

An ordinance repealing and replacing Board of Health Resolution 1, 1995 codified as Chapter 41.20, On-Site Sewage System

BE IT ORDAINED BY THE CLALLAM COUNTY BOARD OF HEALTH:

**Section 1. Section .010, Purpose, Objectives, and Authority, is created to read as follows:**

- (1) The purpose of Chapter 41.20 is to protect public health by minimizing:
  - (a) The potential for public exposure to sewage from on-site sewage systems; and
  - (b) Adverse effects to public health that discharges from on-site sewage systems may have on ground and surface waters.
- (2) Chapter 41.20 regulates the location, design, installation, operation, maintenance, and monitoring of on-site sewage systems to:
  - (a) Achieve long-term sewage treatment and effluent dispersal; and
  - (b) Limit the discharge of contaminants to waters of the State.
- (3) Chapter 41.20 provides for the issuance of permits, establishment of fees, licensing and bonding of installers, pumpers, and onsite septic system (OSS) maintenance providers of sewage disposal systems, and an appeals procedure.
- (4) Chapter 41.20 is intended to coordinate with other applicable statutes and rules for the design of on-site sewage systems under Chapter 18.210 RCW, Chapter 196-33 WAC, and Chapter 246-272A WAC.
- (5) Chapter 41.20 is intended to coordinate with the land-use planning regulations of Clallam County.

**Section 2. Section .020, Administration, is created to read as follows:**

The health officer shall administer Chapter 41.20 under the authority and requirements of Chapters 70.05, 70.08, 70.46, 70.118, 70.118A and 43.70 RCW. Under Chapter 70.05.060(7) RCW, fees may be charged for this administration.

**Section 3. Section .030, Adoption by Reference, is created to read as follows:**

Chapter 246-272A WAC, On-Site Sewage System Rules and Regulations, is hereby adopted by reference. If a conflict arises between Chapter 246-272A WAC and this Chapter, the more restrictive regulation shall prevail. Any subsequent amendment to Chapter 246-272A WAC shall be considered to have been incorporated into Chapter 41.20 without the need for further amendment.

**Section 4. Section .040, Definitions, is created to read as follows:**

In addition to those definitions set forth in WAC Chapter 246-272A the following words and phrases as used in this Chapter shall, unless the context clearly indicates otherwise, be defined as follows:

- (1) "Aggrieved person" means any person whose interests are, or will likely be specifically and perceptibly harmed by a requirement, determination, or decision of the health officer, or designee of the health officer, and where a decision in favor of said person would substantially eliminate the harmed caused, or likely to be caused, by the requirement, determination, order or decision.
- (2) "Approved homeowner inspection" means an OSS evaluation performed and reported by a homeowner meeting the homeowner certification and reporting requirements of this Chapter.

- (3) "Board of Health" means the Clallam County Board of Health.
- (4) "CCC" means the Clallam County Code.
- (5) "Community on-site sewage system" means any residential on-site sewage system designed to serve two or more dwelling units, or designed to serve two or more residences on separate lots, with design flows less than 3,500 gallons per day.
- (6) "Commercial on-site sewage system" means any non-residential or combined residential/non-residential on-site sewage system with a design flow less than 3,500 gallons per day.
- (7) "Critical aquifer recharge area" means a geographical area which contains hydrogeologic conditions that provide the recharge to an aquifer(s) that is a current or potential potable water source and, due to its geological properties, is highly susceptible to the introduction of pollutants; or, because of special circumstances, has been designated as a critical aquifer recharge area in accordance with WAC 365-190-080 and CCC 27.12.
- (8) "Department" means the Washington State Department of Health.
- (9) "Environmental Health Division" means the Environmental Health Division of the Department of Health and Human Services.
- (10) "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 include:
  - (a) Sewage on the surface of the ground;
  - (b) Sewage caused by slow soil absorption of septic tank effluent backing up into a structure;
  - (c) Sewage leaking from a septic tank, pump chamber, holding tank, or collection system;
  - (d) Cesspools or seepage pits where evidence of ground water or surface water quality degradation exists;
  - (e) Inadequately treated effluent contaminating ground water or surface water;
  - (f) Noncompliance with standards stipulated on the permit.
- (11) "Health officer" means the person designated as such as defined in RCW 70.05 or their designee.
- (12) "Individual on-site sewage system" means any residential on-site sewage system serving only one dwelling, lot, or residence.
- (13) "Install" or its derivatives means the construction, relocation, alteration, extension, expansion, modification, replacement, and repair of all or any portion of an on-site sewage system, including but not limited to the septic tank, pump chamber, main and lateral lines, associated excavation, gravel, and cover.
- (14) "Maintenance" means the performance of non-invasive activity, both regularly scheduled and ad hoc, to preserve the intended function of the OSS.
- (15) "Marine recovery area" means an area of definite boundaries encompassing areas bounded by marine waters and adjacent uplands where the local health officer, or the department in consultation with the health officer, determines that additional requirements for existing on-site sewage disposal systems may be necessary to reduce potential failing systems or minimize negative impacts of on-site sewage disposal systems.
- (16) "On-site sewage disposal system" means an integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage disposal system also refers to a holding tank sewage system or other system that does not have a soil dispersal component. For

purposes of this Chapter, the term "on-site sewage disposal system" does not include any system regulated by a water quality discharge permit issued under Chapter 90.48 RCW.

(17) "Operational evaluation" means an inspection of all components of the OSS performed by a health officer-approved or licensed person to determine and report on the system's functional condition. Said report includes any significant defects and/or critical service items found and the steps proposed and/or taken to remedy such findings.

(18) "Performance monitoring" means the observation, evaluation and testing, if required, of an OSS to determine its current compliance with treatment and disposal standards in effect at the time the Division issued its permit.

(19) "Repair" means the replacement of, addition to, or alteration of a septic tank, sewage treatment device or other appurtenances to an existing on-site sewage system and including any replacement, addition, or alteration of a subsurface disposal field as a result of failure.

(20) "Resident owner" means a person who installs and/or inspects an on-site sewage system for their personal single-family residence.

(21) "Sewage system installer" means any person(s) engaged in the activity of including, but not limited to, installing and/or repairing an on-site sewage system.

(22) "Sewage system installer's license" means the written license issued annually by the health officer authorizing a person to install on-site sewage systems.

(23) "Sewage system maintenance provider" means a qualified person licensed to inspect, monitor, and maintain on-site sewage systems. This does not include an individual licensed by a local health officer solely to pump septic tanks, or homeowners who are approved to monitor and maintain their own OSS.

(24) "Sewage system maintenance provider technician" means an individual who has achieved the necessary training required by the health officer and maintains an annual license, and is working under the direction of a licensed Sewage System Maintenance Provider.

