

**RESOLUTION NO. 93-98**  
**A resolution replacing Chapter 6.72 of the Mason County Code**

**Whereas**, it is the role and responsibility of Mason County Board of Commissioners to adopt regulations to protect public health and safety,

**Whereas**, it is the role and responsibility of Mason County Board of Health to make recommendations to the Mason County Board of Commissioners regarding chapters of Mason County Code pertaining to public health issues,

**Whereas**, The Mason County Board of Health did adopt a revised Solid Waste and Biosolids Handling and Facilities Regulation at their August 13, 1998 meeting ,

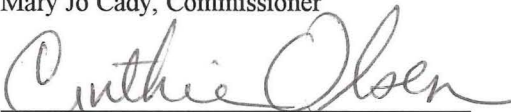
**Now therefore be it resolved**, the Mason County Board of Commissioners adopts the revised Solid Waste and Biosolids Handling and Facilities Regulation as recommended by the Mason County Board of Health. (Exhibit A)

**Dated** this 25th day of August, 1998.

**BOARD OF MASON COUNTY  
COMMISSIONERS**

  
\_\_\_\_\_  
John A. Bolender, Chair

*absent*  
\_\_\_\_\_  
Mary Jo Cady, Commissioner

  
\_\_\_\_\_  
Cynthia D. Olsen, Commissioner

Attest:

  
\_\_\_\_\_  
Rebecca S. Rogers, Clerk of the Board

Approved as to Form:

  
\_\_\_\_\_  
Michael Clift, Chief Deputy Prosecuting Attorney

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C: Env. Health

# SOLID WASTE AND BIOSOLIDS HANDLING AND FACILITIES REGULATION

*Adopted June 2, 1994  
Revised November 23, 1994  
Revised February 2, 1995  
Revised August 13, 1998*

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## Section One: Authority and Purpose

1.01. This regulation is promulgated under the authority of RCW Chapters 70.05, 70.46, 70.93, 70.95 and 36.58.

1.02. Pursuant to RCW Chapter 70.95, the primary responsibility for managing solid waste is assigned to local government.

1.03. This regulation is promulgated to protect the public health, to prevent land, air, and water pollution, and to conserve Mason County's natural, economic, and energy resources by:

1.03.01. Adopting Washington Administration Code (WAC) Chapter 173-304 Minimum Functional Standards for Solid Waste Handling, and Chapter 173- 351, Municipal Landfill Standards.

1.03.02. Controlling the disposal of all non-exempted solid waste generated and collected within Mason County at a site or sites consistent with the Mason County Comprehensive Solid Waste Management Plan and as approved by the Mason County Board of County Commissioners.

1.03.03. Providing a framework for interlocal cooperation in the handling of solid waste.

1.03.04. Permitting any incorporated municipality within Mason County to use county solid waste disposal facilities in a manner consistent with the Mason County Comprehensive Solid Waste Management Plan.

## Section Two: Definitions

The definitions of terms contained in WAC 173-304 and WAC 173-308 are hereby adopted and incorporated by reference. The following definitions shall also apply:

- 2.01. "Health Department" shall mean the Mason County Department of Health Services.
- 2.02. "Health Director" shall mean the Director of the Mason County Department of Health or his/her authorized representative.
- 2.03. "Health Officer" shall mean the Mason County Health Officer or his/her duly authorized representative.

## Section Three: Solid Waste Handling

3.01. Washington Administrative Code Chapters 173-304, Minimum Functional Standards for Solid Waste Handling, 173-351, Municipal Landfill Standards, and 173-308, Biosolids Management, as presently constituted and hereafter amended, are hereby adopted and incorporated by reference in this regulation as minimal standards governing solid waste handling practices and facilities in Mason County.

3.02. "Mason County Solid Waste Enforcement Policy," as presently constituted and hereafter amended, are hereby adopted and incorporated by reference in this regulation as minimal standards governing solid waste enforcement in Mason County. Copies of said policy shall be maintained in the Environmental Health office and shall be provided upon request to the public.

3.03. No solid waste handling facility or operation shall be maintained, established, substantially altered, expanded, or improved until the owner or operator of such site has obtained a Solid Waste Handling Permit from the Health Department pursuant to the provisions of WAC 173-304-600, adopted herein by reference, and no biosolids handling facility or operation shall be maintained, established, substantially altered, expanded, or improved until the owner or operator of such site has obtained approval through a state general permit and has obtained site and operation approved from the Director pursuant to the provisions of WAC 173-308.

