

Attachment A

**KITSAP PUBLIC HEALTH BOARD**

**ORDINANCE 2018-XX**

**DRINKING WATER SUPPLY REGULATIONS**

**EFFECTIVE  
TBD**

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**SECTION 1. AUTHORITY, PURPOSE, AND OBJECTIVES**

- A. These regulations are promulgated under the authority of Chapters 18.104.043, 70.05, 70.46, and 70.142 of the Revised Code of Washington (RCW) and Chapters 246-290, 246-291, and 173-160 Washington Administrative Code (WAC).
  
- B. Other state statutes and codes, and local ordinances and codes relating to these regulations are:
  - 1. RCW 19.27 and 70.116;
  - 2. WAC 246-295;
  - 3. Kitsap County Ordinance 524 (2015) and Title 9, Chapter 9.52 of the Kitsap County Code, *Kitsap Public Health District*; and
  - 4. Kitsap County Board of County Commissioners Resolution 305-1993 and Title 13, Chapter 13.06 of the Kitsap County Code, *Coordinated Water System Plan*.
  
- C. The purpose of this ordinance is to protect, preserve, promote, and improve the public health and safety and prevent waterborne disease by:
  - 1. Establishing minimum standards for the design, construction, and operation of public and private water systems and wells;
  - 2. Establishing minimum standards for ongoing monitoring of drinking water supplies; and
  - 3. Establishing minimum standards for ongoing public water system operation, inspection, maintenance, and source water protection.
  
- D. This ordinance regulates:
  - 1. Potable and non-potable water supplies;
  - 2. Private drinking water supplies; and
  - 3. Group B public water systems.
  
- E. These regulations are intended to coordinate with other applicable state and local regulations for water system design; well construction; water resources; sewage control; solid waste; food handling; building; land use/land use planning; and critical areas.

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- F. It is the specific intent of this ordinance to place the obligation of complying with its requirements upon the owner, operator, purveyor, or user of a public water system, private water supply, or non-potable water supply. No provision and no term used in this ordinance is intended to impose any duty whatsoever upon the Kitsap Public Health District (Health District) or any of its officers or employees, for whom the implementation or enforcement of this ordinance shall be discretionary and not mandatory.
  
- G. It is the intent of this ordinance to provide for fair, equal, and reasonable treatment of all persons that are subject to these regulations, and to allow for Health Officer discretion in the application of these regulations as they deem necessary to protect public health. Nothing in these regulations is intended to abridge or alter the rights of action by the state, or by persons that exist in equality, common law, or other statutes, to abate pollution or a nuisance.

**SECTION 2. ADMINISTRATION**

- A. This ordinance shall be administered in part according to the most current signed Joint Plan of Responsibility or Memorandum of Agreement for public water supplies between the Washington State Department of Health and the Kitsap Public Health District (Health District) and by development of administrative policies and guidelines as deemed necessary by the Health Officer to provide further definition of the requirements of this ordinance.
  
- B. In order to protect the general public's health and safety, the Health Officer is authorized to administer local regulations contained herein, including Resolution 305-1993, Kitsap County Coordinated Water System Plan and Kitsap County Ordinance 134, Minimum Design Standards for Public Water Systems and Establishing Procedures for Implementation. In order to protect the health and safety, the Health Officer is authorized to administer the regulations contained in Chapter 246-290 WAC, Chapter 246-291 WAC, and Chapter 173-160 WAC, except where made more stringent by these local regulations. In addition, the Health Officer is authorized to promulgate and administer such additional regulations as are necessary in his/her judgment to carry out the provisions of these rules and regulations. Where/If State or local regulations conflict, the more stringent shall apply.
  
- C. Through the authority of the Kitsap Public Health Board as granted in RCW 70.05.060, the Health Officer may charge fees for the administration of this ordinance. Fees will be charged in accordance with the fee schedule approved by the Kitsap Public Health Board.

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**SECTION 3. DEFINITIONS**

The definitions in WAC 246-291-010 are hereby adopted by reference. Unless specified herein, all words and terms shall be defined by their common dictionary definition.

**Abandoned Well:** Any well that is unmaintained, unused, unusable, not intended for future use, or is a risk to public health and welfare.

**Binding Water Availability Letter:** A letter issued by an authorized representative of a public water system that ensures that the water system can and will provide water service to the recipient for the period described on the letter.

**Constant Rate Pumping Test:** A test that is conducted to determine aquifer or well characteristics. Components of a pump test include the static water level, drawdown, stabilization and recovery rate. The pumping rate during the test shall vary less than 10% from the average pumping rate throughout the entire pumping test.

**Designer:** A person who matches site and soil characteristics with appropriate onsite sewage technology and regulations; this term applies to both onsite sewage treatment system designers licensed under Chapter 18.210 RCW and professional engineers licensed under Chapter 18.43 RCW.

**Development:** The creation or existence of a residence, commercial building, structure, facility, mobile home park, subdivision, planned unit project, site, area, or any activity that may or has resulted in the use of a water supply on a parcel of property.

**Existing Unapproved Public Water System:** A public water system with or without a Washington State Department of Health issued identification number, but is in use and has been installed, in whole or in part, without approval of plans or engineering documents by the Health Officer or Department.

**Expansion:** A change in a building, structure, facility, site, development, or use that causes an increase in water demand or change in water supply requirements.

**Health District:** The Kitsap Public Health District.

**Health Officer:** The Health Officer of the Kitsap Public Health District, or his or her designee.

**Individual Private Water Supply:** A water supply that serves a single dwelling unit.

**Public Sewer System:** A sewerage system owned or operated by a city, town, municipal corporation, county, or other approved ownership, consisting of a collection

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system and necessary trunks, pumping facilities and a means of final treatment and disposal; and approved by or under permit from the Department of Ecology, the Department of Health or the Health Officer.

**Purveyor:** An agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of these entities.

**Qualified Individual:** An individual who can collect a water sample for the purposes of a drinking water application review by the Health District. A qualified individual shall be a licensed well driller, pump installer, WA DOH certified water distribution manager, or another qualified licensed/certified individual such as a professional engineer, registered sanitarian, realtor, or licensed wastewater designer. The qualified individual must be a third party to the application being reviewed by the Health District.

**Sanitary survey:** A review, inspection, and assessment of a public water system, by the Health District, to determine the adequacy of the system and its operation for producing and distributing safe and reliable drinking water. Each survey includes, but is not limited to, an evaluation of the following components:

- a. Source;
- b. Treatment;
- c. Distribution system;
- d. Finished water storage;
- e. Pump, pump facilities, and controls;
- f. Monitoring, reporting, and data verification;
- g. System management and operation; and
- h. Operator compliance.

**Significant Deficiency:** Defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Health Officer determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers. If left unaddressed, a significant deficiency directly creates a significant public health risk.

**Stabilization:** Has occurred when the water level has dropped less than or equal to 0.1 foot per hour.

**Surface Water:** Any body of water, whether fresh or marine, which either flows or is confined in a natural or artificial depression or drainage course and contains water during any of the months of May through October, or has been identified as a

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significant drainage feature. Such bodies include, but are not limited to, natural and artificial lakes, ponds, rivers, streams, swamps, marshes, tidal water and wetlands.

**Two Party Private Water Supply:** A water supply that serves two dwelling units.

#### SECTION 4. JURISDICTION AND APPLICABILITY

##### A. General Requirements

1. These regulations shall apply to all territory contained within the boundaries, and under the supervision, of the Kitsap Public Health Board.
2. These regulations shall apply to the owner, operator, purveyor, or user of public water system, private drinking water supply, or a non-potable water supply.
3. These regulations shall apply to licensed and/or certified contractors, or other persons, that perform any type of work, construction, repair, replacement, adjustment, modification, or improvement to any water supply.

##### B. Existing Development or Water Supply

1. All dwellings or other structures necessitating a potable water supply, and in existence prior to the effective date of these regulations, shall not be required to conform to the provisions of these regulations - except for the water status report requirements for property being conveyed -- unless it is determined by the Health Officer any of the following have occurred:
  - a. A water supply determined to be inadequate and a health hazard due to quantity or quality; or
  - b. A water supply connected to a building or structure that has been modified or expanded without approval from the Health Officer and/or applicable building department; or
  - c. A change in water supply to a structure without Health Officer approval; or
  - d. A water supply not being used consistent with the terms and conditions of its approval or its original intended use. A water supply source for a Building Site Application (BSA) approved prior

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to the effective date of these regulations will be valid until the three-year expiration date has lapsed; or

- e. A public water supply that does not meet the requirements of Sections 10 and 11 of this regulation.
  
- 3. These regulations shall apply to all land use and building applications for building permits submitted on or after the effective date of these regulations, as defined.
  
- 4. Land use applications which have been granted preliminary approval, but have not submitted plans for their proposed method of water service at the time of the effective date of these regulations, shall comply with all requirements of this ordinance.
  
- 5. Public water system designs received prior to the effective date of this ordinance will be reviewed under the rules and regulations in effect at the time of submittal.
  
- 6. Existing Wells. For any well discovered by the Health Officer through application review or field investigation, a determination of use will be required. If it is determined that the well is an abandoned well, the well shall be decommissioned in accordance with Chapter 173-160 WAC. If the well is in use, it shall be required to be approved for its proposed use as a drinking water supply or an irrigation supply.

**SECTION 5. LOCAL POLICIES - ADOPTION BY REFERENCE**

- A. The Health Officer shall have the authority to interpret these regulations and may develop and implement policy, within the scope of these regulations, as they determine necessary to protect public health.
  
