

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON**

ORDINANCE NO. 2022 - 007

AN ORDINANCE TO AMEND CHAPTER 13.04 OF THE KITTITAS COUNTY CODE

WHEREAS, the Kittitas County Board of Commissioners (BOCC) hereby adopts this Ordinance pursuant to and by the authority of Chapter 70.05 of the Revised Code of Washington and Article 11, §11 of the Washington Constitution to enact regulatory measures to preserve, promote, and improve the public health; and

WHEREAS, the purpose of this Ordinance is to provide for and promote the health, safety, and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of person who will or should be especially protected or benefited by this Ordinance; and

WHEREAS, the provisions of this Ordinance shall be liberally construed for the accomplishment of its purpose; and

WHEREAS, nothing contained in this Ordinance is intended to be nor shall be construed to create or form the basis for any liability on the part of the Board of Health, Kittitas County, or any of its officers, employees, or agents, for any injury or damage resulting from the failure of any person subject to Chapter 13.04 of the Kittitas County Code to comply with this Ordinance, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of the above referenced Chapter on the part of the Board of Health, Kittitas County, or any of its officers, employees, or agents; and

WHEREAS, the BOCC wishes to update the County Code concerning Onsite Sewage Disposal Systems; and

WHEREAS, a public hearing was held on March 17, 2022, and the public was provided due notice and opportunity to provide testimony on the proposed ordinance; and

WHEREAS, the BOCC believes that adopting this ordinance would be in the best interest of Kittitas County; and

NOW, THEREFORE, BE IT ORDAINED by the Kittitas County Board of Commissioners that Chapter 13.04 of the Kittitas County Code is amended to read as follows:

Chapter 13.04

ON-SITE SEWAGE DISPOSAL SYSTEMS

Sections

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13.04.010 Definitions.

For the purposes of this chapter, the following terms shall be defined as follows:

Approved

Authorized by the Health Officer.

Building sewer

That portion of the on-site sewage disposal system from the septic tank back to within five feet of the premises foundation.

Chemical Toilet

A toilet that is not connected to a sewage system but has a compartment in which waste is treated with chemicals for temporary storage.

Cover

Fill material that is used to cover a subsurface disposal area.

Department

The Kittitas County Public Health Department (KCPHD).

Designer

Someone authorized to match site and soil characteristics with appropriate on-site sewage technology. Throughout this chapter, this term applies to both on-site sewage treatment system designers licensed under chapter 18.210 RCW and professional engineers licensed under chapter 18.43 RCW.

Failure

A condition of an on-site sewage system or component that threatens the public health by inadequately treating sewage or by creating a potential for direct or indirect contact between sewage and the public. Examples of failure include:

- (a) Sewage on the surface of the ground;
- (b) Sewage backing up into a structure caused by slow soil absorption of septic tank effluent;
- (c) Sewage leaking from a sewage tank or collection system;
- (d) Cesspools or seepage pits where evidence of groundwater or surface water quality degradation exists;
- (e) Inadequately treated effluent contaminating groundwater or surface water; or
- (f) Noncompliance with standards stipulated on the permit.

Fill

Soil materials that have been displaced from their original location.

Gray water

Sewage from bathtubs, showers, bathroom sinks, washing machines, dishwashers, and kitchen sinks. It includes sewage from any source in a residence or structure that has not come into contact with toilet wastes.

Groundwater

The subsurface water occupying the zone of saturation, commonly referred to as the water table.

Health Officer

The duly appointed Health Officer of the Kittitas County Public Health Department or his/her authorized representative.

Kittitas County Public Health Fee Schedule (KCPHDFS)

The KCPHDFS passed annually by the Kittitas County Board of Commissioners including any subsequent amendments passed by a resolution of the Board.

Large on-site sewage system (LOSS)

An OSS with design flows of three thousand five hundred gallons per day up to and including one hundred thousand gallons per day.

On-site Sewage Disposal System (OSDS)/ Onsite Sewage System (OSS)

Any system of trenches, piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property where the system is not connected to a public sewer system.

Person

Any individual, corporation, company, association, society, firm, partnership, joint stock company, or any branch of state or local government.

Premises

The building and accompanying land of a lot, tract, or parcel.

Privy

An enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is watertight.