3.03.01. The Mason County Board of Health may establish reasonable fees for solid waste permits, permit renewals, and for biosolids site and operation approvals and renewals, following advertised public hearings as required by law.

3.03.02. Request for renewal of all solid waste permits and biosolids site and operation approvals shall be made to the health director on or before January 1 of each year subject to a satisfactory record of operation and compliance with this regulation. Failure to apply for permit and site and operation renewal will render the permit or approval null and void.

3.03.03. When an application for a solid waste permit or biosolids site and operation approval renewal is denied, suspended, or revoked, the holder of the permit or approval may appeal the health director's decision to the Mason County Health Officer, following the procedure outlined in this regulation.

3.04. It shall be unlawful for any person to engage in solid waste or biosolids handling or disposal or to allow such activities to take place except at a facility approved for said use by the Health Department and consistent with the Mason County Comprehensive Solid Waste Management Plan. Unsatisfactory solid waste or biosolids handling or handling beyond normal, residential, storage and off-site disposal activities, by any person, will be subject to the provisions of this regulation, and to "Mason County Solid Waste Enforcement Policy" as adopted by the Mason County Board of Health.

3.05. This regulation applies to solid waste as that term is defined in WAC 173-304-100 and to biosolids as that term is defined in WAC 173-308-080, incorporated by reference herein, but does not apply to exempted solid waste listed under WAC 173-304-015. incorporated by reference herein.

3.06. It shall be unlawful for any person to burn solid waste containing garbage, waste that creates an offensive odor, or waste that violates the State Clean Air Act in other than a facility approved for incineration by the Washington State Department of Ecology and the Health Department. Only natural vegetation can be disposed of by open burning.

### 3.07. Disposal of Feces

#### 3.07.01. Pet and Animal Feces - General

No person shall store or dispose of pet or other animal feces in a manner that creates or contributes to a public nuisance, or that pollutes surface waters of the state. No person shall dispose said wastes in any storm sewer. Disposal shall occur a minimum of once every seven (7) calendar days or in accordance with acceptable agricultural practices.

#### 3.07.02. Pet and Animal Feces - Kennels/Commercial

No commercial kennel operators shall dispose of pet or other animal feces in containers intended to be transported by commercial collection entities unless a prior written agreement has been established between said operators and said entities.

#### 3.07.03. Human Feces

No person shall collect, store, or dispose of any human feces, except at a sewer treatment facility or in an approved on-site sewage disposal system.

#### 3.07.04. Technical Guidance

The health department shall develop Guidance for the Sanitary Disposal of Animal Waste. This document shall be available to the public during normal working hours at the health department's Environmental Health office.

### 3.08. Waste Tires

#### 3.08.01. Waste Tire Handling - General

"Waste tires" are defined as tires or tire materials that are no longer suitable for their original intended purpose because of wear, damage, or defect. Waste tire accumulations result in public and environmental health threats due to the release of contaminants when burned, vector harborage and breeding, and aesthetic nuisance. All persons handling waste tires will be subject to current State and County regulatory codes including RCW 70.95, WAC 173-304, WAC 173-314, the provisions of this regulation, and "Mason County Solid Waste Enforcement Policy".

#### 3.08.02. Waste Tire Carriers

"Waste tire carrier" means a person who picks up or transports waste tires, excluding the exemptions of WAC 173-314-100 (26). Carriers must be licensed and operate in accordance with WAC 173-314 and RCW 70.95.

### 3.08.03. Waste Tire Accumulations and Storage

"Waste tire storage" means the placing of waste tires at a county permitted facility under conditions established in this regulation, WAC 173-304-420, WAC 173-314, and RCW 70.95. All persons accumulating or storing waste tires are subject to solid waste use permit requirements, limited purpose permits, or Health Department agreements.

3.08.03.01. Persons with waste tire accumulations not subject to WAC 173-304-420 storage requirements for greater than 800 tires will be subject to "Mason County Solid Waste Enforcement Policy" and this section which allows the temporary accumulation of up to 800 waste tires by licensed businesses, such as service stations, wrecking yards, tire retailers, tire recyclers, and tire processors, which customarily handle tires as a part of their business operations. Licensed businesses not meeting this description will be subject to a Health Department determination to show that their activities meet the intent of this requirement. No tires shall remain on-site greater than 90 (ninety) calendar days.