- B. Appendix B of these regulations, Local Standards and Policies, as it now exists or is hereafter amended, is hereby adopted by reference and expressly made part of these regulations.

**SECTION 6. APPLICATION AND CONSTRUCTION STANDARDS**

A. Purpose and Applicability

- 1. The purpose of the following requirements is to establish the minimum standards for drinking water supply as they relate to proposed new water supply connections.



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2. It is the intent of these requirements to guide and enable the owner, designer, well driller, and Health Officer to comply with these regulations and to select, and design, the most appropriate drinking water supply to meet regulatory, site, and owner demands.
3. These requirements shall apply to the following situations for development (See Table 1 and Figure 1 for applicability guidelines):
  - a. New construction of any building or structure that proposes, or requires a water supply;
  - b. Expansion of an existing development;
  - c. Health District review of land use applications for planning departments within the jurisdiction of the Kitsap Public Health District.
4. These new construction requirements may apply to non-expansion building proposals for existing development for which there is no record of water supply approval;
5. Upon submittal of material facts and information regarding the water supply for a specific building proposal for an existing development, the Health Officer may waive, at their discretion, compliance with these construction requirements, or direct the applicant to comply with other less stringent sections of these regulations when it is determined that public health will not be put at risk by the proposal and the intent of these regulations will be met.

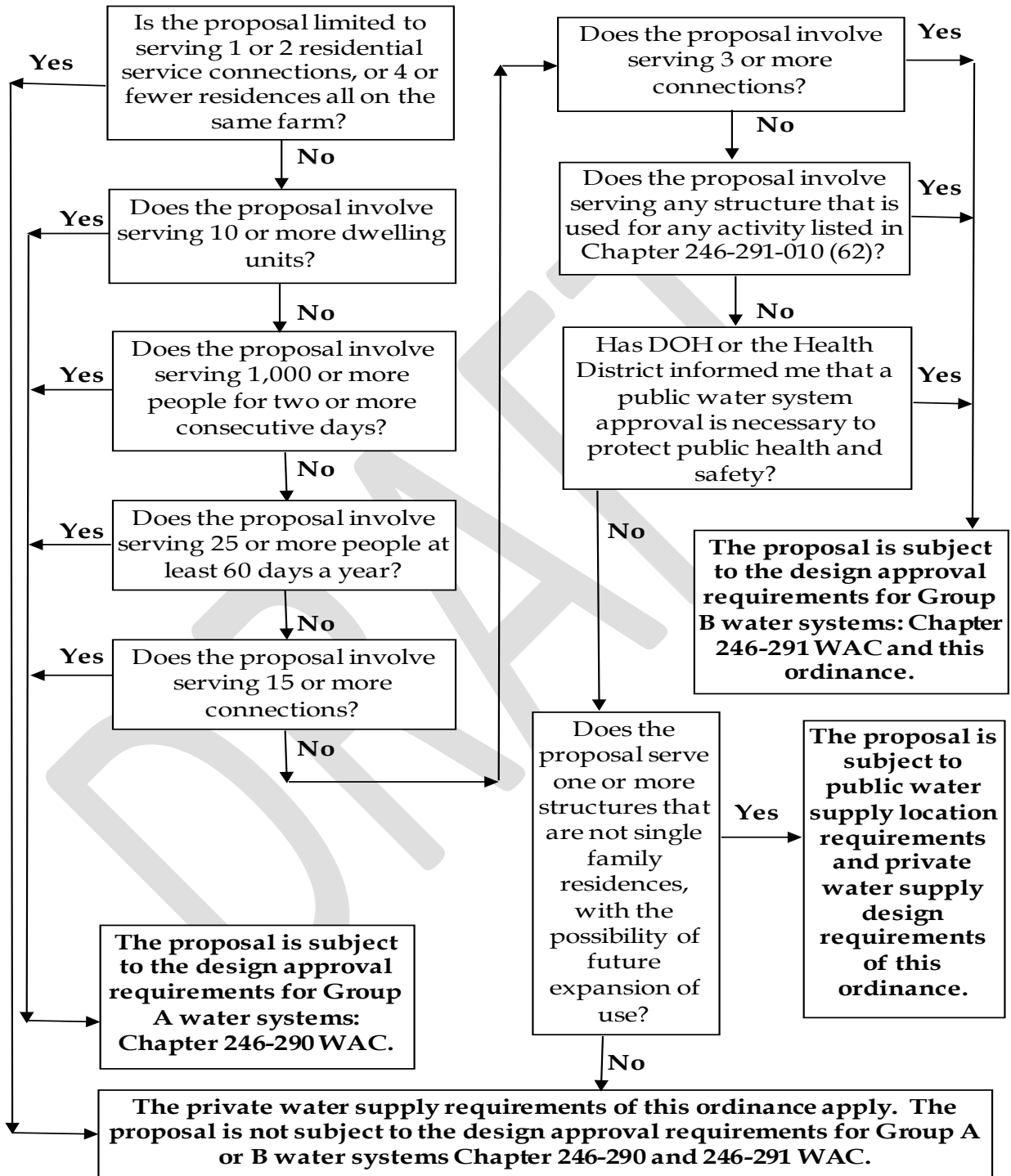
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**Table 1. Guidelines to Determine Applicability of Water Supply Requirements**

Example Project Proposals	Requirements
Replacement of existing dwellings with or without a record of approval for the water supply	Full private or public water adequacy requirements
Increase in water demand (e.g. number of bedrooms, non-residential occupants, accessory dwelling units, guest houses, etc.).	
Change in use of the property or structure (e.g., residential to commercial, office to restaurant, etc.)	
New construction	
Replacement water supply for existing structure (replacement well or new connection to public water)	Full private or public water adequacy requirements
Addition of outbuildings or garages with water supply and internal plumbing fixtures (e.g., buildings with no provisions for cooking or sleeping)	Private water supplies: compliance with WAC 173-160 well construction standards; Public water supplies: compliance with these regulations
Interior-only remodels	
Addition of new buildings or structures with no water supply or internal plumbing	

**Figure 1. Guidelines for Determination of Water Service**



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B. General and Application Requirements

1. For a new (non-replacement) water service connection to a proposed structure or existing structure, a BSA or Building Clearance (BC) application must be submitted for review by the Health Officer. A BSA must be submitted by a designer. A BC may be submitted by a property owner and / or their authorized agent in accordance with Kitsap County Board of Health Ordinance 2008A-01.
2. For properties to be served by a public sewer system, a building clearance (BC) for sewer properties application must be submitted for drinking water supply review by the Health Officer.
3. Property owners and/or their authorized agent shall:
  - a. Contract with a designer to complete and submit a Building Site Application form, for water supply approval and onsite sewage treatment, to the Health Officer prior to beginning the construction process; or obtain Building Clearance approval from the Health Officer prior to beginning the construction process; and
  - b. Be responsible for the prompt payment of all Health Officer fees related to application submittal, review, and approval; and
  - c. Be responsible for the oversight of their contractors and of the applications submitted on their behalf; and
  - d. Ensure compliance with all applicable rules and regulations related to the development of their property; and
  - e. Inform their designer of all known restrictions, encumbrances, or special conditions related to the development or use of their property; and
  - f. Inform their designer of all proposed structures and uses of the property related to the proposed development; and
  - g. Be responsive to Health Officer requests for additional information needed to demonstrate compliance with these regulations; and

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- h. Consent to reasonable and necessary inspections to ascertain compliance with these regulations as they relate to the development proposal.
4. Designers, well drillers, and / or authorized agents shall:
- a. Contract their services only when their licensure is in good standing and in conformance with the applicable regulations;
  - b. Adhere and conform to the requirements of their licensing and these regulations;
  - c. Use forms and reporting systems designated for use by the Health Officer.
  - d. Be responsible for including and addressing in their submittals to the Health Officer all known restrictions, conditions, encumbrances, etc., that may affect compliance with these regulations;
  - e. Coordinate with the property owner to address water supply requirements as applicable to the proposed development in their applications;
  - f. Coordinate with the property owner to address building permit and storm water requirements as they relate to the water supply aspects of the proposed development;
  - g. Stipulate additional requirements for a specific development proposal if necessary to protect public health;
  - h. Only submit legible and complete application information;
  - i. Clearly label and identify all application information, and site features at the property site, so that it can reasonably be determined what specific site and/or application the information has been submitted for; and
  - j. Be responsive to Health Officer requests for additional information needed to demonstrate compliance with these, or other applicable, regulations.
5. The Health Officer shall:

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- a. Approve only designs and applications that meet the requirements and intent of these regulations;
  - b. Specify the expiration date on the approved application;
  - c. Specify the reason for denial or revocation of an application, including applicable code citations;
  - d. Not issue final approval for any application or development proposal where all applicable Health Officer fees have not been paid in full; and
  - e. Include a reminder on the application of the applicant's right of appeal.
6. The Health Officer may:
- a. Coordinate with the designer, well driller, and/or owner (or owner's authorized agent) to address minor omissions, errors, or shortcomings that hinder compliance with these regulations;
  - b. Stipulate additional requirements for a specific development proposal if necessary to protect public health;
  - c. Deny or return applications that do not conform to these regulations; and/or
  - d. Rescind approved applications when:
    - i. Public health is deemed to be threatened by continued implementation of the approved application;
    - ii. It has been determined that the approved plans or designs are not being followed;
    - iii. It has been determined that errors or omissions were made in the design or approval of the BSA, BC, or well site inspection application, or that conditions have changed with respect to the approved application; or
    - iv. It has been determined that there has been misrepresentation, non-disclosure, or concealment of material fact in the application information submitted by the applicant.