Public sewer system

A sewage system that is owned or operated by a city, town, municipal corporation, county, political subdivision of the state, or other approved ownership consisting of a collection system and necessary trunks, pumping facilities, and a means of final treatment and disposal and which is under permit from the Washington State Department of Ecology.

Pumper

A person approved by the local Health Officer to remove and transport sewage or septage from on-site sewage systems.

Secretary

The secretary of the State Department of Social and Health Services or his/her authorized representative.

Septage

The mixture of solid wastes, scum, sludge, and liquids pumped from within septic tanks, pump chambers, holding tanks, and other Onsite Sewage System components.

Septic Tank

A watertight receptacle that receives the discharge of sewage from a building sewer, and is designed and constructed so as to permit the separation of settleable and floating solids from the

liquid, providing detention and digestion of the organic matter, prior to discharge of the liquid portion.

Sewage

Any urine, feces, and the water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places.

Site Evaluation

A detailed site analysis for an intended on-site septic system location. This site analysis includes: taking soil logs, reviewing setbacks, slope grade, decision on the height of the water table, and the ultimate classification of the soil type. A site evaluation is conducted after platting and prior to the issuance of a building permit.

Soil Log\Soil Test

A detailed description of soil characteristics providing information on the soil's capacity to act as an acceptable treatment and dispersal medium for sewage. A soil log is conducted prior to the final platting process. A soil log does not constitute a site evaluation.

Subdivision

A division of land, as defined in RCW Chapter 58.17 or as hereafter amended.

Surface Water

Any body of water whose top surface is exposed to the atmosphere, including a flowing body as well as a pond or lake.

13.04.020 Applicability.

1. These regulations shall not apply to a new OSDS or repair of an existing OSDS for which a permit was issued prior to the effective date of these rules and regulations.
2. These regulations shall not apply to facilities constructed or operated in accordance with a permit issued by the Washington State Department of Ecology or where they may be in conflict with Chapter 90.48 RCW.

13.04.030 Permit - Requirements.

1. No person shall install a new OSDS, nor perform alterations, repairs, extensions, or relocations of an existing OSDS, without a valid permit issued by KCPHD. Application for a permit shall be submitted to KCPHD with applicable fees. All permits expire one year from the date of issuance. Application for permit renewal may be submitted to KCPHD prior to expiration if no changes in design, location, or other factors are necessary to meet the requirements of these rules and regulations. Renewal OSS permits are valid for one year from the date of issuance.
2. Permits are non-transferable from person to person or property to property.

3. Applicants for a new OSDS shall meet the following requirements:

- a. Site Evaluation. Submit a completed application with any applicable fees to KCPHD. Conducted site evaluations are valid for 5 years from the date conducted.
- b. Design submittal and installation permit. Submit an OSS design prepared by a Washington State licensed designer or homeowner and a completed permit installation application and supporting documents with any applicable fees to KCPHD.
 - i. The OSS system design shall conform to design requirements outlined by WAC 246-272A or as amended hereafter.

13.04.040 License - On-site Sewage Disposal System Designer.

1. Any person designing an OSDS must be licensed under Chapter 18.43 RCW or Chapter 18.210 RCW. A parcel owner not adjacent to a marine shoreline is authorized to design a system for that residence.

13.04.050 License - On-Site Sewage Disposal System Installer.

1. Any person engaged in installing or repairing an OSDS must first obtain an installer's license from KCPHD. Said license shall be issued annually and expire one year from the date of issuance. Said license shall also be revocable by KCPHD for failure to comply with the standards of these rules and regulations.
2. A license shall be issued by the KCPHD only after the applicant has:
 - a. Satisfactorily completed an oral and/or written competency examination.
 - b. Demonstrated and secured financial responsibility in the amount determined by the Washington State's Labor and Industries Minimum Bond Requirements. Such financial security shall extend at least one year beyond the expiration date of the license issued under this section.
 - c. Provided a copy of their valid contractor's license and certificate of liability insurance. Liability insurance policy requirements are determined by Washington State Labor and Industries.
 - d. Submitted a completed OSS system installer application and applicable fee to KCPHD.
3. The license issued under this section is not required for person(s) constructing or repairing an OSDS on his/her own property of residence or intended residence when the work is totally and completely performed by the property owner. Under this subsection, any person may only construct or install one new OSDS in any twelve-month period.

