and no building exists) shall be provided with adequate sewage disposal facilities/devices as may be appropriate to protect the public health.

- 4.10 Sewage from any on-site sewage system or any other source shall not be discharged to surface water, upon the surface of the ground, or managed in any manner so as to constitute a failure as defined by this article. This requirement shall not apply to septage or sewage treatment plant waste discharged in accordance with a permit from the Washington State Department of Ecology or a permit issued pursuant to article V of this code.
- 4.11 Refusal, failure or neglect to comply with any notice or order of the health officer issued pursuant to this article shall be considered a violation of this code.
- 4.12 Whenever it is brought to the attention of the health officer that any unsanitary conditions exist or that any construction or work regulated by these rules and regulations is dangerous, unsafe, unsanitary, or a menace to life, health or property, or otherwise in violation of these regulations, the health officer shall investigate and upon determining the information to be factual, shall order any person using or maintaining any such condition or responsible for the use thereof to repair, alter, change, remove or demolish the same as the health officer may consider necessary for the proper protection of life, health or property. The health officer may also require vacation of the premises until the violation or nuisance is abated or corrected.
- 4.12.1 Any such order of the health officer shall be in writing, addressed to the owner, agent, or person responsible for the premises on which the condition exists and shall specify the date or time for compliance with such order.
- 4.12.2 Refusal, failure or neglect to comply with any such notice or order of the health officer shall be considered a violation of these regulations.

SECTION 5 ALTERNATIVE SYSTEMS AND PROPRIETARY DEVICES.

- 5.1 The health officer shall only permit installation of alternative systems for which there are alternative system guidelines issued by the Washington state department of health, or a proprietary device if it appears on the list of approved systems or devices maintained by the secretary under WAC 246-272-04001 (1)(a) and (1)(b). Proprietary devices may only be permitted if accompanied by an operation and maintenance manual which

is in sufficient detail and clarity to allow the system owner to contract with a qualified firm of their choice for future maintenance.

5.2 The health officer:

5.2.1 May require performance monitoring or sampling of any alternative system in accordance with guidelines issued by the Washington state department of health or policies to be developed by the department.

5.2.2 Shall charge fees to cover the costs for monitoring system performance in accordance with Appendix A of article I.

5.2.3 Shall submit copies of evaluation reports to the secretary when alternative system performance is evaluated.

5.2.4 Shall notify the secretary of alternative system approvals and failures.

SECTION 6 EXPERIMENTAL SYSTEMS.

6.1 The health officer:

6.1.1 May permit as many as twelve (12) experimental systems per year without the express authority of the Thurston County Board of Health if:

6.1.1.1 The specific system is included on the secretary's approved list of experimental systems per WAC 246-272-05001(5)(b); and

6.1.1.2 The site will accommodate the installation of a conforming system in the event of failure of the experimental system; and

6.1.1.3 Local agreements to provide for monitoring, sampling, testing, reporting, maintenance, repairs, and the replacement of the system in accordance with the protocol approved by the secretary are completed and signed.

6.1.2 Shall charge fees to cover the cost of evaluating or monitoring the experimental system in accordance with Appendix A of article I.

6.2 After the experimental system proposal is approved, the person noted as responsible for an experimental system program on the secretary's approved list shall:

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- 6.2.1 Follow the experimental system protocol, procedures, and other related written agreements approved by the secretary and the health officer;
- 6.2.2 Monitor the experimental system and submit records as required to meet the secretary's or the health officer's approval; and
- 6.2.3 Annually renew each state experimental system permit.
- 6.2.4 A person desiring to install an experimental system shall:
 - 6.2.4.1 Obtain approval from the health officer;
 - 6.2.4.2 Submit a recorded covenant to the health officer agreeing to abandon the experimental system and to install a conforming system if:
 - 6.2.4.2.1 The system fails; or
 - 6.2.4.2.2 The performance of the experimental system is unsatisfactory; or
 - 6.2.4.2.3 The applicant fails to adequately monitor the experimental system and submit records as required in the secretary's or health officer's approval; or
 - 6.2.4.2.4 The system components do not function as indicated by submitted documents; or
 - 6.2.4.2.5 Performance does not meet the anticipated objectives of the experiment; or
 - 6.2.4.2.6 The state experimental system permit is not renewed.
 - 6.2.4.3 Provide financial guarantees, acceptable to the health officer, and a copy of the recorded covenant required under subsection 6.2.4.2 to the health officer. Financial guarantees may include a bond, certificate of monies on deposit, or other financial instrument acceptable to the health officer. The value of the financial guarantee should be sufficient to cover the replacement of the experimental system with a conforming system or other system approved by the health officer and departmental administrative costs

that may result from failure and enforcement related to the experimental facility; and

6.2.4.4 Obtain through the health officer an annually renewable state experimental system permit.

6.3 The health officer shall not permit an experimental LOSS.

SECTION 7 CONNECTION TO PUBLIC SEWER SYSTEM.

7.1 When adequate public sewer services are available within two hundred feet of the residence or facility, as measured along the usual or most economically feasible route of access, the health officer, upon the failure of an existing on-site sewage system, may:

7.1.1 Require hook-up to a public sewer system; or

7.1.2 Approve the repair of the on-site sewage system only if a conforming system can be designed and installed, and if repair of the system is acceptable to the sewer utility that would be providing sewer service.

7.2 Except as noted in subsection 7.1 of this article, the owner of a failure shall abandon the OSS under section 19 of this article and connect the residence or other facility to a public sewer system when:

7.2.1 The distance between the residence or other facility and an adequate public sewer is two hundred feet or less as measured along the usual or most economically feasible route of access; and

7.2.2 The sewer utility allows the sewer connection.

7.3 The owner of a residence or other facility served by a "Table VI repair" as described in section 17 of this article shall abandon the OSS according to the requirements specified in section 19 of this article and connect the residence or other facility to a public sewer system when:

7.3.1 Connection is deemed necessary by the health officer to protect public health; and

7.3.2 An adequate public sewer becomes available within two hundred feet of the residence or other facility as measured along the usual or most economically feasible route of access; and

7.3.3 The sewer utility allows the sewer connection.

- 7.4 Any dwelling unit or other premises where sewage originates within two hundred (200) feet of a public sewer system, as measured along the usual or most economically feasible route of access shall be connected to the public sewer system if all of the following conditions are met:
- 7.4.1 The public sewer system has the capacity to handle additional sewage; and
 - 7.4.2 The public sewer lines are designed to accommodate the connection of building sewers; and
 - 7.4.3 The connection is consistent with the Thurston County Sewerage General Plan and municipal comprehensive sewerage plans; and
 - 7.4.4 Such connection is permitted by the sewer utility; and
 - 7.4.5 The health officer determines the connection is necessary to protect surface water, ground water, or otherwise protect public health. This determination of necessity will be based on aquifer vulnerability, water quality correction and water contamination prevention information.
- 7.5 The health officer shall require a new development to connect to a public sewer system when required by the county Sewerage General Plan or a municipal Comprehensive Sewerage Plan.

SECTION 8 LARGE ON-SITE SEWAGE SYSTEMS (LOSS).

- 8.1 The jurisdictional authority between the Department and the state Department of Health (DOH) for the review and approval of LOSS shall be described in a contractual agreement between the departments. Lacking such an agreement, DOH shall retain jurisdictional authority for LOSS. The remainder of Section 8 shall apply as is consistent with the provisions of any such contractual agreement with DOH.

Persons proposing a new LOSS for which the health officer has jurisdiction by contractual agreement with DOH shall meet the requirements specified in A Design Standards for Large On-site Sewage Systems, 1993, amended in July 1994, Washington state department of health as thereafter updated (available upon written request to secretary or the health officer).

- 8.2 Persons shall submit an OSSA containing all the documents and fees specified under subsections 8.2.1 through 8.2.6 of this article to the health officer and obtain an OSSP from the health officer before installing a LOSS to serve any facility:

- 8.2.1 A preliminary report, stamped and signed by an engineer, including:
 - 8.2.1.1 A discussion of the proposed project, including the schedule of construction; and
 - 8.2.1.2 A discussion of compliance with other state and local zoning, platting, health, and building regulations as they relate to sewage treatment and disposal; and
 - 8.2.1.3 An analysis of the site's capacity to treat and dispose of the proposed quantity and quality of sewage; and
 - 8.2.1.4 An analysis of the factors identified in subsection 21.2.5.2.1 of this article; and
 - 8.2.1.5 A soil and site evaluation as specified in section 11 of this article signed by the evaluator; and
 - 8.2.1.6 A management plan describing the:
 - 8.2.1.6.1 Management entity consisting of one of the following:
 - 8.2.1.6.1.1 For residential subdivisions where the lots are individually owned, a public entity serves as the primary management entity, or as the third party trust for a private management entity; or
 - 8.2.1.6.1.2 For other uses, including single ownership, a public entity or a private entity via an appropriate contract or agreement provides management.
 - 8.2.1.6.2 Duties of the management entity, including specific tasks and frequency of operation and maintenance; and
 - 8.2.1.6.3 Controls to ensure the continuity and permanency of proper operation and maintenance; and
 - 8.2.1.6.4 Methods and frequency of monitoring, record keeping, and reporting to the health officer and/or the secretary; and

- 8.2.1.6.5 Rights and responsibilities of management; and
 - 8.2.1.6.6 Rights and responsibilities of persons purchasing connections to the LOSS.
- 8.2.2 Complete plans and specifications of the LOSS:
- 8.2.2.1 Showing a conventional pressure distribution system with three feet of vertical separation; and
 - 8.2.2.2 Meeting all other design criteria within "Design Standards for Large On-site Sewage Systems", 1993, Washington state department of health as thereafter updated (available upon written request to the secretary or health officer); and
 - 8.2.2.3 Stamped and signed by an engineer.
- 8.2.3 A schedule of inspections to confirm the installation conforms to the plans and specifications; and
- 8.2.4 A draft operation and maintenance manual, describing the LOSS and outlining routine maintenance procedures for proper operation of the system; and
- 8.2.5 Required fees as specified in Appendix A of article I; and
- 8.2.6 Other information as required by the health officer.
- 8.3 Persons desiring to repair (excluding a minor repair), modify or expand a facility served, or to be served by a LOSS shall submit an OSSA containing all documents and fees specified under subsections 8.2.1 through 8.2.6 of this section, unless the health officer waives submission of some elements as unnecessary, and obtain an OSSP from the health officer.
- 8.4 The health officer shall conduct a pre-site inspection of the LOSS project.
- 8.5 An installation firm shall install the LOSS.
- 8.6 The applicant or applicant's agent:
- 8.6.1 Shall comply with all conditions set forth in the health officer's approval; and
 - 8.6.2 May request extensions to the health officer's approval; and

8.6.3 Shall comply with any additional conditions upon construction approval extensions set forth by the health officer and pay required fees as specified in Appendix A of article I for renewing the approval.

8.7 Before a new LOSS is used:

8.7.1 An engineer shall stamp, sign, and submit a LOSS construction report to the health officer within sixty days following the completion of construction of the LOSS including:

8.7.1.1 A completed form stating the LOSS was constructed in accordance with the health officer's approved plans and specifications; and

8.7.1.2 An "as built" or "record" drawing.

8.7.2 The health officer shall conduct a final inspection.

8.7.3 The owner shall:

8.7.3.1 Submit to the health officer for review and approval a final operation and maintenance manual, developed by an engineer, for the installed LOSS, containing any amendments to the draft manual submitted prior to approval; and

8.7.3.2 Obtain a LOSS operating certificate from the department in accordance with the provisions of Section 16 of this article.

8.8 The owner of a LOSS that has been approved by the health officer or constructed after July 1, 1984, shall:

8.8.1 Obtain a LOSS operating certificate from the health officer; and

8.8.2 Renew it annually.

8.9 The owner shall renew annually the LOSS operating certificate in accordance with the provisions of Section 16 of this article.

SECTION 9 OSS UNDER 3500 GALLONS PER DAY.

9.1 Prior to beginning the installation of an OSS or component thereof, a person proposing the installation, repair (excluding a minor repair), or modification to an OSS shall submit a complete OSSA to the health officer

and obtain an OSSP. The OSSA shall contain the following, at a minimum:

9.1.1 General information including:

- 9.1.1.1 Name and address of the property owner and the applicant, if different; and
- 9.1.1.2 Parcel number, address, if available, and the legal description of the site; and
- 9.1.1.3 Source of drinking water supply. If the source is a public water supply, the name and state identification number shall be included; and
- 9.1.1.4 Identification if the property is within the boundaries of a recognized sewer utility; and
- 9.1.1.5 Size of the parcel; and
- 9.1.1.6 Type of approval for which application is being made, for example, new installation, expansion, repair, or modification; and
- 9.1.1.7 Source of sewage, for example, residential, restaurant, or other type of business; and
- 9.1.1.8 Location of utilities; and
- 9.1.1.9 Name of the designer; and
- 9.1.1.10 Date of application; and
- 9.1.1.11 Signature of applicant.

