

ORDINANCE NO. 32-09
ORDINANCE TO AMEND MASON COUNTY CODE
TITLE 6 SANITARY CODE
CHAPTER 6.76 ONSITE SEWAGE REGULATIONS

AN ORDINANCE amending Mason County Code Title 6 Chapter 6.76 Onsite Sewage Regulations.

WHEREAS, Mason County Code Title 6, Chapter 6.76 addresses local onsite sewage regulations; and

WHEREAS, Chapter 6.76 has been revised to eliminate requirements included in Washington State Board of Health WAC 246-272A; and

WHEREAS, the proposed Mason County Onsite Regulations were reviewed by the Mason County Board of Health on February 24, 2009; and

WHEREAS, the Mason County Board of Commissioners held a public hearing about the proposed revision on April 7, 2009, to consider the testimony of the Mason County Public Health Department and Mason County citizens; and

NOW THEREFORE, BE IT HEREBY ORDAINED, the Mason County Board of Commissioners hereby approves and ADOPTS revisions to Mason County Code Title 6 Chapter 6.76 as described by ATTACHMENT A.

APPROVED this 7th day of April 2009.

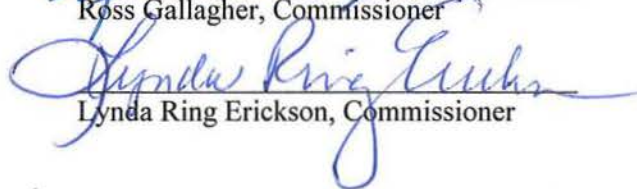
BOARD OF COUNTY COMMISSIONERS



Tim Sheldon, Chairperson



Ross Gallagher, Commissioner



Lynda Ring Erickson, Commissioner

ATTEST:



Shannon Goudy, Clerk of the Board

APPROVED AS TO FORM:



Monty Cobb, Chief Civil Deputy Prosecuting Attorney

MASON COUNTY BOARD OF HEALTH
ON-SITE SEWAGE REGULATIONS

- REVISION ADOPTED -

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SECTION ONE: AUTHORITY

Pursuant to the authority of Chapters 43.20.050, 70.05.060 RCW, These regulations are hereby established as minimum requirements of the Mason County Board of Health, governing on-site sewage systems in Mason County.

SECTION TWO: PURPOSE

The purpose of these regulations are to assure protection of public health by:

- 2.01. Minimizing the public health effects of on-site sewage systems on surface water and ground water.
- 2.02. Minimizing the potential for public exposure to sewage.
- 2.03. Establishing design, installation, and management requirements for on-site sewage systems to accommodate effective treatment and disposal of sewage on a long term basis.
- 2.04. Require a known level of treatment for sewage disposed in Mason County.
- 2.05. Enhance protection of environmentally sensitive areas within Mason County.

SECTION THREE: ADMINISTRATION

The Mason County Public Health Director, through authority delegated by the Mason County Board of Health and the Mason County Health Officer shall administer these regulations. Fees may be charged for this administration.

SECTION FOUR: DEFINITIONS

The definitions of terms contained in Chapter 246-272A WAC are hereby adopted and incorporated by reference. In addition, the following definitions shall also apply in these regulations:

Board shall mean the Mason County Board of Health.

Director shall mean the Mason County Public Health Director or a member of the department authorized by and under the direct supervision of the Mason County Health Officer and Director.

Department shall mean the Mason County Public Health

Health Officer shall mean the Mason County Health Officer or a member of the department authorized by and under the direct supervision of the Mason County Health Officer.

Professional Development Hour (PDH) shall mean an hour engaged in a qualifying activity

Continuing Education unit (CEU) shall mean unit of credit customarily used for continuing education courses. One continuing education unit equals 10 Professional Development Hours.

Qualifying Activity shall mean any activity that is related to on-site wastewater treatment systems or will help the installer or operation and maintenance provider maintain their competency.

Surface Water shall mean any body of water, whether fresh or marine, flowing or contained in a natural or artificial unlined depressions for a significant periods of the year, including natural and artificial lakes, ponds, springs, rivers, streams, swamps, marshes and tidal waters.

