

**A RESOLUTION OF CONCURRENCE WITH SKAGIT COUNTY HEALTH OFFICER SKAGIT COUNTY  
CODE VARIANCE REQUEST DETERMINATION**

**WHEREAS**, Henry and Charlotte Dykstra (Dykstra) are the reputed owner of Skagit County Tax Parcel No. P35287 (hereinafter, the "**Property**"); and

**WHEREAS**, Dykstra is proposing a land division of the property which will be served by two individual drinking water well systems; and

**WHEREAS**, both drinking water systems exceed the Environmental Protection Agency (EPA) standard of 0.010 mg/L arsenic. EPA set the arsenic standard for drinking water at 0.010 mg/L to protect consumers from the effects of long-term arsenic exposure. Arsenic has been linked to several cancers including cancer of the bladder, lungs, skin, kidney, nasal passages, liver, and prostate. Washington Department of Health adopted this drinking water standard for arsenic on January 14, 2004. Drinking water with arsenic exceeding the drinking water standard is a public health threat; and

**WHEREAS**, Because of the arsenic exceedances, each water system requires a water system status report, and per Skagit County Code (SCC) 12.48.270 (2), water systems with a water system status report shall not be used for the creation of new lots; and

**WHEREAS**, Dykstra petitioned the Skagit County Health Officer for a variance from SCC 12.48.270(2) in order to proceed with the proposed land division; and

**WHEREAS**, pursuant to RCW Chapter 70.05 and SCC 12.48.280, the Health Officer reviewed the variance petition. SCC 12.48.280(1) provides that "the Health Officer may upon written petition by the applicant, and upon concurrence of the BOH, waive such rule or regulation or portion thereof; provided, that the waiver is consistent with the intent of these rules and regulations, Chapters 173-160, 246-290 and 246-291 WAC, and that no public health hazard will result." The Health Officer determined that in order to grant the variance, certain variance conditions are necessary to assure that no public health hazard will result; and

**WHEREAS**, the Health Officer determination, including the variance conditions, are contained in the Attachment A, Request for Variance with Health Officer Decision dated July 12, 2022.

**NOW, THEREFORE, BE IT RESOLVED** by the Skagit County Board of Health:

1. That the Skagit County Board of Health concur with the Health Officer determination to allow the Dykstra SCC 12.48.270(2) variance with specific conditions a through g, contained in Attachment A and
2. That any costs associated with meeting the variance conditions shall be at the expense of Dykstra and any future property owner.

WITNESS OUR HANDS AND SEAL OF OUR OFFICE this 19<sup>th</sup> day of July 2022.

**BOARD OF HEALTH  
SKAGIT COUNTY, WASHINGTON**

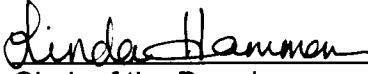


  
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Peter Browning, Chair

  
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Ron Wesen, Commissioner

  
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Lisa Janicki, Commissioner

**ATTEST:**

  
\_\_\_\_\_  
Clerk of the Board

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Will Honea, Deputy Prosecuting Attorney  
Office of the Skagit County Prosecuting Attorney



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HEALTH DEPT.

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SKAGIT COUNTY  
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4/5/22 CP

Skagit County Public Health  
Jennifer Johnson, Director  
Howard Leibrand, M.D., Health Officer

Request for Variance from Public Health Code

Skagit County Public Health may grant a variance for a specific regulated facility or site code requirement by modifying or waiving requirements of the relevant code if the applicant can demonstrate to the Health Officer that a health hazard or nuisance will not result. Applicants must complete the following information and submit along with the appropriate fee. The fee for variance application is \$450.00 according to the 2019 Schedule of Charges. Allow up to 30 days for review of this application.

Applicant Name: Henry Dykstra Business Name: S Anna  
Site Address: 11854 Tew Acres Lane Burlington Parcel # Tew Acres  
Gwen Parcel 2  
Applicant Mailing Address: 12542 ~~Green~~ Dr B  
City: Burlington, WA 98233 Zip: 98233  
Applicant phone number: 360 980-2123 Applicant email: \_\_\_\_\_

The following information is required for review of the application. Be as detailed as possible. Attach additional pages for full question response as necessary. Provide all documentation necessary to support application including engineering or architectural plans, equipment specifications, site diagrams, etc.

1. Cite specific Code section(s) you are asking variance from:

SCC 12.48.270 (2)  
IF a water system status report is filed for a water system, the system shall NOT be used for the creation of new lots.

2. Why you are unable to meet the provisions of the code:

Describe precisely the situation  
- 2 existing modular homes on one 10-acre parcel served by 1 well  
- wish to separate modular homes to own lots via land division. New well contains elevated arsenic. Address

3. Explain how potential public health hazards will be alternatively addressed:

Install whole house Filtration system  
- describe make/model

Fleck 2510A10 2.5 Katalox Light Iron Filter + Fleck 2510SXT 64,000 Gal. Water Softener

Signature of applicant: Henry Dykstra Date: 4/4/22

Application for Variance, Page 1 of 2

enclosed Fee  
\$450.00

Application for variance Name, address: Henry Dykstra, 11854 Ten Acre Lane, Burlington. Land division

Variance is granted under the following conditions

Approve the proposal as submitted with the following additional conditions recorded on the plat notes and each new property deed:

- a. Install professionally designed and engineered treatment systems on both the proposed lot 1 and proposed lot 2 wells which are designed to reduce arsenic to the EPA standard of 0.010 mg/L arsenic or below.
- b. Record the drinking water status reports to the proposed lot 1 and lot 2 property deeds. Include the professionally verified as-builts and the system operation and maintenance plans for the approved water treatment systems.
- c. Demonstrate satisfactory post-treatment water samples for both proposed lot 1 and lot 2. The water samples shall be taken by a qualified third party and analyzed by a certified laboratory.
- d. Additional dwelling units or land divisions shall be prohibited until such time as a public water system becomes available.
- e. When public water system becomes available/feasible, both proposed lots shall connect to the public water system and stop using the wells for potable water.
- f. Per SCC 12.48.220 *Rental housing individual water system requirements*, landlords must provide potable water per RCW 59.18. When either of the dwellings are rented, the property owner(s) shall include a written statement in the rental agreement(s) regarding the arsenic exceedance in the well and inform the tenant that the water system treatment must remain properly functioning and maintained to mitigate the arsenic exceedance.
- g. The property owner(s) shall have an on-going maintenance contract with a water treatment professional to maintain the treatment systems. The property owner shall keep records of the on-going system maintenance and ensure annual third-party professional post treatment sampling and analysis for arsenic. The property owner shall submit annual copies of the treatment system maintenance records and test results for arsenic concentrations to Skagit County Public Health. Submit the records for the previous calendar year by February 1 of each year.

Reviewed by Public Health Staff Name/Title:

K. Britt Hall Dunton  
Environmental Health Manager

Date:

7/12/2022

Health Officer Signature:

H. Hubbard

Date:

7/12/22

SKAGIT COUNTY PUBLIC HEALTH