3.08.03.02. Persons not determined to meet the requirements of 3.08.03.01 shall not accumulate greater than 10 (ten) un-utilized tires, unless the tires have come from their business vehicles; will be subject to 90 (ninety) day removal or utilization; are limited to the storage of up to 100 (one hundred) tires from their business vehicles, with 90 (ninety) day removal; must maintain a limited number established by the Health Department for utilization; and are subject to other criteria established in "Mason County Solid Waste Enforcement Policy".

### 3.08.04 Waste Tire Utilization

"Waste tire utilization" is defined as a valid use of waste tires, in accordance with county regulatory codes and "Mason County Solid Waste Enforcement Policy", which exempts the user in part or in full from the storage requirements of WAC 173-304-420 and RCW 70.95.

3.08.04.01. No Permit is required for the utilization of less than 50 (fifty) waste tires. All persons shall put waste tires to use within 90 (ninety) calendar days in accordance with "Mason County Solid Waste Enforcement Policy".

3.08.04.02. Limited use permits are required for persons utilizing 50 (fifty) or more, but less than 100 (one-hundred) waste tires. The permitting process will include review for compliance with "Mason County Solid Waste Enforcement Policy", and may include SEPA review and public notice.

3.08.04.03. Use permits are required for all persons utilizing 100 (one-hundred) or more waste tires. The permitting process will include review for compliance with SEPA and "Mason County Solid Waste Enforcement Policy" for waste tires, and public notice.

### 3.09. Residential and Commercial/Business Solid Waste

3.09.01. Residential Solid Waste Handling. All persons involved in residential solid waste handling shall confine activities to the satisfactory storage and off-site disposal of garbage and other solid wastes generated from residential activities. Unpermitted burial and final deposition of any solid wastes, by any person, is prohibited, and may require the filing of waste burial locations and waste descriptions with Mason County Auditor property records. Satisfactory residential waste handling criteria are contained in "Mason County Solid Waste Enforcement Policy".

3.09.02. Commercial/Business Solid Waste Handling. When any person exceeds normal, residential solid waste handling needs, the activities shall be classified as commercial/business solid waste handling subject to full or limited purpose permit requirements and "Mason County Solid Waste Enforcement Policy" criteria.

3.09.03. Solid Waste Permit Agreements. The Health Department is authorized, by this regulation and by WAC 173-304 and WAC 173-308 as adopted herein, to regulate commercial/business solid waste and biosolids handling activities through use permit requirements and site approval criteria. The Health Department is also hereby authorized to require limited purpose permits or agreements between the Health Department and any person not required to obtain a use permit, when said person is in violation of solid waste handling regulations or creating public and/or environmental health threats. Criteria for limited purpose permits and agreements are contained in "Mason County Solid Waste Enforcement Policy."

### 3.10. Illegal Dumping

3.10.01. Whenever solid wastes dumped in violation of RCW 70.95.240 contain three or more items bearing the name of one individual, there shall be a rebuttable presumption that the individual whose name appears on such items committed the unlawful act of dumping and is responsible for clean-up of the discarded materials.

3.10.02. Illegal dumpers, and property owners when illegal dumpers cannot be identified, will be responsible for waste clean-up in accordance with "Mason County Solid Waste Enforcement Policy".

### 3.11. Dead Animals

Dead animals shall be disposed of by their owners and/or by property owners in a manner to protect public health and the environment. Their disposal shall be consistent with local codes. Animals weighing 15 (fifteen) pounds or greater may be taken to a rendering plant, a veterinary clinic, an animal shelter, pet cemetery, or can be disposed of directly at accepting landfills or transfer stations when not creating a nuisance. Property owners may dispose of dead animals on their property when animal disposal does not result in a nuisance or public or environmental health threats.

### 3.12. Biomedical Wastes.

3.12.01. Applicability. This regulation applies to all biomedical waste generators including, but not limited to, hospitals, medical and dental clinics, medical laboratories, nursing or intermediate care facilities, in-home medical waste generators, veterinary facilities and other institutions which may generate biomedical wastes as defined in "Mason County Solid Waste Enforcement Policy", without regard to the quantity of waste produced per month.

#### 3.12.02. Storage, Handling, and Disposal

All persons shall store, handle, and dispose of biomedical wastes in a manner that protects against public exposure and public health threats. Needles and sharps shall be contained in leak-proof, rigid, puncture resistant, break resistant containers which are labeled and tightly lidded during storage, handling and transport. Biomedical waste, except for needles and sharps, shall be contained in disposable, leak-proof containers having a strength to prevent ripping, tearing or bursting under normal conditions of use. The containers shall be appropriately marked by the generator as containing biomedical waste. Biomedical wastes shall be disposed of in a manner and at a facility approved by the Health Director.

