

## Title 12.54

### CIVIL PENALTIES FOR VIOLATION OF HEALTH OFFICER ORDERS

#### **12.54.010 Authority, applicability, and purpose.**

(1) The statutory authority for the adoption of this Chapter is under RCW [70.05.060\(3\)](#) to preserve, promote, and improve the public health.

(2) The purpose of this Chapter is to protect and promote the health, safety, and welfare of the public by providing for the control and prevention of any dangerous, contagious or infectious disease, reducing the impact of communicable diseases and authorizing the issuance of civil fines to support enforcement.

#### **12.54.020 Definitions and local supplemental definitions.**

The following specific definitions shall apply:

(1) “Chapter” means a chapter in Skagit County Code.

(2) “County” means Skagit County.

(3) “Health Officer” means the Health Officer of Skagit County as defined by SCC 12.01.010(3), or the Health Officer’s designee.

(4) “Health Officer Order” means an order issued by the Health Officer of Skagit County, or the Health Officer’s designee which is determined to be necessary to maintain health and control and prevent the spread of any dangerous, contagious or infectious disease in Skagit County. Orders are issued under authority of RCW [70.05.070](#) and may be issued as to indoor public places or outdoor public places.

(5) “Indoor public place” means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Washington, or other public entity. Public places include, but are not limited to: schools, elevators, public conveyances or transportation facilities, taxis, buses, for hire conveyances, museums, concert halls,

theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, State legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, clubs, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than 75 percent of the sleeping quarters within a hotel or motel that are rented to guests. "Indoor public place" also means any public or private place that is open to the general public regardless of whether dues, cover charges or a fee is charged or there are restrictions such as an age requirement for the privilege of admission, and includes any place used by a membership association or club at which nonmember guests are present or permitted.

(6) "Outdoor public place" means a social space that is open and accessible to the public, but located outside of buildings.

#### **12.54.030 Publication and Effective Date of Health Officer Orders**

(1) Health Officer Orders issued pursuant SCC 12.54.020(4) shall be published in a newspaper of general circulation in Skagit County and shall be effective the day after publication. Health Officers Orders shall also be made publicly available on the website for the Skagit County Health Department.

(2) Health Officers Orders shall be effective for a period of ninety (90) days unless otherwise specified in the Order.

(3) Upon review and approval by the Skagit County Board of Health, Health Officer Orders may be renewed upon the expiration of the ninety (90) day period upon publication pursuant to subsection (1) or upon the expiration of any subsequent ninety (90) day renewal period.

(4) The Health Officer may rescind a Health Officer Order issued pursuant to this Chapter at any time. Notice of rescinded Orders will be published on Skagit County Department of Health's publically available website and notice to local law enforcement officials.

#### **12.54.040 Violation of Health Officer Orders Prohibited.**

(1) No person may violate the terms of a Health Officer Order which requires the wearing of masks, use of other personal protective equipment, or other requirements deemed necessary for the control and prevention of contagious diseases as specified in the order,

- (a) in indoor public places in Skagit County.
- (b) in outdoor public places in Skagit County in a concentration of individuals in a designated area as set by the Health Officer or the Health Officer's designee.

(2) It is an affirmative defense to SCC 12.54.040(1) (a) or (b) that an individual is unable to comply with the ordinance as determined by a licensed medical professional prior to the time of the incident.

(3) No business or organization may permit members of the public to enter or remain in any indoor public place or outdoor public place who is in violation of a Health Officer Order issued under this chapter. Such violation may be shown by lack of enforcement of the terms of a Health Officer Order or by at least three individuals shown to be violation of a Health Officer Order.

#### **12.54.050 Enforcement Procedures.**

(1) The Health Officer and law enforcement officers of duly established law enforcement agencies in Skagit County are authorized to administer and enforce this Chapter. The Health Officer may issue a notice of violation to an individual, business or organization based upon a sworn statement from a law enforcement officer or Skagit County Department of Public Health Staff.

(2) The Health Officer or his/her duly authorized representative, and law enforcement officers of duly established law enforcement agencies in Skagit County, shall have the authority to seek entry and inspect any building, structure, property or portion thereof which are indoor public places, at reasonable times for the purpose of determining compliance with and enforcing the provisions of this Chapter.

(3) Violations. All violations of the requirements and restrictions imposed under the authority of this Chapter are hereby declared to be detrimental to the public health, safety and welfare and are hereby declared to be public nuisances.

(a) Each violation of this Chapter 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.

(b) A notice of violation or order shall be served on the person or persons responsible for the violation either personally or by mailing via certified mail, return receipt requested, to the last known address of the violator. Service by certified mail is effective upon receipt or five days after the date of mailing, whichever occurs first.

(4) Penalty. Civil penalties for violations of shall be imposed pursuant to the following schedule:

(a) Individuals:

- |       |                                 |                                       |
|-------|---------------------------------|---------------------------------------|
| (i)   | First Violation:                | \$50 (Fifty dollars)                  |
| (ii)  | Second Violation within a year: | \$100 (One hundred dollars)           |
| (iii) | Third Violation with a year:    | \$250 (Two-hundred and fifty dollars) |

(b) Businesses or Organizations:

- |     |                  |                                       |
|-----|------------------|---------------------------------------|
| (i) | First Violation: | \$250 (Two-hundred and fifty dollars) |
|-----|------------------|---------------------------------------|

- (ii) Second Violation within a year: \$500 (Five-hundred dollars)
- (iii) Third Violation with a year: \$1,000 (One thousand dollars)

Under the authority of RCW 70.05.070 (7), penalties imposed and collected under the authority of the Health Officer shall be remitted to the Skagit County Health Department.

#### **12.54.060 Requests for reconsideration and appeals.**

##### (1) Requests for Reconsideration.

(a) Persons named in a notice of violation and issued a civil penalty may request reconsideration by filing a request for reconsideration, on a form provided by Skagit County Health Department and accompanied by the required filing fee, to Skagit County Health Department within 10 business days of service of the notice of violation.

(b) Requests for reconsideration shall identify alleged errors in the notice of violation, including statements and photographs as applicable, and by a written explanation. An aggrieved person may request a meeting with the Health Officer, which may be granted at the Health Officer's discretion. The Health Officer may rule on the request for reconsideration without a hearing

(c) The Health Officer has the discretion to reduce the civil penalty.

(d) The Health Officer shall issue a written decision within thirty (30) days of receipt of the request for reconsideration unless additional time is justified by good cause. Service of the decision shall be effective upon personal service on the person(s) requesting the reconsideration, or five days after mailing the decision, via certified mail return receipt requested, to the address provided in the request for reconsideration.

##### (2) Appeals of Health Officer's Decision on a Request for Reconsideration.

(a) Persons aggrieved by the Health Officer's decision on a request for reconsideration may appeal by filing a notice of appeal, on a form provided by Skagit County Health Department, accompanied by the required filing fee, to Skagit County Health Department within 10 business days of service of the Health Officer's decision.

(b) The request for appeal must be served to the Skagit County Public Health Department with a copy to the Skagit County Board of Health.

(i) A fee in the amount listed in the most current Skagit County Public Health Department Schedule of Charges is due and payable to the Skagit County Public Health Department when an appeal of the Health Officer's reconsideration decision is made to the Board of Health. Such fee may be waived upon documentation by the individual showing income below federal poverty guidelines.

(c) The Board of Health will hear the appeal within sixty (60) days of receipt of the application to appeal the Health Officer's decision.

(3) The filing of a request for reconsideration or appeal pursuant to this Section shall operate as a stay of the civil penalty. There shall be no stay from a Health Officer order for immediate compliance with this Chapter when a public health threat exists.