(25) "Sewage system maintenance provider's license" means the written license issued annually by the health officer authorizing a person to perform routine maintenance and monitoring activities.

(26) "Septic tank pumper" means any person(s) engaged in the activity of including, but not limited to, cleaning and pumping septic tanks, chemical toilets, or other accumulations of sewage.

(27) "Septic tank pumper's license" means the written License issued annually by the health officer authorizing a person to engage in the activity of cleaning septic tanks, chemical toilets, or other accumulations of sewage.

(28) "Sewage system designer" means a person who matches site and soil characteristics with appropriate on-site technology. This term applies to on-site sewage treatment system designers licensed under Chapter 18.210 RCW and professional engineers licensed under Chapter 18.43 RCW.

(29) "Sewage disposal permit" means a written permit issued by the health officer granting permission for the installation or repair of an on-site sewage system.

(30) "Site installer" means an individual that has passed the installer's exam and maintains an annual license, and is working under the direction of another licensed installer.

(31) "System status report" means documentation showing the location, type, use, and conditional function of an OSS.

(32) "Unknown system" means an on-site sewage disposal system installed without the knowledge or approval of the local health jurisdiction, including those installed before approval was required.

(33) "WDOH" means the Washington State Department of Health.

**Section 5. Section .050, Applicability, is created to read as follows:**

- (1) The health officer:
  - (a) Shall apply Chapter 41.20 to OSS treating sewage and dispersing effluent from residential sewage sources with design flows up to 3,500 gallons per day;
  - (b) May apply Chapter 41.20 to OSS for non-residential sources of sewage if treatment, siting, design, installation, and operation and maintenance measures provide treatment and effluent dispersal equal to that required of residential sources;
  - (c) May not apply this Chapter to industrial wastewater.
- (2) A valid sewage system design approval or construction permit issued prior to the effective date of this Chapter:
  - (a) Shall be acted upon in accordance with regulations in force at the time of issuance;
  - (b) Shall have a maximum validity period of three years from the date of issuance or remain valid for an additional year beyond the effective date of this Chapter, whichever assures the most lenient expiration date; and
  - (c) May be modified to include additional requirements if the health officer determines that a serious threat to public health exists.

**Section 6. Section .060, Connection to public sewer system, is created to read as follows:**

- (1) For existing and future residences or facilities that are located within the Urban Growth Area of the City of Port Angeles and east of the City limits, the requirements of Clallam County Code Chapter 13.08, Port Angeles Eastern Urban Growth Area (EUGA) Sewer System are hereby incorporated by reference.
- (2) For all other areas. When adequate public sewer services are available within 200 feet of the residence or facility, the health officer, upon the failure of an existing on-site sewage system, shall require hook-up to the public sewer system. The distance shall be measured along the usual or most feasible route of access.
- (3) The owner of a residence or other facility served by a Table IX repair, as described in WAC 246-272A-0280, shall abandon the OSS according to the requirements specified in this Chapter and connect the residence or other facility to a public sewer system when:
  - (a) Connection is deemed necessary to protect public health by the health officer;
  - (b) An adequate public sewer becomes available within 200 feet of the residence or other facility as measured along the usual or most economically feasible route of access; and
  - (c) The sewer utility allows the sewer connection.
- (4) The health officer may require a new development to connect to a public sewer system to protect public health.
- (5) The health officer shall require new development or a development with a failing system to connect to a public sewer system if it is required by the comprehensive land use plan or development regulations.

**Section 7. Section .070, No surface discharge – No groundwater degradation, is created to read as follows:**

Sewage from any on-site sewage system or components thereof, excluding septage as per this Chapter and WAC 246-272A-0310, shall not be discharged to surface water or upon the surface of the ground or cause contamination of public health significance to any groundwater as determined by the health officer.

**Section 8. Section .080, On-site sewage systems required, is created to read as follows:**

The following requirements apply:

- (1) Every residence, place of business, or other building or place where people congregate or reside if not connected to an approved public sewer, shall be connected to an on-site sewage system approved by the health officer.
- (2) All new construction must be connected to an approved public sewer if said sewer is within 200 feet of the property line.
- (3) All failing on-site sewage systems must be repaired or connected to an approved public sewer as noted in WAC 246-272A-0280.

**Section 9. Section .090, On-site sewage system permit, is created to read as follows:**

(1) No person shall install or cause to be installed a new on-site sewage system, nor perform any alteration, extensions or relocations, or connections to an existing on-site sewage system, including repair of failing sewage systems without a valid permit issued by the health officer. Larger on-site sewage systems approved by the State are exempt from this permit requirement; EXCEPT, that when the Division has a written agreement with the State to review and approve larger on-site sewage systems, a permit shall be required. Permits for alterations, expansions, or repairs shall be so identified. Application for such permit shall be made in writing in a manner prescribed in subsection (2) below. All permit applications shall be completed and signed by the licensed designer prior to permit issuance as provided by WAC 246-272A-0200. All applications for new construction shall be accompanied by an approved site registration.

(2) When applying for a permit to install an on-site sewage system, a detailed construction plan of the proposed system is required. The construction plan shall contain information as required by the health officer in sufficient detail and to a scale which will permit a proper evaluation of the application. Each application shall contain the information required in WAC 246-272A-0200(1)(d) as a minimum.

(3) Permits are transferable with property ownership, provided new owners accept the permitted plan by written notification to the health officer or propose a new plan which conforms to these regulations.

(4) If the system is not installed before the permit expires, a new permit may be applied for, based on standards in effect at the date of the new application.

(5) Changes in use of an existing subsurface sewage disposal system may be authorized by the health officer. If the proposed changes in use of an existing sewage system will, in the opinion of the health officer, substantially change the waste strength or increase the projected daily sewage flow beyond the capacity of the sewage disposal system, a permit to alter the sewage disposal system as per WAC 246-272A-0290 shall be obtained prior to authorization.

(6) Any misrepresentation or inaccuracy in the construction plan, whether intended or accidental, shall be considered as grounds for invalidating and voiding any permit issued under this section. The applicant is responsible for the accurate representation of all information presented.

(7) For any on-site sewage system proposed to serve a structure requiring a flood control zone permit under the provisions of Chapter 86.16 RCW and Chapter 508-60 WAC or requiring a flood plain certification by Clallam County under the provisions of the Floodplain Management Ordinance, the installation permit shall not be issued until a flood control zone permit or flood plain certification has been issued in accordance with Clallam County Code 32.02.

(8) No on-site sewage disposal permit shall be issued unless there is an approved public water supply or a potable private water supply available to the building site.

(9) Expiration of permits.