### 3.13. Problem Wastes

Persons handling or disposing of problem wastes in Mason County as defined in WAC 173-304-100 shall notify the Health Department of their intended activities. Permits or authorizations may be required as determined by the Health Director.

### 3.14. Bonds/Financial Assurance

When person's utilization activities present a high degree of public and/or environmental health threat, potential for nuisance, or risk of failure, as determined by the Health Director, the person shall provide a financial assurance instrument approved by the Health Director to cover the cost of any restitution necessary as a result of the activities. Financial assurance instruments will be subject to adequacy reviews with increases or changes in activities.

## Section Four: Solid Waste Management

It shall be unlawful for any collecting agent or person to deliver or deposit any solid waste generated and collected either outside the borders of Mason County or within Mason County, except at a disposal site consistent with the Mason County Comprehensive Solid Waste Management Plan, approved by the Mason County Board of Commissioners, and permitted under the provisions of this regulation by the Health Department.

## Section Five: Inspections

The Health Director, or other officer or official having jurisdiction, may enter and inspect, as authorized by law, any property, premise, or place at any reasonable time for the purpose of determining compliance with this regulation.

## Section Six: Duty of Health Director

It is the duty of the Health Director to enforce this regulation, except for criminal violations of this regulation.

## Section Seven: Violations

It shall be a violation of this regulation for any person to:

7.01 Fail or refuse to comply with any of the provisions of this regulation.

7.02 Knowingly obstruct the Health Director or other officer or official having jurisdiction, in the conduct of any inspection, including a request for access to pertinent operational records.

7.03 Fail to meet the terms or conditions for operation as stated in the solid waste operational permit or the biosolids site and operation approval.

7.04 Continue operations after failing to submit an application for solid waste permit or biosolids site and operation approval renewal by Jan. 1 of each year, or after permit suspension or revocation by the Health Department.

7.05 Fail to comply with a Health Director order to correct violations of this regulation or fail to comply with a stop work order.

## Section Eight: Criminal Penalties

Any person who commits a violation of this regulation shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars, or by imprisonment not to exceed ninety days, or by both, unless otherwise required by state laws. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this regulation is committed, continued or permitted by any such person, and he shall be punished accordingly.

## Section Nine: Public Nuisance

All violations of this regulation are declared to be detrimental to the public health safety and welfare, and public nuisances. The prosecuting attorney may take such steps or commence such legal or equitable actions as are necessary to abate said nuisances and to restrain and enjoin further unlawful acts.

## Section Ten: Administrative Enforcement

The Health Director is hereby authorized to utilize the enforcement procedures of this section in order to enforce this regulation.

### 10.01. Solid Waste Permit or Biosolids Site and Operation Approval Suspension

10.01.01. The Health Director may temporarily suspend any permit or approval issued under this regulation for failure of holder to comply with either, (i) the requirements of this regulation, or (ii) any notice and order issued pursuant to this regulation.

10.01.02. Such permit or approval suspension shall be carried out through the notice and order provisions of this section, and the suspension shall be effective for the holder or operator upon service of the notice and order. The holder or operator may appeal such suspension as provided in this section.

10.01.03. Notwithstanding any other provision of this regulation, whenever the Health Director finds that a violation of this regulation has created or is creating an unsanitary, dangerous, or other condition which, in his judgment, constitutes an immediate and irreparable hazard, he may without service of a written notice and order, suspend and terminate operations under the permit immediately.

### 10.02. Permit Revocation

10.02.01. The Health Director may permanently revoke any permit issued by the Health Department in the event of: (i) failure of the holder to comply with the requirements of this regulation, or (ii) failure of the holder to comply with any notice and order issued pursuant to this regulation, or (iii) interference with the Health Director in the performance of his duties, or (iv) discovery by the Health Director that a permit or approval was issued in error or on the basis of incorrect information supplied to the District.

10.02.02. Such permit or approval revocation shall be carried out through the ~~notice and order~~ enforcement provisions of this regulation and the revocation shall be effective upon service of the notice ~~and order~~ of violation upon the holder or operator. The holder or operator may appeal such revocation, as provided in this section.

10.02.03. A permit or approval may be suspended pending its revocation or a hearing relative thereto.



### 10.03. Civil Infraction

#### 10.03.01. Notice of Civil Infraction - Service

An authorized representative of the Health Department may issue a notice of civil infraction pursuant to Chapter 7.80 RCW if the authorized representative has reasonable cause to believe that the person has violated any provision of these regulations or has not corrected the violation as required in the written notice and order to correct violation. A notice of civil infraction may be served either by:

10.03.01.01. The authorized representative serving the notice of civil infraction on the person named in the notice of civil infraction at the time of issuance; or

10.03.01.02. The authorized representative filing the notice of civil infraction with the Mason County district court, in which case the district court shall issue the notice and the authorized representative shall have it served, either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her last known address.