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7. Building Site Application and Building Clearance application timelines shall be as described in Kitsap County Board of Health Ordinance 2008A-01 *Onsite Sewage System and General Sewage Sanitation Regulations*, as amended. Sewered building clearance application timelines will match building clearances for properties served by onsite sewage systems.
8. Approved applications for a replacement water supply to an existing structure (well site inspection application) shall expire, and no longer be valid, three (3) years and thirty (30) days from the date of submittal.
9. Compliance with all provisions of this ordinance shall be required for all water supplies. Land use conditions and regulations at the time of original property subdivision or lot creation will be considered during any water supply application review. An approved development with land use approval based on water service from a public water supply, for which a request/application is later submitted to drill a well for either a single-family residence or private two-party supply, may be required to amend the original land use application or record a notice to title to reflect a change in the proposed water service.

C. Connection to a Public Water System

1. The applicant shall provide a Binding Water Availability Letter signed by an authorized representative of the water system indicating that the system will serve the structure. The letter shall contain a signed statement that the authorized representative has reviewed the system records and ensures that the proposed service is within the scope of the system's approved design and water rights and is consistent with Chapter 246-290 WAC or Chapter 246-291 WAC.
2. Binding Water Availability Letters from Group B water systems will be reviewed based on the requirements of Chapter 246-291-280 WAC. For any new connection to an existing Group B water system, the system must be in compliance with all requirements of Section 10 of this regulation, and must have a sanitary survey inspection report on file with the Health District within the five (5) years prior to the date of the building application.
3. For any connection to a proposed public water system, the new water system shall be fully adequate with respect to Chapter 246-290 WAC, or Chapter 246-291 WAC, Chapter 173-160 WAC, Kitsap County Code Chapter 13.28, and any other applicable State or local regulation or policy regarding public water supplies.

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4. All new Group B water systems shall meet the design requirements of Section 9 of this regulation.
5. The previous water supply shall be properly decommissioned in accordance with Chapter 173-160 WAC.

D. Connection to a Private Water Supply

1. For applications proposing connection to an existing or proposed (new) private water supply, the following information must be submitted by the applicant prior to drinking water approval:
  - a. The source meets the construction and location requirements of Section 8 and the location must be approved by the Health Officer;
  - b. Results of a constant rate pumping test documenting that the quantity requirements of Section 8 have been met;
  - c. Results of samples showing that that water quality requirement of Section 8 have been met; and
  - d. A private water supply design worksheet completed by a qualified individual.
2. The previous water supply shall be properly decommissioned in accordance with Chapter 173-160 WAC.

E. Replacement Source

1. For any new connection to a public water system, the requirements of Section 7.C. above, must be met.
2. For applications proposing a replacement private water supply for an existing structure, the following information must be submitted by the applicant prior to drinking water approval:
  - a. The source meets the construction and location requirements of Section 8 and the location has been approved by the Health Officer;
  - b. Results of a constant rate pumping test documenting that the quantity requirements of Section 8 have been met;



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- c. Results of samples showing that that water quality requirement of Section 8 have been met;
  - d. A private water supply design worksheet completed by a qualified individual; and
  - e. Written documentation that the structure has been disconnected from the previous water supply.
3. The previous water supply shall be properly decommissioned in accordance with Chapter 173-160 WAC.
- F. Land Subdivision and Land Use Review Requirements
- 1. Purpose. The purpose of the following requirements is to ensure that proposed developments, subdivisions, and land use proposals can conform to the current standards and regulations regarding water supply.
  - 2. Water Supply Information. Subdivision applications shall identify one of the following types of water supply:
    - (1) Private or Two (2) Party Private Wells.
      - (a) To utilize private or two (2) party private wells, each proposed lot shall be equal to, or greater than, one acre in size.
      - (b) The number of lots being proposed must comply with Washington State Department of Ecology water right requirements.
      - (c) Proposed or existing well sites shall be located at least 100 feet from proposed or existing property lines unless otherwise authorized by the Health Officer. To locate a well closer to the property line than the required Table 2 setback, a restrictive covenant shall be obtained, unless otherwise authorized by the Health Officer.
    - (2) Connection to an Existing Approved Public Water System.
      - (a) A non-binding letter of water availability from the water system purveyor shall be required at the time of the preliminary subdivision application.
      - (b) For any subdivision that requires water system infrastructure improvement, prior to final subdivision approval, the applicant must provide a letter from the water purveyor stating that the

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infrastructure improvement has been completed or a developer's agreement has been completed.

- (c) A binding water availability letter will be required for the issuance of a building permit on any lot within the subdivision.

(3) Connection to a Proposed Public Water System.

- (a) The well site and 100- foot protective radius must be shown on the preliminary subdivision application.

- (b) A final subdivision approval, BSA approval, or other type of development requiring the direct connection and use of a proposed public water supply, may be approved in lieu of water system final approval if the following conditions and financial agreements are completed to the satisfaction of the Health Officer:

- a. Health Officer approval of the water system design plan.
- b. The applicant shall provide a complete and accurate estimate for the water system to be completed in its entirety. Estimates shall be reviewed and accepted by the designer of the water system.
- c. Once items a. and b. have been completed to the satisfaction of the Health Officer, one of the following financial security agreements shall be provided by the applicant in the amount of 150% of the estimated cost for completion of construction:
  - i. A surety bond in the amount commensurate with improvements remaining to be completed and which secures to the Health District the construction and installation of the improvements.
  - ii. An escrow arrangement which is properly executed between the applicant, lending institution, and the Health District to meet the estimated costs as described in this section for completion of the water system.

- (c) Prior to approval of a septic system installation permit or final occupancy approval of the residence or structure, the water system shall be installed, the Completion of Construction Report

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submitted, and final approval of the water system granted by the Health Officer.

(d) A binding water availability letter will be required for the issuance of a building permit on any lot within the subdivision.

(4) Conditional Use Permit. Persons applying for a Conditional Use Permit shall demonstrate conformance with the applicable water supply requirements of these regulations during the land use review.

**SECTION 7. DESIGN AND CONSTRUCTION STANDARDS FOR PRIVATE WATER SUPPLIES**

A. General Requirements

1. The purpose of the following requirements is to establish the minimum design and construction standards for private drinking water supplies.
2. Drinking water shall be supplied by the highest quality source feasible.
3. No new or previously unapproved private water supply shall be used without Health Officer approval.

B. Location Requirements. All water supplies shall meet the location requirements as listed in Table 2, below.

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<b>Table 2. Minimum Horizontal Separations for New and Existing<sup>(1)</sup> Public / Private Water Supplies</b>		
(Distances are in feet)	Drilled Well	Dug Well / Spring Supply / Rainwater Catchment Area
Animal Enclosures <sup>(2)</sup> and active pastures	100/50	NA/100
Structures	100/5	NA/10
Private driveways	100/10 <sup>(3)</sup>	NA/50
Roads <sup>(4)</sup> [Measured from the edge of the road right of way]		
Private/County	50/25	NA/50
State/Federal	100/50	NA/50
Property Lines <sup>(5)</sup>	100/50	NA/100
Sewers, Sewage transport lines	100/50	NA/50
Septic tanks, Sewage Pump Tanks and sewage treatment vessels	100/50	NA/50
Rooftop Runoff Infiltration <sup>(6)</sup>	100/50/30	NA/100
Onsite Sewage System Drainfield (Primary or Reserve) <sup>(7)</sup>	100/100	NA/100
Cesspools, Privies and other Sewage Disposal Systems	100/100	NA/100
Garbage & Manure Piles	100/50	NA/100
Marine water	100/100	NA/100
Surface Water - Wetlands, unlined ponds, lakes, and streams	100/>50*	NA/>100*
Railroad Tracks	100/50	NA/100
Above & below ground storage of chemicals <sup>(8)</sup>	100/100	NA/100
Existing sanitary and abandoned landfills	≥1000	≥1000

\* As deemed necessary by the Health Officer.

- (1) An existing public supply shall include both unapproved and approved existing water systems.
- (2) Barns, chicken houses, rabbit hutches, pigpens, livestock sheds, etc.
- (3) For setback reductions less than 10 feet, a physical barrier to prevent vehicular traffic and drainage away from the well location is required
- (4) Road Easements:
  - Existing: Pose no apparent or potential contamination threat to the water source due to proper drainage. Construction material and grading may be allowed within the setback if a waiver is obtained from the Health Officer.
  - Proposed: May be permitted within the above setback if it can be demonstrated to the Health Officer that the topography and the land contours, in addition to proper road drainage, construction material and grading, will not present a contamination threat to the water source.
- (5) Water sources can be located closer to property lines provided recorded covenants have been obtained. Where covenants cannot be obtained, a waiver shall be obtained. In instances where either the property is large enough for the well to be placed 100 feet from property lines and still meet setbacks to on-site sewage systems, the well shall be located to meet this setback from the property line.
- (6) Infiltration facilities on regional/ commercial sites shall be placed no closer than 100 feet from public or private drinking water wells, septic tanks or drainfield and springs. Infiltration facilities for non-commercial or non-industrial sites shall maintain a 30-foot setback from a private water supply well, septic tank or drainfield, see the setback requirements of KPHD Ordinance 2008A-01.
- (7) This distance may be increased to as much as 200 feet if a Class B vertical separation waiver has been granted.
- (8) Above and below ground storage of chemicals, including, but not limited to, petroleum products, paint, solvents, herbicides, insecticides, pesticides and non-biodegradable fertilizers.