Significant periods of the year shall mean from December 1 through March 31

Community Drainfields shall mean a drainfield serving two or more residences on two or more parcels.

Shared Drainfield shall mean two residences on one parcel sharing one drainfield with or without separate tanks.

SECTION FIVE: APPLICABILITY

- 5.01. These regulations shall apply to all on-site sewage systems except the following:
- 5.01.01. New construction for which a permit was issued prior to adoption of these regulations and which is still valid.
 - 5.01.02. Facilities constructed or operated in accordance with a permit or approval issued by the Washington State Department of Ecology. Where these regulations are in conflict with Chapter 90.48 or 70.95 RCW, said RCW shall apply.
 - 5.01.03. Facilities constructed or operated in accordance with a permit or approval issued by the Washington State Department of Health. Where these regulations are in conflict with 246-272B WAC.
 - 5.01.04. Where any of the requirements of these regulations conflict with one another or with any requirements of Chapter 246-272A WAC, the more stringent requirement shall apply.

SECTION SIX: MINIMUM STANDARDS AND ADOPTION BY REFERENCE

- 6.01. "Chapter 246-272A WAC, Rules and Regulations of the State Board of Health for On-Site Sewage Systems" as presently adopted and any future revisions are hereby adopted and incorporated by reference in these regulations. Copies of said document shall be maintained and made available to the public at the Mason County Public Health office.
- 6.02. "Mason County Public Health On-Site Standards" as presently adopted and any future revisions are hereby adopted and incorporated by reference in these regulations. Copies of said document shall be maintained and made available to the public at the Mason County Public Health office.
- 6.03. "Mason County's On-Site Sewage System Management Plan" as presently adopted and any future revisions are hereby adopted and incorporated by reference in these regulations. Copies of said document shall be maintained and made available to the public at the Mason County Public Health office.
- 6.04. Permits shall be required prior to any construction, alteration, extension, relocation, or repair of any on-site sewage system. Permits shall be valid for three years from the signature date of the site inspection. Permit fees shall be charged according to the "Mason County Public Health Fee Schedule." Copies of said document shall be maintained and made available to the public at the Mason County Public Health office.

SECTION SEVEN: OPERATION AND MAINTENANCE OF ON-SITE SEWAGE SYSTEMS

- 7.01. On-site sewage systems shall be inspected as prescribed in 246-272A WAC and the Mason County Public Health On-Site Standards.
- 7.02. The homeowner or person contracted by the homeowner to perform the inspection service shall report fully on the status of the on-site sewage system, using the form prescribed by the Director.

- 7.03. The homeowner or person contracted by the homeowner to perform the inspection service shall report immediately any identified on-site sewage system failure to the Department.
- 7.04. The system owner shall take necessary corrective action, as identified by the Director, to correct deficiencies in system design and operation, when such deficiencies are documented through operation and maintenance inspections.
- 7.05. Transfer of resident ownership shall require a current inspection service report on the status of the on-site sewage system, using the form prescribed by the Director.
 - 7.05.1. Current shall mean within three years with a system consisting solely of a septic tank and drainfield and annually for all other on-site septic system.
 - 7.05.2. Service for an on-site sewage system consisting solely of a septic tank and gravity drainfield shall be performed by a Mason County Certified Pumper or a Mason County Certified Operation and Maintenance Specialist. All other on-site sewage systems will require a report from a Mason County Certified Operation and Maintenance Specialist.