9.1.2 The soil and site evaluation as specified under section 11.2 of this article.

9.1.3 A complete, detailed, and dimensional site plan including:

- 9.1.3.1 Designated areas for the proposed initial and reserve systems; and
- 9.1.3.2 The location of all soil logs and other soil tests for the OSS; and
- 9.1.3.3 General topography and/or slope of the site; and

- 9.1.3.4 Site drainage characteristics; and
- 9.1.3.5 The location of existing and proposed encumbrances affecting system placement, including legal easements and access documents if any component of the OSS is not on the lot where the sewage originates. Copies of easements and their recording numbers must be furnished when such easements are necessary for the health officer's approval of the disposal system; and
- 9.1.3.6 Location, size, shape and placement of all existing buildings on the site showing their relationship to the on-site sewage disposal systems, wells, underground and surface storage tanks, swimming pools, water supply lines, property lines and easements; and
- 9.1.3.7 The location of all wells on the subject property and on adjacent properties within one hundred (100) feet of the property lines; and
- 9.1.3.8 Any septic tank and drainfield locations on the subject property and also any on-site sewage disposal system location on adjacent property within one hundred (100) feet of any existing or proposed wells on the applicant's site; and
- 9.1.3.9 Direction of flow and discharge point of all surface and subsurface water interception drains and ditches; and
- 9.1.3.10 Location, size and shape of area in which on-site sewage disposal system is to be installed, distances from designated area to any cuts, banks, terraces, foundations, property lines, wells (including those on neighboring property), lakes, streams, swamps, marshes, salt water beaches, driveways, walkways, patios, water lines, drainage ditches or fills shall be indicated; and
- 9.1.3.11 Location of soil log holes or sieve sample holes shall be spaced uniformly over the proposed drainfield site and reserve area. The holes shall be identified by numbers. At least three (3) soil logs (2 in the proposed primary drainfield area and 1 in the proposed reserve area) shall be required for each lot.

Additional soil logs may be required by the health officer as deemed necessary. The number of soil logs may be reduced if adequate soils information is available. Soil logs shall be provided in sufficient numbers or detail to allow the determination of any restrictive layer; and

9.1.3.12 If the property has been platted, the application shall contain the lot number and the short or large lot plat number or the plat name if a long plat. Additionally, if there have been any other land use actions pertaining to the lot, the appropriate land use action number shall be included; and

9.1.3.13 An arrow indicating north; and

9.1.3.14 Information required by other local agencies.

9.1.4 A detailed system design meeting the requirements under section 12 of this article including all of the following:

9.1.4.1 A dimensional drawing showing the location of components of the proposed OSS, and for the reserve area if reserve site characteristics differ significantly from the initial area;

9.1.4.2 Vertical cross-section drawings showing:

9.1.4.2.1 The depth of the disposal component, the vertical separation, and depth of soil cover; and

9.1.4.2.2 Other OSS components constructed at the site.

9.1.4.3 Calculations and assumptions supporting the proposed design, including:

9.1.4.3.1 Soil type; and

9.1.4.3.2 Hydraulic loading rate in the disposal component; and

9.1.4.3.3 System's maximum daily flow capacity.

9.1.5 Using a bench mark that will remain in place throughout the development of the project as the reference point, relative

elevations of the plumbing stub-out, the finished ground elevation of the drainfield area and the corners of the subject property and elevation of the drainfield trenches.

9.1.6 Directions of surface drainage after final grading.

9.1.7 Results of all required soil logs and soil analysis.

9.1.8 Drawings that are to scale with dimensions indicated. Recommended scale is one (1) inch equals twenty (20) feet or one (1) inch equals thirty (30) feet. Other scales may be used as appropriate to the design and approved by the health officer. Accuracy in the design drawings shall be sufficient for review.

9.1.9 Indication that the drainfield laterals are staked in the field for inspection and review.

9.1.10 Such additional information as deemed necessary by the health officer.

9.2 For a "minor repair" no OSSA or OSSP is necessary.

9.3 The health officer shall:

9.3.1 Issue an OSSP when the information submitted under subsection 9.1 meets the requirements contained in this article.

9.3.2 Charge a fee for reviewing an OSSA and issuing an OSSP in accordance with the fee schedule contained in Appendix A of Article I.

9.3.3 Specify the expiration date on the OSSA:

9.3.3.1 For any proposal other than a repair, an OSSA shall expire one year after the date of application. This period may be extended for a single one year period without charge, if specifically requested by the applicant prior to the expiration date. (For an application approved prior to January 1, 1995 the conditions stated in section 4.4 shall apply).

9.3.3.2 For a proposal other than a repair, an OSSP shall expire three years after the date of design approval. If a building permit is obtained during the three year period of validity for the OSSP, the OSSP will be valid for three years or as long as the building permit is valid, whichever is greater. (For a permit approved

prior to January 1, 1995 the conditions stated in section 4.4 shall apply).

9.3.3.3 An OSSP may be renewed after it has expired if **all** of the following conditions are met:

a) The applicant pays the renewal fee as specified in Appendix A of article I; and

b) The applicant demonstrates to the satisfaction of the health officer that there has been no change to the building site or development proposal which had been previously approved; and

c) The health officer determines that the previous approval fully complies with all applicable laws in effect at the date of the application for renewal.

9.3.3.4 For a repair the OSSA and OSSP shall expire one year after the date of application. An extension of one year may be authorized by the health officer if there are extenuating circumstances, such as difficult site conditions, abnormal rainfall, or difficulty in developing an operation and maintenance manual. If an extension is granted, the requirements that applied at the time of the application will be the applicable standards.

9.3.4 Include a reminder on the OSSA of the applicant's right of appeal.

9.3.5 Within 20 working days after submittal of a **complete OSSA**, either issue an OSSP, disapprove the OSSA or inform the applicant or his/her representative in writing as to the status of the OSSA.

9.4 The health officer will allow a temporary repair to be made on a failing system without a repair OSSA and OSSP on those days when the health officer's office is closed and when such repair is essential to the continued use of the system. In such a case the owner of the OSS shall apply for a repair OSSA within five (5) working days after the temporary repair has been made. Such repairs will be subject to any additional requirements necessary to assure the repair meets the provisions of this article.

9.5 The health officer may revoke or deny an OSSA or OSSP for the installation of an OSS for due cause. Examples include, but are not limited to:

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- 9.5.1 Exclusion, misrepresentation or concealment of material fact in information submitted to the health officer; or
 - 9.5.2 Site conditions that have changed since the designer and/or health officer reviewed the site; or
 - 9.5.3 Failure to meet conditions of the approval or this article.
- 9.6 Before the health officer issues an OSSP allowing the installation of an OSS to serve either structures on more than one lot or a structure or structures with multiple ownership, the applicant shall show:
- 9.6.1 An approved public entity owning or managing the OSS in perpetuity; or
 - 9.6.2 An arrangement with a management entity acceptable to the health officer, recorded in covenant, lasting until the on-site system is no longer needed, and containing, but not limited to:
 - 9.6.2.1 A legal easement allowing access for construction, operation and maintenance, and repair of the OSS; and
 - 9.6.2.2 Identification of an adequate financing mechanism to assure the funding of operation, maintenance, and repair of the OSS.
- 9.7 The health officer shall not delegate the authority to issue permits.
- 9.8 The health officer may stipulate additional requirements for approval of a particular application if necessary for public health protection.

SECTION 10 LOCATION.

- 10.1 Persons shall design and install OSS to meet the minimum horizontal separations shown in Table I, Minimum Horizontal Separations:

**TABLE I
MINIMUM HORIZONTAL SEPARATIONS**

| Items requiring setback | From edge of disposal component and reserve area | From septic tank, holding tank, containment vessel, pump chamber, and distribution box | From building sewer, collection, and non-perforated distribution line ¹ |
|---------------------------------|--|--|--|
| Non-public well or suction line | 100 ft. | 50 ft. | 50 ft. |

| Items requiring setback | From edge of disposal component and reserve area | From septic tank, holding tank, containment vessel, pump chamber, and distribution box | From building sewer, collection, and non-perforated distribution line ¹ |
|---|--|--|--|
| Public drinking water well | 100 ft. | 100 ft. | 100 ft. |
| Public drinking water spring ^{2,3} | 200 ft. | 200 ft. | 100 ft. |
| Spring or surface water used as drinking water source ^{2,3} | 100 ft. | 50 ft. | 50 ft. |
| Pressurized water supply line ⁴ | 10 ft. | 10 ft. | 10 ft. |
| Properly decommissioned well ⁵ | 10 ft. | N/A | N/A |
| Surface water ³ Marine water Fresh water | 100 ft. 100 ft. | 50 ft. 50 ft. | 10 ft. 10 ft. |
| Building foundation | 10 ft. ⁶ | 5 ft. ⁶ | 2 ft. |
| Property or easement line ⁶ | 5 ft. | 5 ft. | N/A |
| Interceptor / curtain drains/ drainage ditches, stormwater drywells Down-gradient ⁷ Up-gradient ⁷ | 30 ft. 10 ft. | 5 ft. N/A | N/A N/A |
| Down-gradient cut or bank with at least 5 ft. of original, undisturbed soil showing above a restrictive layer due to a structural or textural change ^{7,8} | 25 ft. | N/A | N/A |
| Down-gradient cut or bank with less than 5 ft. of original, undisturbed, soil showing above a restrictive layer due to a structural or textural change ^{7,8} | 50 ft. | N/A | N/A |
| Downgradient cut or bank that extends vertically less than 5 feet from the toe of the | 10 ft. | | |

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| Items requiring setback | From edge of disposal component and reserve area | From septic tank, holding tank, containment vessel, pump chamber, and distribution box | From building sewer, collection, and non-perforated distribution line ¹ |
|---|--|--|--|
| slope to the top of the slope that doesn't have a restrictive layer showing ^{7, 8} | | | |

- ¹ "Building sewer" as defined by the most current edition of the Uniform Plumbing Code. "Non-perforated distribution" includes pressure sewer transport lines.
- ² If surface water is used as a public drinking water supply, the designer shall locate the OSS outside of the required sanitary control area.
- ³ Measured from the ordinary high-water mark.
- ⁴ The health officer may approve a sewer transport line within 10 feet of a water supply line if the sewer line is constructed in accordance with section 2.4 of the Washington state department of ecology's "Criteria For Sewage Works Design," revised October 1985, as thereafter updated, or equivalent.
- ⁵ Before any component can be placed within 100 feet of a well, the designer shall submit a "decommissioned water well report" provided by a licensed well driller, which verifies that appropriate decommissioning procedures noted in chapter 173-160 WAC were followed. Once the well is properly decommissioned, it no longer provides a potential conduit to groundwater, but septic tanks, pump chambers, containment vessels or distribution boxes should not be placed directly over the site.
- ⁶ The health officer may allow a reduced horizontal separation to not less than two feet where the property line, easement line, or building foundation is up-gradient.
- ⁷ The item is down-gradient when liquid will flow toward it upon encountering a water table or a restrictive layer. The item is up-gradient when liquid will flow away from it upon encountering a water table or restrictive layer.
- ⁸ This setback is unrelated to setbacks that are necessary for slope stability or other purposes.
- 10.2 Where any condition indicates a greater potential for contamination or pollution, the health officer may increase the minimum horizontal separations. Examples of such conditions include excessively permeable soils, unconfined aquifers, shallow or saturated soils, dug wells, and improperly abandoned wells.
- 10.3 The horizontal separation between an OSS disposal component and an individual water well, spring, or surface water can be reduced to a minimum of 75 feet, upon signed approval by the health officer if the applicant demonstrates:

- 10.3.1 Adequate protective site specific conditions, such as physical settings with low hydro-geologic susceptibility from contaminant infiltration. Examples of such conditions include evidence of confining layers and or aquatards separating any potable water from the OSS treatment zone or there is an excessive depth to groundwater; or
 - 10.3.2 Design and proper operation of an OSS system assuring enhanced treatment performance beyond that accomplished by meeting the vertical separation and effluent distribution requirements described in Table IV in subsection 12.2.6 of this article; or
 - 10.3.3 Evidence of protective conditions involving both subsections 10.3.1 and 10.3.2.
- 10.4 Persons shall design and/or install disposal components only where:
- 10.4.1 The slope is less than forty-five percent (twenty-four degrees); and
 - 10.4.2 The area is not subject to any of the following:
 - 10.4.2.1 Encroachment by buildings or construction such as placement of swimming pools, power poles and underground utilities;
 - 10.4.2.2 Cover by impervious material;
 - 10.4.2.3 Vehicular traffic;
 - 10.4.2.4 Other activities adversely affecting the soil or the performance of the OSS; and
 - 10.4.3 Sufficient reserve area for replacement exists to treat and dispose 100% of the design flow; and
 - 10.4.4 The land is stable; and
 - 10.4.5 Surface drainage is directed away from the site.
- 10.5 Upon request and submission of an application on forms provided, the health officer may review:
- 10.5.1 An individual lot to determine the lot's potential for the installation of an OSS (On-site Evaluation Only).

10.5.1.1 In addition to the application, the following shall be submitted:

10.5.1.1.1 A site plan showing the lot's location and dimensions and the location of soil test pits. Soil test pits shall be dug as per subsections 9.1.3.11 and 11.3 of this article; and

10.5.1.1.2 A fee as specified in Appendix A of article I.

10.5.1.2 This application and review shall be completely separate from an OSSA process and shall constitute neither a valid application for purposes of future vesting nor permission from the health officer to install an OSS.

10.5.2 A proposed development, prior to the submittal of a formal landuse application, that proposes using OSS.

10.5.2.1 In addition to the application, the following shall be submitted:

10.5.2.1.1 A site plan showing the property's location and dimensions and the location of soil test pits. Soil test pits shall be dug as per subsections 9.1.3.11 and 11.3 of this article; and

10.5.2.1.2 A fee as stated in Appendix A of article I.

10.5.2.2 This application and review shall constitute neither a valid application for purposes of future vesting nor permission from the health officer to install an OSS.

SECTION 11 SOIL AND SITE EVALUATION.

11.1 The health officer shall permit only engineers, designers, registered sanitarians, and registered soil scientists (American registry of certified professionals in agronomy, crops, and soils) to perform soil and site evaluations. The health officer may also perform soil and site evaluations.