13.04.060 Connection to Public Sewer System.

1. Connection of any premises where sewage originates shall be made to a public sewer system where there is an adequate public sewer system within two hundred feet of the premises, and such connection is permitted by the sewer utility. Such connection shall be made and use of the OSDS discontinued when repair or replacement of the OSDS is required or as directed by local ordinance. This requirement may be waived if the Health Officer determines that such connection is not feasible.
2. If the distance between the premises to be served and an adequate public sewer is greater than two hundred feet, and where the anticipated sewage flow is greater than one thousand gallons per day, connection shall be made to the public sewer system if KCPHD determines that a connection is feasible and such connection is permitted by the sewer utility.

13.04.070 Minimum Lot Sizes.

An OSDS shall be installed on lots, parcels, or tracts that have area with proper soils in which sewage can be retained and treated properly on-site: one-half acre, twenty-one thousand seven hundred eighty square feet with an approved community water supply and an OSDS; one acre, forty-three thousand five hundred sixty square feet with a private water supply and an OSDS. Exceptions to the acreage limitations may be made by the Health Officer for recorded plats existing prior to the effective date of these regulations; provided, that adequate area with proper soils are present in which sewage can be retained and treated properly onsite and describes how the proposed septic system will mitigate for excessive nitrates and meet treatment level N standards as determined by WAC-246-272A-0110.

13.04.080 Location.

1. An OSDS shall be located on the same lot as the premises being served, or if an easement is obtained and recorded, on other property if approved by the Health Officer.
2. Persons shall design and install an OSS system to meet the minimum horizontal separations shown in table IV, Minimum Horizontal Separations in WAC 246-272A-0210 or amendments hereafter.
3. The area to be used for the subsurface disposal field shall be selected and maintained so that it is free from encroachment by buildings or other structures. The area shall not be subject to vehicular traffic, nor compaction by large animals, and shall not be covered with a water-impervious surface.
4. The OSDS shall not be located in an area where surface water will accumulate nor an area subject to flooding. Provisions shall be made to minimize flow or accumulation of surface water over the OSDS.

13.04.090 Determination of Soil Characteristics.

1. Preliminary tests for subdivisions shall be made in accordance with department standards, including but not limited to the following:
 - a. A sketch of the parcel of land to be subdivided with its location indicated;
 - b. Dimensions of each lot with proposed lot and block numbers;
 - c. Elevations shown by contour lines at intervals of five feet or less. If individual sewage disposal systems are contemplated;
 - d. Approximate location of all natural features such as rock outcroppings, wooded areas, marshes, area subject to flooding and the location, width, name and direction of flow of all watercourses including those which are seasonal or periodic;
 - e. Existing and proposed uses of the property, including the use of all existing structures which will remain on the property after platting, including buildings, ditches, buried conduits, etc.;
 - f. At least one soil log be dug to a depth of six feet on each proposed lot. Additional tests may be required where the soil structure varies, if large disposal areas are required or if groundwater or impermeable soils are within five feet of ground surface.
2. At least one soil log to a depth of six feet shall be performed at the site of each disposal area. This requirement may be waived by the Health Officer if adequate soil information is available. Additional tests may be required if the soil structure varies or if large disposal areas are required.
3. Percolation tests may be required by KCPHD if soil logs yield unconfirming results.
4. All percolation tests and soil logs shall be conducted by KCPHD.
5. If a sufficient amount of information is not available on groundwater conditions, KCPHD may require that additional testing be conducted during the months of suspected high groundwater conditions.
6. All soil tests shall be conducted using a uniform procedure developed by KCPHD.

13.04.100 Designer Program.

1. Each OSDS intended to serve a single-family residence, duplex, or where anticipated daily flows are less than one thousand two hundred gallons per day, shall be designed and certified by a designer possessing a valid license per Chapter 246-272A WAC .

2. Each OSDS intended to serve facilities where anticipated sewage flows are three thousand five hundred gallons per day or greater shall be designed by a sanitary, civil, or professional engineer, and be permitted by Washington State Department of Health.