(a) Every sewage disposal permit issued by the health officer under the provisions of this Chapter for new construction or expansion shall expire and become null and void if the work authorized by such permit is not completed within three (3) years from the date of issuance.

(b) Repair permits shall expire 6-months from the date of issue. They may be renewed for six (6) additional months if the health officer determines it is warranted and there is no surface discharge of sewage as per this Chapter.

**Section 10. Section .100, Soil testing and site registration requirements is created to read as follows:**

(1) Soil testing, site evaluations, and permit applications shall conform to the requirements of WAC 246-272A-010 and WAC 246-272A-0220.

(2) A site registration report shall be made on an Environmental Health Division approved form by the individual who performs the test. The report shall be submitted to the Environmental Health Division, with appropriate fee, for review within 20 working days of the date the tests were completed.

(a) The site registration report shall consist of an accurate plot plan, drawn to scale (1 inch = 20 feet is recommended), which includes all the pertinent information required in WAC 246-272A-0200 and other information as required by the health officer.

(b) Unless specifically waived by the health officer, all soil logs for the purpose of securing a sewage disposal permit must be witnessed and verified by the local health officer.

(c) Site registrations performed for the purpose of land division subject to CCC 29.01 must include information demonstrating that the proposed water supply is adequate.

**Section 11. Section .110, Installation, is created to read as follows:**

(1) The health officer shall require approved installers to construct OSS, except as noted under subsection (3) of this section. Licensed installers shall meet all requirements of this Chapter and install systems as per WAC 246-272A-210.

(2) The health officer may allow the resident owner of a single-family residence not adjacent to a marine shoreline to install a conventional gravity-type OSS for that single-family residence if they meet all the following:

(a) No more than one system in any one-calender year.

(b) The OSS installer owns or has a beneficial interest as a contract purchaser of the land on which the OSS is to be installed.

(c) 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.

(d) The OSS installer will reside in or use the building served by the OSS.

(3) Persons engaged in the business of buying, selling, and constructing homes or land shall not qualify. The health officer may require written examination of resident owners when considering applications for self-installation.

(4) All persons employed to construct, install, or alter a sewage disposal system shall be employees of a licensed installer.

(5) The installer described by either subsection (2) or (3) of this section shall:

(a) Follow the approved design;

(b) Have the approved design in possession during installation;

- (c) Make no changes to the approved design without the prior authorization of the licensed designer and the health officer;
- (d) Only install septic tanks, pump chambers, and holding tanks approved by the WDOH;
- (e) Be on the site at all times during the excavation and construction of the OSS;
- (f) Install the OSS to be watertight, except for the soil dispersal component;
- (g) Cover the installation only after the health officer has given approval to cover; and
- (h) Back fill with 6 to 24 inches of cover material and grade the site to prevent surface water from accumulating over any component of the OSS.

**Section 12. Section .120, Installation inspection, is created to read as follows:**

(1) The health officer may make inspections during construction to determine compliance with these regulations.

(2) Prior to the installation of any on-site sewage system, the health officer shall be notified by the installer of the permit number, site location, date, and time that the work is to be performed. After completion of the work, the installer shall notify the health officer of the completion and shall request an inspection. The system may not be covered prior to this inspection except as noted in subsection (3) below. The licensed designer shall submit a "record drawing" according to the requirements in WAC 246-272A-0265 of the final construction within 10 days of final cover of the system. The record drawing shall be on a form approved by the health officer.

(3) No part of any on-site sewage system installation shall be covered or put into use until inspection and final approval has been obtained from the health officer. The health officer may waive this inspection requirement provided the installation has been performed by a licensed installer as per this Chapter and WAC 246-272A-0260 provided that the licensed designer of the on-site sewage system, as certified under Chapter 18.210 RCW, performs the inspection; EXCEPT as noted in subsection (4) below. Requests for waiver from inspection should be submitted to the health officer prior to covering of the system. Final approval of on-site systems by the health officer can be made only after satisfactory inspection of the installed system, and receipt of "as-built" drawings of the final construction, and all appropriate fees received by the Environmental Health Division.

(4) A final inspection shall not be acceptable from a licensed designer if the installation firm has financial ties with the licensed designer of the system. In such cases, the Environmental Health Division must perform the final inspection of the installation.

(5) Any on-site sewage system installed, covered, or put into use without proper notification of the health officer or inspection by him except as provided for in subsection (3), shall be uncovered for inspection if so ordered by the health officer; EXCEPT that the decision of the health officer not to require uncovering for inspection shall not be construed as approval of the installation of the on-site sewage system.

(6) If installation or workmanship of the on-site sewage system does not meet the requirements of this Chapter, the health officer shall order corrections and cause a subsequent inspection to be made. Fees may be charged for subsequent inspections.

(7) Designer inspections. Nothing contained herein shall prohibit the licensed designer of record from requiring additional designer-performed inspections to insure compliance with design and regulation.

**Section 13. Section .130, Maintenance and monitoring, is created to read as follows:**

Design, installation, and maintenance will follow the requirements of WAC 246-272A-0238.

**Section 14. Section .140, Holding tank sewage systems, is created to read as follows:**

(1) Persons shall not install or use holding-tank sewage systems for residential development or expansion of residences, whether seasonal or year-round, except as set forth under subsection (b) of this section.

(2) The health officer may approve installation of holding-tank sewage systems only:

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

(b) For interim uses limited to handling of emergency situations;

(c) For repairs as permitted under WAC 246-272A-0280(1)(c)(i).

(3) A person proposing to use a holding tank sewage system shall:

(a) Follow established design criteria established by WDOH;

(b) Submit a management program to the health officer assuring ongoing operation and maintenance before the health officer issues the installation permit; and

(c) Use a holding tank reviewed and approved by the Department if required.

**Section 15. Section .150, Abandonment, is created to read as follows:**

(1) Persons permanently abandoning a septic tank, seepage pit, cesspool, or other sewage container from service shall:

(a) Have the septage removed by an approved pumper;

(b) Remove or destroy the lid;

(c) Fill the void with soil or gravel;

(d) Submit the records of abandonment to the health officer within 30 days.

**Section 16. Section .160, Subdivision requirements, is created to read as follows:**

(1) Prior to recommendations for preliminary approval of a subdivision submitted to the Planning Division and referred to the Environmental Health Division, applicant must be in compliance with Department of Health on-site regulations WAC 246-272A-0320.

