

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS

Chapter 1.1	Authority, Purpose, Title and Applicability
Chapter 1.2	Definitions
Chapter 1.3	Enforcement
Chapter 1.4	Permits
Chapter 1.5	Fee Schedules
Chapter 1.6	Serving of Notices
	1.6.1 Interference with Notices
Chapter 1.7	Special Provisions
Chapter 1.8	Inspections
Chapter 1.9	Right of Appeal
Chapter 1.10	Conduct of Hearings
Chapter 1.11	Validity
Chapter 1.12	Effective Date

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS

### **Chapter 1.1 Authority, Purpose, Title and Applicability**

In order to preserve, promote and improve the public health, and as set forth in chapter 70.05.060 RCW the rules and regulations contained herein shall be known as the SANITARY CODE of the Snohomish Health District Board of Health.

### **Chapter 1.2 Definitions**

- A. The Snohomish Health District is all the territory encompassed within Snohomish County, including all of the cities and towns, as defined in Chapter 70.05.010 of the Revised Code of Washington (RCW).
- B. The Board of Health means the Board of Health of the Snohomish Health District as defined in Chapter 70.05.010 RCW.
- C. The Health Officer means the Health Officer of the Snohomish Health District, as defined in Chapter 70.05.010 RCW, appointed by the Board of Health in accordance with chapter 70.05.050 RCW.
- D. Person shall mean an individual, firm, corporation or association.

### **Chapter 1.3 Enforcement**

This Sanitary Code shall be enforced by the Health Officer or authorized representative throughout the Snohomish Health District in accordance with the provisions of Chapter 70.05.070 RCW. When enforcement of this code necessitates the issuance of a Health Officer's Order, all costs incurred for enforcement of that Health Officer's Order shall be assessed against the person or entity who remains in non-compliance with the Health Officer's Order. Costs shall include the cost of additional inspection to determine compliance or non-compliance with the Health Officer's Order, consultant fees incurred relative to that Health Officer's Order, and attorney fees and costs associated with the enforcement of that Health Officer's Order.

### **Chapter 1.4 Permits**

- A. All applications for permits or written approval herein required shall be made upon forms prescribed and furnished by the Health District, and shall be signed by the applicant or authorized agent of the person responsible for compliance with the conditions of the permit. Such application shall contain such data and information and be accompanied by such plans as may be required.
- B. A permit issued to a particular person or for a designated place, purpose or vehicle shall not be valid for use by any other person or for

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

any other place, purpose or vehicle than that designated therein. Such permits or written approvals may contain general and specific conditions and every person who shall have obtained a permit or written approval as herein required shall conform to the conditions prescribed in said permit or written approval and to the provisions of the Sanitary Code. Every such permit shall expire as stated on the permit and may be renewed by the Health Officer, suspended for cause by the Health Officer, or revoked by the Health officer after due notice and process.

- C. The Snohomish Health District may deny any application for permit, permit renewal or written approval if the applicant has outstanding monies owed to the Snohomish Health District for permit fees, reinspection fees, late fees, checks returned by the bank, civil penalties, or other miscellaneous fees.

Board of Health, adopted 3/16/10, Resolution #10-05.

### **Chapter 1.5 Fee Schedules**

Fees for permits and other services provided for through the enactment of the provisions of this Sanitary Code shall be as set forth by the Board of Health in the Fee Schedule. Such fees shall be set initially by the Board, and shall be subject to revision commensurate with the cost of delivering the service, and the changing nature and complexity of the subject regulation. All fees collected under the provisions of this Sanitary Code shall be payable to the Snohomish Health District.

### **Chapter 1.6 Serving of Notices**

Any notice required to be served on a person, owner, agent or occupant of a premise, shall be deemed to have been served under any of the following conditions:

- A. Such notice is delivered to such person by hand of any authorized agent of the Health Officer or any officer of the law.
- B. Such notice is mailed by registered or certified mail to the owner, or representative of the owner, or the last known occupant of the premises.
- C. Such notice, properly signed, is posted by and authorized agent of the Health Officer or any officer of the law, upon any portion of such premises visible from a public place, whenever the owner or agent of the property's whereabouts is unknown.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

### **Chapter 1.6.1 Interference with Notices**

No person shall remove, mutilate or conceal any notice or placard of the Health District posted in or on any premises or public place except by permission of the Health Officer or authorized representative.