13.04.110 Design and Construction - Generally.

1. The detailed design and construction of each OSDS shall conform to the Recommended Standards and Guidance for Performance, Application, Design, and Operation & Maintenance from the Washington State Department of Health or any succeeding edition, except where modified by, or in conflict with, these rules and regulations.
2. The OSDS shall be designed to receive all sewage from the premises served. Footing or roof drains shall not be connected to the OSDS.
3. Backwashes from water softeners and other such treatment devices shall not enter an OSDS where the disposal component is an evapotranspiration bed. Utilization of units such as water softeners where backwashes occur shall require additional sizing of the septic tank and disposal area.
4. The OSDS shall service a single premises and shall not have additional residences or premises connected to it unless approved by KCPHD.
5. No connections instead of or in addition to that for which the system was originally designed to accommodate may be made to an OSDS without written approval of KCPHD.
6. Where any portion of the OSDS, except the subsurface disposal area, is subject to compaction due to vehicular traffic or large animals, the method and materials used in the construction of the OSDS must be capable of withstanding these conditions without impairing the function of the OSDS.

13.04.120 Design and Construction - Building Sewer.

1. Pipe used for construction of a building sewer beyond the building plumbing shall be a minimum of three inches inside diameter and of cast iron, vitrified clay, concrete, or plastic which complies with the current U.S. Department of Commerce Commercial Standards for the pipe involved or of asbestos cement or plastic approved by the department.
2. Construction of the building sewer line shall be such as to secure watertight joints and it shall have a slope of not less than two percent.
3. No "T's" or ninety-degree ells shall be permitted in a building sewer line. All forty-five-degree ells must have accessible cleanouts.

4. Three to six-inch lines shall have cleanouts installed at intervals of not more than fifty feet. Larger than six-inch diameter lines shall have cleanouts installed at intervals of not more than one hundred feet.

13.04.130 Design and Construction - Septic Tanks.

1. Septic tanks sold for installation within the county must meet the Washington State Department of Health's proprietary products standards through certification and registration per Chapter 246-272A WAC. Plans must be submitted to and approved by KCPHD prior to installation.
2. No septic tanks shall be installed or constructed except those approved.
3. All septic tanks shall have a minimum of two compartments; however, two single compartment tanks may be used in series.
4. Liquid capacity:
 - a. All septic tanks must be designed according to waste load and in no case shall have a total capacity of less than one thousand gallons.
 - b. The first compartment or tank shall be one-half to two-thirds of the total septic tank capacity.
5. The outlet of the septic tank shall be so positioned as to be three inches below the level of the inlet.
6. On each septic tank or septic tank compartment, the inlet baffle or inlet "T" shall extend approximately six inches below the bottom of the level of the septic tank outlet and above the bottom of the septic tank outlet to at least the crown of the inlet sewer.
7. In each septic tank or septic tank compartment, the outlet baffle or outlet "T" shall extend below the bottom of the level of the septic tank outlet a distance approximately equal to twenty-eight to forty percent of the liquid depth below the bottom of the outlet. These baffles or "T's" shall extend at least six inches above the bottom of the outlet level to provide storage for floating materials.
8. Septic tanks shall have at least one inch between the underside of the top of the tank and top of the inlet and outlet pipe or baffles to allow the required ventilation of the tank and disposal field through the premises building vent stacks.
9. Sewage holding tanks shall not be used as a permanent method of sewage disposal. The Health Officer may allow holding tanks on an interim use basis to handle emergency situations or to correct existing problem systems. The Health Officer also may allow holding tanks for controlled, part-time use situations such as recreational vehicle parks

and trailer dump stations; provided, that an approved on-site sewage disposal system management program as provided in Section 13.04.180 is in effect.

10. Septic tank installation:

- a. No septic tank shall be covered with an impervious surface unless the manhole and inspection holes are extended up through the impervious surface and the manhole cover is equipped with a locking-type cover;
- b. No septic tank manhole shall be located more than eighteen inches below the finished grade. If it is necessary to place the septic tank more than eighteen inches below the finished grade, manholes shall be built up to within eighteen inches of the finished grade.

13.04.140 Design and Construction.

1. No OSDS shall be constructed or installed that does not provide at the head of each disposal field a distribution device which allows effluent to be distributed equally to all disposal lines.
2. No distribution device shall be installed that is not constructed of durable, watertight materials.
3. No distribution device shall be constructed or installed that does not provide equal flow of effluent to all outlets. The distribution device shall be set on stable soil or otherwise supported to prevent misalignment.
4. No pump, siphon, or other effluent lifting or dosing device shall be installed that is not approved by KCPHD.