(2) Prior to recommendation submitted to the Planning Division and referred to the Environmental Health Division for final approval of a subdivision, the following must be accomplished:

(a) A site registration approved by the health officer and filed for each proposed parcel showing an area for each parcel suitable for installation of an on-site sewage system to serve a minimum of a two-bedroom residence, in compliance with these regulations, or;

(b) For a community sewage disposal system or larger on-site system, compliance with 246-272B and CCC Title 29 must be assured;

(c) Prior to final approval, a management agreement acceptable to the health officer for monitoring and maintenance of the community septic system must be in force;

(d) Any on-site system not located entirely on the property originating the sewage must be secured by appropriate easements filed with the Clallam County Auditor;

(e) Demonstrate that the proposed water supply is in compliance with applicable water rights and instream flow rules and is determined to be adequate as required in CCC Title 29.

**Section 17. Section .170, Local management plan and regulation, is created to read as follows:**

In July 2005, the Washington State Board of Health adopted Chapter 246-272A WAC, which requires local health departments to develop plans for the management of on-site septic systems



(OSS) within their jurisdictions. In 2006, the Legislature enacted RCW 70.118A, which requires local health jurisdictions that border Puget Sound to identify Marine Recovery Areas (MRA) where OSS contribute to marine water quality problems and to develop management strategies to find and repair all failing OSS within the MRA.

Clallam County Board of Health adopted the Clallam County On-site Septic System Management Plan on June 19, 2007. This Chapter implements components of the OSS management Plan.

(1) OSS Inspections and Maintenance

(a) General Conditions:

(i) The OSS owner will insure a complete evaluation of the system components and/or property to determine functionality, maintenance needs, and compliance with WAC 246-272A and these regulations and any OSS permits:

(A) At least once every three years for all systems consisting solely of a septic tank and gravity subsurface absorption system (SSAS);

(B) Annually for all other systems unless more frequent inspections are specified by the local health officer.

(ii) OSS owners will assure that needed maintenance service or repairs to the OSS are accomplished in a timely manner.

(iii) Inspection activities are to be reported, on County approved forms, to the health officer within 30 days of the inspection of the OSS.

(b) Residential OSS Owner Systems Status Inspections: This section pertains to OSS owners who perform their own inspections.

(i) Owner inspections are limited to residential OSS of no more than two connections served by one OSS on the same lot.

(ii) OSS owners who perform their own inspections must first receive approval to inspect their own domestic-type septic system from the health officer. Approval may consist of proof of attending, including obtaining a passing score on a test, a health officer approved training course appropriate for the level of complexity of the OSS the owner is to inspect and maintain.

(iii) Homeowners are responsible for reporting their inspection activities in compliance with this section.

(iv) Where there are no records regarding the type, size, location and other applicable information on a septic system, the OSS owner must have the first system status inspection performed by a professional maintenance provider or licensed designer.

(c) Sewage System Maintenance Provider System Status Inspections:

(i) OSS system status inspections performed by sewage system designers or sewage system maintenance providers shall meet the requirements of this section and Sections 20 and 23.

(d) Community and Commercial OSS Systems:

(i) All food service establishments served by OSS must meet the requirements of WAC 246-272A-0275.

(ii) All system status inspections are to be performed by a licensed sewage system maintenance provider or licensed designer.

(iii) Relief from subsection (c)(ii) of this section may be granted by the health officer provided the owner can demonstrate:

(A) The owner receives health officer approved training including obtaining a passing score on a test if required. The training must be appropriate for the level of complexity of the OSS the owner is to inspect and maintain.

(B) The OSS effluent characteristics are comparable to typical single family residential volumes and strength.

(2) Marine Recovery Area (MRA):

(a) The legal boundaries of the Marine Recovery Area shall be the same area described in CCC 27.16, Sequim Bay-Dungeness Watershed Clean Water District, and include the following areas: The Dungeness watershed and those waters influenced by it through the irrigation system and other independent tributaries to the Strait of Juan de Fuca from Bagley Creek east to and including the Sequim Bay Watershed. This encompasses the Dungeness and Gray Wolf rivers, the creeks of Bagley, McDonald, Matriotti, Meadowbrook, Cooper, Cassalery, Gierin, Bell, Johnson, Dean, Jimmycomelately, Chicken Coop, and their tributaries.

(b) The MRA boundary shall also include the Miller Peninsula and Discovery Bay watershed inside Clallam County including those portions of the Miller Peninsula and the Eagle Creek watershed that are not currently included in the Sequim Bay-Dungeness Watershed Clean Water District. The boundaries are outlined in "Exhibit A" (as amended to include Miller Peninsula), attached hereto and incorporated by reference.

(c) All OSS owners within the Marine Recovery Area shall have a system status inspection performed on their OSS by a State licensed septic systems designer or a sewage system maintenance provider as described in this Chapter as the first system status inspection required under the OSS Management Plan.

(d) After the initial professional inspection, owners of residential-type OSS who meet the requirements of this Chapter may inspect their own OSS system.

(e) OSS owners who perform their own OSS system status inspection and maintenance providers are required to submit a system status report per this Chapter.

**Section 18. Section .180, Report of system status for land use and other governmental actions, is created to read as follows:**

(1) A system status report may be requested by the health officer for the following purposes:

- (a) Issuing building permits;
- (b) Land divisions when an existing OSS is part of the proposal;
- (c) Conditional use permits;
- (d) Variances or compliance with the Critical Areas Code;
- (e) Food service establishment operating permits;
- (f) Certificate of occupancy for commercial building permits;
- (g) Change of use;
- (h) Other actions as deemed appropriate by the health officer.

(2) For land use and other governmental actions, only licensed sewage system licensed designers or the health officer shall perform system operational evaluation and submit a System Status Report.

(a) Copies of all evaluations and reports generated by the licensed designer or maintenance provider shall be provided to the Environmental Health Division, with appropriate property identification, for filing with the parcel's permanent records.

(b) Should failures or the need for repair be noted, the Environmental Health Division shall be notified by the licensed designer immediately.

(c) Upon notification, the Environmental Health Division shall investigate and evaluate the public health risk. The role of the licensed designer or maintenance provider, system owner, and the Division will be addressed after the degree of public health risk is assessed.

(d) Septic system components (i.e. tanks, pump chambers, drain field, or other components) must be located and documented in a system status record drawing.

**Section 19. Section .190, Report of system status required at time of transfer of ownership, is created to read as follows:**

(1) By June 1, 2010 at the time of property transfer, the property owner shall provide to the buyer a copy of the current (within the same year as the transfer of title) report of system status performed by a licensed sewage system designer or licensed OSS maintenance provider on file with the Environmental Health Division, and any available maintenance records, in addition to the completed seller disclosure statement in accordance with Chapter 64.06 RCW for residential real property transfers.

(2) The property owner shall ensure that a current Report of System Status is on file with Environmental Health Division when a residence is offered for sale.

**Section 20. Section .200, General requirements for licensure, is created to read as follows:**

(1) License holders are required to provide services in compliance with WAC 246-272A and this Chapter.