C. Water Quantity Requirements

1. Source production shall be documented with the results of a constant rate pump test with drawdown and recovery information. A report on the test documenting the pumping rate and water levels must be prepared by a qualified individual and submitted to the Health Officer for review.
2. All sources shall produce a minimum of 400 gallons for a single-family residence or 800 gallons for a private two-party water supply in a 24-hour period.
3. The water supply design flow shall be a minimum of 5 gpm for an individual private water supply and 10 gpm for a private two-party water supply. Well yield shall be demonstrated by a constant rate pumping test for a minimum of one hour. The test shall continue until a minimum of 400 gallons of water has been pumped from the well for an individual private water supply or 800 gallons for a private two-party water supply. For example, a constant-rate pumping test for a single-family residence pumped at 10 gpm would pump 600 gallons in 60 minutes satisfying this requirement. If the source produces less than 7 gpm, a minimum four-hour constant-rate pumping test shall be performed.
4. A minimum four-hour constant-rate pumping test shall be performed if the source is a dug well or spring. Dug wells and springs do not meet criteria for private two-party water supplies.
5. Storage Systems
  - a) In the event the source cannot maintain the minimum design flow requirement, it will be necessary to install a storage reservoir in the amount of 400 gallons, minimum, for an individual private supply and 800 gallons for a private two-party supply. A booster pump capable of producing a minimum of 5 gpm for a single-family residential supply or 10 gpm for a private two-party water supply will be required. For any additional non-residential connections, the maximum instantaneous demand will increase by an additional 5 gpm per connection or as deemed necessary by the Health Officer.
  - b) Plans for the design and construction of the storage system and booster pump shall be submitted on forms provided by the Health Officer for review and approval prior to installation. Storage tanks shall be housed in a secured structure to prevent unpermitted access

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and environmental exposure. Pump curves and total pump head calculations shall be included in the design.

D. Water Quality Requirements

1. A satisfactory bacteriological water sample result collected by a qualified individual, and analyzed by a Washington State accredited laboratory. The sample obtained from the proposed source shall be free of residual chlorine. Bacteriological water sample results will be considered valid for a period of 12 months from the date of collection.
2. A partial inorganic chemical (iron, manganese, nitrate, chloride and conductivity) analysis result collected by a qualified individual, and analyzed by a Washington State accredited laboratory. Partial inorganic chemical results will be considered valid for a period of 36 months from the date of collection.
3. For water supplies with a partial inorganic chemical analysis result on file with the Health District that is greater than 36 months old, an updated nitrate chemical analysis result shall be submitted. Nitrate analysis results will be considered valid for a period of 36 months from the date of collection.
4. Primary contaminants shall conform to the Maximum Contaminant Limit (MCL) specified in Appendix A. If any of the primary parameters tested exceed the MCLs, additional tests will be required. For new wells, if the cause of the contamination cannot be determined and corrected, a new water supply source will be required.
5. If a treatment device is required to meet a primary MCL for an existing source, it shall be designed by a professional engineer. The engineered treatment system plan shall be reviewed and approved by the Health Officer prior to installation. Results of follow-up testing and a Completion of Construction Report shall be submitted to the Health Officer before final approval can be issued.
6. Secondary contaminant exceedances of the applicable MCL will be noted in the water supply approval documentation.
7. The Health Officer may require that other parameters be tested based on vulnerability of the source to known or suspected water quality problems in the area of the proposed water supply.

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E. Distribution System Design Requirements

1. Pressure Tank Sizing. Unless a variable frequency drive pump controller is used, the capacity of the pressure tank(s) will be based on the following formula:

One gallon of working storage per one gallon per minute pumping capacity; i.e., a 5-gpm pump will require 5 gallons of working or usable storage which computes to a 19-gallon (total volume) pressure tank.

2. Distribution piping. A minimum one-inch, 160 psi or greater potable water pipe will be required for a single-family residence. A minimum 1-1/2-inch, 160 psi or greater, approved potable water pipe is required for a private two-party water supply. Smaller piping may be allowed provided justification is submitted and approved by the Health Officer.

F. Existing and Proposed Well Requirements

1. Prior to any well construction, the well site shall be approved by the Health Officer through a Building Site Application or Well Site Inspection application. Prior to well construction authorization, the use of the proposed well shall be identified. In instances where the property is large enough for the well to be placed 100 feet from property lines and still meet setbacks to onsite sewage system components, the well shall be located to meet this setback from the property lines unless otherwise authorized by the Health Officer. To locate a well closer to the property line than the required Table 2 setback, a restrictive covenant shall be obtained, unless otherwise authorized by the Health Officer.
2. For any newly constructed well, a copy of the Water Well Report must be submitted to the Health Officer.
3. If the proposed source is an existing well, a site inspection shall be performed by the Health Officer and a Water Well Report, if available, shall be submitted to determine compliance with Chapter 173-160 WAC.
4. Dug wells. A minimum sanitary control area of 100 feet shall be established around the well for protection. The sanitary control area shall be established by covenants recorded to the title of each property that is sited partially or completely within the sanitary control area to protect it in perpetuity.

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5. Minimum lot size requirements for wells located on properties with an onsite sewage system are found in Kitsap County Board of Health Ordinance 2008A-01 Onsite Sewage System and General Sewage Sanitation Regulations, or as amended. For wells located on properties served by a sanitary sewer utility, there is no minimum lot size, however, Table 2 setbacks shall be met.

G. Two Party Private Water Supply Requirements

1. The source for any two-party private water supply shall be a drilled well; and
2. Protective covenants for the 50-foot sanitary control area shall be recorded; and
3. A scaled record drawing showing the property parcels or structures served by the water supply shall be on file with the Health District. The drawing shall show the well site, structures, roads, property lines, water lines, septic system components including reserve drainfield areas, and other sources of contamination (animal enclosures, etc.); and
4. For two party private water supplies serving separate property parcels, each property parcel shall be equal to, or greater than, one acre in size.

H. Spring Supply Requirements

1. A water right permit or certificate issued by the Washington State Department of Ecology is required. A water right claim or application does not meet this requirement.
2. The spring supply must meet the setback requirements of Table 2 and be approved by the Health Officer.
3. A minimum sanitary control area of 100 feet shall be established around the source for protection. The sanitary control area shall be established by covenants recorded to the title of each property that is sited partially or completely within the sanitary control area to protect it in perpetuity.
4. The applicant shall submit a plan prepared by a professional engineer, showing how the water supply will be designed to meet the quantity and quality requirements of this section.

I. Surface Water Supply Requirements



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1. A water right permit or certificate issued by the Washington State Department of Ecology is required. A water right claim or application does not meet this requirement.
2. The applicant shall submit a plan prepared by a professional engineer, showing how the water supply will be designed to meet the quantity and quality requirements of this section.
3. A notice to title for an alternative water supply must be recorded to the property title.

J. Rainwater Catchment System Requirements

1. The applicant shall submit a plan prepared by a professional engineer, showing how the water supply will be designed to meet the quantity and quality requirements of this section.
2. The rainwater system plan shall identify a replacement water supply in the event the rainwater system is unable to provide an adequate water supply that meets the quantity and quality requirements.
3. A notice to title for an alternative water supply must be recorded to the property title.

**SECTION 8. DESIGN AND CONSTRUCTION STANDARDS FOR PUBLIC WATER SYSTEMS**

- A. Group B water systems shall be designed in accordance with the requirements of WAC 246-291.
- B. Individuals Qualified to Design Group B Public Water Systems
  1. Group B Public water systems shall be designed by a professional engineer in accordance with WAC 246-291-120 except Group B water system designers who were certified under Bremerton-Kitsap County Board of Health Ordinance 1999-6, and are in good standing with the Health Officer, may design water systems until their certification lapses.
  2. Water systems designed under this exception shall meet the criteria listed in WAC 246-291-120(4).

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- C. Group B water systems shall meet the requirements of WAC 246-291-090.
- D. Group B design approvals shall be in accordance with WAC 246-291-120. Water users' agreements are required to be included with design plan submittals.
- E. Group B water system design approvals expire three (3) years and thirty (30) days from the date of submittal to the Health Officer.
- F. Group B groundwater source approval shall be in accordance with WAC 246-291-125.
- G. Public water system sources shall meet the location requirements as listed in Table 2.
- H. Group B water system intertie requirements shall be in accordance with WAC 246-291-135.
- I. Group B water system planning and disclosure requirements shall be in accordance with WAC 246-291-140.
- J. Group B water quality requirements for groundwater source approval shall be in accordance with WAC 246-291-170.
- K. Group B design and construction standards shall be in accordance with WAC 246-291-200, 246-291-205, 246-291-210, and 246-291-220.
- L. Existing Group B water systems shall meet the requirements of WAC 246-291-280.

**SECTION 9. GROUP B WATER SYSTEM AND PRIVATE WATER SUPPLY  
OPERATION AND MANAGEMENT REQUIREMENTS**

- A. Water System User's Agreement. No later than twelve (12) months following the effective date of these regulations, all Group B water systems shall submit a copy of a recorded water user's agreement to the Health District which describes water system ownership and management conditions.
- B. Water System Contact Information. Owners, operators, or purveyors of Group B water systems shall provide a contact name, contact phone number, contact mailing address, and contact email address to the Health Officer. The contact information shall be kept current and verified on an annual basis. Group B water systems shall notify the Health Officer within 30 days of any change in contact information, ownership change, or management change.