13.04.150 Design and Construction - Subsurface Disposal Field.

1. All effluent from a septic tank shall be disposed of by means of a subsurface disposal system except when special approval has been granted by the Health Officer for an alternate system as described in Sections 13.04.210 and 13.04.230.
2. The installation and use of cesspools is prohibited.
3. Seepage pits shall not be used.
4. The subsurface disposal system shall not be installed in fill. This restriction may be waived when the Health Officer determines that the type of fill, the method of placement, and the stabilization period has or will allow full compliance with these rules and regulations.
5. Installation of an OSDS shall not be permitted in areas where the ground slope exceeds thirty percent. Installation on slopes in excess of fifteen percent, but not greater than

thirty percent, may be allowed provided that subsoil profiles indicate no restrictive layers of soil and an appropriate design is provided.

6. No subsurface disposal field shall be installed in which all trenches are not of the same approximate length.
7. The maximum length of any individual line shall not exceed one hundred feet unless written approval is granted by the Health Officer.
8. Minimum width of the bottom of all disposal trenches shall be twenty-four inches. Disposal trench width in excess of thirty-six inches may not be used in computing absorption area.
9. The sides and bottom of all disposal trenches shall be scored to eliminate smearing and compaction of the trench-soil interface.
10. The bottom of the disposal trenches shall be constructed on a grade of not more than two inches fall per one hundred lineal feet.
11. The grade of the disposal lines shall be zero to six inches per one hundred lineal feet.
12. Filter material shall be uncrushed, washed gravel, three-eighths inch to two and one-half inches in diameter.
13. The maximum depth of cover over the disposal lines, including the minimum of two inches of filter material required of this section, shall be twenty-four inches except by special permission of the Health Officer.
14. Minimum depth of cover over the filter drainfield material - shall be six inches.
15. Minimum depth of filter material over the disposal lines shall be two inches.
16. Minimum depth of filter material below disposal lines shall be six inches.
17. The maximum depth of the bottom of the trench shall be thirty-six inches below ground surface.
18. The minimum distances between disposal lines shall be six feet.
19. The minimum diameter of gravity flow disposal line pipe shall be four inches.
20. No disposal field shall be installed unless adequate measures are taken to ensure that proper grades on all disposal lines are maintained while backfilling.
21. All trenches, after having filter material placed over the disposal lines and before backfilling, shall have placed over the filter material, a layer of newspaper, straw,

untreated building paper, or other approved materials which will allow moisture transmission, but not soil particle migration.

22. Where PVC, polyethylene, plastic pipe is used, the ends of the pipe must be capped.

23. There shall be a minimum of two trenches in all systems.

13.04.160 Inspection.

1. Any work done on an OSDS and any material used may be inspected by KCPHD at any reasonable time, and if KCPHD finds that any work done or material used, is not in accordance with these rules and regulations, KCPHD may revoke the permit or notify the owner or installer to make such changes as KCPHD shall specify. If such changes are not made within a reasonable time, KCPHD shall revoke the permit and it shall be unlawful to use such OSDS.
2. The following conditions must exist before a final inspection is made:
 - a. Installation and/or construction of the septic tank must be complete;
 - b. Installation of the building sewer, distribution device, disposal area, and all other OSDS components must be completed and operational except for backfilling.
3. The OSDS shall be left open and uncovered until approved by KCPHD.
4. KCPHD shall be notified when an OSDS is ready for inspection. KCPHD must approve any modifications to an OSDS design prior to the changes being made.
5. KCPHD shall make a final inspection of all OSDS repairs.
6. When KCPHD is notified that an OSDS is ready for inspection, KCPHD will schedule and confirm scheduled inspection time with the permit contact person. Upon completion and approval of the OSDS, KCPHD shall notify the building department and OSDS permit contact that the OSDS has been approved.

13.04.170 Maintenance.

Each OSDS shall be maintained in such a manner as to ensure compliance with these rules and regulations.

13.04.180 Management.

1. When subdivisions, mobile home parks, multiple housing units, or other commercial or residential developments are designed to have gross densities that exceed three and one-half residential units or twelve people per acre or waste flows of one thousand two hundred gallons per acre per day, an OSDS shall not be permitted unless the perpetual maintenance and management of the OSDS are under the responsibility of an approved management system by the local health department.