SECTION EIGHT: CERTIFIED PUMPER REQUIREMENTS

- 8.01. It shall be unlawful for any person, firm or corporation to engage in cleaning any septic tank, seepage pit or chemical toilet, or removing other accumulations of sewage without first obtaining a Pumper's certificate from the Department.
- 8.02. The requirements for pumper certification shall include all of the following:
- 8.02.01. The applicant shall demonstrate having a certified disposal site for the septage or holding tank wastes.
 - 8.02.02. The applicant shall demonstrate sanitary equipment meeting the following requirements:
 - 8.02.02.01 The pump tank shall be of at least 1000 gallons in capacity, in good repair, and of cleanable construction.
 - 8.02.02.02 All outer contact surfaces and fittings shall be kept in a clean and sanitary condition while stored or in transit, and all premises served and equipment used shall be left in a clean and sanitary condition.
 - 8.02.02.03 All discharge valves shall be in good repair, free from leaks and fitted with watertight caps.
 - 8.02.02.04 The name of the operating firm shall be prominently displayed on the sides of any pump tank vehicle.
- 8.03 The initial certificate fee shall be in accordance with the adopted fee schedule. At the end of each calendar year all certificates shall expire. Certificates may be renewed for a fee established by the adopted fee schedule. A Pumper's certificate shall not be transferable.
- 8.04 Copies of all pumping reports shall be submitted to the Mason County Public Health office monthly except as noted in section 8:06 of this document.
- 8.05 A copy of the pumping report as prescribed by the Health Officer shall be given to the homeowner at the time of the service.
- 8.06 A pumper's certificate may be suspended by the Director or Certified Contractor Review Board for a period not to exceed thirty (30) days for: failure to report to the Department within two (2) working days, non-functioning on-site components that could result in human contact with sewage effluent, failure to report to the Department within seven (7) working days non-functioning on-site components that could result in further system damage, failure to report to the Department within twenty (20) working days other non-functioning on-site sewage system components, or other incompetence, negligence, or misrepresentation. Said suspension may be appealed by the holder of the certificate following the provisions of Section 14 of these regulations and will be held in abeyance pending resolution of the appeal.
- 8.07 A pumper's certificate shall be revoked by the Certified Contractor Review Board for a period not to exceed one year for serious or repeated violations of any of the requirements of these regulations, using the following procedure:
- 8.07.01 The Chair of the Certified Contractor Review Board shall notify the pumper in writing, stating the reasons for which the pumper's certificate is subject to

revocation and advising that the certificate shall be permanently revoked at the end of ten (10) days following service of such notice, unless a written request for hearing is filed with the department by the holder of the pumper's certificate within the ten (10) day period.

- 8.07.02 The Director shall schedule a special hearing of an appeal for the pumper with the Certified Contractor Review Board within 30 days of the request for hearing.
- 8.07.03 The Director may suspend the pumper's certificate pending the hearing with the Certified Contractor's Review Board.

SECTION NINE: CERTIFIED INSTALLER REQUIREMENTS

- 9.01. It shall be unlawful for any person, firm or corporation to engage in installation, alteration, repair or modification of an on-site sewage system within Mason County without first obtaining an installer's certificate from the department except as noted in 246-272-0250 WAC.
- 9.02. Requirements for installer certification shall include all of the following:
 - 9.02.01. Presentation to the Director of evidence showing a minimum of one year experience working with a certified installer or some other experience that can be demonstrated to the Director as providing knowledge and skills equivalent to having worked with a certified installer for a minimum of one year.
 - 9.02.02. Prior to issuance of a certificate, the Director shall require written examination of the applicant's knowledge of on-site sewage system principals and the rules, regulations, laws and ordinances affecting the public health and safety with respect to on-site sewage systems.
 - 9.02.03. The initial certification fee shall be in accordance with the adopted fee schedule. At the end of each calendar year all certificates shall expire. Certificates may be renewed for a fee established by the adopted fee schedule. An installer's certificate shall not be transferable.
 - 9.02.04. Prior to the issuance of an installer's certificate, the applicant shall provide verification to the Department of their current status as a Specialty Contractor.
 - 9.02.05. The installer shall accumulate twelve professional development hours for any three year period.
 - 9.02.06. The installer is responsible for maintaining records to be used to support credits claimed. Records should include date of activity, instructor's name, description of activity, number of contact hours and location. The installer shall keep their records of continuing education for the current renewal period plus the three years before the last renewal. All continuing education records and supporting documentation must be furnished to the Board upon request.
- 9.03. Certificates may be suspended by the Director or the Certified Contractor Review Board for a period not to exceed thirty (30) days for incompetence, negligence, misrepresentation, or the installation, repair or modification of a system for which a permit has not been previously obtained, or for failure by the holder to comply with any other requirement of these regulations.