(2) License holders are required to notify the Environmental Health Division of septic system failures when identified.

(3) The Environmental Health Division reserves the right to observe, audit, or inspect the on-site sewage related activities of license holders.

**Section 21. Section .210, Sewage system installer, is created to read as follows:**

(1) Licensing. It shall be unlawful for a sewage system installer to engage in the activity of installing on-site sewage systems without being issued a Septic System Installer's License by the health officer. Application for an installer's license shall be made on forms provided by the health officer and application fees paid at the time of filing.

(a) The health officer or designee shall determine by written and/or oral examination the applicant's knowledge of public health problems involved in the treatment and dispersal of sewage and necessary standards of design, construction, and installation. If the applicant does not receive a passing mark in any such examination, they shall be denied a license.

(i) Requirements for license to install conventional systems only: Provide proof of (approved) training received in installation, i.e. basics of installation class attended and/or one year's prior experience of installing septic systems.

(ii) Requirements for license to install alternative systems: In addition to the above conventional requirements, provide proof of (approved) training received for installation of each specific alternative septic system.

(2) The installer's license shall expire on December 31. Fees are not prorated. The applicant shall apply for renewal on forms provided by the health officer.

(a) The original license and each renewal shall require a completed application on a form furnished by the health officer and payment of the prescribed fee.

(b) An installer's license is not transferable.

(c) Any person having been issued an installer's license is required to notify the health officer in writing within four days of any change in his business address and/or his home address.

(d) Licenses shall not be issued or renewed if the applicant is found by the health officer to be in violation of the provisions of this Chapter.

(3) Site Installer: A licensed sewage system installer may sponsor a site installer to be responsible for compliance with WAC 246-272A-0250(3). The licensed installer shall inform the health officer of the site installer's name(s) and of any changes in that individual's employment status. Site installers must pass the installer's exam and maintain their annual license.

(4) Bond required: Prior to the issuance of a sewage system installer's license, the applicant must be in possession of a bond obtained in accordance with the special or general contractors laws of the State of Washington and provide proof of business liability insurance in the minimum amount of \$500,000; EXCEPT, site installers working for or under the direction of a general contractor who is also a licensed installer may have this requirement waived if the general contractor provides a written statement indicating their assumption of responsibility for the individual's work and agreement to coverage of the individual by the general contractor's bond and liability insurance.

(5) Continuing education: Unless waived by the health officer, every installer is required to obtain at least five hours of approved classroom (training) time (1/2 CEU) each calendar year. Subject matter must be directly related to on-site sewage disposal and be acceptable to the health officer.

(6) Suspension – Revocation: The health officer may suspend or revoke any installer's license if there has been a finding of incompetence, negligence, willful misrepresentation, or failure to comply with this Chapter or other applicable laws, rules, and regulations. The installation of a sewage disposal system for which a permit has not been obtained shall be cause for the suspension or revocation of an installer's license. An installer whose license has been revoked shall be ineligible to reapply for re-licensing until 60 days have passed from the date of revocation of the license.

**Section 22. Section .220, Septic tank pumpers, is created to read as follows:**

(1) Licensing: It shall be unlawful for any person, firm, or corporation to engage in the activity of cleaning any septic tank, seepage pit, or chemical toilet, or removing other accumulations of sewage without first obtaining a septic tank pumper's license from the health officer.

(a) The original license and each renewal shall require a completed application on a form furnished by the health officer and payment of the prescribed fee.

(b) License shall not be issued or renewed if the applicant is found by the health officer to be in current violation of the provisions of this Chapter.

(c) A septic tank pumper's license is not transferable.

(2) Septage disposal site approval: Septage shall be discharged into an existing approved sewage treatment plant in accordance with plant operator's instructions and/or requirements. Septage disposal sites other than approved sewage treatment plants shall have the written approval of the health officer and shall be maintained in a satisfactory manner. It shall be unlawful to dispose of septic tank pumpings or other accumulated sewage at other than designated and approved disposal sites.

(3) Reporting requirements: Each pumper shall submit to the health officer, not later than the tenth day of each month, a report on a form furnished by the Environmental Health Division. Said report shall contain the dates, sources, disposal site, and volume of each load of wastes handled from the preceding calendar month.

(4) Pump tank requirements: Pumping equipment must be presented to the Environmental Health Division for inspection at the time of license application and renewal.

(a) The pump tank must be of at least 1,000 gallons in capacity and must be in good repair and of cleanable construction; EXCEPT, where only the contents of chemical toilets are to be

pumped and disposed of, where no water carrying household or commercial sewage is involved, a pump tank size of 275 gallons shall be allowed.

(b) All outer contact surfaces and fittings shall be kept in a clean and sanitary condition while stored or in transit; all premises served and equipment used shall be left in a clean and sanitary condition.

(c) All discharge valves shall be in good repair, free from leaks, and fitted with watertight caps.

(d) The name of the operating firm shall be prominently displayed on both sides of any pump tank vehicle in bold letters not less than five inches high for the firm name and not less than three inches high for other information, such as address and telephone number.

(5) Bond required: Prior to the issuance of a septic tank pumper's license, the applicant must post a bond with the Environmental Health Division in a form approved by the Prosecuting Attorney's office and executed by a surety company authorized to do business in the State of Washington, in the sum of \$4,000 and must provide proof of a minimum of \$100,000 business liability insurance.

(6) Suspension – Revocation: The health officer may suspend or revoke any pumper's license if there has been finding of incompetence, negligence, willful misrepresentation, or failure to comply with this Chapter or other applicable laws, rules, and regulations. A pumper whose license has been revoked shall be ineligible to reapply for a license until 60 calendar days shall have passed from the date of license revocation.

**Section 23. Section .230, Sewage System Maintenance Providers, is created to read as follows:**

(1) Licensing. It shall be unlawful for an OSS maintenance provider to engage in OSS maintenance and monitoring activities, such as but not limited to inspection of on-site sewage systems, without first having a sewage system maintenance provider's license issued by the health officer. Application for a sewage system maintenance provider's license shall be made on forms provided by the health officer and application fees paid at the time of filing.

(a) Applicants must:

(i) For Maintenance Provider Specialist I, have 6 months experience in operations and maintenance, designing, installing, or pumping on-site septic systems or equivalent as determined by the health officer.

(ii) For Maintenance Provider Specialist II have 12 months experience as a Maintenance Provider Specialist I or licensed OSS designer.

(iii) Complete an application for a Maintenance Provider Specialist I or II and pay the fee established by the BOH.

(iv) Pass the applicable health officer approved examination(s).

(A) Persons attempting, but failing to pass the test, may retake it after 30 days.

(B) After two consecutive failures, they must wait one year before reapplying.