11.2 The person evaluating the soil and site shall:

11.2.1 Record all of the following:

11.2.1.1 Unless a reduced number of soil logs is authorized by the health officer, observed conditions in soil logs from at least:

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- 11.2.1.1.1 Two test pits in the initial disposal component;
and
- 11.2.1.1.2 One test pit in the reserve area.
- 11.2.1.2 The ground water conditions, the date of the
observation, and the probable maximum height;
- 11.2.1.3 The topography of the site;
- 11.2.1.4 The drainage characteristics of the site;
- 11.2.1.5 The existence of structurally deficient soils subject to
major wind or water erosion events such as slide
zones and dunes;
- 11.2.1.6 The existence of designated flood plains;
- 11.2.1.7 The location of existing encumbrances affecting
system placement, such as:
 - 11.2.1.7.1 Wells and suction lines;
 - 11.2.1.7.2 Water sources and supply lines;
 - 11.2.1.7.3 Surface water;
 - 11.2.1.7.4 Decommissioned/abandoned wells;
 - 11.2.1.7.5 Outcrops of bedrock and restrictive layers;
 - 11.2.1.7.6 Buildings;
 - 11.2.1.7.7 Property lines and lines of easement;
 - 11.2.1.7.8 Interceptors such as footing drains, curtain
drains and drainage ditches;
 - 11.2.1.7.9 Cuts, banks, and fills;
 - 11.2.1.7.10 Driveways and parking areas;
 - 11.2.1.7.11 Existing OSS; and
 - 11.2.1.7.12 Underground utilities.

11.2.2 Use the soil and site evaluation procedures and terminology in accordance with chapter 3 and Appendix A of the "Design Manual: On-site Wastewater Treatment and Disposal Systems", United States Environmental Protection Agency, EPA-625/1-80-012, October, 1980, as thereafter updated (available upon written request to the secretary) except where modified by, or in conflict with, this article;

11.2.3 Use the soil names and particle size limits of the United States Department of Agriculture Soil Conservation Service classification system;

11.2.4 Determine texture, structure, compaction and other soil characteristics that affect the treatment and water movement potential of the soil by using normal field and/or laboratory procedures such as particle size analysis;

11.2.5 Classify the soil as in Table II, Soil Textural Classification:

**TABLE II
SOIL TEXTURAL CLASSIFICATION**

| Soil Type | Soil Textural Classifications |
|-----------|--|
| 1A | Very gravelly ¹ coarse sands or coarser. All extremely gravelly ² soils. |
| 1B | Very gravelly medium sand, very gravelly fine sand, very gravelly very fine sand, very gravelly loamy sands. |
| 2A | Coarse sands (also includes ASTM C-33 sand). |
| 2B | Medium sands. |
| 3 | Fine sands, loamy coarse sands, loamy medium sands. |
| 4 | Very fine sands, loamy fine sands, loamy very fine sands, sandy loams, loams. |
| 5 | Silt loams, that are porous and have well developed structure. |
| 6 | Other silt loams, sandy clay loams, clay |

| Soil Type | Soil Textural Classifications |
|--------------------------------------|--|
| | loams, silty clay loams. |
| Unsuitable for treatment or disposal | Sandy clay, clay, silty clay, and strongly cemented or firm soils. |

¹ Very Gravelly = >35% and <60% gravel and coarse fragments, by volume.

² Extremely Gravelly = >60% gravel and coarse fragments, by volume.

11.3 The owner of the property or his/her agent shall:

11.3.1 Prepare the soil log excavation to:

11.3.1.1 Allow examination of the soil profile in its original position by:

11.3.1.1.1 Excavating pits of sufficient dimensions to enable observation of soil characteristics by visual and tactile means to a depth three feet deeper than the anticipated bottom of the disposal component; or

11.3.1.1.2 Stopping at a shallower depth if a water table or restrictive layer is encountered; and

11.3.1.2 Allow determination of the soil's texture, structure, color, bulk density or compaction, water absorption capabilities or permeability, and elevation of the highest seasonal water table; and

11.3.2 Assume responsibility for constructing and maintaining the soil log excavation in a manner to reduce potential for physical injury by:

11.3.2.1 Placing excavated soil no closer than 2 feet from the excavation; and

11.3.2.2 Providing a ladder, earth ramp or steps for safe egress to a depth of 4 feet, then scoop out a portion from the floor to gain the additional 2 foot depth necessary to observe the 6 feet of soil face, however the scooped portion is not to be entered; and

- 11.3.2.3 Provide a physical warning barrier around the excavation's perimeter; and
- 11.3.2.4 Fill the excavation upon completion of the soil log.

11.4 The health officer:

- 11.4.1 May require water table measurements to be recorded during months of probable high-water table conditions, if insufficient information is available to determine the highest seasonal water table. If this is required, the health officer shall render a decision on the height of the water table within 12 months of receiving the application if precipitation conditions are typical for the region;
- 11.4.2 May require any other soil and site information affecting location, design, or installation;
- 11.4.3 May reduce the required number of soil logs for the OSS if adequate soils information has previously been developed.

SECTION 12 DESIGN.

- 12.1 The health officer shall require a design for all OSS and that the OSS be designed only by an engineer, registered sanitarian, or a designer certified as per subsection 23.1 of this article, except:
 - 12.1.1 Where at the discretion of the health officer a resident owner of a single family residence is allowed to design a system for that residence after passing a test to demonstrate competency and paying a fee for taking the test; or
 - 12.1.2 The health officer performs the soil and site evaluation and develops the design.

12.2 The health officer and the secretary shall require the following design criteria:

12.2.1 All the sewage from the building served is directed to the OSS;

12.2.2 Drainage from the surface, footing drains, roof drains, and other non-sewage drains is prevented from entering the OSS and the area where the OSS is located;

12.2.3 The OSS is designed to treat and dispose of all sewage generated within the facility to be served by the OSS:

12.2.3.1 For single family residences, the design flow for both the primary and reserve area shall be 120 gallons per bedroom per day with a minimum of 240 gallons per day, unless technical justification is provided to support calculations using a lower design flow.

12.2.3.2 For other facilities, unless there is technical justification provided to support calculations using lower design flows, the design flows noted in "Design Manual: On-site Wastewater Treatment and Disposal Systems", United States Environmental Protection Agency, EPA-625/1-80-012, October, 1980, as thereafter updated, (available upon written request to the secretary) shall be used. If the type of facility is not listed in the EPA design manual, design flows from one of the following documents are to be used:

12.2.3.2.1 "Design Standards for Large On-site Sewage Systems," 1993, Washington state department of health, as thereafter updated (available upon request to the secretary); or

12.2.3.2.2 "Criteria for Sewage Works Design", revised October 1985, Washington state department of ecology, as thereafter updated (available upon written request to the department of ecology).

12.2.3.3 For non-residential development where a full set of water conservation methods for a facility can be documented, and where there is an adequate on-going guaranteed use of such methods, the health officer may permit a decreased flow with an associated decrease in OSS component sizing.

12.2.4 Septic tanks:

12.2.4.1 Are included on the approved list maintained by the secretary;

12.2.4.2 Have the following minimum liquid capacities:

12.2.4.2.1 For a single family residence use Table III, Required Minimum Liquid Volumes of Septic Tanks:

**TABLE III
REQUIRED MINIMUM LIQUID VOLUMES OF SEPTIC TANKS**

| Number of bedrooms | Required minimum liquid tank volume in gallons |
|-------------------------|--|
| # 4 | 1000 |
| Each additional bedroom | 250 |

12.2.4.2.2 For facilities handling residential sewage, other than one single family residence, 1.5 times the daily design flow, with a minimum of 1000 gallons.

12.2.4.3 Have clean-out and inspection accesses within 12 inches of finished grade. If an effluent filter is installed at the outlet of a septic tank, the clean-out and inspection access shall be at or above finished grade;

12.2.4.4 Are designed with protection against floatation, ground water intrusion, and surface water inflow in high ground water areas.

12.2.5 Pump chambers:

12.2.5.1 Are included on the approved list maintained by the secretary;

12.2.5.2 Have clean-out and inspection accesses at or above finished grade;

12.2.5.3 Are designed with protection against floatation, ground water intrusion, and surface water inflow in high ground water areas.

12.2.6 Methods for effluent distribution shall correlate to soil types 1A through soil type 6 as described by TABLE IV of this section:

**TABLE IV
METHODS OF EFFLUENT DISTRIBUTION FOR SOIL TYPES AND DEPTHS**

| SOIL TYPE | VERTICAL SEPARATION | | | |
|---------------------|---------------------|---|---|---|
| | < 1 foot | ≥ 1 foot to < 2 feet | ≥ 2 feet to < 3 feet | ≥ 3 feet |
| 1A | Not allowed | Pressure Distribution (see note) ^{1 & 2} | Pressure Distribution (see note) ¹ | Pressure Distribution (see note) ¹ |
| 1B- 2A ³ | Not allowed | Pressure Distribution (see note) ^{1 & 2} | Pressure Distribution | Pressure Distribution |
| 2B - 6 ³ | Not allowed | Pressure Distribution (see note) ^{1 & 2} | Pressure Distribution | Gravity Distribution |

¹ System meeting Treatment Standard 2 required.

² Mound systems installed where the original, undisturbed, unsaturated soil depth is between 12 and 18 inches, require pretreatment by an intermittent sand filter.

³ When an OSS is proposed to be installed in soil types 1B or 2 through 4 that are included in the list of Category I soil series in Chapter 17.15 of the Thurston County Code (Critical Areas Ordinance) pressure distribution is required, at a minimum.

12.2.7 SSAS beds are only designed in soil types 2A, 2B or 3, with a width not exceeding 10 feet. Sand-lined beds meeting sand filter guidelines may be considered in soil types 1A & 1B.

12.2.8 Individual SSAS laterals greater than one hundred feet in length shall use pressure distribution.

12.2.9 Community on-site sewage systems:

12.2.9.1 Are located only in soil types 1 - 5;

- 12.2.9.2 Are located on slopes of less than thirty percent (17 degrees); and
- 12.2.9.3 Have pressure distribution.
- 12.2.10 Conventional gravity systems and conventional pressure distribution systems have:
 - 12.2.10.1 The calculation of absorption area based upon the design flows in subsection 12.2.3 and loading rates equal to or less than those in Table V, Maximum Hydraulic Loading Rate for Residential Sewage, and applied only to the bottom of the trench of the excavation;

**TABLE V
MAXIMUM HYDRAULIC LOADING RATE
FOR RESIDENTIAL SEWAGE¹**

| SOIL TYPE | SOIL TEXTURAL CLASSIFICATION DESCRIPTION | LOADING RATE gal./sq. ft./day |
|-----------|---|---|
| 1A | Very gravelly ² coarse sands or coarser, extremely gravelly ³ soils. | Varies according to system selected to meet Treatment Standard 2 ⁴ |
| 1B | Very gravelly medium sands, very gravelly fine sands, very gravelly very fine sands, very gravelly loamy sands. | Varies according to soil type of the non-gravel portion ⁵ |
| 2A | Coarse sands (includes the ASTM C-33 sand). | 1.2 |
| 2B | Medium sands. | 1.0 |
| 3 | Fine sands, loamy coarse sands, loamy medium sands. | 0.8 |
| 4 | Very fine sands, loamy fine sands, loamy very fine sands, sandy loams, loams. | 0.6 |
| 5 | Silt loams that are porous and have well developed structure. | 0.45 |
| 6 | Other silt loams, sandy clay loams, clay loams, silty clay loams. | 0.2 |

1 Compacted soils, cemented soils, and/or poor soil structure may require a reduction of the loading rate or make the soil unsuitable for conventional OSS systems.

2 Very Gravelly = >35% and <60% gravel and coarse fragments, by volume.

3 Extremely Gravelly = >60% gravel and coarse fragments, by volume.

4 Due to the highly permeable nature of type 1A soil, only alternative systems which meet or exceed Treatment Standard 2 can be installed. The loading rate for these systems is provided in the appropriate guideline.

5 The maximum loading rate listed for the soil described as the non-gravel portion is to be used for calculating the absorption surface area required. The value is to be determined from this table.

12.2.10.2 The bottom of a SSAS shall not be deeper than three feet below the finished grade. This shall not preclude the use of deeper trenches that are designed as per guidelines published by the secretary. The depth of such a system shall not exceed ten feet from the finished grade.

12.2.10.3 The sidewall below the invert of the distribution pipe is located in original, undisturbed soil;

12.2.10.4 Clean gravel, covered with a geotextile;

12.2.10.5 A spacing center-to-center of three times the trench width; and

12.2.10.6 A cover of between twelve and twenty-four inches of mineral soil containing no greater than 10% organic content over the gravel to preclude accumulation of water over the drainfield.

12.2.11 Observation ports installed in each independent lateral of SSAS, in mounds, and in sand filters. The observation ports shall extend from the bottom of the gravel (also from the bottom of the sand in mounds and sand filters) to final grade and shall be adequately anchored.

12.2.12 For other features, conventional gravity systems shall conform with the "Design Manual: On-site Wastewater Treatment and Disposal Systems," United States Environmental Protection Agency, EPA-625/1-80-012, October, 1980 as thereafter updated (available upon written request to the secretary) except where modified by, or in conflict with this article or other local regulations.