#### 10.03.02. Notice of Civil Infraction - Contents

The notice of civil infraction shall include the following:

10.03.02.01. A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this regulation;

10.03.02.02. A statement that the infraction is a non-criminal offense for which imprisonment shall not be imposed as a sanction;

10.03.02.03. A statement of the specific infraction for which the notice was issued;

10.03.02.04. A statement that monetary penalties as set forth below have been established for each infraction;

10.03.02.05. A statement of the options provided in these regulations for responding to the notice and the procedures necessary to exercise these options;

10.03.02.06. A statement that at any hearing to contest the determination that the Health Department has the burden of proving by a preponderance of the evidence that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative of the Health Department, who issued and served the notice of infraction;

10.03.02.07. A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the civil infraction and may not subpoena witnesses;

10.03.02.08. A statement that the person must respond to the notice as provided in this section within fifteen (15) days; and

10.03.02.09. A statement that failure to respond to the notice or a failure to appear at a

hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear.

10.03.03. Notice of Civil Infraction - Filing in District Court

A notice of civil infraction shall be filed in District Court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays, and holidays. Mason County District Court shall have jurisdiction to hear and determine violations occurring under these regulations.

10.03.04. Notice of Civil Infraction - Determination Infraction Committed

Unless contested in accordance with this regulation, the notice of civil infraction represents a determination that the person to whom the notice was issued committed the infraction.

10.03.05. Notice of Civil Infraction - Response Requesting A Hearing - Failure To Respond Or Appear - Order To Set Aside

10.03.05.01. A person who receives a notice of civil infraction shall respond to the notice as provided in this section within fifteen (15) days of the date the notice was served.

10.03.05.02. If the person named in the notice of civil infraction does not contest the determination, the person shall respond within fifteen (15) days by completing the appropriate portion of the notice of civil infraction and submitting it, either by mail or in person to the court specified in the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records and a record of the response shall be furnished to the Health Department.

10.03.05.03. If the person named in the notice of civil infraction wishes to contest the determination, the person shall respond within fifteen (15) days by completing the portion of the notice of civil infraction requesting a hearing and filing it with the Mason County district court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of hearing except by agreement.

10.03.05.04. If the person named in the notice of civil infraction does not contest the determination, but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and filing it with the court specified in the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven (7) days nor more than ninety (90) days from the date of the notice of the hearing, except by agreement.

10.03.05.05. The court may enter a default judgment assessing the monetary penalty prescribed for the infraction, and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction:

10.03.05.05.01. Fails to respond to the notice of civil infraction as provided in Section 10.03.05.02; or

10.03.05.05.02. Fails to appear at a hearing requested pursuant to either Section 10.03.05.03. or Section 10.03.05.04.

10.03.06. Notice. Failure To Sign, Non-Appearance - Failure To Satisfy Penalty

10.03.06.01. A person who fails without just cause to sign a notice of civil infraction is guilty of a misdemeanor.

10.03.06.02. Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is subject to a misdemeanor penalty not greater than five hundred dollars (\$500) regardless of the disposition of the notice of civil infraction; provided that a written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by appearance by counsel.

10.03.06.03. A person who willfully fails to pay a monetary penalty or to perform community service as required by the court under these regulations may be found in civil contempt of the court after notice and hearing.

10.03.07. Representation by Attorney

10.03.07.01. A person subject to proceedings under these regulations may appear or be represented by counsel.

10.03.07.02. The prosecuting attorney representing the Health Department may, but need not, appear in any proceedings under these regulations, notwithstanding any statute or court rules to the contrary.

10.03.08 .Infraction - Hearing - Procedure - Burden of Proof - Order - Appeal

10.03.08.01. A hearing held to contest the determination that an infraction has been committed shall be without a jury.

10.03.08.02. The court may consider the notice of civil infraction and any sworn statements submitted by the Health Department's authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who has issued and served the notice, and has the right to present evidence and examine witnesses present in court.

10.03.08.03. The burden of proof is on the Health Department to establish the commission of the infraction by a preponderance of the evidence.

10.03.08.04. After consideration of the evidence and argument, the court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. If it has been established that a civil infraction has been committed, an appropriate order shall be entered in the court's records.