Said suspension may be appealed by the holder of the certificate following the provisions of Section 14 of these regulations and will be held in abeyance pending resolution of the appeal.

- 9.04. An installer's certificate shall be revoked by the Certified Contractor Review Board for a period not to exceed one year for serious or repeated violations of any of the requirements of these regulations, using the following procedure:
- 9.04.01. The Chair of the Certified Contractor Review Board shall notify the installer in writing, stating the reasons for which the installer's certificate is subject to revocation and advising that the certificate shall be permanently revoked at the end of ten (10) days following service of such notice, unless a written request for hearing is filed with the department by the holder of the installers certificate within the ten (10) day period.
 - 9.04.02. The Director shall schedule a special hearing of an appeal for the installer with the Certified Contractor Review Board within thirty (30) days of the request for hearing.
 - 9.04.03. The Director may suspend the installer's certificate pending the hearing with the Certified Contractor's Review Board.
- 9.05. Any installer whose certificate has been revoked will be required to take the written examination again before issuance of a new installer's certificate.
- 9.06. It shall be unlawful for an installer to engage in construction, alteration, repair or modification of an on-site sewage system within Mason County during the period his or her certificate is revoked or suspended.

SECTION TEN: CERTIFIED OPERATION AND MAINTENANCE SPECIALIST REQUIREMENTS

- 10.01. It shall be unlawful for any person, firm or corporation to engage in operation and maintenance of an on-site sewage system within Mason County without first obtaining an operation and maintenance certificate from the Department.
- 10.02. Any operation and maintenance inspection required by the Department shall be performed by appropriate personnel as specified in the "Mason County Public Health On-Site Standards
- 10.03. The requirements for maintenance specialist certification shall include all of the following:
- 10.03.01 Presentation to the Director of evidence showing a minimum of one year experience working with a certified maintenance specialist, working as a Licensed Designer or some other experience that can be demonstrated to the Director as providing knowledge and skills equivalent to having worked with a certified maintenance specialist or as a Licensed Designer for a minimum of one year.
 - 10.03.02. Prior to issuance of a certificate, the Director shall require written examination of the applicant's knowledge of on-site sewage system principles and the rules, regulations, laws, and ordinances affecting the public health and safety with respect to on-site sewage systems.

- 10.03.03. The operation and maintenance specialist shall demonstrate to the Director attendance of training in on-site wastewater treatment operation and maintenance at the Northwest On-Site Wastewater Training Center or the equivalent.
- 10.03.04. The initial certificate fee shall be in accordance with the adopted fee schedule. At the end of each calendar year, all certificates shall expire. Certificates may be renewed for a fee established by the adopted fee schedule. A maintenance specialist's certificate shall not be transferable.
- 10.03.05. The operation and maintenance specialist shall accumulate twenty-four professional development hours for any three year period.
- 10.03.06. The operation and maintenance specialist is responsible for maintaining records to be used to support credits claimed. Records should include date of activity, instructor's name, description of activity, number of contact hours and location. The operation and maintenance specialist shall keep their records of continuing education for the current renewal period plus the three years before the last renewal. All continuing education records and supporting documentation must be furnished to Mason County Public Health upon request.
- 10.04. Copies of all maintenance reports, as prescribed by the Health Officer, shall be submitted to the Mason County Public Health monthly except as noted in 10.06 of this document.
- 10.05. A copy of the maintenance report, as prescribed by the Health Officer, shall be given to the homeowner at the time of service.
- 10.06. A operation and maintenance specialist's certificate may be suspended by the Director or Certified Contractor Review Board for a period not to exceed thirty (30) days for: failure to report to the Department within two (2) working days, non-functioning on-site components that could result in human contact with sewage effluent, failure to report to the Department within seven (7) working days non-functioning on-site components the could result in further system damage, failure to report to the Department within twenty (20) working days other non-functioning on-site sewage system components, or other incompetence, negligence, or misrepresentation. Said suspension may be appealed by the holder of the certificate following the provisions of Section 14 of these regulations and will be held in abeyance pending resolution of the appeal.
- 10.07. A maintenance specialist's certificate shall be revoked by the Certified Contractor Review Board for a period not to exceed one year for serious or repeated violations of any of the requirements of these regulations, using the following procedure:
 - 10.07.01. The Chair of the Certified Contractor Review Board shall notify the maintenance specialist in writing, stating the reasons for which the maintenance specialist's certificate is subject to revocation and advising that the certificate shall be permanently revoked at the end of ten (10) days following service of such notice, unless a written request for hearing is filed with the department by the holder of the installers certificate within the ten (10) day period.
 - 10.07.02. The Director shall schedule a special hearing of an appeal by the maintenance specialist with the Certified Contractor Review Board within 30 days of the request for hearing.