(2) The Maintenance Provider Specialist I and II license shall expire on December 31. Fees are not prorated. The applicant shall apply for renewal on forms provided by the health officer.

(a) The original license and each renewal shall require a completed application on a form furnished by the health officer and payment of the prescribed fee.

(b) Maintenance Provider Specialist I and II license is not transferable.

(c) Any person having been issued a Maintenance Provider Specialist I and II license is required to notify the health officer in writing within four days of any change in business address and/or home address.

(d) Licenses shall not be issued or renewed if the applicant is found by the health officer to be in violation of the provisions of this Chapter.

(3) Bond required: Prior to the issuance of a sewage system Maintenance Provider Specialist I and II license, the applicant must be in possession of a bond in the amount of \$4,000 for Maintenance Provider Specialist I, and \$6,000 for Maintenance Provider Specialist II, obtained in accordance with the special or general contractors laws of the State of Washington and provide proof of business liability insurance in the minimum amount of \$100,000 for Maintenance Provider Specialist I and \$500,000 for Maintenance Provider Specialist II; EXCEPT, Maintenance Provider Specialists working for or under the direction of a general contractor who is also a licensed Maintenance Provider Specialist I and II may have this requirement waived if the general contractor provides a written statement indicating their assumption of responsibility for the individual's work and agreement to coverage of the individual by the general contractor's bond and liability insurance.

(4) Continuing education: Unless waived by the health officer, all Maintenance Provider Specialist I and II are required to obtain at least five CEUs each calendar year. Subject matter must be directly related to on-site sewage disposal and operations and maintenance activities and be acceptable to the health officer.

(5) Maintenance Provider Specialist I

(a) Scope of Work: Maintenance Provider Specialist I is limited to performing operations, monitoring, and maintenance activities to conventional, gravity feed system only.

(b) Allowed activities:

- (i) Determine need for pumping
- (ii) Checking liquid levels
- (iii) Repairing tanks/baffles
- (iv) Accessing effluent distribution box to assess levelness of gravity feed
- (iv) Repairing tight-line
- (v) Installing risers over tanks and d-box, install monitoring ports in drainfields

(c) Prohibited activities:

- (i) Pumping tank unless licensed pumper
- (ii) Uncovering drainfield unless a licensed designer
- (iii) Replacing subsurface disposal component or pre treatment component

(6) Maintenance Provider Specialist II

(a) Scope of Work: Maintenance Provider Specialist II may perform operations, monitoring, and maintenance activities on conventional and alternative on-site septic systems.

(b) Allowed activities: Except as specifically stated otherwise, the Maintenance Provider Specialist II may perform any duty associated with the operation and maintenance of an OSS required in the regulations. Maintenance Provider Specialist II must obtain written approval from the manufacturer or patent holder to work on proprietary devices.

(c) Prohibited activities:

- (i) Pumping tank unless licensed pumper
- (ii) Uncovering drainfield unless under the direction of a licensed designer
- (iii) Replacing subsurface disposal component
- (iv) Replacing or altering devices that monitor or regulate the distribution of effluent (other than d-boxes); **UNLESS** under direction and approval from either the licensed designer of record for that system or approval from Clallam County Environmental Health
- (v) Make repairs or add components without a permit from a licensed designer

(7) Suspension – Revocation:

(a) The health officer may suspend or revoke any sewage system maintenance provider license if there is a finding of incompetence, negligence, willful misrepresentation, or failure to comply with this Chapter or other applicable laws, rules, and regulations. Not reporting OSS maintenance and monitoring activities as required by the health officer shall be cause for suspension or revocation of a sewage system maintenance provider license.

(b) An OSS maintenance provider whose license has been revoked shall be ineligible to reapply for re-licensing until 60 days have passed from the date of revocation of the license.

**Section 24. Section .240, Waivers, is created to read as follows:**

(1) The health officer may grant a waiver from specific requirements in this Chapter if:

(a) The waiver request is evaluated by the health officer on an individual site-by-site basis;

(b) The health officer determines that the waiver is consistent with the standards in and the intent of this Chapter.

(2) On a quarterly basis, the health officer will forward, as necessary, to the Department any approved or denied waivers for their records.

**Section 25. Section .250, Enforcement, is created to read as follows:**

(1) The health officer may:

(a) Enforce the provisions of this Chapter;

(b) Refer cases within their jurisdiction to the Prosecutor's Office.

(2) When a person violates the provisions of this Chapter, the health officer, or Prosecutor's Office, 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:

(a) Informal administrative conferences, convened at the request of the health officer or owner, to explore facts and resolve problems;

(b) Orders directed to the owner and/or operator of the OSS and/or person causing or responsible for the violation of the rules of this Chapter;

(c) Denial, suspension, modification, or revocation of permits, approvals, certificate, or licensee; and

(d) Civil action or criminal action.

(3) Orders authorized under this section include the following:

(a) Orders requiring corrective measures necessary to effect compliance with this Chapter which may include a compliance schedule; and

(b) 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 rule or statute are obtained.

(4) Enforcement orders issued under this section shall:

(a) Be in writing;

(b) Name the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of the rules of this Chapter;

(d) Specify any required corrective action, if applicable;

(e) Specify the effective date of the order and a period of 30 days for correction of the violation;

(f) Provide notice of the consequences of failure to comply or repeated violation, as appropriate. Such notices may include a statement that continued or repeated violation may subject the violator to:

(i) Denial, suspension, or revocation of a permit approval, license, or certification if violations are not corrected within 90 days; and/or

(ii) Referral to the office of the County Prosecuting Attorney; and/or

(iii) Other appropriate remedies.

(g) Provide the name, business address, and phone number of an appropriate staff person who may be contacted regarding an order.

(5) Enforcement orders shall be personally served in the manner of service of a summons in a civil action or in a manner showing proof of receipt.

(6) The health officer shall have cause to deny the application or reapplication for a permit and/or license or to revoke, suspend, or modify a required permit and/or license of any person who has:

(a) Failed or refused to comply with the provisions of this Chapter or any other statutory provision or rule regulating the operation of an OSS; or

(b) Obtained or attempted to obtain a permit or any other required certificate or approval by misrepresentation.

(7) For the purposes of subsection (6) of this section, a person is defined to include:

(a) Applicant;

(b) Re-applicant;

(c) Permit and/or license holder; or

(d) Any individual associated with subsection (7)(a), (b) or (c) of this section including, but not limited to:

(i) Board members;

(ii) Officers;

(iii) Managers;

(iv) Partners;

(v) Association members;

(vi) Agents;

(vii) Third persons acting with the knowledge of such persons;

(viii) Should any person refuse to allow the health officer to enter onto property for the purpose of enforcing these rules and regulations, the health officer may, with the assistance of the Prosecuting Attorney, present an affidavit, naming the person so refusing, the property involved, and the reason entry is necessary, to the Clallam County District Court, from which an authorizing warrant may issue;

(ix) Any violation of this Chapter is a misdemeanor as defined by RCW 9A.04.040;

(x) The health officer shall have the right of entry to inspect any sewage disposal system.