- 12.3 The building sewer shall:
 - 12.3.1 Consist of pipe that is crush-proof or resistant, meets all standards of the Uniform Plumbing Code and is a minimum of three (3) inches in diameter;
 - 12.3.2 Be on a uniform, positive grade in conformance with the Uniform Plumbing Code;
 - 12.3.3 Have cleanouts installed per the Uniform Plumbing Code including at intervals of not more than 100 feet with a minimum of one between the structure and the septic tank.
- 12.4 All pipe in the OSS shall comply with standards specified in the Uniform Plumbing Code, guidelines for alternative systems, or other applicable standards.
- 12.5 When proposing the use of OSS for non-residential sewage, the designer shall provide to the health officer:
 - 12.5.1 Information to show the sewage is not industrial wastewater;
 - 12.5.2 Information to establish the sewage's strength and identify chemicals found in the sewage that are not found in residential sewage;
 - 12.5.3 A design providing treatment that will reduce the sewage waste strength to levels equivalent of residential sewage.
- 12.6 The health officer:
 - 12.6.1 Shall approve only OSS designs meeting the requirements of this article;
 - 12.6.2 Shall only permit the use of septic tanks, pump chambers, and holding tanks on the approved list maintained by the secretary;
 - 12.6.3 Shall not approve designs for:
 - 12.6.3.1 Cesspools;
 - 12.6.3.2 Seepage pits, except as allowed for repairs under section 17 of this article; or
 - 12.6.3.3 Conventional gravity systems or conventional pressure distribution systems in soil type 1A.

12.6.4 May approve a design for the reserve area different than the design approved for the initial OSS, if both designs meet the requirements of this article for new construction.

SECTION 13 HOLDING TANK SEWAGE SYSTEMS.

13.1 Persons shall not install or use holding tank sewage systems for residential uses or expansion of residences; whether seasonal or year-round, except as set forth under subsection 13.2 of this section.

13.2 The health officer may approve installation of holding tank sewage systems only:

13.2.1 For permanent uses limited to controlled, part-time, commercial usage situations, such as, recreational vehicle parks and trailer dump stations; or

13.2.2 For interim uses limited to handling of emergency situations; or

13.2.3 For repairs as permitted under section 17 of this article.

13.3 A person proposing to use a holding tank sewage system shall:

13.3.1 Follow established design criteria established by the secretary;

13.3.2 Submit a management program to the health officer assuring ongoing operation and maintenance before the health officer issues approval. Unless on-going management or back-up will be provided by a public entity, the person shall demonstrate an adequate financial guarantee. The financial guarantee may include a bond, certificate of moneys on deposit, or other financial instrument acceptable to the health officer. The value of the financial guarantee shall cover the cost for operating and maintaining the system for the proposed life of the system or a period of not less than 12 months; and

13.3.3 Use a holding tank on the current approved list maintained by the secretary.

SECTION 14 INSTALLATION.

14.1 No person shall install or cause to be installed a new OSS, nor perform any repair (except for a minor repair), modifications, extensions, or relocations to an existing OSS without a valid permit issued by the health officer.

- 14.2 The health officer may allow the resident owner of a single family residence to install the OSS for that single family residence when:
- 14.2.1 The OSS is either located on the same lot as the residence or situated on adjoining property controlled by the owner and legally listed as an encumbrance; and
 - 14.2.2 The resident owner attends a conference with the department to discuss the complexity of system installation and the consequences of improperly installing the system on the first attempt.
- 14.3 The installation firm or residence owner installer shall:
- 14.3.1 Follow the approved design;
 - 14.3.2 Have the approved design in possession during installation;
 - 14.3.3 Only install septic tanks, pump chambers, and holding tanks approved by the secretary;
 - 14.3.4 In the case of an installation firm, have an installer on the site at all times during the excavation and construction of the OSS;
 - 14.3.5 Install all components of the OSS, except the disposal component, to be watertight;
 - 14.3.6 Cover the installation only after the requirements in section 15 of this article have been met; and
 - 14.3.7 Backfill all mound systems and other systems as specified by the designer. In all cases the department, the designer, and the installer must give the approval to backfill the system as per section 15 of this article.

SECTION 15 INSPECTION.

- 15.1 The health officer shall:
- 15.1.1 Visit the OSS site at least once during the site evaluation, construction, or final construction inspection process;
 - 15.1.2 Either inspect the OSS before cover or allow the designer of the OSS to certify the system construction if:

- 15.1.2.1 The designer is an engineer, registered sanitarian, or a designer certified as per subsection 23.1 of this article ; and
- 15.1.2.2 The designer is not also named as installer of the system; and
- 15.1.2.3 An installation firm certified as per subsection 23.2 of this article installed the OSS.
- 15.1.3 Inspect before final cover, any OSS installed by a resident owner;
- 15.1.4 Conduct any final inspection of an OSS within two (2) working days after the day of receiving notification from the installation firm that the OSS is ready for the health officer's inspection. The health officer shall conduct at least a sufficient number of final inspections to assure the integrity of the final inspection process;
- 15.1.5 Notify the OSS installation firm if the final inspection reveals the installation is not per the approved design or approved modifications. This shall be done by leaving notification at the site as well as by phoning the installation firm with the corrections needed;
- 15.1.6 Not accept designs from any designer or design firm that is more than thirty (30) calendar days late in submitting an "as-built" drawing for an OSS;
- 15.1.7 Process back to the designer, installer, applicant and county files the accepted "as-builts" within 10 working days of receipt. Once the as-built has been accepted by the department, the system shall be considered a conforming system. As-builts determined to be unacceptable will be returned to the designer within this same time period with a specified time period required for resubmittal;
- 15.1.8 Keep the accepted "as-built" drawings on file; and,

15.2 The health officer may:

15.2.1 Require additional inspections of OSS by designers as follows:

- 15.2.1.1 Prior to the installation of a designed septic system, the designer may be required to certify to the health officer that the system is installable as per the design;

- 15.2.1.2 For mound or sand filter systems inspection before and after sand placement, of the installation prior to final cover, of the final cover, and of contour and landscaping;
- 15.2.1.3 For systems where sand is used to line the bottom and sides of trenches or beds inspection of the excavation, of the sand in place before placement of any gravel, and before final cover;
- 15.2.1.4 For OSS using pressure distribution an inspection and pump test after pump and distribution network installation is complete; and
- 15.2.1.5 Other alternative installations may be subject to such inspections as are necessary to insure their proper installation.

15.2.2 Require additional inspections of a system installed by a resident owner:

- 15.2.2.1 An excavation inspection of the septic tank hole with or without the tank in place and the disposal trenches without the gravel and pipe;
- 15.2.2.2 An inspection of the tank and drainfield in place with the pipes covered with the geotextile;
- 15.2.2.3 An inspection of the system after final cover contoured and/or landscaped.

15.3 Upon completion of the OSS installation, the certified installation firm or resident-owner installer shall:

15.3.1 Notify the department and the designer the OSS is ready for final inspection. The installation firm shall verify to the designer and the department that the installation is per the approved design or approved modifications. The installation firm shall generally be responsible for those installation actions that are not readily visible once the OSS has been installed and is ready for final inspection, including, but not limited to, levelness of the trench or bed bottom and depth of sand.

15.3.2 Allow backfill of the system only:

15.3.2.1 When approval has been given by a certified designer. Department approval is also needed if within two working days after notifying the department the system is ready for final inspection; or

15.3.2.2 If after five (5) working days after notifying the designer and department the OSS is ready for final inspection a designer or health officer has not instructed the installer that additional corrections are needed before covering the OSS.

15.3.3 Shall use no foreign materials such as construction wastes as part of the backfill.

15.4 Unless the designer notifies both the department and property owner he/she is no longer working on the OSS project the designer shall:

15.4.1 Notify the OSS installer if the final inspection reveals the installation is not per the approved design or approved modifications. This shall be done by leaving notification at the site as well as by phoning the installation firm with the corrections needed; and

15.4.2 Certify to the health officer that the OSS installation is per the approved design or approved modifications including, but not limited to, verification of the plan dimensions and the location of the installation, the materials used, and any pressure testing; and

15.4.3 Submit a complete, detailed, and to scale (not greater than one inch equals 30 feet) "as-built" drawing (including reserve area location) to both the health officer and the OSS owner within thirty (30) calendar days of being notified the OSS installation is ready for final inspection. This thirty day period may be extended only upon notifying the department that the system is not approved for backfill and that modifications are being required. When further modifications are needed the "as-built" must be submitted within five (5) days of final approval. If the design is developed by a resident-owner, the "as-built" drawing shall be developed by the installation firm installing the OSS. All "as-built" drawings shall include, but not be limited to:

15.4.4.1 For new OSS, measurements to existing site features enabling the first tank manhole to be easily located; and

- 15.4.4.2 For repaired or altered OSS, the new, repaired, or modified components with their relationship to the existing system.

SECTION 16 OPERATION AND MAINTENANCE.

16.1 Proper operation and maintenance is essential to assure OSS function correctly and to protect public health. The department is responsible for informing and educating the public served by OSS so they can properly operate and maintain their sewage systems. The OSS owner is responsible for assuring the system is adequately operated and maintained.

16.2 The health officer shall:

16.2.1 Establish recommended conditions, monitoring schedules and reporting schedules to assure proper on-going operation and maintenance for all OSS. The conditions and monitoring schedules will vary depending on the type of system, the location of the system, population or facility(ies) served, the sensitivity of the site, and requirements within alternative system guidelines.

16.2.2 Provide educational materials to assist the homeowner in understanding what is required and how to comply with the recommendations.

16.2.3 Establish a program to notify OSS owners when to perform recommended sewage system maintenance.

16.2.4 Establish and maintain a data base of all OSS within Thurston County. The data base shall include the following: parcel number, site address, name of owner, sewage system type, site specific information and, inspection, operation, maintenance, monitoring and repair history, and any other information determined to be necessary by the health officer.

16.2.5 Establish a program to monitor the cumulative effects of OSS on the quality of the ground water and surface water resources of Thurston County.

16.3 Operational Certificates shall be required for certain large or complex OSS. These include experimental, community, large OSS, proprietary devices which require third party maintenance, OSS which serve food establishments as defined by Article II of the Thurston County Sanitary Code, OSS which must meet treatment standard 1, or treatment standard 2 where disinfection is required, lined sand filters, mounds, those which require waivers where enhanced system performance and monitoring is the basis for approval of the waiver, and systems in Areas of Special Concern as established by the Board of Health.

16.3.1 The operational certificate will contain specific conditions required for the continued use of the OSS, as noted in subsection 16.3.4 of this article. The purpose of these conditions is to assist the OSS owner in minimizing the potential of a failure and having to repair the OSS.

16.3.2 The operational certificate and the conditions contained therein shall run continuously with the property; however, when an operational certificate is no longer required, the health officer may issue an operational certificate release, which the owner may record against his/her property.

16.3.3 As noted in section 16.4 of this article, the owner of an OSS with an operational certificate is responsible for operating, maintaining, and monitoring the OSS in a manner that satisfies the conditions in the operational certificate.

16.3.4 The Health Officer will establish conditions, monitoring schedules and reporting schedules to assure proper on-going operation and maintenance for OSS with an operational certificate. The conditions may include a requirement to connect to a public sewer system within a specific time frame. At a minimum, the conditions shall require the OSS owner do the following:

16.3.4.1 Determine the level of solids and scum in the septic tank once every three years;

16.3.4.2 Protect the OSS area and the reserve area from:

16.3.4.2.1 Cover by structures or impervious material;

16.3.4.2.2 Surface drainage;

16.3.4.2.3 Soil compaction, for example by vehicular traffic or livestock; and

- 16.3.4.2.4 Damage by soil removal and grade alteration;
- 16.3.4.3 Keep the flow of sewage to the OSS at or below the approved design both in quantity and waste strength;
- 16.3.4.4 Operate and maintain alternative systems as directed by the health officer;
- 16.3.4.5 Direct drains, such as footing or roof drains away from the area where the OSS is located;
- 16.3.4.6 Maintain the OSS and meet conditions as specified in the approval of the OSS.

16.3.5 The Health Officer shall:

- 16.3.5.1 Renew operational certificates for another specified period of time once all conditions of the certificate have been fulfilled and fees for renewal have been paid.
- 16.3.5.2 Charge fees for performing these activities as per Appendix A of article I.
- 16.3.5.3 Require annual inspections of OSS serving food service establishments and may require pumping as needed.

16.4 The OSS owner is responsible for properly operating and maintaining the OSS to comply with the recommended standards or the conditions of the Operational Certificate, when one is required. The OSS owner shall:

- 16.4.1 Either monitor the OSS himself/herself at least once every three years or contract with a licensed monitoring firm to perform the monitoring.
- 16.4.2 Employ a pumping firm to remove the septage from the septic tank, pump chamber, and or other vessel when the level of solids and/or scum indicates that removal is necessary.
- 16.4.3 Send the report of the monitoring results to the health officer for review and input of the appropriate data into the health officer's data base. When required as part of an operational certificate, the report must be submitted in accordance with a schedule established by the department.
- 16.4.4 Pay the fees, when applicable, as per Appendix A of article I.

16.5 Persons shall not:

16.5.1 Use or introduce strong bases, acids, chlorinated organic solvents, or other hazardous substances into an OSS for the purpose of system cleaning, or for any other purpose.

16.5.2 Use a sewage system additive unless it is specifically approved by the secretary; or

16.5.3 Use an OSS to dispose of waste atypical of residential wastewater.

16.6 If an OSS has been classified as non-conforming because of failure to maintain a valid operational certificate, the system may be reinstated as a conforming system only after all of the following conditions have been met:

16.6.1 The tank has been pumped and a report has been submitted by a pumping firm; and

16.6.2 A field inspection of the OSS has been conducted by the department to verify the status of the system and confirm it is not in failure; and

16.6.3 All past renewal fees and the field inspection fee have been paid.

SECTION 17: REPAIR OF FAILURES AND MODIFICATIONS OF EXISTING SYSTEMS.