- 10.07.03. The Director may suspend the maintenance specialist's certificate pending the hearing with the Certified Contractor's Review Board.
- 10.08. Any operation and maintenance specialist whose certificate has been revoked will be required to take the written examination again before issuance of a new operation and maintenance specialist's certificate.
- 10.09. It shall be unlawful for an operation and maintenance specialist to engage in any on-site inspections within Mason County during the period his or her certificate is revoked or suspended.

SECTION ELEVEN: CERTIFIED CONTRACTOR REVIEW BOARD

- 11.01. The Director shall establish and maintain a review board called the Certified Contractor Review Board.
- 11.02. The review board shall meet as needed or as determined by the Health Officer to evaluate the performance of all certified Mason County pumpers, installers, and operation and maintenance specialists to determine whether they have the capacity and proven record of performing their jobs in a manner that is acceptable for the protection of public health, and to recommend to the Director appropriate disciplinary action for contractors that do not meet minimum performance standards, and to hold hearings and make determinations on appeals of decisions by the Director pertaining to certified contractors.
- 11.03. The review board shall act under by-laws adopted by the Board. Copies of said document shall be kept on file and made available for public inspection at the department office.

SECTION TWELVE: ON-SITE SEWAGE ADVISORY COMMITTEE

- 12.01. The Director shall establish and maintain an advisory committee called the On-Site Sewage Advisory Committee.
- 12.02. The advisory committee shall meet a minimum of once each year to evaluate department policies and procedures pertaining to the on-site sewage program, "Mason County Public Health Standards" and all relevant local ordinances and codes. The committee will present findings and make recommendations to the Director and the Board of Health.
- 12.03. The advisory committee shall act under by-laws adopted by the Board. Copies of said document shall be kept on file and made available to the public at the Mason County Public Health office.

SECTION THIRTEEN: ENFORCEMENT

- 13.01. It shall be unlawful to discharge sewage from any on-site sewage system, including septic tank wastes and greywater to surface water or upon the surface of the ground.
- 13.02. It shall be unlawful to use or maintain a malfunctioning on-site sewage system. Upon the discovery of the existence of such a system, written notice of violation shall be given to the recorded owner and/or occupant of the premises. Upon failure to adequately repair and restore the sewage system to proper working order within the time frame stipulated on the written

notice or thereafter amended, the premises may be vacated. Failure to so vacate shall constitute an additional violation.