**Section 26. Section .260, Civil infractions and other penalties, is created to read as follows:**

(1) Civil infractions and other penalties shall be imposed pursuant to Chapter 7.80 RCW, Chapter 70.118 RCW, including RCW 70.118A, Chapter 246-272 WAC, and Chapter 246-272A WAC and these regulations. Adjudication of and appeals to such citations shall be in the Clallam County District Court.



(2) The health officer shall work cooperatively with the Washington State Department of Health and the Clallam County Sheriff to implement the enforcement in section (1) above.

**Section 27. Section .270, Administrative civil penalties, is created to read as follows:**

(1) When the health officer determines that a violation of these regulations has occurred or is occurring, the person responsible for the violation has been legally notified, and the violation has continued or continues to exist after 30 days from the date of notification, a monetary penalty may be issued by the health officer.

(a) Daily monetary penalties shall begin on the day of issuance of the administrative civil penalty.

(2) The monetary penalty for violations for non-compliance with required system status inspections and reporting shall be \$5 per day following the health officer ordered date the required system status report is not received by the Environmental Health Division not to exceed \$300 per year.

(3) Monetary penalty schedule for other violations as determined by the health officer:

(a) First day of each violation: \$100

(b) Second day of each violation: \$200

(c) Third day of each violation: \$300

(d) Fourth day of each violation: \$400

(e) Each subsequent day of violation beyond four days: \$500

(4) Payment of a civil penalty shall be made to the Clallam County Treasurer and placed in the Environmental Health Division account. Payment of the civil penalty does not relieve any person of their duty to comply with these regulations.

(5) The accumulation of civil penalties may be stopped by the health officer if the violator begins compliance with this and lawful orders by the health officer.

(6) The civil penalty may be reduced by the health officer or a hearing officer if the violation is corrected within 30 days from the date of issuance of the administrative civil penalty, or according to a time schedule approved by the health officer. The penalty should not be reduced below recovery of the costs of administration and enforcement of these regulations. In exercising discretion for the reduction of civil penalties, the health officer shall consider the seriousness of the violation, the percentage of compliance achieved by the violator, and other relevant factors.

(7) These civil penalties are a separate and independent method of civil enforcement and are supplementary to all other enforcement methods cited in these regulations.

**Section 28. Section .280, Criminal penalties, is created to read as follows:**

Criminal penalties may be levied as provided in this Chapter and by State laws and regulations.

**Section 29. Section .290, Appeals and hearings, is created to read as follows:**

(1) Appeal of on-site septic permit and licensure decisions. Any on-site septic permit applicant or owner of property on or for which an on-site septic permit has been submitted or issued, or a person whose property is adjacent to property subject to the on-site septic permit, or other person who is aggrieved by a permit issuance, permit denial, permit suspension, or action by the health officer, shall have the right to appeal the matter and have a hearing before a hearing officer authorized by the Board to conduct such hearings. Any such appeal must be made within ten (10) days of service of the order and the appeal will conform to the requirements of WAC 246-272A and this regulation. The decision of the hearing officer regarding on-site septic permits or notice or order

may be appealed to the Board of Health. Any action to review the hearing officer's decision must be filed within 30 days of the date of the decision. Except for conditions causing risks to human health or safety, appeals shall act as a stay of the health officer's decision or order.

(a) Hearing officer administrative hearing. Any person aggrieved by a permit decision or notice or order of the health officer may request, in writing, a hearing before the hearing officer. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the health officer. Such request shall be presented to the hearing officer within 10 days of the action appealed. Upon receipt of such request together with any applicable hearing fees, the hearing officer shall notify the appellant, and permit holder or applicant if different, in writing of the time, date, and place of such hearing, which shall be set at a mutually convenient time not less than 20 days nor more than 30 days from the date the request was received. The hearing officer will issue a decision affirming, reversing, or modifying the health officer decision which has been appealed. The hearing officer may require additional actions as part of the decision.

(b) Hearing procedures. Hearings shall be open to the public and presided over by the hearing officer. Such hearings shall be recorded. Hearings shall be opened with a recording of the time, date, and place; and a statement of the cause. The hearing officer shall then swear in all potential witnesses. The case shall be presented in the order directed by the hearing officer. The appellant may present rebuttal. The hearing officer may question either party and may allow for a closing statement or summation. General rights include:

- (i) To be represented by an attorney;
- (ii) To present witnesses;
- (iii) To cross-examine witnesses;
- (iv) To object to evidence for specific grounds.

In the conduct of the proceeding, the hearing officer may consider any evidence, including hearsay evidence that a reasonably prudent person would rely upon in the conduct of his or her affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The hearing officer shall decide rulings on the admissibility of evidence, and the Washington rules of evidence shall serve as guidelines for those rulings.

(c) Record.

(i) Inasmuch as any appeal to the Board of Health from a hearing officer's decision is a review on the record, the hearing officer shall ensure that the record generated contains testimonial and documentary evidence supporting the hearing officer's issuance of the hearing decision.

(ii) The hearing officer may continue the hearing to another date to allow for additional submission of information or to allow for additional consideration. Prior to closing the hearing, the hearing officer shall issue an oral ruling, unless the hearing officer determines that the matter should be taken under advisement. Written findings of fact, conclusions of law, and orders shall be served on the appellant within 14 days of the oral ruling. If the matter is taken under advisement, written findings, conclusions, and orders shall be mailed to the appellant within 21 days of the close of the hearing.

(iii) The appellant shall bear the burden of proof and may challenge the permit decision based on the preponderance of the evidence.

(d) Appeals. Any decision of the hearing officer shall be final and may be reviewable by an appeal filed with the Board of Health. Any action to review the hearing officer's decision must be filed within 30 days of the date of the decision.

(2) Appeal of decision of the hearing officer regarding on-site septic permits.

(a) Any on-site septic permit applicant or owner of property on or for which an on-site septic permit has been submitted or issued, or a person whose property is adjacent to property subject to the on-site septic permit, or other person who is aggrieved by a permit issuance, permit denial, permit suspension, or action by the health officer, aggrieved by the findings, conclusions, or orders of the hearing officer shall have the right to appeal the matter by requesting a hearing before the Board of Health. Such notice of appeal shall be in writing and presented to the clerk of the Board of Health within 30 days of the hearing officer's decision. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the hearing officer.