2. A proposed OSDS to be located within the boundary of any operating public sewer utility shall be approved by the sewer utility prior to the issuance of a permit. If the proposed system serves a density greater than that identified in subsection (a) of this section, the maintenance of the OSDS shall be the responsibility of the sewer utility or dry sewers shall be provided as approved by the Washington State Department of Ecology and the sewer utility having jurisdiction in accordance with an approved sewage drainage basin plan.
3. An OSDS serving housing densities and/or flows exceeding that identified in subsection (1) of this section and not located within the boundaries of an operating public sewer utility shall have an approved perpetual maintenance and management system as established under the guidelines developed by the DOH, the Washington State Department of Ecology, and the local entity responsible for public utilities.

13.04.190 Prohibited Discharges.

1. Effluent from any OSDS shall not be discharged to surface water, groundwater, or upon the surface of the ground.

13.04.200 Disposal of Septic Tank Waste.

1. It is unlawful for any person to engage in the business of pumping or cleaning any septic tank, cesspool, sump, holding tank, or any other receptacle or device for collection of sewage or waste without first having received a license from the KCPHD.
2. Applicants for a license under this section shall file an application and remit fees per the KCPHDFS at KCPHD.
3. Upon receipt of such application, the KCPHD shall conduct a competency exam with the applicant of public health laws, local regulations, function of an OSDS, and knowledge other sewage collection systems, and adequacy of the applicant's equipment. If any of these areas are found to be inadequate, the application shall be denied. If found to be satisfactory, a license shall be issued. Licenses shall be renewed annually and require documentation as described on the applicable application form.
4. Every person issued a license under this section shall make a report once each month to the KCPHD on all services performed the preceding month. Such reports shall contain all information requested by and on forms supplied by KCPHD.
5. It is unlawful to dump or dispose of the contents removed from septic tanks, cesspools, sumps, holding tanks, or other sewage collection receptacles or devices except at locations approved by KCPHD.

13.04.210 Alternate Devices and Methods.

Approval authority for the application, installation, or use of any alternate device or method is

vested with KCPHD; provided, that the device or method has been approved by the Washington State Department of Health.

13.04.220 Larger Systems.

Until such time as guidelines governing the review, approval procedure, and authority for larger systems are developed between the Washington State Department of Health, local health department, Ecology, and municipal sewer utilities, the following shall apply:

All cases where the maximum design flow of any OSDS is greater than three thousand five hundred gallons per day, per parcel prior to construction of the system, the construction plans shall be submitted to the Washington State Department of Health for approval of engineering and to ensure the system will not create a health hazard.

13.04.230 Other Types of Disposal Units.

Units other than septic tanks or devices that can function as septic tanks with subsurface disposal systems may be used but only with the prior approval of KCPHD in accordance with the procedure established in Section 13.04.210.

13.04.240 Sanitary Privy.

1. The construction material for the sanitary privy must be approved by KCPHD and a minimum of 1000 gallon capacity.
2. Sanitary privies may be used in areas where no suitable domestic water supply is available subject to the following criteria:
 - a. In areas of high precipitation (greater than twenty-five inches annual average) and/or shallow, poor percolating soils, the waste receptacle must be sealed from exfiltration and infiltration;
 - b. In areas where good percolating soil exists and the seasonal high water table is deeper than four feet below the proposed bottom of the waste receptacle and less than an average annual precipitation of twenty-five inches occurs and lots or tracts are greater than five acres.
 - c. In areas subject to flooding, high groundwater (closer than four feet to ground surface), or less than four feet of suitable soil exists, privies are not permitted.
3. All sanitary privies shall be constructed and maintained to have the waste receptacle contents inaccessible to rodents, vermin and vectors.
4. No privy may be constructed and/or located on any property without having first obtained a written permit from KCPHD prior to such construction and/or location.
5. Chemical toilets may be used around construction sites as a temporary means of sewage disposal. Chemical toilets may also be used in all situations where sanitary privies may be used.