17.1 When an OSS failure occurs, the OSS owner shall:

17.1.1 Repair the OSS either on the:

17.1.1.1 Property served; or

17.1.1.2 Nearby or adjacent property if easements are obtained; or

17.1.2 Connect the residence or facility to a:

17.1.2.1 Publicly owned LOSS; or

17.1.2.2 Privately owned LOSS where it is deemed economically feasible; or

17.1.2.3 Public sewer; or

17.1.3 Perform one of the following when requirements in subsections 17.1.1 or 17.1.2 are not feasible:

17.1.3.1 Use a holding tank as an interim use per subsection 13.2.2; or

17.1.3.2 Obtain a National Pollution Discharge Elimination System or state discharge permit from the Washington state department of ecology issued to a public entity or jointly to a public entity and the system owner only when the health officer determines:

17.1.3.2.1 An OSS is not feasible; and

17.1.3.2.2 The only realistic method of final disposal of treated effluent is discharge to the surface of the land or into surface water; or

17.1.3.3 Abandon the property.

17.2 The owner of an existing OSS that is not failing may modify his/her OSS to upgrade the system or any component(s) of the system. Before implementing this modification, the owner shall submit an application and design to the health officer for review and approval. Treatment processes used shall be in compliance with this article.

17.3 Prior to repairing or modifying the OSS, the OSS owner shall develop and submit information required under subsection 9.1 of this article.

17.4 The person responsible for the design of the repair or modification shall locate and design OSS components to:

17.4.1 Meet the requirements of Table VI if the effluent treatment and disposal component to be repaired or replaced is closer to any surface water, well, or spring that is not used as a public water source as prescribed by the minimum separation required in Table 1 of subsection 10.1 of this article.

**TABLE VI
REQUIREMENTS FOR REPAIR OR MODIFICATION OF DISPOSAL COMPONENTS**

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NOT MEETING
VERTICAL AND HORIZONTAL SEPARATIONS ^{1, 2}

| Vertical Separation in feet | Horizontal Separation in Feet ³ | | |
|-----------------------------|--|-----------------------------------|-----------------------------------|
| | < 25 | 25-50 | > 50-100 |
| <1 | Treatment Standard 1 | Treatment Standard 1 | Treatment Standard 2 ⁴ |
| 1-2 | Treatment Standard 1 | Treatment Standard 2 ⁴ | Pressure Distribution |
| >2 | Treatment Standard 2 ⁴ | Pressure Distribution | Pressure Distribution |

¹ The treatment standards refer to effluent quality before discharge to unsaturated, subsurface soil.

² The health officer may permit ASTM C-33 sand to be used as fill to prevent direct discharge of treated effluent to ground water, surface water, or upon the surface of the ground.

³ The horizontal separation indicated is the distance between the disposal component and the surface water, well, or spring. If the disposal component is up-gradient of a surface water, well, or spring to be used as a potable water source, the next higher standard level of treatment shall apply unless treatment standard 1 is already being met.

⁴ Mound systems are not allowed to meet treatment standard 2.

17.4.2 Protect drinking water sources;

17.4.3 Prevent the direct discharge of sewage to ground water, surface water, or upon the surface of the ground;

17.4.4 Meet the horizontal separations under subsection 10.1 of this article to public drinking water sources;

17.4.5 Meet other requirements of this article to the maximum extent permitted by the site;

17.4.6 Maximize the:

17.4.6.1 Vertical separation;

17.4.6.2 Distance from a well, spring, or suction line; and

17.4.6.3 Distance to surface water.

17.5 An OSS owner receiving an OSSP for a repair or modification from the health officer shall:

17.5.1 Immediately report any failure to the health officer;

17.5.2 Monitor the performance of the OSS according to the "Interim Guidelines for the Application of Treatment Standards 1 & 2, using Alternative On-site Sewage Treatment/Disposal Systems" amended August 4, 1992 as thereafter updated (available upon written request to the Washington state department of health) and report the results to the health officer at a minimum frequency of:

17.5.2.1 Quarterly when treatment standard 1 is required; and

17.5.2.2 Annually when treatment standard 2 is required;

17.5.3 Comply with all local and state requirements stipulated in the OSSP and the operational certificate issued for the system.

SECTION 18 EXPANSIONS.

The health officer shall require an on-site sewage system and a reserve area in full compliance with the new system construction standards specified in this article for an expansion of a residence or other facility.

SECTION 19 ABANDONMENT.

Persons permanently removing a septic tank, seepage pit, cesspool, or other sewage container from service shall:

19.1 Have the septage removed by a certified pumping firm;

19.2 Remove or destroy the lid; and

19.3 Fill the void with soil.

SECTION 20 SEPTAGE MANAGEMENT.

20.1 Only pumping firms certified by the health officer as per subsection 23.3 of this article shall remove septage from an OSS.

20.2 A pumping firm removing septage from an OSS shall:

20.2.1 Transport septage or sewage only in vehicles clearly identified with the name of the business and approved by the health officer;

20.2.2 Record and report septage removal to the health officer;

20.2.3 Dispose of septage, or apply septage biosolids to land only in a manner consistent with applicable laws.

**SECTION 21 DEVELOPMENTS, SUBDIVISIONS, AND MINIMUM
LAND AREA REQUIREMENTS.**

21.1 A person proposing any development shall obtain approval from the health officer prior to any development where the use of OSS is proposed. Any new development proposing to use OSS shall be required to have an OSS which meets new construction standards.

21.2 The health officer shall require the following prior to approving any development:

21.2.1 Site evaluations as required under section 11 of this article. This may include information gained in a project review as noted in subsection 10.5 of this article;

21.2.2 Where a subdivision with individual wells is proposed:

21.2.2.1 Configuration of each lot to allow a 100-foot radius water supply protection zone to fit within the lot lines; or

21.2.2.2 Establishment, through protective or restrictive covenants; as appropriate, of a 100-foot protection zone around each existing and proposed well site. Such zones shall be shown on the final plat map.

21.2.3 Where a subdivision to be served by a community well or wells is proposed, all requirements of WAC 246-290 and WAC 246-291 shall be met. This will include wellhead protection when applicable.

21.2.4 Where preliminary approval of a subdivision is requested, provision of at least one soil log per proposed lot, unless the health officer determines existing soils information allows fewer soil logs;

21.2.5 Determination of the minimum lot size or minimum land area required for the development using Method I and/or Method II:

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21.2.5.1 **METHOD I.** Table VII, Single Family Residence Minimum Lot Size or Minimum Land Area Required Per Unit Volume of Sewage, shows the minimum lot size required per single family residence. For developments other than single family residences, the minimum land areas shown are required for each unit volume of sewage.

**TABLE VII
MINIMUM LAND AREA REQUIREMENT
SINGLE FAMILY RESIDENCE OR UNIT VOLUME OF SEWAGE**

| Type of Water Supply | Soil Type (defined by section 11 of this article) ¹ | | | | | |
|-------------------------------|--|----------------|----------------|----------------|----------------|----------------|
| | 1A, 1B | 2A, 2B | 3 | 4 | 5 | 6 |
| Public | 0.5 acre ² | 12,500 sq. ft. | 15,000 sq. ft. | 18,000 sq. ft. | 20,000 sq. ft. | 22,000 sq. ft. |
| Individual, on or to each lot | 1 acre ² | 1 acre | 1 acre | 1 acre | 2 acres | 2 acres |

¹ When an OSS is proposed to be installed in soil types 1B or 2 through 4 that are included in the list of Category I soil series in Chapter 17.15 of the Thurston County Code (Critical Areas Ordinance), pressure distribution is required, at a minimum. In addition, for those Category I soil series the minimum lot size restrictions found in Table 3 of Chapter 17.15 shall apply, and any lots less than 1 acre in size must be served by a public water system and an OSS meeting Treatment Standard 2.

² Due to the highly permeable nature of type 1A soil, only alternative systems which meet or exceed Treatment Standard 2 can be installed.

21.2.5.2 **METHOD II.** A minimum land area proposal using Method II is acceptable only when the applicant:

21.2.5.2.1 Justifies the proposal through a written analysis of the:

21.2.5.2.1.1 Soil type and depth;

21.2.5.2.1.2 Area drainage, and/or lot drainage;

21.2.5.2.1.3 Public health impact on ground and surface water quality;

21.2.5.2.1.4 Setbacks from property lines, water supplies, etc;

21.2.5.2.1.5 Source of domestic water;

21.2.5.2.1.6 Topography, geology, and ground cover;

21.2.5.2.1.7 Climatic conditions;

21.2.5.2.1.8 Availability of public sewers;

21.2.5.2.1.9 Activity or land use, present, and anticipated;

21.2.5.2.1.10 Growth patterns;

21.2.5.2.1.11 Reserve areas for additional subsurface treatment and disposal;

21.2.5.2.1.12 Anticipated sewage volume;

21.2.5.2.1.13 Compliance with current planning and zoning requirements;

21.2.5.2.1.14 Possible use of alternative systems or designs;

21.2.5.2.1.15 Existing encumbrances, such as listed in subsections 9.1.3.5 and 11.2.1.7; and

21.2.5.2.1.16 Any other information required by the health officer.

21.2.5.2.2 Shows development with public water supplies having:

21.2.5.2.2.1 At least 12,500 square feet lot sizes per single family residence; and

21.2.5.2.2.2 No more than 3.5 unit volumes of sewage per day per acre for developments other than single family residences.

21.2.5.2.3 Shows development with individual water supplies having at least one acre per unit volume of sewage; and

21.2.5.2.4 Shows land area under surface water is not included in the minimum land area calculation.

21.2.6 Regardless of which method is used for determining required minimum lot sizes or minimum land area, the maximum density permitted is 3.5 single family residences or unit volumes per acre. The applicant or his/her representative shall submit to the health officer information consisting of field data, plans, and reports supporting a conclusion the land area provided is sufficient to:

21.2.6.1 Install conforming OSS;

21.2.6.2 Assure preservation of reserve areas for proposed and existing OSS;

21.2.6.3 Properly treat and disposal of the sewage; and

21.2.6.4 Minimize public health effects from the accumulation of contaminants in surface and ground water.

21.2.7 Evidence that a minimum of twenty-four (24) inches of original, undisturbed and unsaturated soil exists above the maximum seasonal water table, a layer of creviced or porous bedrock, or any other restrictive layer. Certain climatic, soil permeability, slope and system configuration factors can exist which would indicate that the required depth may be increased or decreased. In order to decrease the depth, sufficient technical justification must be developed and submitted that will:

21.2.7.1 Allow installation of conforming OSS;

21.2.7.2 Assure preservation of reserve areas for all proposed and existing OSS;

21.2.7.3 Assure proper treatment and dispose of the sewage;

21.2.7.4 Assure preservation of sufficient areas with sufficient soil depths will exist in proposed drainfield and reserve areas, as well as areas immediately downslope, when the system is ready to be installed; and

21.2.7.5 Assure minimizing of adverse public health effects from the accumulation of contaminants in surface and ground water.

21.2.8 The proposal is consistent with requirements in city sewerage plans and/or the Thurston County Sewerage General Plan, depending on the project's location.

21.3 The health officer shall require lot areas of 12,500 square feet or larger except when a person proposes:

21.3.1 OSS within the boundaries of a recognized sewer utility having a finalized assessment roll; or

21.3.2 A planned unit development with:

21.3.2.1 A signed, notarized, and recorded deed covenant restricting any development of lots or parcels above the approved density with the density meeting the minimum land area requirements of subsection 21.2.5 of this article; and

21.3.2.2 A public entity responsible for operation and maintenance of all the OSS, or a single individual owning all the OSS; and

21.3.2.3 Management requirements under section 8 of this article when installing a LOSS; and

21.3.2.4 An overall density not greater than 3.5 single family residences or unit volumes per acre; and

21.3.2.5 Extinguishment of the deed covenant and higher density development allowed only when the development connects to public sewers.

21.4 The health officer may:

21.4.1 Allow inclusion of the area to the centerline of a road or street right-of-way in a Method II determination under subsection 21.2.5.2 of this article to be included in the minimum land area calculation if:

21.4.1.1 The dedicated road or street right-of-ways are along the perimeter of the development; and

21.4.1.2 The road or street right-of-ways are dedicated as part of the proposed development; and

21.4.1.3 Lots are at least 12,500 square feet in size.

21.4.2 Require a preliminary design for one or more proposed lots prior to preliminary or final approval of subdivision proposals in order to verify that a proposed lot or lots can meet the requirements of this article. If a preliminary design is required, the following shall apply:

21.4.2.1 At a minimum, the following is required:

21.4.2.1.1 Lot corners shall be marked and shown on the preliminary design;

21.4.2.1.2 Test pits shall be dug where the disposal component and the reserve area are proposed to be located on each lot for purposes of developing soil logs;

21.4.2.1.3 After the soils investigation, the project designer shall submit a design to the health officer for each lot indicating the proposed locations of the disposal component and the reserve area and the specifications of the disposal component.

21.4.2.2 Upon finding a preliminary design acceptable, the health officer shall approve the preliminary design. The approval of the preliminary design indicates that, for subdivision purposes, the proposed lot or lots can meet the requirements of this article. It shall not be considered part of an OSSA and does not give authorization to obtain an OSSP or a building permit;

21.4.2.3 A preliminary design shall be considered valid for a period of three years from the date it was submitted regardless if it received preliminary approval;

21.4.2.4 A fee shall be charged that covers the cost of evaluating the proposed lots, soils, and preliminary design as per Appendix A of article I.