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- C. Group B Water System Operating Permit Required. Six (6) months after the effective date of these regulations, no Group B public water system shall operate without an operating permit issued by the Health Officer. A Group B public water supply operating permit shall be issued to a Group B system when all current or past due permit fees have been paid. Group B water systems that are not in compliance with all operating and management requirements or monitoring requirements of these regulations will be issued a conditional operating permit.
- D. Group B public water supply operating permits are valid for one year and shall be renewed annually through the Health Officer on a schedule, and on forms, prescribed by the Health Officer. Group B water systems without a valid permit shall be classified as out of compliance and are subject to administrative or enforcement actions as allowed under these regulations.
- E. Reinstatement of an Out of Compliance Public Water Systems. Any public water system that is operated without a current public water supply permit or is otherwise in violation of this regulation may be required to have a sanitary survey inspection conducted by the Health Officer before the water system is considered in compliance with this regulation. All current and past public water supply annual permit fees and other fees required by this regulation shall be paid in full before a public water supply permit will be issued. An out of compliance water system shall not be reclassified as in compliance until all fees past due are paid, and all violations have been corrected or are under a Health Officer approved compliance schedule for correction.
- F. Unpaid or Past Due Fees. Unpaid or past due fees shall be limited to a maximum sum of five years of fees, the sum of which shall be calculated from notice and receipt of delivery, or the documented posted notice at the physical location of the Group B system, of past due fees to date.
- G. Transfer of Permit. A transfer of a public water supply permit will be required at the time a public water system is transferred from one public water system owner to another, or whenever the name of the public water system is changed. The purveyor or water system owner shall submit written documentation to the Health Officer within thirty (30) days of any transfer of ownership or change in name of the public water system. At a minimum, the information provided shall include the names, addresses, and telephone numbers of the new owners and emergency contact persons for the public water system.

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- H. Financial Viability. The water system shall maintain financial viability through the collection of funds sufficient to maintain and operate the water system under normal demand and reasonable emergency repair conditions.
- I. Conditions of approval. The water system shall remain in compliance with the requirements of this regulation, all original conditions of approval, and/or subsequent amended approval conditions. Water systems failing to maintain the conditions of approval, or have an identified significant deficiency shall be deemed an out of compliance water supply, and are subject to enforcement measures provided for in Section 13 of these regulations.
- J. Reporting of Monitoring Results. Unsatisfactory bacteria test results and chemical MCL violations shall be reported, by the certified testing laboratory and the water system, to the Health Officer within 24 hours of completing the testing method or receiving the test results.
- K. Complaints. Pursuant to RCW 43.20.240 complaints regarding the operation, maintenance, water quality or water quantity shall be corrected within a reasonable time frame to protect public health. The water system owner or purveyor shall confer with Health Officer to establish a timeline and plan of action to resolve complaints.
- L. Water System Maintenance. For those water systems under the jurisdiction of the Health Officer, amendments to approved water system designs shall be developed and submitted in accordance with Section 9 of these regulations. Exceptions to this requirement will be made for routine maintenance and emergency repairs.
- M. Health Officer Sample Collection. For public water systems under the jurisdiction of the Health Officer that fail to perform the required bacteriological or nitrate analysis within six (6) months after the due date of the analysis, the Health Officer may sample and perform any required analyses, after adequate notice is provided, and charge a fee for service in accordance with the fees established by the Health Board. The water system shall be classified as out of compliance until the fee is paid in full.
- N. Additional Monitoring. Additional physical, chemical, or biological tests may be performed by the Health Officer, after adequate notice is provided, due to the lack of action by the water system owner or manager, or in the event of an actual or suspected contaminated water supply. The Health Office may charge a fee for such service in accordance with the current fee schedule established by the Health Board. The water system shall be classified as out of compliance until the fee is paid in full.

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O. Notice to Title. After adequate notice, the Health Officer may record a notice to title on each of the properties served by the water system, indicating that the property is served by an out of compliance water system if the system fails to meet the requirements of this regulation. Recording costs to extinguish the notice to title will be the responsibility of the property owner served by the water system. The water system shall be classified as out of compliance until the fee is paid in full.

P. SMA Requirements

1. All Group B public water systems approved after July 22, 1995, shall be managed and operated by an approved SMA. Water systems may be owned, or managed and operated by an approved Group A water system if located within the Group A water system service area.
2. Satellite Management Agency Contracts. When required, a copy of the contract between the water system owner and SMA shall be submitted to the Health Officer for review and approval. Water systems whose SMA contracts lapse, expire, or are no longer in affect will be determined to be in violation of this chapter and deemed an out of compliance water supply.
3. Existing public water systems under the jurisdiction of the Health Board with ongoing operational, managerial, and/or water quality problems that pose a threat to public health may be required to be managed and operated by an SMA or be subject to receivership pursuant to RCW 43.70, and Kitsap County's Coordinated Water System Plan. These problems may include but not be limited to the following.
  - a. Documented ongoing funding problems that cause the water system to fall out of compliance with state and local drinking water regulations.
  - b. Documented ongoing water system infrastructure problems that result in any of the following: loss of water, inadequate water pressure, or significant delays in the replacement of parts critical to the proper operation of the water system which is meant to prevent adverse impacts to public health.
  - c. Documented ongoing poor operation and management of the water system to include, but not be limited to:
    1. Failure to collect water quality samples; or

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2. Failure to address ongoing water quality problems; or
3. Failure to repair system leaks, cross connections, or other system problems that would potentially cause pathogens to enter into the water system.

Q. Reliability and Continuity of Service

1. All public water systems shall provide an adequate quantity and quality of water in a reliable manner at all times.
2. In determining whether a proposed public water system or an expansion or modification of an existing system can provide an adequate quantity of water, the Health Officer shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.
3. In determining whether an existing public water system is providing an adequate quantity of water, the Health Officer shall consider the needs of the system's existing consumers exclusively, unless, in the Health Officer's discretion, consideration of the needs of potential consumers is in the public interest.
4. The purveyor shall ensure the system is constructed, operated and maintained to protect against failures of the power supply, treatment process, equipment, or structure with appropriate back-up facilities. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities and the distribution system are under the strict control of the purveyor.
5. Water pressure at the customer's service meter, or property line if a meter is not used, shall be maintained at the approved design pressure under peak hourly design flow conditions. In no case shall the pressure be less than thirty (30) psi (for systems built in 1982 or later) unless under fire flow conditions at which time the pressure shall not be less than twenty (20) psi.
6. Water use restrictions as a designed operation practice shall not be allowed.
7. No intake or other connection shall be maintained between a public water system and a source of water not approved by the Health Officer.
8. A purveyor shall provide the Health Officer with the current names, addresses and telephone numbers of the owners, operators and emergency contact persons for the system, including any changes to this information.

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The purveyor shall also maintain twenty-four-hour phone availability and shall respond to customer concerns and service complaints in a timely manner.

9. Provisions shall be planned for continuity of water service to the customers during any change in or transfer of utility or managerial responsibilities. No purveyor shall end utility operations without providing written notice to all customers and the Health District at least one year prior to termination of service and shall comply with all other requirements specified in WAC 246-291-250.

R. Responsibilities and Requirements for Owners Conveying Property. Within three (3) months of the effective date of these regulations, owners of property served by a Group B water system or private water supply that intend to convey ownership of the property shall submit an application to the Health Officer, at least 30 days prior property transfer, to request a written evaluation and disclosure of the water supply's functionality and compliance status with respect to applicable regulations, permits, and conditions of approval, according to the following:

1. For a private water supply or Group B public water system, the owner or their authorized agent shall:
  - a. Submit a completed "Water Status Report" application form to the Health Officer; and
  - b. Provide a satisfactory bacteriological water sample result collected by a qualified individual, and analyzed by a Washington State accredited laboratory. The sample obtained from the water supply shall be free of residual chlorine. The sample must be collected from within the last twelve (12) months prior to the application; and
  - c. Provide a nitrate chemical analysis collected by a qualified individual, and analyzed by a Washington State accredited laboratory. The sample must be collected from within the last thirty-six (36) months prior to the application; and
  - d. Ensure that a Health District sanitary survey of the water system has occurred within the last five (5) years prior to the date of the Water Status Report application.
  - e. Allow Health Officer inspection and evaluation of the drinking water supply or system; and

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- f. Provide information about any other wells or water supplies located on or serving the subject property; and
    - g. Provide the Health Officer's written evaluation of the drinking water supply or system to the buyer, or receiver, of the property prior to property transfer.
2. Upon receipt of a completed "Water Status Report" application form and applicable inspection and monitoring reports, the Health Officer shall, within seven (7) business days of receipt of the application:
  - a. Conduct a search and review of available records for the subject water supply or system; and
  - b. Evaluate and determine if the drinking water supply is in compliance with the applicable regulations in effect at the time the system was approved, or believed to be constructed, and any ongoing management requirements for the water system or supply; and
  - c. Issue the written summary and evaluation report to the applicant.
3. Items of Non-Compliance that Require Immediate Correction. If identified during the records review and/or site evaluation, the Health Officer shall notify and require correction, by the owner/purveyor, of any of the following items pursuant to the requirements of this Regulation:
  - a. Significant deficiencies with the water supply or components thereof, that pose a threat to public health or the continued functionality of the system.
  - b. Use or operation of the drinking water system in violation of its approved use or design capacity.
  - c. A sanitary survey completed within the last five (5) years prior to the date of the Water Status Report application.
  - d. Current monitoring results for either a private water supply or public water system.
  - e. A Group B public water system without a current operating permit.
  - f. Outstanding permit fees.



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4. Other Items of Non-Compliance. Items of non-compliance that do not pose an immediate threat to public health or fall under the criteria described in Section 10.R.3., above, shall be noted by the Health Officer on the evaluation report. It is the intent of these regulations that any of these other items of non-compliance be addressed and corrected in good faith by the current property owner and/or the prospective property owner through the property conveyance process.
5. Following the legal correction of items of non-compliance, and verification of correction by the Health Officer, the owner or applicant may submit an application for an amended water status report.
6. Period of Validity. Health Officer water status reports required under this section are valid for the one year from the date of the last evaluation report issued, regardless of how often the property is conveyed during such period.