13.04.250 Health Hazard Described.

An OSDS shall be considered a health hazard if it does not meet the standards of construction or location as provided in this chapter. KCPHD shall have the authority to prohibit its use pending completion of necessary alterations to reasonably ensure proper and safe operation. It is a violation of these rules and regulations for any person to continue to use or to permit any person to use any OSDS after having been directed by the KCPHD to suspend said use. It shall be considered prima facie evidence that an OSDS is being used upon showing that the premises served by such OSDS is occupied as a residence or business.

13.04.260 Administration.

KCPHD shall administer these regulations under the authority and requirements of RCW Chapters 70.05, 43.20, and WAC 248-96-015.

13.04.270 Waiver.

Whenever a strict interpretation of these rules and regulations would result in extreme hardship, the Health Officer may waive such rule, regulation, or portion thereof; provided, that the waiver is consistent with the intent of these rules and regulations and that no public health hazard or nuisance will result and as long as the waiver is consistent with other state and local rules, regulations, laws, or ordinances. Any person that applies for a waiver must follow the process outlined by KCPHD.

13.04.280 Appeal.

1. Any person aggrieved by a decision of the Health Officer may request in writing within ten (10) days of the decision an appeal hearing before the Kittitas County Board of Health. The request shall be submitted to KCPHD, and shall include:
 - a. The decision being appealed;
 - b. The name and address of the appellant and his or her interest(s) in the matter;
 - c. The specific reasons why the appellant believes the decision to be wrong;
 - d. The desired outcome or changes to the decision; and
 - e. The appeals fee as determined by the KCPHDFS.
2. Notice of Hearing.
 - a. Not later than the 15 calendar days after the receipt of one or more timely Notices of Appeal, KCPHD shall issue and serve a Notice of Hearing to the appellants. Requests from multiple parties concerning the same decision may be consolidated.
 - b. The Notice of Hearing shall be served by both first-class and certified mail with a 5-day return receipt requested to the last known address of the appellant; or by personal service upon the appellant.
 - c. The Notice of Hearing shall contain the date, time, and location of the hearing.
3. Evidence.

- a. Evidence, including hearsay evidence, is admissible if in the judgment of the Board of Health it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
 - b. All testimony of parties and witnesses shall be made under oath or affirmation.
 - c. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
 - d. Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the agency's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, of this state, or by a nationally recognized organization or association. Parties shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.
4. Each party shall have the following rights:
- a. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - b. To introduce document and physical evidence;
 - c. To cross-examine opposing witnesses on any matter relevant on the issues of the hearing;
 - d. To impeach any witness;
 - e. To rebut evidence against him;
 - f. To represent himself or be represented by an attorney of his or her own choosing.
5. Hearing
- a. The appeal hearing shall be conducted on the record and the Kittitas County Board of Health shall have such rulemaking and other powers necessary for conduct of the hearing .
 - b. The burden is on KCPHD to prove the alleged factual basis set forth in the decision. The burden is a preponderance of the evidence.
 - c. The observation of a violation on different dates shall be prima facia evidence that the violation continued to exist on intervening dates.
 - d. Following review of the evidence submitted, the Kittitas County Board of Health shall make written findings and conclusions and shall affirm or modify the decision previously issued if the Board of Health finds that a violation has occurred. The Board of Health shall reverse the decision if they find that no violation occurred. The written decision of the Board of Health shall be mailed by certified mail and first-class mail, five day return receipt requested, to the appealing party .

13.04.290 Health Officer Enforcement Authority.

Nothing in this Chapter shall limit the authority of the Health Officer, or his or her designee, to enforce this Title pursuant to Chapter 13.70 KCC or any other applicable regulations.

13.04.300 Health Emergency.

Nothing in these rules and regulations shall be construed to circumscribe the authority and power of the Health Officer to act in an emergency situation to control and prevent any health hazard which immediately threatens the public health of the inhabitants of the county and its municipalities which power and authority is governed by state law.

13.04.310 Violation - Penalty.

Violations may result in enforcement actions such as Orders to Correct Violations, Notices of Violation and Abatement, and/or Notices of Infraction per [KCC Chapter 18](#).

ADOPTED this 22 day of June, 2022.

**BOARD OF COUNTY COMMISSIONERS
KITITIS COUNTY, WASHINGTON**



Laura Osiaacz, Chairman

ABSENT

Cory Wright, Vice-Chairman



Brett Wachsmith, Commissioner



Julie Kjorsvik

APPROVED AS TO FORM:

Deputy Prosecuting Attorney