21.4.3 Require larger land areas or lot sizes to achieve public health protection.

21.4.4 Prohibit development on individual lots within the boundaries of an approved subdivision if the proposed OSS design does not protect public health by meeting requirements of these regulations.

21.4.5 Permit the installation of an OSS, where the minimum land area requirements or lot sizes cannot be met, only when all of the following criteria are met:

21.4.5.1 The lot is registered as a legal lot of record created prior to January 1, 1995; and

21.4.5.2 The lot is outside an area of special concern where minimum land area has been listed as a design parameter necessary for public health protection; and

21.4.5.3 The proposed system meets all requirements of these regulations other than minimum land area.

21.5 When a COSS or a LOSS will be used, the person responsible for the subdivision shall accomplish one of the following prior to final approval of the plat:

21.5.1 Install the COSS or LOSS and obtain approval by the appropriate agencies; or

21.5.2 Provide a bond in favor of the department and sign an agreement with the department. The bond and agreement shall guarantee that construction will be completed within one (1) year from the date of the approval of the agreement. The bond shall be from a reputable bonding company on a satisfactory form and in an amount based on an estimate prepared by an engineer or designer, plus thirty-five (35) percent (20% for a two-year inflationary period plus 10% for contract expenditures plus 5% for administrative costs). The bond and agreement shall be to the satisfaction of the department and other applicable agencies and the department's legal counsel. The health officer may release a portion of the bond or surety when he/she is satisfied that a portion of the project is complete and has been certified by the appropriate agency or person. The portion(s) released shall not be in increments less than thirty-five (35) percent of the project cost.

SECTION 22 AREAS OF SPECIAL CONCERN.

- 22.1 The health officer may investigate and take appropriate action to minimize public health risk in formally designated areas such as:
 - 22.1.1 Shellfish protection districts or shellfish growing areas;
 - 22.1.2 Sole Source Aquifers designated by the U.S. Environmental Protection Agency;
 - 22.1.3 Areas with a critical recharging effect on aquifers used for potable water as designated under Chapter 17.15 of the Thurston County Code (Critical Areas Ordinance);
 - 22.1.4 Designated public water supply wellhead protection areas;
 - 22.1.5 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, chapter 70.90 RCW;
 - 22.1.6 Areas designated by the Washington state department of ecology as special protection areas under chapter 173-200-090 WAC, Water Quality Standards for Ground Waters of the State of Washington;
 - 22.1.7 Wetland areas under production of crops for human consumption;
 - 22.1.8 Frequently flooded areas delineated by the Federal Emergency Management Agency; and,
 - 22.1.9 Areas identified and delineated by the board of health in consultation with the secretary to address public health threats from on-site systems.
- 22.2 The board of health may impose more stringent requirements on new development and corrective measures to protect public health upon existing developments in areas of special concern, including:
 - 22.2.1 Additional location, design, and/or performance standards for OSS;
 - 22.2.2 Larger land areas for new development;
 - 22.2.3 Prohibition of development;
 - 22.2.4 Additional operation, maintenance, and monitoring of OSS performance;
 - 22.2.5 Requirements to upgrade existing OSS;

22.2.6 Requirements to abandon existing OSS; and

22.2.7 Monitoring of ground water or surface water quality.

22.3 Within areas of special concern, to reduce risk of system failures, a certified monitoring firm shall:

22.3.1 Inspect every OSS at least once every four years;

22.3.2 Submit the following written information to both the department and the property owner within 30 days following the inspection:

22.3.2.1 Location of the tank;

22.3.2.2 Structural condition of the tank, including baffles;

22.3.2.3 Depth of solids in the tank;

22.3.2.4 Problems detected with any part of the system;

22.3.2.5 Maintenance needed;

22.3.2.6 Maintenance provided at time of inspection; and

22.3.2.7 Other information as required by the department.

22.3.3 Immediately report failures to the department.

SECTION 23 CERTIFICATION OF DESIGNERS, INSTALLERS, PUMPER, INSPECTORS, AND MAINTENANCE PERSONNEL.

[With the exception of subsections 23.1.1, 23.6.9, and 23.6.10 the requirements in this section shall not be applicable to engineers or registered sanitarians].

23.1 **Designers.** Any individual desiring to act as or be engaged in the business as a designer shall:

23.1.1 Have authority and be responsible for the following:

23.1.1.1 Performing the following actions:

23.1.1.1.1 Evaluating soils and other site conditions of a parcel or tract for suitability of the site to permit the installation of an OSS;

23.1.1.1.2 Developing a design for an OSS; and

- 23.1.1.1.3 Developing a site plan that depicts aspects of the proposed development of a parcel or tract that could have an adverse impact on an OSS;
- 23.1.1.2 Working with the installer, verifying an installation complies with an approved design or approved revisions;
- 23.1.1.3 Certifying and submitting an as-built drawing of the OSS after installation. (The designer of a system may be relieved of this responsibility if the designer notifies both the department and property owner within 5 days of system installation that he/she is no longer working on the OSS project);
- 23.1.1.4 Accurately representing information that is part of the project to their clients, other professionals, and the health officer;
- 23.1.1.5 Certifying compliance with all on-site sewage rules, requirements, and standard practices which are identified within this article, alternative system guidelines, and applicable policies and procedures within their area of expertise;
- 23.1.1.6 Immediately notifying the department of any changes in either business information (such as location, phone #, etc.) or any changes in the list of designers employed by the firm.

23.1.2 Prior to engaging in the practice of designing OSS:

- 23.1.2.1 Submit an accurately and completely filled out application to become certified by the health officer;
- 23.1.2.2 Take and pass a written and/or oral examination covering design, installation, pumping, or maintenance regulations, standards and practices, and/or field examination. This shall include the development of a design which is approvable. If an individual does not pass the test, he/she may retake the test after two weeks have passed since the last test was taken and after payment of the retesting fee as per Appendix A of article I;

23.1.2.3 Pay an initial fee as specified in Appendix A of article I;

23.1.2.4 Verify that the proposed business location is in compliance with the applicable jurisdiction's zoning & planning regulatory requirements.

23.1.3 Retain his/her certification as a designer by submitting the following to the health officer prior to the 31st day of December each year:

23.1.3.1 An accurately and completely filled out renewal form;

23.1.3.2 The certification renewal fee as specified in Appendix A of article I.

23.1.4 Not be able to design if the certified individual has not renewed his/her certification as per subsection 23.1.3 by the end of the 31st day of December, and until all the requirements of renewal have been met. The individual shall have until January 31st to renew his/her certification with payment of an additional late fee. He/she may also be required to retake the designer's test subject to the date the individual was last examined and the history of the quality control of his/her work.

23.1.5 A designer and/or a design firm shall be subject to disciplinary action for failure to comply with regulations, principles, or practices of OSS site evaluation and design as per the procedures noted in subsections 23.6.8, 23.6.9, and 23.6.10. This may include incompetence, negligence, misrepresentation, non-compliance, or intentional and/or willful malfeasance.

23.2 **Installation firm.** Any firm desiring to act as or be engaged in the business of installing an OSS shall:

23.2.1 Have authority and be responsible for the following:

23.2.1.1 Performing only those actions listed below

23.2.1.1.1 Installing new systems, repairs, minor repairs, modifications; and

23.2.1.1.2 Replacing pumps, septic tanks, pump chambers, and holding tanks.

- 23.2.1.2 Accurately representing information on all work submitted to health officer and/or the designer;
 - 23.2.1.3 Assuring the appropriate permits or approvals have been obtained prior to commencing any actions an installation firm is authorized to perform;
 - 23.2.1.4 Certifying that an installation performed by the firm's employees complies with approved designs or approved revisions to designs; and
 - 23.2.1.5 Immediately notifying the department of any changes in either business information (such as location, phone #, etc.) or any changes in the list of installers employed by the firm.
- 23.2.2 Prior to engaging in the business of installing an OSS:
- 23.2.2.1 Submit an accurately and completely filled out application to the health officer to become a certified installation firm;
 - 23.2.2.2 Possess a current Washington State Department of Labor and Industries (L&I) Contractor Registration Certificate (as per RCW 18.27.020) and submit a copy of the certificate to the health officer. This includes the required bonding;
 - 23.2.2.3 Pay an initial fee as specified in Appendix A of article I;
 - 23.2.2.4 Verify that the proposed business location is in compliance with the applicable jurisdiction's zoning & planning regulatory requirements;
 - 23.2.2.5 Have the owner or individual responsible for day-to-day management satisfactorily pass the installer test; and
 - 23.2.2.6 Employ at least one person that will be on site for the duration of each installation that is an installer. A list of installers employed by the firm shall be submitted to the health officer.
- 23.2.3 Retain its certification as an installation firm by submitting the following to the health officer prior to the 31st day of December each year:

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- 23.2.3.1 An accurately and completely filled out renewal form;
- 23.2.3.2 A copy of the valid L&I Contractor Registration Certificate (as per RCW 18.27.020);
- 23.2.3.3 The certification renewal fee as specified in Appendix A of article I; and
- 23.2.3.4 A list of individual installers who are employed by the firm and assurance that they have met continuing education requirements.

23.2.4 Not be able to install if the firm has not renewed its certification as per subsection 23.2.3 by the end of the 31st day of December, and until all the requirements of renewal have been met. The firm shall have until January 31st to renew its certification with payment of an additional late fee. Additionally, if the firm does not renew its certification by January 31st, the individual identified in section 23.2.2.5 may be required to retake the installer's test subject to the date the individual(s) were last examined and the history of the quality control of their work.

23.2.5 Be subject to disciplinary action for failure on part of the installation firm to comply with regulations, principles, or practices of OSS installation as per the procedures noted in subsection 23.6.8. This may include incompetence, negligence, misrepresentation, non-compliance, or intentional and/or willful malfeasance.

23.3 **Pumping firm.** Any firm desiring to act as or be engaged in the business of pumping an OSS shall:

23.3.1 Have authority and be responsible for the following:

23.3.1.1 Performing only those actions listed below:

- 23.3.1.1.1 Inspecting levels of scum and solids in septic tanks, pump chambers and holding tanks;
- 23.3.1.1.2 Repairing or sealing cracks in septic tanks, pump chambers and holding tanks, including baffles;
- 23.3.1.1.3 Replacing non-perforated pipe between a structure and a septic tank or holding tank, between a septic tank and a pump chamber, or

between a septic tank and a disposal component;

- 23.3.1.1.4 Inspect ponding levels in a disposal component and other OSS components;
 - 23.3.1.1.5 Pumping septage from a septic tank, pump chamber, holding tank and/or other OSS components and disposing of the septage at sites that have been approved by the health officer; and
 - 23.3.1.1.6 Assuring that all facilities designed and/or used for the holding or transportation of septage are approved by the health officer. This includes pumper trucks used to clean portable toilets. Such trucks do not have to meet the minimum truck tank volumes specified in subsection 23.3.2.6.1 of this article.
- 23.3.1.2 Submitting to the health officer by the 10th of the month following a monthly report of all pumpings in a month including the following:
- 23.3.1.2.1 The address and customer for each load of septage;
 - 23.3.1.2.2 The number of gallons pumped;
 - 23.3.1.2.3 The disposal site of the septage; and
 - 23.3.1.2.4 The pumper who performed the pumping;
- 23.3.1.3 When work is performed for a customer, developing and giving to the customer a report of what work was accomplished;
- 23.3.1.4 Accurately representing information on all work submitted to health officer and/or the firm's clients;
- 23.3.1.5 Employing at least one pumper who will be present on each work site for the duration of authorized pumper work on the OSS;
- 23.3.1.6 Certifying that any authorized work performed by the firm's employees complies with applicable standards and practices;

23.3.1.7 Immediately notifying the department of any changes in either business information (such as location, phone #, etc.) or any changes in the list of pumpers employed by the firm.

23.3.2 Prior to engaging in the business of pumping an OSS or doing any other work a pumping firm is authorized to do:

23.3.2.1 Submit an accurately and completely filled out application to the health officer to become a certified pumper firm;

23.3.2.2 Pay an initial fee as specified in Appendix A of article

23.3.2.3 Verify that the proposed business location is in compliance with the applicable jurisdiction's zoning & planning regulatory requirements;

23.3.2.4 Have the owner or individual responsible for day-to-day management satisfactorily pass the pumper test;

23.3.2.5 Employ at least one person that will be on site for the duration of all authorized pumper work that is a pumper. A list of pumpers employed by the firm shall be submitted to the health officer; and

23.3.2.6 Have pumping equipment, verified by inspection by the health officer, that shall meet the following requirements:

23.3.2.6.1 The capacity of the pumper tank shall not be less than one thousand two hundred fifty (1,250) gallons. Such tanks shall be fully enclosed; of metal construction and self-draining with openings or hatches built to seal securely. There shall be at least a two and one-half (2 1/2) inch intake with a safety locking device to minimize spillage when not pumping. The outlet shall be at least three (3) inches in diameter and shall be equipped with a valve and locking device. A flat plate bolted over an opening in the tank shall not constitute an emptying device except as a means of

cleaning rocks and sediment from the tank periodically.

23.3.2.6.2 Pumps shall be of sturdy construction and capable of handling sewage without suction strainers. The pump design shall be self-priming, without by-passes, orifices or other devices that contribute to operational interruptions and failures.

23.3.2.6.3 Each truck shall be equipped with a section of hose, pipe or funnel made of easily cleanable, durable material to properly direct the flow of the tank contents while emptying the tank.

23.3.2.6.4 In addition to the suction hose, each truck shall carry a water hose of adequate length which shall be provided on each truck for washing spillage and equipment. A vacuum breaker shall be available and used when attaching the water hose to the potable water supply.