### **Chapter 1.7 Special Provisions**

The regulations of this code shall be supplemental to the regulations, rules and orders of the State Board of Health, Public Health Law, Penal Law, and other Washington State Laws relating to public health and shall, as to matters to which it refers, and within the jurisdiction heretofore prescribed, supersede all prior rules and regulations of the Board of Health and all local ordinances heretofore or hereafter enacted inconsistent herewith.

### **Chapter 1.8 Inspection**

- A. All premises covered by this code shall be subject to the inspection of the Health Officer or authorized representative and, if any violation of the Sanitary Code exists on the premises, any permit or approval granted by the Health Officer may be suspended and/or revoked forthwith unless otherwise prescribed in this code.
- B. No person shall refuse to allow the Health Officer or authorized representative to fully inspect any and all premises entered in the performance of duty, and no person shall molest, impact or resist the Health Officer or authorized representative in the discharge of their duties.

### **Chapter 1.9 Right of Appeal**

#### **1.9.1 Purpose**

The purpose of this Appeals Procedure is to establish a system which will aid in resolving conflicts arising from the administration of the Snohomish Health District Sanitary Code and enforcement of RCW 70.160 *Smoking in Public Places* where not otherwise specified and to ensure procedural due process and fairness in such administration; however, this procedure shall not apply where a specific appeals procedure is written or is incorporated into any enforcement procedure in other Chapters of this Code.

#### **1.9.2 What May be Appealed**

Any decision or order of the Health District with respect to applications made to the Health District or the revocation or suspension of a license or permit issued by the Health District

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

may be appealed. The same may be referred to in this Chapter as the "Order" or the "decision under dispute".

### **1.9.3 Who May Appeal**

Any applicant or one with a proprietary interest in the subject property feeling aggrieved by a decision or order of the Health District made pursuant to these rules and regulations and RCW 70.160, entitled *Presumptively Reasonable Distance*.

### **1.9.4 Pre-appeal Conference Recommended**

Although not required for the purpose of initiating the Appeal Procedure, any applicant or one with a proprietary interest in the subject property feeling aggrieved by the decision under dispute is encouraged to avail himself/herself of the opportunity to request an office conference with the Health District Official who made the decision. Such conference will permit a free exchange of viewpoints. The Health District Official will be expected to discuss and clarify the reason(s) for the decision and the regulations which are applicable. The individual dissatisfied with the decision may present his/her position and submit any information he/she feels has not been adequately considered in making the decision. A Health District Manager may attend such conference. If the individual presents information not previously available or raises issues not previously addressed, the department may undertake an additional review of the matter following the conference.

### **1.9.5 Appeal Procedure**

#### GENERAL INFORMATION

- A. The Appeal Procedure shall consist of STEP ONE and STEP TWO.
- B. STEP ONE shall be an Administrative Review conducted by the responsible Health District Division.
- C. STEP TWO shall be conducted by a Hearing Examiner.
- D. The Appeal Procedure shall be initiated by the appellant within twenty one (21) days of the date of the decision under dispute.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

### **1.9.6 Appeal Procedure**

#### STEP ONE

##### A. General

STEP ONE shall be an Administrative Review conducted by supervisory staff of the responsible Health District Division with the STEP ONE decision to be rendered by the Division Director. Depending upon the circumstances of the individual case under appeal, the Health Officer may be consulted in the STEP ONE procedure.