- 13.03. No person shall discharge waste products other than domestic sewage into an on-site sewage systems, except where it has been adequately demonstrated to the Director that the non-domestic waste discharge would be consistent with the system design, good sanitary waste treatment and disposal practice, and not cause a water quality violation or violate hazardous waste materials disposal law.
- 13.04. No person shall use and maintain an on-site sewage system except in a manner that is appropriate to the design of the system.
- 13.05. The Director may condemn, according to law, any residence or other establishment which is accumulating or disposing of sewage in a manner contrary to the requirements of these regulations.
- 13.06. All violations of these regulations are determined to be unlawful and declared to be detrimental to the public health, safety and welfare, and are public nuisances. All conditions which render any building, structure, premises, land use or portion thereof to be used or maintained in violation of these regulations shall be abated if provisions for their continuance made pursuant to these regulations are not satisfied.
- 13.07. In addition to or as an alternative to any other judicial or administrative remedy provided herein, or by law, any person or establishment who violates these regulations or by each act of commission or omission procures, aids or abets such violation, may be assessed a civil penalty not to exceed two hundred fifty dollars (\$250) for each day of continuous violation to be directly assessed by the Health Officer until such violation is corrected. The per diem penalty shall double for the second separate violation and triple for the third and subsequent separate violations of the same regulation within any five (5) year period.
- 13.08. In addition to or as an alternative to any other judicial or administrative remedy provided herein, or by law, any person who violates these regulations or by each act of commission or omission procures, aids or abets such violation, shall, upon conviction, be guilty of a misdemeanor. For purposes of these regulations, each section violated shall constitute a separate and distinct offense, and each day's violation shall constitute a separate and distinct offense. Penalty, upon conviction, shall be punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment for not more than ninety (90) days, or both such fine and imprisonment.

SECTION FOURTEEN: APPEALS

- 14.01. Decisions of the Director pertaining to the certification of Pumpers, Installers and Operation and Maintenance Specialists may be appealed to the Certified Contractor Review Board.
- 14.02. All other decisions of the Director may be appealed to the Health Officer. Appeals must be made in writing to the Director within ten 10 working days of the decision which is being disputed. A hearing date shall be scheduled with the Health Officer to be held within thirty (30) days of said decision being appealed.

- 14.03. Determinations of the Health Officer may be appealed to the Hearings Examiner. Appeals must be made in writing to the Director within ten (10) working days of the decision which is being disputed. A hearing date shall be scheduled with the board for their next regular meeting.
- 14.04. Departmental orders and determinations shall be stayed for the period the appeal is pending, provided no surfacing sewage or public health hazard results from said stay.
- 14.05. Any variations from these regulations resulting in requirements less stringent than those found in Chapter 246-272A WAC shall have concurrence from the Washington State Department of Health.
- 14.06. Administrative hearings shall be conducted in accordance with Mason County Office of Environmental Health Variance and Appeal Procedure. Copies of said document shall be maintained and made available to the public at the Mason County Public Health office.

SECTION FIFTEEN: SEVERABILITY

In the event any section, subsection, or other portion of these regulations are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection or portion shall be deemed a separate provision of these regulations and such designation shall not affect the validity of the remaining portions of these regulations.

SECTION SIXTEEN: REPEALER

These regulations supersede Mason County Board of Health On-Site Sewage Regulation rev.4/2/1998 repealed by the Board of Commissioners.

SECTION SEVENTEEN: EFFECTIVE DATE

These regulations shall be effective immediately upon adoption by the Mason County Board of Health.



MASON COUNTY PUBLIC HEALTH ON-SITE SEWAGE REGULATIONS UPDATE

Public Process for Review and Input:

The On-Site Advisory Committee has been meeting monthly since July 2008 working on these changes. We have received input from our Advisory Committee members and other counties. Our members consists of a licensed designer, certified pumper, certified installer, certified operation and maintenance provider, realtor, representatives from a water shed, Mason County Public Health and a citizen at large.

12/1/08 Presentation to the Lower Hood Canal Watershed Coalition

1/8/09 Sent out 116 letters to certified installers, O&M providers and pumpers

1/9/09 Posted new proposed revised regulations on our website

1/12/09 Sent letters to 29 designers that work mainly in our county.

1/12/09 Sent letters addressing new regulations to all of the realty offices in our county.

1/15/09 The Oakland Bay Clean Water District Advisory Committee was informed about the new proposed regulations which are posted on our website and members were invited to contact Cindy Waite for questions and input.

1/23/09 Presentation by Debbie Riley to the Mason County Realtors Association which included realtors and title companies

2/11/09 Received comments back from the State Department of Health and incorporated them into the proposed regulations

2/17/09 Presentation by Cindy Waite to the Home Builders of Mason County

2/18/09 Final discussion with the On Site Advisory Committee

2/19/09 Presentation by Cindy Waite at the WRIA 16 meeting