10.03.08.05. An appeal from the court's determination or order shall be to the Superior Court in the

manner provided by the Rules of Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the Superior Court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

10.03.09. Infraction - Explanation of Mitigating Circumstances

10.03.09.01. A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

10.03.09.02. After the Court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court's records.

10.03.10. Monetary Penalties - Restitution

10.03.10.01. In addition to or as an alternative to any other judicial or administrative remedy provided in this regulation or by law or other rules and regulations, any person found to have committed an infraction shall be assessed a monetary penalty. All violations of these regulations shall be denominated Class I Civil Infractions.

10.03.10.02. Whenever a monetary penalty is imposed by the court under these regulations it is immediately payable. If the person is unable to pay at that time, the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting attorney of the failure to pay. The court shall also notify the Health Department of the failure to pay the penalty, and the Health Department shall not issue the person any future related permits or approvals until the monetary penalty has been paid.

10.12.10.03. The court may also order a person found to have committed a civil infraction to make restitution.

10.03.11. Order of Court - Civil Nature - Modification of Penalty - Community Service

10.03.11.01. An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining the mitigating circumstances is civil in nature.

10.03.11.02. The court may waive, reduce to be consistent, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the state's current minimum hourly wage.

10.03.12. Costs and Attorney's Fees

Each party in a civil infraction case is responsible for costs incurred by that party, but the court may assess witness fees against a non-prevailing respondent. Attorney's fees may be awarded to either party in a civil infraction case.

#### 10.04. Abatement

In addition to or as an alternative to any other judicial or administrative remedy provided herein or by law, the Health Director may order a violation of this regulation abated. The Health Director may order any person who creates or maintains a violation of this regulation, or who aids and abets in the violation of this regulation, to commence corrective work and to complete the work within such time as the Health Director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the Health Director will proceed to abate the violation and cause the work to be done.

#### 10.05. Additional Enforcement

In addition to the use of any other remedy, the Health Director may seek legal or equitable relief to enjoin any act or practice and to abate any conditions which constitute or will constitute a violation of this regulation.

#### 10.06. Settlement of Civil Penalty Claim

The Health Director is authorized to settle and compromise claims for civil penalties accruing pursuant to this regulation where such settlement is clearly in the interests of the Health Department. The Health Director shall periodically report such settlements and compromises to the Mason County Board of Health.

### **Section Eleven: Waiver and Variance**

Whenever a strict interpretation of this regulation would result in extreme hardship, the Health Director may, upon concurrence of the Board of Health, waive the provisions(s) causing extreme hardship, provided that any waiver granted must be consistent with the intent of this regulation and shall not result in unsanitary conditions, damage to the environment, create nuisance conditions, or conflict with State solid waste regulatory codes. Information for the submission of a waiver and the notification of potentially impacted parties are contained in "Mason County Solid Waste Enforcement Policy". Variances, shall follow the procedures of The Minimum Functional Standards for Solid Waste Handling--WAC 173-304-700.

### **Section Twelve: Appeal**

12.01. Any person aggrieved by the order of the Health Director may request in writing within ten (10) calendar days of the service of the notice and order an appeal hearing before the Health Officer. The request shall cite requirement or determination appealed and shall contain a brief statement of the reasons for seeking the appeal hearing. The method of appeal as provided in this regulation shall be sole and exclusive.

12.02. The appeal hearing shall be conducted on the record. Written notice of the time and place of the hearing shall be given at least ten (10) calendar days prior to the date of the hearing to each interested party, to the Health Director whose order is being appealed, and to other interested persons who have requested in writing that they be so notified.

12.03. Following review of the evidence submitted, the Health Officer shall make written findings and conclusions, and shall affirm or modify the order previously issued if a violation is found to have occurred. The written decision of the Health Officer shall be mailed by certified mail, postage prepaid, return receipt requested, to all the parties within thirty (30) calendar days of the hearing.

12.04. The appeal hearing before the Health Officer shall occur within thirty (30) calendar days following receipt of the written notice of appeal, unless the matter is continued at the discretion of the Health Officer for good cause shown.

### **Section Thirteen: Effective Date**

This regulation shall take effect and be enforceable immediately following adoption by the Mason County Board of Health. Copies of WAC Chapters 173-304 and 173-308 shall be available for inspection and on file in the office of the Health Department.

### **Section Fourteen: Severability**

Should any section, subsection, or part of this regulation be declared unconstitutional or invalid for any reason, such shall not effect the validity if remaining portions.