##### B. Initiation of STEP ONE

The person feeling aggrieved (hereinafter referred to as appellant) shall initiate the Appeal Procedure in writing on forms supplied and prescribed by the Health Officer. Appellant must provide the Health District with a copy of the written notice of the appeal either by hand delivery to the responsible Snohomish Health District Division Office (Attention: Division Director) or sent by certified mail within the time period set forth in Chapter 1.9.5(D). The appellant shall state the decision being appealed, the reason(s) for the appeal, and cite the regulation(s) which the appellant feels have not been followed or correctly interpreted by the Health District.

##### C. STEP ONE Review Procedure

The Division Director shall perform an Administrative Review within thirty (30) days. Such review shall consist of a review of information relevant to the matter under appeal including, but not limited to: (a) review of Health District records; (b) review of information submitted by the appellant; (c) determination of what regulations/laws are applicable; (d) onsite inspection of the property in question if deemed appropriate; (e) meeting with the appellant if such meeting has been requested in the appellant's request for STEP ONE Appeal Procedure. If the Director feels that additional studies are indicated, the STEP ONE review period may be extended by ten (10) days if necessary in order to have such studies performed.

##### D. STEP ONE Decision

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

The Director shall inform the appellant in writing of the decision to the STEP ONE Appeal Procedure. Such decision will indicate whether the original decision is upheld, overruled, or whether the Health District is willing to consider other alternatives. A copy of the decision shall be filed with the Health Officer.

### **1.9.7 Appeal Procedure**

#### STEP TWO

##### A. General

STEP TWO shall be a hearing conducted by a Hearing Examiner. STEP TWO shall follow STEP ONE of this Appeal Procedure if the appellant is dissatisfied with the STEP ONE decision.

##### B. Initiation of STEP TWO

The appellant shall initiate the STEP TWO Appeal Procedure by submitting a fully completed request for appeal on forms supplied and prescribed by the Health Officer. Such request may be delivered to the responsible Snohomish Health District Office (Attention: Division Director) or sent by registered mail within twenty one (21) days after the date the STEP ONE decision was rendered.

##### C. Fee Required

The request for the STEP TWO Appeal Procedure shall be accompanied by payment of a fee as established by the Board of Health in the fee schedule.

##### D. Hearing Examiner:

###### 1. Selection

The Health Officer shall appoint a Hearing Examiner from one of the following: (a) any Hearing Examiner employed or retained by Snohomish County; (b) any Hearing Examiner employed or retained by any city or town within Snohomish County; (c) any attorney who has served as a judge pro tem; (d) any other individual who possesses qualifications to serve as Hearing Examiner and who has been approved by the Board of Health.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

### 2. Qualifications

Examiners shall be appointed solely with regard to their qualifications for the duties required and will have such experience and training as to qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge such other functions conferred upon them. Hearing Examiners will not be current or past employees or consultants for Snohomish Health District.

### 3. Discontinuation of Services

The service of any Examiner employed or retained by the Health District may be discontinued by action of the Board of Health.

### 4. Freedom from Improper Influence

No person, including Health District employees and/or members of the Board of Health, shall attempt to influence a Hearing Examiner in any matter pending before the Examiner, except at a public hearing duly called for such purpose, or to interfere with an Examiner in the performance of his/her duties in any way; PROVIDED, that this section shall not prohibit the Health District's attorneys from rendering legal service to the Examiner nor shall it prohibit Snohomish Health District staff from providing support services to the Examiner upon request.

### 5. Conflict of Interest

No Examiner shall conduct or participate in any hearing, decision or recommendation in which the Examiner has a direct or indirect substantial financial or familial interest or concerning which the Examiner has had substantial pre-hearing contacts with proponents or opponents. Nor, on appeal from an Examiner decision, shall any member of the Board of Health who has such an interest or has had such contact participate in consideration thereof.

### 6. Hearing Rules/Procedures

The Board of Health shall adopt rules for the conduct of hearings and other procedural matters related to the duties of Hearing Examiners. In adopting such rules

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

and procedures, the Board shall take into consideration recommendations of persons serving as Hearing Examiners.