**SECTION 10. GROUP B WATER SYSTEM MONITORING REQUIREMENTS**

- A. The requirements of WAC 246-291-300 and 246-291-360, or as amended by the State Board of Health, are hereby adopted by reference.
- B. Monitoring Requirements
  1. Routine drinking water samples and all other samples shall be collected by the water system purveyor, their authorized representative, or other qualified individual.
  2. Group B water systems shall obtain a minimum of one routine bacteriological monitoring sample once every 12 months, unless an increased frequency is required by the Health Officer. Monitoring samples shall be collected from the distribution system or as directed by the Health Officer.
  3. Group B water systems shall obtain a nitrate monitoring sample from each source or well field every 36 months, unless an increased frequency is required by the Health Officer.
  4. Group B water systems shall monitor for other substances as directed by the Health Officer.
- C. Maximum Contaminant Level (MCL) Violations and Follow-up Action

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1. Group B water systems shall comply with the standards of water quality identified in Appendix A. If any substance exceeds its MCL, the purveyor shall ensure follow up action is taken as described in these regulations.
2. When a primary chemical MCL violation occurs, the purveyor of a Group B water system shall ensure the following action is taken:
  - a. Notify the Health District within twenty-four (24) hours; and
  - b. Notify the water system users within twenty-four (24) hours; and
  - c. Determine the cause of contamination; and
  - d. Take corrective action, which may include the installation of treatment, as directed by the Health Officer.
  - e. The Health Officer may require additional monitoring for confirmation of results.
3. When a primary chemical MCL violation occurs, the Health Officer may require an increased frequency for monitoring and/or installation of a water treatment device designed by a professional engineer.

D. Bacteriological MCL Violations and Follow-up Action

1. Repeat Samples. When a routine coliform monitoring sample is unsatisfactory, the purveyor shall ensure collection and submittal of a set of two (2) repeat samples within five (5) days of receiving notification of unsatisfactory results. One sample shall be taken from the source, if feasible, and the other from another point in the distribution system. A chlorine residual result shall be provided with any repeat sample.
2. Coliform Violation. For repeat samples with the presence of *E.Coli*, or if coliform bacteria are found in a follow up sample to an *E. Coli* positive routine sample, the purveyor shall complete the following actions:
  - a. Notify the Health Officer within twenty-four (24) hours; and
  - b. Provide a boil water notice, either in writing or by telephone, to water system users within twenty-four (24) hours; and
  - c. Perform an assessment to determine the source of the contamination.

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- d. Following any corrective action, an additional set of two (2) compliance samples shall be collected within five (5) days, both samples in a set of repeats shall test satisfactory to obtain water system compliance and return to the annual monitoring frequency, or other monitoring frequency established by the Health Officer. One sample shall be taken from the source, and the other from another point in the distribution system. A chlorine residual result shall be provided with any repeat sample.
  3. For coliform violations, the Health Officer may issue a Boil Water Notice to the water system. When circumstances dictate a broader and/or more immediate notice be given to protect public health, the Health Officer may require notification by whatever means necessary.
  4. In the event disinfection is required of a Group B water system due to repairs, improvements, or an MCL violation, it shall be the responsibility of the purveyor or authorized representative to provide notification, either in writing or by telephone, to each user on the system, 24 hours prior to disinfection taking place.
- E. Secondary MCL Violation. In the event that monitoring sample shows a violation of the secondary MCLs or secondary physical characteristics as listed in WAC 246-291-170, the purveyor of a Group B water system shall notify the Health Officer within 30 days and take corrective action as directed the Health Officer.
- F. The Health Officer shall determine the follow-up action for a Group B water system for substances not included in WAC 246-290 or WAC 246-291.

**SECTION 11. WAIVERS**

A. Purpose and Intent

1. The purpose of this section of these regulations is to provide a means for owners, or their agents, to:
  - a. Identify the applicable section(s) of these regulations that their project proposal cannot meet due to site specific conditions;
  - b. Explain why the project proposal cannot meet the regulations;
  - c. Propose mitigation measures for the regulation(s) that cannot be met; and
  - d. Justify why, and how, the proposed mitigation will meet the intent of the regulation(s) and protect public health.

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2. It is the intent of this section of these regulations to protect public health and to meet, or exceed, the minimum requirements of these regulations as justification for a waiver request.
3. It is not the intent of this section to provide a means to subvert, or bypass, these regulations when they can reasonably be met.

B. General and Application Requirements

1. The Health Officer may grant a waiver to these regulations, or to the requirements of WAC 246-291, if:
  - a. The waiver request is evaluated by the Health Officer on an individual, site-by-site, application-specific basis; and
  - b. The Health Officer determines that the waiver application is consistent with the standards in, and the intent of, these regulations and WAC 246-291.
2. Waiver requests shall be submitted to the Health Officer on forms, and with fees, specified by the Health Officer and shall generally be included with a Building Site Application, Building Clearance Application, Well Site Inspection Application, or Water System Design Plan.
3. Waiver applications shall be valid concurrent with the timelines applicable to the Building Site Application, Building Clearance Application, Well Site Inspection, or water system design plan that it has been submitted with. Waiver requests shall not be transferable to other applications.
4. Well setback waiver justification may include, but is not limited to:
  - a. A water well report of the well in question or of the nearest well of similar depth or anticipated depth.
  - b. Accumulated depth of impermeable strata that the well penetrates.
  - c. The presence of a bentonite surface seal.
  - d. The slope and direction of drainage and whether it is away from the well, toward any potential source of contamination or vice versa.

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5. When a waiver to protective covenant(s) is sought, the applicant will show that reasonable effort has been made to attain the required covenant(s). Final determination of whether a reasonable effort has been made will be at the discretion of the Health Officer. Reasonable effort may include, but is not limited to: written denial by the affected adjacent property owner(s) or returned receipt of certified mail indicating lack of response to the request.
6. No waiver shall be granted which would in any way tend to jeopardize the public health, safety, welfare or in any way tend to interfere with or prejudice the rights of others to the comfortable enjoyment of life and property. No waiver shall be granted which would authorize design and installation contrary to the laws of the State of Washington, including Chapter 246-290 WAC and Chapter 246-291 WAC, as now or hereafter amended.
7. The Health Officer shall deny waiver requests when:
  - a. Adequate mitigation and justification has not been provided to demonstrate that the intent of these regulations can still be met if the waiver request is approved;
  - b. Sufficient explanation has not been provided as to why the regulations cannot be met in full; and/or
  - c. The waiver request is incomplete or incorrect.
8. When the Health Officer has denied a specific waiver request, the applicant may resubmit another waiver request in accordance with the requirements of these regulations.

## **SECTION 12. ENFORCEMENT**

### **A. Right of Entry**

1. Whenever necessary to inspect to enforce or determine compliance with the provisions of these regulations, and other relevant laws and regulations, or whenever the Health Officer has cause to believe that a violation of these regulations has or is being committed, the Health Officer may, in accordance with federal and state law, seek entry of any building, structure, property, or portion thereof, at reasonable times to inspect the same.
2. Prior to entering any building, structure, property, or portion thereof, the Health Officer shall attempt to secure the consent of the owner, occupant, or other person having apparent charge, or control, of said building, structure, property, or portion thereof.

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- a) In attempting to contact the owner, occupier, or other persons having apparent control of said building, structure, property, or portion thereof, the Health Officer may approach said building or structure by a recognizable access route leading to said building or structure.
  - b) If such building, structure, property, or portion thereof is occupied, the Health Officer shall present identification credentials, state the reason for the inspection, and request entry.
3. If consent to enter said building, structure, property, or portion thereof is not provided by the owner, occupier, or other persons having apparent control of said building, structure, property, or portion thereof, the Health Officer may enter said building, structure, property, or portion thereof only to the extent permitted by federal and state law.
  4. If consent to enter said building, structure, property, or portion thereof is not provided by the owner, occupier, or other persons having apparent control of said building, structure, property, or portion thereof, the Health Officer shall also have recourse to any other remedies provided by law to secure entry, including but not limited to search warrants.

B. Violations, Notice, Remedies, and Penalties

1. Violations

- a) Violations of these regulations may be addressed through the remedies and penalties provided in this section.
- b) Each violation of these regulations shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.
- c) The Health Officer may investigate alleged or apparent violations of these regulations. Upon request of the Health Officer, the person allegedly or apparently in violation of these regulations shall provide information identifying themselves.

2. Notice and Order to Correct Violation

- a) Issuance. Whenever the Health Officer determines that a violation of these regulations has occurred or is occurring, they may issue a written notice and order to correct violation to the property owner, or to any person causing, allowing, or participating in the violation.
- b) Content. The notice and order to correct violation shall contain:

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- (2) The name and address of the property owner or other persons to whom the notice and order to correct violation is directed;
  - (3) The street address, tax assessor account number, or other description for identification of the building, structure, or land upon or within which the violation has occurred or is occurring;
  - (4) A description of the violation and a reference to that provision of these regulations which has been, or is being, violated;
  - (5) A statement of the action, or actions, required to be taken to correct the violation and a date or time by which the correction is to be completed;
  - (6) A statement that each violation of this regulation shall be a separate and distinct offense, and in the case of a continuing violation that each day's continuance shall be a separate and distinct violation;
  - (7) A statement that the failure to obey this notice may result in the issuance of a notice of civil infraction, and/or the assessment of an administrative remedy, and/or, if applicable, the imposition of criminal penalties; and
  - (8) A statement that the person to whom the notice and order is directed can appeal the order to the Health Officer in accordance with the appeal procedures of these regulations.
- c) Receipts and/or Reports of Corrective Actions Completed. The notice and order to correct violation may also include a statement requiring the person to whom the notice and order to correct violation is directed to produce receipts and/or reports to demonstrate compliance with an order issued by the Health Officer.
- d) Service of Order. The notice and order to correct violation shall be served upon the person to whom it is directed, either personally, via electronic mail, physical posting, or by mailing a copy of the order by first class and/or certified mail postage prepaid, return receipt requested, to such person at his/her last known address.
- e) Extension. Upon written request received prior to the correction date or time, the Health Officer may extend the date set for corrections for good cause. The Health Officer may consider completed or proposed mitigation measures, substantial completion of the necessary correction, and/or unforeseeable circumstances that render completion of correction impossible by the date or time established as a good cause.