23.3.2.6.5 The name, license number and telephone number of the operating firm shall be conspicuously displayed on both sides of the truck in bold letters not less than five (5) inches high for firm name and not less than three (3) inches high for other information such as address and telephone number.

23.3.2.6.6 All equipment must be properly maintained and kept clean. The customer's premises must be left in a clean and sanitary condition.

23.3.2.6.7 Pumper trucks for the cleaning of portable toilets shall be licensed by the health officer. The minimum pumper truck tank volume shall not apply to these units.

23.3.3 Keep accurate records giving the address, customer, gallons pumped, the disposal site, and the pumper who performed the work for every pumping job. These records shall be submitted to the health officer by the 10th of each month.

23.3.4 Retain its certification as a pumper firm by submitting the following to the health officer prior to the 31st day of December each year:

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- 23.3.4.1 An accurately and completely filled out renewal form;
- 23.3.4.2 Any monthly pumping reports that were not yet submitted for the preceding year;
- 23.3.4.3 The certification renewal fee as specified in Appendix A of article I;
- 23.3.4.4 A list of individual pumpers who are employed by the firm and assurance they have met continuing education requirements; and
- 23.3.4.5 Have the pumping equipment inspected by the health officer to verify the equipment complies with the requirements noted in subsection 23.3.2.6.

23.3.5 Not be able to pump if the firm has not renewed its certification as per subsection 23.3.4 by the end of the 31st day of December, and until all the requirements of renewal have been met. The firm shall have until January 31st to renew its certification with payment of an additional late fee. Additionally, if the pumping firm has not renewed its certification by January 31st, the individual identified in section 23.3.2.4 may be required to retake the pumper's test subject to the date the individual(s) were last examined and the history of the quality control of their work.

23.3.6 Be subject to disciplinary action for failure on part of the pumping firm to comply with regulations, principles, or practices of OSS pumping as per the procedures noted in subsection 23.6.8. This may include incompetence, negligence, misrepresentation, non-compliance, or intentional and/or willful malfeasance.

23.4 **Monitoring firm.** Any firm desiring to act as or be engaged in the business of a monitoring firm shall:

23.4.1 Have authority and be responsible for the following:

23.4.1.1 Performing the following actions:

23.4.1.1.1 Operating and maintaining OSS; and

23.4.1.1.2 Monitoring the performance of OSS or its components.

- 23.4.1.2 Operating, maintaining and/or monitoring any proprietary device, alternative OSS, and/or experimental OSS.
- 23.4.1.3 Giving the OSS owner a report of work accomplished. In the case of a monitoring inspection, a copy of the monitoring report shall be included.
- 23.4.1.4 Accurately represent information on all work submitted to health officer and/or the OSS owner;
- 23.4.1.5 Certify that the work performed by the firm's employees complies with the requirements in Washington state department of health guidelines and this article, as well as with standard practices of operation, maintenance, and monitoring of OSS; and
- 23.4.1.6 Immediately notify the department of any changes in either business information (such as location, phone #, etc.), or any changes in the list of monitoring specialists employed by the firm.

23.4.2 Prior to engaging in the business of operating, maintaining, and/or monitoring an OSS:

- 23.4.2.1 Submit an accurately and completely filled out application to the health officer to become a certified monitoring firm; and
- 23.4.2.2 Pay an initial fee as specified in Appendix A of article I; and
- 23.4.2.3 Verify that the proposed business location is in compliance with the applicable jurisdiction's zoning & planning regulatory requirements;
- 23.4.2.4 Have the owner or individual responsible for day-to-day management satisfactorily pass the monitoring specialist test;
- 23.4.2.5 Employ at least one person that will be on site during each site visit that is a monitoring specialist. A list of monitoring specialists employed by the firm shall be submitted to the health officer.

23.4.3 Retain its certification as an monitoring firm by submitting the following to the health officer prior to the 31st day of December each year:

- 23.4.3.1 An accurately and completely filled out renewal form;
- 23.4.3.2 The certification renewal fee as specified in Appendix A of article I; and
- 23.4.3.3 A list of individual monitoring specialists who are employed by the firm and assurance that they have met continuing education requirements.

23.4.4 Not be able to monitor any OSS if the firm has not renewed its certification as per subsection 23.4.3 by the end of the 31st day of December, until all the requirements of renewal have been met. The firm shall have until January 31st to renew its certification with payment of an additional late fee. Additionally, if the firm does not renew its certification by January 31st, the individual identified in section 23.4.2.4 may be required to retake the monitoring specialist's test subject to the date the individuals were last examined and the history of the quality control of their work.

23.4.5 Be subject to disciplinary action for failure on part of the monitoring firm to comply with regulations, principles, or practices of OSS operation, maintenance, and monitoring as per the procedures noted in subsection 23.6.8. This may include incompetence, negligence, misrepresentation, non-compliance, or intentional and/or willful malfeasance.

23.5 Designer, installer, pumper, or monitoring specialist. Any individual who desires to be a designer, installer, a pumper, or a monitoring specialist shall:

23.5.1 Prior to doing any designing, installing, pumping, or monitoring of OSS, be employed by a specific design, installation, pumping, or monitoring firm.

23.5.2 Prior to continuing designing, installing, pumping, or monitoring OSS:

23.5.2.1 Be included on the design, installation, pumping, or monitoring firm's list submitted to the health officer when renewing their certification; and

23.5.2.2 Attend at least one designer, installer, pumper, or monitoring specialist related educational class acceptable to the department every two years after being employed by that specific installation, pumping,

or monitoring firm and give evidence of the attendance.

23.6 The health officer shall:

23.6.1 Have packets listing the required technical knowledge needed for certification available for any individual or firm wishing to become certified under this section or to any individual wishing to become a designer, installer, pumper, or monitoring specialist;

23.6.2 Test applicants making application to become a design firm, installation firm, a pumper firm, or a monitoring firm on applicable rules, regulations and standards. Certify as a "firm" only those applicants who obtain a passing score as established in policy by the department;

23.6.3 Issue a certificate to those individuals who satisfactorily pass their respective test. The certificate shall contain the individual's name, business address, phone number, and the date of certificate issuance.

23.6.4 Issue certification for designers, installation firms, pumping firms, and monitoring firms only for the unexpired portion of the calendar year in which the application is made;

23.6.5 Send out certification renewal notices to all individuals or firms certified by the health officer on or before November 15th of each calendar year. The notices shall include reminders of the requirements of renewal;

23.6.6 Renew certification for those who have paid the renewal fees, performed their responsibilities in a manner consistent with the requirements of this article and related policies, procedures, and guidelines, met continuing education requirements, and maintained any necessary registration;

23.6.7 Maintain, and make available to the public, written criteria for letters of reprimand, probation, or revocation or suspension of a certification for those certified under subsections 23.1, 23.2, 23.3, and 23.4 of this article. Such actions shall be due to valid complaints or concerns regarding failure on the part of a design firm, installation firm, pumping firm, or monitoring firm to comply with regulations, guidelines, policies and procedures, principles, or professional practices of the specific area of expertise and certification. This may include incompetence, negligence, misrepresentation, non-compliance, or intentional and/or willful malfeasance;

23.6.8 Recommend action to the hearing officer to issue a letter of reprimand, place a certified individual or firm on probation, or revoke or suspend a certification if the criteria noted in subsection 23.6.7 are met. If a certification is recommended by the health officer to be placed on probation or suspension or revoked, an administrative hearing as per Article I of the Thurston County Sanitary Code shall be conducted. If the findings of the administrative hearing substantiate the concerns or complaints regarding compliance, the administrative hearings officer has the option of placing the certification on probation or suspension or revoking the certification as follows:

23.6.8.1 Certification probation shall be a specific period of not less than six (6) months or more than one (1) year. Violations of any of the terms and/or conditions of the probation will result in suspension or revocation of the certification. A maximum of one probationary period shall be in effect at any one time. Exceeding the maximum of one imposed probation in any three year period will result in suspension. All probations and suspensions shall carry over from one certification period to the next.

23.6.8.2 Certification suspension shall be a specific period of not less than one (1) month or more than one (1) year. The individual or firm on suspension shall apply in writing to the health officer, at the end of the suspension period, requesting reinstatement, including documentation of intent, and pay any reinstatement fee as required in Appendix A of article I. Prior to reinstatement the firm or individual must meet all current and previous certification responsibilities and requirements. Exceeding one suspension in any one year period or two suspension in any three year period will result in revocation of certification. All suspensions shall carry over from one certification period to the next. An individual or firm on suspension will not be allowed to design, install, pump, or monitor systems during the period of suspension.

23.6.8.3 Revocation is the complete denial of the rights and privileges associated with certification of an individual or firm. An individual or firm whose certification has been revoked shall not be allowed to become certified

again for a period not less than three (3) years from the date of revocation. An individual or firm seeking recertification must also successfully meet all the requirements for obtaining an initial certification prior to becoming certified, as well as any previous responsibilities or financial obligations. This includes a probationary period of one (1) year.

23.6.9 Submit evidence, in a manner required, to the Washington State board of professional engineers when an engineer has not performed their responsibilities in a manner consistent with the requirements of this article and related policies, procedures, and guidelines, and the requirements of chapter 18.43 RCW.

23.6.10 Submit evidence, in a manner required, to the Washington State Board of Registered Sanitarians when a sanitarian has not performed their responsibilities in a manner consistent with the requirements of this article and related policies, procedures, and guidelines.

SECTION 24 WAIVER OF REGULATIONS.

24.1 Waivers shall be considered on a site-by-site basis as follows:

24.1.1 The procedure contained in article I of the Thurston County Sanitary Code shall be followed;

24.1.2 The hearing officer as specified in article I may grant a waiver from specific requirements in this article for OSS under 3500 gallons per day if:

24.1.2.1 The procedure contained in article I of the Thurston County Sanitary Code has been followed; and

24.1.2.2 A strict interpretation of this article will result in significant hardship; and

24.1.2.3 The waiver application contains justification describing how the requested waiver is consistent with the purpose and objectives of this article to meet the public health intent of this article; and

24.1.2.4 The hearing officer determines that the waiver is consistent with the standards in and the intent of this article.

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- 24.1.3 On a quarterly basis, the health officer will forward to the secretary any approved or denied waivers for their records.
- 24.2 The secretary may grant a waiver from specific requirements in this article for a LOSS if a person submits a completed Washington state department of health waiver application and required fee to the secretary, including justification showing the requested waiver is consistent with the LOSS standards in WAC 246-272, and is consistent with the purpose and objectives of WAC 246-272 to assure public health protection.
- 24.3 If an applicant desires to modify and resubmit a previously denied waiver request, the process described above in subsection 24.1 of this article for LOSS under 3500 gallons per day, or subsection 24.2 of this article above for a LOSS shall be followed again.

SECTION 25 ENFORCEMENT.

- 25.1 The health officer:
 - 25.1.1 May make inspections to determine whether a project is constructed and operated within the law and stated conditions;
 - 25.1.2 Shall enforce the provisions of this article in accordance with article I of the Sanitary Code for Thurston County.
- 25.2 When a person violates the provisions under this article, the health officer may initiate enforcement or disciplinary actions, or any other legal proceeding authorized by law, including but not limited to any one or a combination of the following:
 - 25.2.1 Informal administrative conferences, convened at the request of the health officer or owner/applicant, to explore facts and resolve problems;
 - 25.2.2 Orders directed to the owner and/or operator of the OSS and/or person causing or responsible for the violation of this article;
 - 25.2.3 Denial, suspension, modification, or revocation of permits, approvals, or certification; and
 - 25.2.4 Civil or criminal action.
- 25.3 Orders authorized under this section include the following:
 - 25.3.1 Orders requiring corrective measures necessary to effect compliance with this article. Such orders may include a compliance schedule; and

25.3.2 Orders to stop work and/or refrain from using any OSS or portion of the OSS or improvements to the OSS until all permits, certifications, and approvals required by this article are obtained.

25.4 Enforcement orders issued under this section shall follow the requirements described in article I.

25.5 The health officer shall have cause to deny an OSSA, an OSSP, or an operational certificate, or to revoke, suspend, or modify a required OSSP, or operational certificate of any person who has:

25.5.1 Failed or refused to comply with the provisions of this article, or any other statutory provision or rule regulating the operation of an OSS; or

25.5.2 Obtained or attempted to obtain a permit or any other required certificate or approval by misrepresentation.

SECTION 26 CIVIL INFRACTIONS AND PENALTIES.

26.1 The violation of any provision of this article is designated as a civil infraction pursuant to Chapter 7.80 RCW as follows:

26.1.1 Any violation causing unsanitary conditions or any threat to public health is a Class 1 civil infraction. Each day of any such violation is a separate civil infraction. A notice of infraction shall be issued in accordance with article I.

26.1.2 Any other violation is a Class 3 civil infraction. Each day of any such violation is a separate civil infraction. A notice of infraction shall be issued in accordance with article I.

26.2 The health officer may impose civil penalties for violations of this article or for refusal to comply with lawful orders written pursuant to this article. Such penalties shall be issued and be in accordance with the provisions contained in Article I of the Thurston County Sanitary Code. Civil penalties for violations of this article shall be assessed pursuant to the following schedule:

- a) first day of each violation. . . . \$100.00
- b) second day of each violation . . \$200.00
- c) third day of each violation. . . . \$300.00

- d) fourth day of each violation . . \$400.00
- e) each additional day of each violation
beyond four days \$500.00 per day

SECTION 27 APPEALS.