### 7. Powers and Duties

The Hearing Examiner shall receive and examine available information, conduct hearings, prepare records thereof, and enter decisions on STEP TWO appeal procedures. The Hearing Examiner shall have no authority to authorize the issuance of a permit contrary to the laws of the State of Washington, Washington Administrative Code (WAC), the Sanitary Code of Snohomish Health District, RCW 70.160, or applicable local rules and regulations of the Board of Health of the Snohomish Health District.

### E. STEP TWO Hearing

#### 1. Scheduling

The Health Officer shall, upon receiving a request from an appellant for a STEP TWO hearing, appoint a Hearing Examiner and schedule such hearing within a reasonable time after receipt of their request for appeal. Appellant shall receive written notice of the time and place of the hearing not fewer than twenty one (21) days prior to the date of the hearing.

#### 2. Notice

Notice of the time and place of the public hearing will be sent by certified mail to the appellant by the Health Officer.

#### 3. Information for Hearing Examiner

Health District staff shall coordinate and assemble a factual statement with attached relevant documentation, along with the position statement of the Health District staff relative to said appeal, all to be delivered or mailed by certified mail to the Hearing Examiner and the appellant not fewer than fourteen (14) days prior to the scheduled hearing.

#### 4. Information/Documentation/Admission by Appellant

Appellant shall assemble and submit any factual statement and copies of all documents or exhibits which appellant intends to submit at said hearing, together with Appellant's position

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

statement to the Hearing Examiner and to the Snohomish Health District not fewer than seven (7) days prior to the scheduled hearing. To the extent that the factual statement and/or documentation would be repetitious with the submission of the Health District staff, Appellant shall not re-submit such factual statements or documentation unless necessary for the continuity of Appellant's position statement. Furthermore, the statement from Appellant shall:

- (a) Identify those factual statements made by the Health District which are accepted by Appellant as facts.
- (b) Identify and attach all documents or exhibits Appellant intends to submit and/or reference at such hearing.
- (c) Identify all errors asserted by Appellant to have been made by the Health District.
- (d) Identify all witnesses intended to be called and a summary of the fact or opinions each is expected to testify to at such hearing. The failure to disclose such witnesses and/or a summary of expected testimony shall be a basis to bar such witness testimony at the hearing.

### 5. Burden of Proof

Except in the case of the revocation or suspension of a license or permit, the Appellant shall have the burden of proof.

### 6. Conduct of Public Hearing

The Examiner shall conduct the public hearing following the general rules and procedures which have been adopted by the Board of Health as per Chapter 1.9.7.(D)(6).

### 7. Examiner's Decision

Unless a longer period is agreed to in writing or verbally on the record at the public hearing by the appellant, within fifteen (15) days of the conclusion of a hearing the Examiner shall render a written decision which shall include at least the following:

- (a) Findings based upon the record and conclusions therefrom which support the decision. Such findings and conclusions shall also set forth the manner by which the decision would conform to the applicable regulations.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

- (b) A decision on the appeal which may be to grant, grant in part, return to the appellant for modification, deny or grant with such conditions, modifications, restrictions as the Examiner finds necessary to comply with the applicable regulations.
- (c) A statement which indicates the procedure for appealing the Examiner's decision. The Examiner's decision shall be mailed to the appellant, the Health Officer, and any other person who specifically requested notice of the decision by signing a register provided for such purpose at the hearing.

### **1.9.8 APPEAL from Examiner's Decision:**

#### A. General

The decision of the Examiner shall be final and conclusive unless appealed by the appellant or Health Officer to the Board of Health.

#### B. Initiation of Appeal to Board of Health/Appellant

Any appellant wishing to appeal the decision of the Hearing Examiner to the Board of Health must file in writing a statement with the Health Officer within fifteen (15) days of the date of the decision of the Hearing Examiner. Such notice may be delivered personally to the Administration Office of Snohomish Health District (Attention: Health Officer) or sent by certified mail. The appellant shall submit specific statements in writing of the reason why error is assigned to the decision of the Examiner, and a copy of the Hearing Examiner Decision which shall be accompanied by a fee as established by the Board of Health in the fee schedule.