(b) The decision of the hearing officer shall remain in effect during the appeal. Any person affected by the on-site septic permit decision may make a written request for a stay of the decision to the hearing officer within five business days of the hearing officer's decision. The hearing officer will grant or deny the request within five business days.

(c) Upon receipt of a timely written notice of appeal, the clerk of the Board of Health shall set a time, date, and place for the requested hearing before the Board of Health and shall give the appellant written notice thereof. Such hearing shall be set at a mutually convenient time not less than 15 days or more than 30 days from the date the appeal was received by the clerk of the Board of Health, unless mutually agreed to by the appellant and clerk of the Board of Health.

(d) The Board of Health hearing shall be open to the public and presided over by the chair of the Board of Health. Such hearings shall be recorded. Board of Health hearings shall be opened with a recording of the time, date, and place of the hearing; and a statement of the cause for the hearing. The hearing shall be limited to argument of the parties and no additional evidence shall be taken unless, in the judgment of the chair, such evidence could not have reasonably been obtained through the exercise of due diligence in time for the hearing before the hearing officer. Argument shall be limited to the record generated before the hearing officer unless the chair admits additional evidence hereunder.

(e) Any decision of the Board of Health regarding the appeal of a decision by the hearing officer or the health officer relative to an on-site septic permit shall be final.

(3) Appeal to hearing officer of on-site septic violation not associated with a septic permit.

(a) Stay of corrective action. The filing of a request for hearing pursuant to this section shall operate as a stay from the requirement to perform corrective action ordered by the health officer while the hearing is pending, except there shall be no stay from the requirement for immediate compliance with an emergency order issued by the health officer or from the requirements regarding human health and safety.

(b) Hearing officer administrative hearing. The owner or occupant of property on or for which a on-site septic violation has been submitted or issued, or a person whose property is adjacent to property subject to the on-site septic violation, or other person aggrieved by a notice and order to correct a violation may request, in writing, a hearing before the hearing officer. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the health officer. Such request shall be presented to the hearing officer within 10 days of the action appealed. Upon receipt of such request, together with any applicable hearing fees, the hearing officer shall notify the person in writing of the time, date, and place of such hearing, which shall be set at a mutually convenient time not less than 20 days or more than 30 days from the date the request was received. The hearing officer will issue a decision affirming, reversing, or modifying the notice and order to correct violation. The hearing officer may require additional actions as part of the decision.

(c) Hearing procedures. Hearings shall be open to the public and presided over by the hearing officer. Such hearings shall be recorded. Hearings shall be opened with a recording of the time, date, and place of the hearing; and a statement of the cause for the hearing. The hearing officer shall then swear in all potential witnesses. The case shall be presented in the order directed by the hearing officer. The appellant may present rebuttal. The hearing officer may ask questions. The hearing officer may allow the opportunity for a closing statement or summation. General rights include:

- (i) To be represented by an attorney;
- (ii) To present witnesses;
- (iii) To cross-examine witnesses;
- (iv) To object to evidence for specific grounds.

In the conduct of the proceeding, the hearing officer may consider any evidence, including hearsay evidence that a reasonably prudent person would rely upon in the conduct of his or her affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The hearing officer shall decide rulings on the admissibility of evidence, and the Washington rules of evidence shall serve as guidelines for those rulings. Inasmuch as any appeal to the Board of Health from a hearing officer decision is a review on the record, the hearing officer shall ensure that the record generated contains testimonial and documentary evidence supporting the hearing officer's issuance of the notice and order to correct violation. The hearing officer may continue the hearing to another date to allow for additional submission of information or to allow for additional consideration. Prior to closing the hearing, the hearing officer shall issue an oral ruling unless the hearing officer determines that the matter should be taken under advisement. Written findings of fact, conclusions of law, and orders shall be served on the appellant within 14 days of the oral ruling. If the matter is taken under advisement, written findings, conclusions, and orders shall be mailed to the appellant within 21 days of the close of the hearing. The appellant shall bear the burden of proof and may overcome the notice and order to correct violation by a preponderance of the evidence.

(d) Appeals. Any decision of the hearing officer shall be final and may be reviewable by an appeal filed with the Board of Health. Any action to review the hearing officer's decision must be filed within 30 days of the date of the decision.

(4) Appeal of decision of hearing officer regarding on-site septic violation not associated with a permitted facility.

(a) The owner or occupant of property on or for which an on-site septic violation has been submitted or issued, or a person whose property is adjacent to property subject to the on-site septic violation, or other person aggrieved by a notice and order to correct a violation may appeal the decision of the hearing officer by requesting a hearing before the Board of Health. Such notice of appeal shall be in writing and presented to the clerk of the Board of Health within 30 days of the hearing officer's decision. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the hearing officer.

(b) The decision of the hearing officer shall remain in effect during the appeal. Any person affected by the notice and order to correct violation may make a written request for a stay of the decision to the hearing officer within five business days of the hearing officer's decision. The hearing officer will grant or deny the request within five business days.

(c) Upon receipt of a timely written notice of appeal, the clerk of the Board of Health shall set a time, date, and place for the requested hearing before the Board of Health and shall give the appellant written notice thereof. Such hearing shall be set at a mutually convenient time not less

than 15 days or more than 30 days from the date the appeal was received by the clerk of the Board of Health unless mutually agreed to by the appellant and Board of Health.

(d) Board of Health hearings shall be open to the public and presided over by the chair of the Board of Health. Such hearings shall be recorded. Board of Health hearings shall be opened with a recording of the time, date, and place of the hearing; and a statement of the cause for the hearing. The hearing shall be limited to argument of the parties and no additional evidence shall be taken unless, in the judgment of the chair, such evidence could not have reasonably been obtained through the exercise of due diligence in time for the hearing before the hearing officer. Argument shall be limited to the record generated before the hearing officer unless the chair admits additional evidence hereunder.

(e) Any decision of the Board of Health regarding health officer actions not related to permitted facilities shall be final and may be reviewable by an action filed in Superior Court. Any action to review the Board's decision must be filed within 30 days of the date of the decision.

**Section 30. Section .300, Severability, is created to read as follows:**

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

**Section 31. Section .310, Fees, is created to read as follows:**

Fees shall be set and renewed annually by the Clallam County Board of Health and posted in a fee schedule.

**Section 32. Section .320, Effective Date, is created to read as follows:**

The effective date of this Chapter shall comply with WAC 246-272A-0015.

ADOPTED this nineteenth day of August 2008

CLALLAM COUNTY BOARD OF HEALTH

  
\_\_\_\_\_  
Michael C. Chapman, Chair

  
\_\_\_\_\_  
Thomas Locke, MD, MPH, Health Officer

ATTEST:

  
\_\_\_\_\_  
Deputy Clerk of the Board



EXHIBIT A