- 27.1 Any person aggrieved by a decision, an inspection or notice made by the health officer shall have the right to appeal the matter as specified in article I, except for appeals of disciplinary actions taken pursuant to section 23 of article IV, which shall be governed by section 27.2.
- 27.2 Disciplinary actions taken pursuant to section 23 against a firm=s or individual=s certification to perform work as a designer, installer, pumper, or monitoring specialist, shall be appealable to a board of appeals established pursuant to this article.
- 27.3 Board of appeals established. The On-Site Sewage Disciplinary Board of Appeals is hereby established. This Board shall serve as the Board of Appeals for Thurston County for disciplinary actions taken under Article IV of the Thurston County Sanitary Code.
 - 27.3.1 Membership and quorum. The Board of Appeals shall consist of five members and five alternates. Each member shall be appointed by the Board of Health and shall hold office at the pleasure of such Board. A quorum shall exist when at least three of the five members, or their respective alternates, are present. A quorum is required for the Board to conduct appeal hearings and make decisions.
 - 27.3.2 The Board of Appeals shall consist of:
 - (a) one member and one alternate with experience and training as an on-site sewage system (OSS) designer, whose initial term shall expire on January 1, 1997; and
 - (b) one member and one alternate with experience and training as an OSS installer, whose initial term shall expire on January 1, 1998; and
 - (c) one member and one alternate with experience and training as a pumper, whose initial term shall expire on January 1, 1999; and

- (d) one member and one alternate who is a licensed professional engineer, whose initial term shall expire on January 1, 1998; and
- (e) one member and one alternate to represent the interests of the public who live in unincorporated Thurston County with a residence on an on-site sewage system, whose initial term shall expire on January 1, 1999.

27.3.3 The initial members shall be appointed for terms expiring as provided in Section 27.3.2. After the initial terms, all members shall be appointed for terms of three years expiring on January 1. No person may serve more than two consecutive terms.

27.3.4 A department representative shall serve as an ex officio, nonvoting member of the Board of Appeals and shall serve as Secretary to the Board of Appeals and shall schedule meetings, maintain records, prepare and publish required notices, disseminate findings and decisions, and assure that accurate minutes of meetings are kept. However, as ex-officio member the department representative shall not ask questions or take part in any deliberations which are part of a hearing or decision on an appeal.

27.3.5 At the first meeting of the Board of Appeals, and at its first meeting in each succeeding calendar year, the members of the Board shall elect a chair and vice chair. The chair shall preside at all meetings of the Board of Appeals and conduct all appeals according to governing rules. The vice chair shall perform all duties of the chair if the chair is absent.

27.4 Scope of authority. The Board of Appeals has authority to hear and decide appeals of disciplinary actions taken pursuant to section 23 against a firm=s or individual=s certification to perform work as a designer, installer, pumper, or monitoring specialist. The Board shall have authority to review decisions of the Department and shall enter findings of fact and conclusions of law. The Board shall have the authority to affirm, deny or revise any disciplinary action taken pursuant to section 23 and impose such conditions as are necessary to effectuate the purposes of this section.

27.5 Who may appeal. Any person aggrieved by a disciplinary action taken pursuant to Section 23 may appeal to the Board of Appeals.

27.5.1 Filing and service. Persons who wish to appeal a decision shall complete the application form prescribed by the Board of Appeals. This form shall require, at a minimum, a concise statement of facts relevant to the appeal, a concise explanation of the reasons why the appeal should be granted, and a description of the precise result or relief which the appellant is requesting.

27.5.2 Appeals shall be filed with the Department at the Thurston County Courthouse. The Board of Appeals will only hear those items specifically appealed and shall only hear the particular appeal once. All items of appeal must appear on the same appeal form.

27.5.3 All appeal application forms shall be accompanied by an application fee as set forth in Appendix A to Article I of this Code.

27.5.4 Appeals must be filed and served no later than ten (10) days after the date the order, decision or determination to be appealed was served on the Appellant. Such appeal shall operate as a stay of the order, decision or determination except where the appellant has caused the presence of an emergent health hazard as described in Section 7.4 of Article I of this Code.

27.6. Scheduling of hearings.

27.6.1 All hearings shall be scheduled within fifteen (15) days of the date the appeal application form is filed, unless a later hearing date is necessary to obtain a quorum of Board of Appeals members.

27.6.2 All Board of Appeals members and alternates shall indicate if they are unable to sit on an appeal in advance, so that the Secretary to the Board can seek the services of an alternate prior to the appeal date.

27.6.3 The Secretary to the Board shall provide the parties five working days written or telephonic notice of a scheduled hearing unless such is waived by the Appellant or party served.

27.7 Procedure at hearings.

27.7.1 All meetings and hearings of appeals are open to the public in conformance with the Open Public Meeting Act, Chapter 42.30 RCW.

27.7.2 The parties to hearings on appeal are the Department and the Appellant(s).

27.7.3 At hearings of appeals, evidence, including hearsay evidence, is admissible if it is the type on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Evidence is not admissible if it is irrelevant, unduly repetitious or excludable on the grounds of evidentiary privilege recognized in the courts of this state.

27.7.4 Testimony shall be taken at hearings only on oath or affirmation.

27.7.5 At hearings, the order of presentation of evidence shall be as follows:

- (a) The Department will present his/her case, including all witnesses and documentary and physical evidence.
- (b) The Appellant will present its case, including all witnesses and documentary and physical evidence.
- (c) The Department may present rebuttal evidence in response to the Appellant's case.
- (d) At the conclusion of each witnesses' testimony, the witness is subject to cross-examination by the opposing party.
- (e) Closing argument or summation by the Department.
- (f) Closing argument or summation by the Appellant.
- (g) The Board of Appeals may, at any time, ask questions, request additional information, or present the testimony of additional witnesses.

27.7.6 Each party shall have the following rights at a hearing of an appeal:

- (a) To present and examine witnesses.
- (b) To introduce documentary and physical evidence.
- (c) To cross-examine opposing witnesses on any matter proper for cross-examination.
- (d) To rebut the evidence against him/her.
- (e) To represent himself/herself or to be represented by an attorney.

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27.7.7 The Board of Appeals may continue hearings at its own discretion or on request of a party.

27.8 Board inspection of premises. At any time before conclusion of the hearing on an appeal, the Board of Appeals may view or inspect any building or premises involved in the appeal. The Board shall give each party reasonable notice of any such visit and afford each party the opportunity to be present. No party shall make any remark concerning the appeal to any Board of Appeals member during any such visit.

27.9 Record of proceedings. A record of each hearing on appeal shall be made by tape recording. A transcript or tape recording of the proceedings shall be made available to all parties upon request and upon advance payment of a fee equal to the cost to be incurred in preparing a transcript or tape.

27.10 Board decision.

27.10.1 The burden of proof is on the Appellant by a preponderance of the evidence.

27.10.2 Decisions of the Board of Appeals shall be by majority vote of the members present. Only those Board members who heard the evidence presented at the hearing or listened to the entire record of the hearing may vote on a decision on an appeal. A tie vote results in denial of the appeal.

27.10.3 The decision on an appeal shall be in writing, signed by the Board of Appeals member who served as chair at the hearing and shall contain findings of fact and an order. A copy of the decision shall be issued by being delivered to the Appellant personally or sent to him/her by being deposited in the U.S. Mail, postage prepaid, within seven (7) days of the hearing. The findings and order shall be filed with the Department for appropriate action.

27.10.4 The decision of the Board of Appeals shall be the final decision of Thurston County and shall not be appealable to the Board of Health.

27.11 Judicial Review An appeal of any final decision by the Board of Appeals must be taken by any aggrieved party to Superior Court within twenty (20) days from the date the decision is delivered to the Appellant or was deposited in the U.S. Mail by the Board of Appeals under Section 27.10.3.

27.12 Appearance of fairness.

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27.12.1 In order to assure the appearance of fairness in matters under consideration by the Board of Appeals, no person shall have an ex parte contact with Board of Appeals members regarding such matter, and no person, including government officials and employees, shall attempt to interfere with or influence the Board of Appeals outside a public hearing.

27.12.2 No Board of Appeals member shall conduct or participate in any hearing or discussion in which he or she may have a direct or indirect financial or personal interest or in which such conduct or participation would violate any rule of law applicable thereto.

27.13 Computation of time. In computing any period of time, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a County legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or a County legal holiday.

27.14 Supplementary rules. The Board of Appeals may adopt supplemental rules of procedure consistent with this Resolution and other governing law. A copy of such rules shall be filed with the Department and shall be available for public inspection and copying.

27.15 Civil infractions shall be heard and determined according to Chapter 7.80 RCW, as amended, and any applicable court rules.

SECTION 28 SEVERABILITY.

If any provision of this article or its application to any person or circumstances is held invalid, the remainder of this article, or the application of the provision to other persons or circumstances shall not be affected.

J:\E_HEALTH\STARRY\AWPI\REGS\ART4.699

APPENDIX 2

Thurston County On-Site Sewage-Systems Request For Waiver

Blumberg No. **D**
JUN 28 2011

SECTION I COMPLETED BY APPLICANT

Name: (1) LANE SATER FOR JEFF GRIFFIN
 Address: REPRESENTATIVE - SKILLINGS - CONNOLLY
5016 LACEY BLVD SE
LACEY, WA 98503
 Telephone: (360) 491-3399
 Signature: Jane Sater

Thurston County Health Department
 2000 Lakeridge Drive SW
 Olympia, WA 98502

Property Identification: (2) LOT 11 OF STEAMBOAT ISLAND, TPN
76200001100, WINTER WATER STUDY 03110906 MB

SECTION II COMPLETED BY APPLICANT

| | | |
|---|---|---|
| Regulation Number: (3) WAC 246-272- Article IV, Section 11.4.1 | Regulation Requirement: (4) GUI EH - WWS - 001 POL EH54 - 003 PRO EH54 - 203 | Waiver Sought: (5) WAIVER OF WINTER WATER STUDY REQUIREMENT |
| Justification (Mitigation measures to be provided): (6) <u>ADDITIONAL INFORMATION TO BE PROVIDED BY PACIFIC RIM SOILS & WATER</u> | | |

SECTION III COMPLETED BY HEALTH OFFICER

| | |
|--|--|
| Review Criteria (7) <u>SOIL SCIENTIST REPORT</u> <u>YCEH SITE REVIEW</u> | Mitigation Measures (in addition to those proposed) (8) _____ _____ _____ |
| Comments/Conditions: (9) <u>WAIVER TO LOCAL HEALTH POLICIES. NOT SENT TO STATE.</u> | |

Type of Waiver: (10) Class A Class B Class C - Request DOH review before granting? Yes No

Neighbor Notification: (11) Required? Yes No

If needed, are agreements, easements, etc. properly filed? Yes No

SECTION IV COMPLETED BY HEALTH OFFICER

This Request For Waiver From Regulations has been reviewed according to the provisions of Chapter 246-272 WAC and Article IV On-Site Sewage Systems. The review criteria applied, and the mitigation measures proposed and/or required, have been evaluated for their ability to provide public health protection at least equal to that provided by this chapter WAC and/or Article IV.

Approved/Granted-Subject to all comments, conditions and req II and III. APPENDIX n

Denied. 2-1

Local Health Officer (12) Randal G. Greenberg Date: 10/25/04

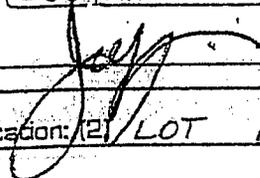
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Thurston County On-Site Sewage Systems Request For Waiver

Blumberg



SECTION I. COMPLETED BY APPLICANT

Name: (1) Jeff Griffin
 Address: 9612 Mariner Dr. NW
Olympia, WA 98502
 Telephone: (360) 402.5207
 Signature: 

Thurston County Health Department
 2000 Lakeridge Drive SW.
 Olympia, WA 98502

Property Identification: (2) LOT 11 Steamboat Island T.P.N. # 76200001100

SECTION II. COMPLETED BY APPLICANT

| | | |
|---|---|--|
| Regulation Number: (3) <u>WAC 246-272-09501 (1)</u> | Regulation Requirement: (4) <u>TANK 10 FEET FROM PRESSURED WATER SUPPLY LINE</u> | Waiver Sought: (5) <u>as 3/21/05</u> <u>REDUCE TO 5' FROM EDGE OF TANK TO PRESSURE WATER LINE</u> |
| Article IV, Section (10) <u>THRU</u> | | |
| Justification (Mitigation measures to be provided): (6) <u>WATER PROOFING TANKS, FLEX COUPLINGS AT TANK CONNECTIONS, TANK LEAKAGE TEST, ACCESS AT OR ABOVE FIN. GRADE, W/ SLEAVED WATER LINE</u> | | |

SECTION III. COMPLETED BY HEALTH OFFICER

| | |
|--|---|
| Review Criteria (7) <u>CLASS A WAIVER, TABLE OF MITIGATING MEASURES</u> | Mitigation Measures (in addition to those proposed) (8) |
| Comments/Conditions: (9) | |
| Type of Waiver: (10) <input checked="" type="checkbox"/> Class A <input type="checkbox"/> Class B <input type="checkbox"/> Class C - Request DOH review before granting? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Neighbor Notification: (11) Required? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If needed, are agreements, easements, etc. properly filed? Yes <input type="checkbox"/> No <input type="checkbox"/> | |

SECTION IV. COMPLETED BY HEALTH OFFICER

This Request For Waiver From Regulations has been reviewed according to the provisions of Chapter 246-272 WAC and Article IV On-Site Sewage Systems. The review criteria applied, and the mitigation measures proposed and/or required, have been evaluated for their ability to provide public health protection at least equal to that provided by this chapter WAC and/or Article IV.

Approved/Granted - Subject to all comments, conditions and requirements noted in Section I
 Denied.

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Health Officer (12) Randall J. [Signature] Date: 3/23/05