#### C. Initiation of Appeal to Board of Health/Health Officer

The Health Officer may appeal the decision of the Hearing Examiner to the Board of Health if the Health Officer believes that the Examiner's decision may jeopardize the public health or is contrary to the applicable regulations. The notice of appeal by the Health Officer shall be filed with the Chair (or Vice-Chair in absence of the Chair) of the Board of Health in writing within fifteen (15) days of the date of the decision of the Hearing Examiner. Such notice shall contain a statement of the reason why the Health Officer believes that the Examiner made an error in issuing the decision and

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

provide a copy of the Hearing Examiner Decision. The Health Officer shall send a copy of the notice of appeal to the appellant by certified mail.

### D. Stay of Examiner's Decision

When an appeal of the Examiner's decision is made to the Board of Health, the filing of such appeal shall stay the effective date of the Examiner's decision until such time as the appeal is adjudicated or withdrawn.

### E. Board of Health Consideration:

1. An Examiner's decision which has been timely appealed shall be reviewed by the Board of Health at a regularly scheduled meeting within forty-five (45) days of the receipt of the appeal notice. Both parties shall be notified of the date of review by the Board of Health. Both parties may submit additional written information, if desired, for review by Board members. Such information must be received by the Health Officer not fewer than ten (10) days prior to the hearing to permit copying and mailing to Board members. By this process, it is not intended nor shall it be the obligation of the Board to receive or review the entire or extensive record from the Hearing Examiner proceeding in order to take action.
2. At the Board of Health Meeting referenced in the section above, the Board of Health shall take one of the following actions:
  - (a) Concur with the findings and conclusions of the Examiner and decline to hear an appeal.
  - (b) Determine to hear the appeal at a public hearing to be established at a later date.
  - (c) Remand a decision to the Hearing Examiner for further hearing and specifically identify for the Examiner the grounds for the remand.

At such meeting, staff shall provide an oral summary of the decision, and respond to any questions of the Board. Except as requested by the Chair, no additional comments or testimony from the appellant, public, or witnesses shall be

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

taken on the subject matter for purposes of the decision to be made by the Board at said meeting.

3. In those instances in which the Board of Health determines to conduct a public hearing, such hearing shall be scheduled within forty-five (45) days of the Board of Health meeting referenced in Section E.1. above, and all parties given notice of the date of the scheduled hearing. Procedures for the conduct of public hearings will be pursuant to the format identified in Snohomish Health District Environmental Health Hearing Rules of Procedure, and the Chair of the Board of Health, or such Board member selected by the Chair, shall coordinate the presentation of evidence and the decision. The issue before the Board will be limited to a determination of whether the Hearing Examiner erred under the clearly erroneous standard in making his/her decision. Under the clearly erroneous standard, the Board may only overturn the decision of the Examiner if, after reviewing the entire record, the Board is left with the definite and firm conviction that an error has been made. If the Board determines that an error did occur, it may issue a new decision or modify the decision rendered by the Examiner. The decision of the Board of Health shall be supported by findings and conclusions.
4. Staff shall provide appellant with written notice of the action taken by the Board hereunder.

### E. Effect of Board of Health's decision

The Board's decision not to hear an appeal or the Board's decision after public hearing on an appeal, shall be final and conclusive unless an application is made to a court of competent jurisdiction by writ of certiorari, writ of prohibition or writ of mandamus within thirty (30) days of final Health District action or such time period as authorized by law.

Board of Health adopted 11/9/93, Resolution 93-32; Revised 5/9/95, Resolution 95-16; Revised 12/17/96, Resolution 96-27; Revised 1/14/97, Resolution 97-02, Revised 12/13/11, Resolution 11-34

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

### **Chapter 1.10 Conduct of Hearing**

#### **1.10.1 View Trip**

- A. When necessary to a full understanding of the case, the Hearing Examiner may inspect the site prior to or subsequent to the hearing. Failure to inspect the site will not render the Examiner's decision void.
- B. When a view trip has been taken, the Examiner will so state both at the hearing and in the written decision.
- C. The view trip will be taken out of the presence of any interested party whenever feasible. When accompaniment by an interested party is necessary to fully view the property, no substantive discussion will occur during the view trip.