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- f) Supplemental Order to Correct Violation. The Health Officer may at any time add to, rescind in part, or otherwise modify a notice and order to correct violation. The supplemental order shall be governed by the same procedures applicable to all notice and order to correct violations procedures contained in these regulations.
  - g) Enforcement of Order. If, after order is duly issued by the Health Officer, the person to whom such order is directed fails, neglects, or refuses to obey such order, the Health Officer may:
    - (1) Utilize any remedy or penalty specified within these regulations; and/or
    - (2) Abate the health violation using the procedures of these regulations; and/or
    - (3) Pursue any other appropriate remedy at law or equity.
3. Remedies
- a) Written Assurance of Discontinuance. The Health Officer may accept a written assurance of discontinuance of any act in violation of these regulations from any person who has engaged in such act. Failure to comply with the written assurance of discontinuance shall be a further violation of these regulations.
  - b) Written Voluntary Correction Agreement/Compliance Schedule.
    - (1) The Health Officer may accept a written voluntary correction agreement/compliance schedule to attempt to secure voluntary correction of the violation from the person committing, or responsible for, the violation. Failure to comply with the written voluntary correction agreement/compliance schedule shall be a further violation of these regulations.
    - (2) The written voluntary correction agreement/compliance schedule is a contract between the Health Officer and the persons responsible for the violation in which such person agrees to abate the alleged violation within a specified time frame and according to specific conditions.
    - (3) The written voluntary correction agreement/compliance schedule will be in lieu of the issuance of further citations, or other actions as allowed by these regulations, so long as the written voluntary correction agreement/compliance schedule is adhered to as determined by the Health Officer.



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- (4) By entering into a written voluntary correction agreement/compliance schedule, the person responsible for the alleged violation shall waive the right to a hearing before the Health Officer under these regulations or otherwise, regarding the alleged violation.
- (5) The Health Officer may grant an extension in time, or a modification in the terms, of the agreement if the person responsible for the alleged violation has shown progress towards correction of the violation and no threat to public health is determined to exist.
- (6) The Health officer may abate the alleged violation in accordance with these regulations if all the terms of the written voluntary correction agreement/compliance schedule are not met, except that the person responsible for the violation shall not have the right to appeal the abatement order.
- (7) If all the terms of the written voluntary correction agreement/compliance schedule are not met, the person responsible for the alleged violation shall be assessed all costs and expenses of abatement, as set forth in these regulations.
- (8) Content. The written voluntary correction agreement/compliance schedule shall include the following:
  - (a) The name and address of the person responsible for the alleged violation;
  - (b) The street address, assessor's tax identification number, or other description sufficient for identification of the building, structure, premises, or land upon which, or within, the alleged violation has occurred or is occurring;
  - (c) A description of the alleged violation and a reference to the regulation that has been violated;
  - (d) The specific actions to be taken, and a date or time by which each action shall be completed;
  - (e) An agreement by the responsible person that the Health Officer may enter the property, building, structure, or premises and inspect as necessary to determine compliance with the written voluntary correction agreement/compliance schedule;
  - (f) An agreement by the responsible person that the Health Officer may enter the property, building, structure, or premises to abate

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the violation and recover its costs and expenses from the responsible person if the terms of the written voluntary correction agreement/compliance schedule are not satisfied; and

- (g) An agreement that by entering into the written voluntary correction agreement/compliance schedule, the responsible person waives the right to a hearing before the Health Officer under these regulations or otherwise, regarding the matter of the alleged violation and/or required corrective action(s).
- c) Stop Work Orders. The Health Officer may cause a Stop Work order to be issued whenever the Health Officer has reason to believe that a violation of this regulation is occurring. The effect of the Stop Work order shall be to require the immediate cessation of such work or activity that has contributed to the violation until such time that the Health Officer has removed the order.
- (1) Content. A Stop Work order shall include the following:
- (a) The name and address of the property owner or other persons to whom the notice and order to correct violation is directed;
  - (b) The street address, tax assessor account number, or other description for identification of the building, structure, or land upon or within which the violation has occurred or is occurring;
  - (c) A description of the violation and a reference to that provision of these regulations which has been, or is being, violated;
  - (d) A statement of the action, or actions, required to be taken to correct the violation and a date or time by which the correction is to be completed;
  - (e) A statement that each violation of this regulation shall be a separate and distinct offense, and in the case of a continuing violation that each day's continuance shall be a separate and distinct violation;
  - (f) A statement that the failure to obey this notice may result in the issuance of a notice of civil infraction, and/or the assessment of an administrative remedy, and/or, if applicable, the imposition of criminal penalties; and
  - (g) A statement that the person to whom the Stop Work order is directed can appeal the order to the Health Officer in accordance with the appeal procedures of these regulations.

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- (5) Service of Order. The Health Officer shall serve the Stop Work order upon the property owner of the property where the alleged violation occurred or is occurring, or to any person causing, allowing, or participating in the violation, either personally or by mailing a copy of the notice by regular and/or certified mail, to the violator at their last known address. A copy of the order shall also be posted on the property where the alleged violation occurred, or is occurring.
- (6) Posting of Order. In addition to the service of order as described above, an additional notice shall be posted on the property in substantially the following form:

Under the authority of the Kitsap Public Health Board Ordinance 2018-XX, *Drinking Water Supply Regulations*, you are hereby required to immediately

**STOP WORK**

This order is in effect at this property for all work and activities that relate to violations of Kitsap Public Health Health Board Ordinance 2018-XX, *Drinking Water Supply Regulations*, and remains in effect until removed by the Health Officer. It is a violation of these regulations to remove, deface, destroy, or conceal a posted Stop Work Order.

**FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE ISSUANCE OF A CIVIL INFRACTION.**

d) Abatement Orders.

- (1) When the Health Officer has determined that a violation of these regulations has occurred or is occurring, or a public nuisance exists, in accordance with RCW 7.48, they may issue an abatement order to the person responsible for the alleged violation. The abatement order shall require the responsible person to abate the violation or public nuisance within a reasonable period of time as determined by the Health Officer.
- (2) If the abatement order is not commenced or complied with within the specified time period, the Health Officer may proceed to abate the violation and cause work to be done in this regard.
- (3) Absent conditions that pose an immediate threat to the public's health, safety, or welfare, abatement orders shall be utilized by the Health Officer only after the civil penalties process under these regulations has been attempted as a means to correct the alleged violations, but the violations have not been adequately corrected as determined by the Health Officer.
- (4) Content. The abatement order shall include the following:

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- (a) The name and address of the person responsible for the alleged violation;
  - (b) The street address, assessor's tax identification number, or other description sufficient for identification of the building, structure, premises, or land upon which, or within, the alleged violation has occurred or is occurring;
  - (c) A description of the alleged violation and a reference to the regulation that has been violated;
  - (d) The specific actions to be taken, and a date or time by which each action shall be completed;
  - (e) A statement that the costs and expenses incurred by the Health Officer, pursuant to these regulations, may be assessed against a person to whom the abatement order is directed; and
  - (f) A statement that the person to whom the abatement order is directed can appeal the abatement order to the Health Officer in accordance with these regulations.
- (5) Service of Order
- (a) The Health Officer shall serve the abatement order upon the owner of the property where the alleged violation occurred, or is occurring, either personally or by mailing a copy of the order by regular and/or certified or registered mail, with a five (5)-day return receipt requested, to the owner at their last known address.
  - (b) The order shall also be served on each of the following if known to the Health Officer or disclosed from public records:
    - (c) The holder of any mortgage or deed of trust or other lien or encumbrance of record;
    - (d) The owner or holder of any lease of record and the holder of any other estate or legal interest of record in, or to, the property or any structures on the property.
  - (e) The failure of the Health Officer to serve any person as required herein shall not invalidate any proceedings hereunder as to any other person duly or relieve any such person from any duty or obligation imposed by the provision of this section.