#### **1.10.2 Format**

- A. The format for a public hearing will be of an informal nature yet designed in such a way that the evidence and facts relevant to a particular proceeding will become the most readily and efficiently available to the Examiner. A public hearing will normally include, but need not be limited to, the following elements: a brief prefatory statement and introduction of exhibits by the Examiner; a presentation by the appellant which shall include an explanation of the appeal based solely on the existing records including the basis of the appeal as submitted in writing by the appellant, testimony of Snohomish Health District personnel, and opportunities for rebuttal.
- B. The Examiner may ask questions of any witness, including Health District staff, at any time during testimony to seek clarification or elaboration of testimony being given. Further, the Examiner may request submittal of additional information to better enable the Examiner to make a complete and accurate evaluation of the issues.
- C. The Examiner may indicate, at the outset of the hearing, that the Examiner has studied the materials relating to the case and has made a preliminary determination that there seems to be certain central issues which need to be addressed. The Examiner may request that these issues be addressed in testimony to be offered.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

- D. The Examiner reserves the right to abbreviate the normal sequence of events at a hearing when it appears: that no one's rights would be infringed upon by such abbreviation; that detailed exposition of the case is not necessary to the Examiner's understanding of the case; and that no one present objects to such abbreviation.
- E. Each public hearing will be electronically recorded on magnetic tape to provide a permanent, verbatim record of the proceedings. Therefore, all parties wishing to offer verbal testimony will be required to speak into a microphone provided for that purpose, prefacing their remarks with their full name and area of residence.

### **1.10.3 Clerk**

The Health District shall provide for a clerk to be present during hearings. The clerk shall be responsible for maintaining the register of parties of record, for marking exhibits, and keeping a list of exhibits and witnesses and to perform such other ministerial duties as may be assigned by the Examiner.

### **1.10.4 Parties of Record**

- A. Any interested person may become a party of record for a particular case by signing a register provided by the Examiner for that purpose. The register will include full name and complete mailing address. The Examiner is not responsible for illegible or incomplete entries on the register nor is the Examiner obligated to send materials to any illegible or incomplete address.
- B. The register for each case will be available for signing at the hearing and in the office of the Examiner on the next working day following the hearing.
- C. Persons must sign the register in person. Waiver of this requirement may be made by the Examiner in unusual hardship circumstances.

### **1.10.5 Rights of Parties**

- A. General: Every party shall have the right of due notice, presentation of evidence, motion, argument, and all other rights essential to a fair hearing. The Examiner may impose reasonable limitations on the number of witnesses heard, and on the nature and length of their testimony.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

- B. Cross Examination: Generally speaking, in hearings before the Examiner, cross examination of persons expressing their views would not be appropriate or contribute anything of value to the fact finding process. However, where the hearing assumes distinctly adversary proportions, the proponents and opponents are represented by counsel, expert witnesses are called, and complex, technical and disputed factors are involved, cross examination may be beneficial. Within the above guidelines, the allowance and scope of cross examination is within the discretion of the Examiner.

### **1.10.6 Evidence**

- A. Burden of Proof: The appellant shall have the burden of proof as to material factual issues unless applicable Health District rules and regulations or state law or regulations provide otherwise.
- B. Admissibility: The hearing generally will not be conducted according to technical rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type which possesses probative value commonly accepted by reasonable prudent people in the conduct of their affairs. Irrelevant, immaterial, unreliable, or unduly repetitious evidence may be excluded. The rules of privilege shall be effective to the extent recognized by law.
- C. Receipt and Retention: All documentary or other physical evidence submitted shall be sequentially numbered as an exhibit and retained by the Health District as a part of the official case record except laws, regulations, and other readily available public documents. Materials which the offering party is not willing to have become Health District property will not be accepted as evidence except, at the discretion of the Examiner, in unusual circumstances.
- D. Copies: Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.
- E. Official Notice: The Examiner may take official notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within the Examiner's specialized knowledge. When any decision of the Examiner rests, in whole or in part, upon the taking of official notice of

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

a material fact not appearing in evidence of record, the Examiner shall so state in the decision.

- F. Evidence Received Subsequent to the Hearing: No documentary material submitted after the close of the public hearing will be considered by the Examiner unless, at such hearing, the Examiner granted additional time to submit such material.

### **1.10.7 Further Hearing**

- A. Continuation or Postponement: The Examiner may continue or postpone proceedings for any good cause the Examiner deems reasonable and appropriate within the time limits imposed by relevant ordinances. If the Examiner determines at a hearing that there is good cause to continue such proceeding and specifies the date, time and place, no further notice will be required.
- B. Reopening of Hearing: When determination for further hearing is made by the Examiner and approved by the appellant following a hearing on a given appeal, notice of such further hearing shall be given in writing by the Examiner's office at least ten (10) days before the date for rehearing to all parties notified of the original hearing; PROVIDED, that all parties of record from the initial hearing shall be notified whether or not they received initial notice.

### **1.10.8 Termination of Justice**

Except for the correction of clerical errors, the jurisdiction of the Examiner is terminated upon the issuance of the decision.

### **1.10.9 Case Record**

- A. Content: The official case record of a hearing conducted by the Examiner shall consist of:
  - 1. A written case record including all documentary written materials and other exhibits submitted for consideration by the Examiner and the Examiner's decision, together with the register of parties of record and the list of exhibits and witnesses maintained by the clerk.
  - 2. An electronic recording on magnetic tape of the public hearing.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

- B. Disposition: All materials which have become a part of the case record shall be maintained by the Health District as part of the Health District's official records.

### **1.10.10 Examiner Decision: Distribution**

- A. One copy of the Examiner's decision in each case shall be transmitted or mailed to: the appellant, all parties of record who have requested a copy when signing the register and whose names and addresses are legible, the Health District, and any public agency or department deemed by the Examiner to be particularly affected by or interested in the instant case.
- B. The names of all recipients shall be listed in the Examiner's decision.

### **1.10.11 Maintenance of Order during Hearings**

- A. The Examiner shall have the power to maintain order and decorum during the conduct of all hearings before the Examiner.
- B. In the event that any person or persons interrupts any hearings before the Examiner such that it becomes not feasible to conduct an orderly hearing, and order cannot be restored by removal of the individual(s) interrupting the hearing, the following steps may be taken:
  - 1. The Examiner may order the hearing room cleared and continue in session; or
  - 2. The Examiner may adjourn the hearing and reconvene the hearing at another location.
- C. Whenever the Examiner deems it necessary to reconvene a hearing in a new location because of interruptions preventing an orderly hearing at the regular hearing room location:
  - 1. Final disposition may be taken only on matters appearing on the agenda at the time the disturbance arose leading to an adjustment.

# SNOHOMISH HEALTH DISTRICT SANITARY CODE

## CHAPTER 1

## APPLICABILITY AND DEFINITIONS, continued

2. The Examiner may establish a procedure for readmitting any persons not responsible for the disturbance of the orderly conduct of the hearing.

D. If necessary, law enforcement personnel may be summoned by the Examiner to carry out any of the provisions of this rule.

### **1.10.12 Disqualification of Examiner**

A. When the Examiner deems himself/herself disqualified to preside in a particular proceeding, the Examiner shall withdraw by notice on the record.

B. Any person may raise an issue of the partiality of the Examiner at any time. If, after considering the merits of the issue, the Examiner determines not to disqualify himself/herself, the raising of such issue shall in no way be considered by the Examiner in rendering a decision on the substantive case at hand.

Board of Health, Adopted 10/15/85, Resolution 85-43; Retitled 11/9/93, Resolution 93-32

### **Chapter 1.11 Validity**

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

**Chapter 1.12** Effective Date: Adopted by the Snohomish Health District Board of Health on this 9th Day of November, 1993 per Resolution number 93-32.