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- (f) A copy of the abatement order shall also be posted on the property where the alleged violation occurred or is occurring.
- (6) Authorized Action by the Health Officer. Using any lawful means, the Health Officer may enter the subject property and may remove or correct the condition that is subject to the abatement.
- (7) Recovery of Costs and Expenses. The costs of correcting a condition which constitutes a violation of these regulations, including all incidental expenses, shall be billed to the owner of the property upon which the alleged violation occurred or is occurring, and shall become due within 30 calendar days of the date of mailing the billing for abatement.
- (8) Collection of Costs and Expenses. The costs and expenses of correcting a condition, which constitutes a violation of these regulations, shall constitute a personal obligation of the person to whom the abatement order was/is directed. The Health Officer shall send, within 15 days of abating the violation, to the person named in the abatement order a bill that details the work performed, materials used or removed, labor used, and the costs and expenses related to those tasks as well as any other costs and expenses incurred in abating the violation.
- e) Notice to Vacate. When a condition constitutes a violation of these regulations and poses an immediate threat to health, safety, or property of the public or persons residing on the property, the Health Officer may issue a notice to vacate.
  - (1) Content. A notice to vacate shall include the following:
    - (a) The name and address of the person responsible for the alleged violation;
    - (b) The street address, tax assessor account number, or description sufficient for identification of the building, structure, premises, or land upon which the alleged violation has occurred or is occurring;
    - (c) A description of the violation constituting an immediate threat to health, safety, or property of the public or persons residing on the property and a reference to the provision of these regulations that is being violated;
    - (d) A date, determined by the Health Officer and commensurate with the severity of violation and threat to public health, by which any

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persons shall vacate the premises in order to mitigate/eliminate the violation. In cases of an extreme threat to health or safety to persons or property, immediate vacation of the premises may be required;

- (e) The corrective actions required to be completed prior to re-occupancy of the premises; and a statement that the person to whom the notice to vacate is directed can appeal the order to the Health Officer in accordance with these regulations.
- (2) Service of Notice. The Health Officer shall serve the notice to vacate order upon the owner of the property, where the alleged violation occurred or is occurring, or the person responsible for the alleged violation, either personally or by mailing a copy of the notice by regular and/or certified mail, to said person at their last known address.
- (3) Posting of Notice. In addition to providing service of notice as described above, notice shall also be posted conspicuously on the property where the alleged violation occurred or is occurring.
- (4) Compliance. No person shall remain in or enter any building, structure, or property which has been posted for vacation except to make the specified corrective actions listed in the notice to vacate. No person shall remove or deface a vacate notice posting without the permission of the Health Officer. Health Officer review, inspection, and approval of the completed corrective action is required before the vacate order shall be removed.
- f) Other Legal or Equitable Relief. Notwithstanding the existence or use of any other remedy, the Health Officer may seek legal or equitable relief to enjoin any acts or practices or abate any conditions that constitute or will constitute a violation of these regulations, or rules and regulations adopted under them, or any state health law or regulation, or that otherwise threatens public health.
- g) Notice of Violation or Order - Failure to Respond or Appear. Unless contested or appealed in accordance with these regulations, any notice of violation or order issued by the Health Officer represents a determination that the person to whom the notice or order was issued committed the violation.

#### 4. Penalties

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a) Civil Penalties

- (1) The violation of any provision of these regulations is designated as a Class 1 civil infraction pursuant to RCW 7.80, *Civil Infractions*.
- (2) The Health Officer may issue a notice of civil infraction pursuant to RCW 7.80 if the Health Officer has reasonable cause to believe that the person has violated any provision of these regulations, or has not corrected the violation as required by a written notice and order to correct violation. Civil infractions shall be issued, heard, and determined as described in RCW 7.80, and any applicable court rules.

b) Criminal Penalties

- (1) Except as otherwise provided for in these regulations or under State law, any person violating any provision of these regulations is guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars (\$25), nor more than one-thousand dollars (\$1,000), or to imprisonment in the county jail not to exceed ninety (90) days, or to both fine and imprisonment.
- (2) Any person who fails, neglects, or refuses to comply with an order of the Health Officer to correct a violation of these regulations pursuant to **Section 12.B.2.** shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than one-thousand dollars (\$1,000), or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.
- (3) Any person who fails, neglects, or refuses to comply with a written assurance of discontinuance or a voluntary correction agreement pursuant to **Section 12.B.3.** shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than one-thousand dollars (\$1,000), or imprisonment in the county jail not to exceed ninety (90) days, or both. The court may also impose restitution.

c) Noncompliance Fees

- (1) Pursuant to the most current Health District fee schedule as adopted by the Health Board, the Health Officer may assess an hourly noncompliance fee to any person who has been found guilty of committing a violation of these regulations for Health Officer oversight, review, and/or inspections of a property to determine compliance with its permit, applicable regulations, or correction /

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compliance dates specified in a notice and order to correct violation, civil infraction, misdemeanor, or court ordered compliance date.

- (2) Whenever a noncompliance fee is assessed by the Health Officer, the fee shall be due and payable 30 days after receipt of the invoice by the violator.

### **SECTION 13. APPEALS**

#### **A. Appeal of Health District Action – Administrative Review Conference with Environmental Health Director.**

1. Any person aggrieved by the contents of a notice and order to correct violation issued under this regulation, or by any inspection or enforcement action conducted by the Health District under this regulation, may submit a written request for an Administrative Review Conference with the Environmental Health Director, or their designee. The request shall be submitted on forms designated for use by the Health Officer along with the applicable fee, and shall detail and specify the reason why the appellant is assigning error to the Health District and requesting the action to be reviewed.
2. Timelines for Appeal. A written application for administrative review shall be submitted to the Health Officer within 10 business days of the enforcement action, except for suspensions or revocations of a Health Officer-granted certification. A request for administrative review of a certification suspension or revocation shall be submitted to the Health Officer within five (5) business days of the action. Upon receipt of such request together with hearing fees, the Environmental Health Director shall notify the person of the time, date, and location of such hearing, which shall be set at a mutually convenient time not less than five (5) business days or more than 15 business days from the date the request was received. The Environmental Health Director may extend this timeline, for good cause, for up to an additional 15 days. The Environmental Health Director will issue a written decision concerning the disposition of the administrative review within 10 business days of the conference date, and may require additional actions as part of the decision.
3. A request for administrative review is at the option of the aggrieved person. A request for administrative review shall in effect constitute a stay of the appeal process for the Health Officer Administrative Hearing and preserve all rights and timelines associated with the appeal process. The timelines for appeal shall become effective upon issuance of the written decision from the administrative review conference.



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B. Appeal of Health District Action – Health Officer Administrative Hearing.

1. Any person aggrieved by the contents of a notice and order to correct violation issued under this regulation, or by any inspection or enforcement action conducted by the Health District under this regulation, may submit a written request for a hearing before the Health Officer, or their designee. The request shall be submitted on forms designated for use by the Health Officer along with the applicable fee, and shall detail and specify the reason why the appellant is assigning error to the Health District action being appealed.
2. Timelines for Appeal. A written application for appeal shall be submitted to the Health Officer within 10 business days of the action appealed for all Health District actions, except for suspensions or revocations of a Health Officer-granted certification. An appeal of a certification suspension or revocation shall be submitted to the Health Officer within five (5) business days. Upon receipt of such request together with hearing fees, the Health Officer shall notify the person of the time, date, and location of such hearing, which shall be set at a mutually convenient time not less than five (5) business days or more than 15 business days from the date the request was received. The Health Officer may extend this timeline, for good cause, for up to an additional 15 days. The Health Officer will issue a written decision concerning the disposition of the appeal within 10 business days of the hearing date, and may require additional actions as part of the decision.
3. Incomplete or Untimely Appeals. Incomplete appeal requests, or appeal requests that do not meet the specified timelines for appeal, shall not constitute a legal appeal under these regulations.

C. Appeal of Administrative Hearing Decision –Health Board Hearing.

1. Any person aggrieved by the findings, decision, or required actions of an administrative hearing shall have the right to appeal the matter by requesting a hearing before the Health Board. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the Health Officer, and shall be accompanied by the applicable hearing fee. The appellant and the Health Officer may submit additional information to the Health Board for review and consideration.
2. Timelines for Appeal to Health Board. A written application of appeal shall be presented to the Health Officer within five (5) business days of the findings and actions from the administrative hearing. Upon receipt of a timely written notice of appeal together with hearing fees, the Health Officer shall set a time, date, and location for the requested hearing before the Health Board, and shall give the appellant written notice thereof. Such hearing shall

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be set at a mutually convenient time not less than five (5) business days or more than 30 business days from the date the appeal request was received by the Health Officer. Any decision of the Health Board shall be final and may be reviewed by an action filed in superior court. Any action to review the Health Board's decision shall be filed within 21 business days of the date of the decision.

3. Stay of Action. Any orders issued concerning the alleged violation shall remain in effect during the appeal to the Health Board. Any person affected by an order to correct violation may make a written request for a stay of the decision to the Health Officer within five (5) business days of the Health Officer's decision. The Health Officer shall notify the appellant in writing of their decision to grant or deny the stay request within five (5) business days of receipt of the request.

- D. Judicial Review. All decisions of the Health Board shall be final unless review is sought by filing an action in any court of competent jurisdiction, as provided by the laws of this State.

**SECTION 14. IMMUNITY FROM LIABILITY**

Inspections, rules, and orders of the Health Officer resulting from the exercise of the provisions of these regulations shall not in any manner be deemed to impose liability upon the Health District, or its employees, for any injury or damage resulting from the administration and enforcement of these regulations. All actions of the Health Officer shall be deemed an exercise of the police power of the state.

**SECTION 15. SEVERABILITY**

Should any part of these rules and regulations be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remainder.

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**Appendix A**  
**Maximum Contaminant Limits**

<b>Substance</b>	<b>Primary MCLs (mg/L)</b>
Antimony (Sb)	0.006
Arsenic (As)	0.010*
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Cyanide (CN)	0.2
Fluoride (F)	4.0
Mercury (Hg)	0.002
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Thallium (Tl)	0.002

Note: \*The arsenic MCL in this Appendix applies to new and expanding Group B systems. For Group B systems constructed prior to January 1, 2014, the arsenic MCL is 0.05 mg/L. WAC 246-291-360 (3) and (4) establish public notification requirements for Group B systems constructed prior to January 1, 2014, with an arsenic concentration exceeding 0.010 mg/L.

**Appendix B**  
**Local Standards and Policies**

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