

**BOARD OF HEALTH
ORDINANCE NO. 2
AN ORDINANCE WHICH PERTAINS TO
SOLID WASTE, LITTER, AND UNAUTHORIZED DUMPING**

WHEREAS, the Washington State Legislature enacted a law effective in 1995 which gives the Pacific County Board of Health jurisdiction in the entire County, including the incorporated cities of Raymond, South Bend, Ilwaco and Long Beach;

WHEREAS, the Pacific County Board of Health has been relying on Pacific County ordinances to enforce public health standards;

WHEREAS, Pacific County ordinances cannot be enforced in an incorporated city absent some type of agreement with the legislative authority of the city;

WHEREAS, the Pacific County Board of Health now has a legislative mandate to enforce public health rules in the incorporated areas of Pacific County;

WHEREAS, the Pacific County Board of Health has no explicit rules regulating solid waste, litter, and unauthorized dumping in the incorporated areas of the County;

WHEREAS, the Pacific County Board of Health needs to enact special legislation pertaining to solid waste, litter, and unauthorized dumping to allow County public health rules to be enforced in the incorporated areas of the County; and

WHEREAS, the lack of an efficient regulatory framework to enforce solid waste, litter and unauthorized dumping violations in the incorporated areas of the County constitutes an emergency under WAC 197-11-880 and necessitates the immediate implementation of this legislation; now therefore,

IN ACCORDANCE WITH CHAPTER 70.05 RCW, IT IS HEREBY ORDAINED BY THE PACIFIC COUNTY BOARD OF HEALTH THAT PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 2 IS ADOPTED AS FOLLOWS:

I. SECTION 1 PURPOSE

- 1.1 The purpose of this Ordinance is to control litter and unauthorized dumping of solid waste in Pacific County. This Ordinance is intended to place upon all persons residing,**

traveling, or doing business within Pacific County the duty to prevent and eliminate unsanitary, unsightly, and otherwise environmentally damaging conditions. This Ordinance seeks to protect the public against health and safety hazards and the expense incident to littering and unauthorized dumping of solid waste.

II. SECTION 2 DEFINITIONS

- 2.1 **Approved** - "Approved" means acceptable by the health officer or department as stated in writing.
- 2.2 **Board** - "Board" means the legally constituted Pacific County Board of Health.
- 2.3 **Department** - "Department" means Pacific County Department of Community Development.
- 2.4 **Health Officer** - "Health Officer" means the legally designated Health Officer of the Pacific County Board of Health or his or her authorized representative(s).
- 2.5 **Imminent Health Hazard** - "Imminent Health Hazard" means that individuals are likely to come in contact with (1) radiation, (2) pathogenic organisms, or (3) toxic, hazardous or dangerous chemicals that will endanger their health upon incidental contact.
- 2.6 **Litter** - "Litter" means any garbage, trash, debris, rubbish, tires or any other form of solid waste.
- 2.7 **Litter Receptacles** - "Litter Receptacle" means a container designed in a manner approved by Pacific County, which conforms to the requirements of WAC 173-310-050 et. seq. or any amendments thereto.
- 2.8 **Nuisance** - "Nuisance" means those conditions which may render individuals or small groups of persons in any way to be insecure in life or use of property; or shall annoy, injure or endanger the safety, health, welfare, comfort or repose of individuals or small groups of people. Examples of such nuisances include but are not limited to any nuisance listed in RCW 7.48, RCW 9.03 Abandoned Refrigerators, RCW 78.12 Abandoned Shafts and Excavations, certain solid waste disposal activities including dead animals or attractive nuisances.

- 2.9 **Person** - "Person" means an individual, a partnership (including partners and managers), a corporation (including board members, officers, and managers), or any other entity of any kind. "Person" also includes an applicant, a permit holder, an authorized agent of any entity, or any third party acting on behalf of any entity.
- 2.10 **Prosecuting Authority** - "Prosecuting Authority" means the Pacific County prosecuting attorney, his or her deputies and assistants, or such other persons as may be designated by statute.
- 2.11 **Public Nuisance** - "Public Nuisance" means:
- a. To cause, permit, or allow the carcass of any animal or any offal, filthy, or noisome substance to be collected, deposited, or to remain in any place to the prejudice of others or to the prejudice of the general public.
 - b. To pollute any watercourse, lake, stream, marsh, well, spring, or groundwater.
 - c. To obstruct, impede, or encroach, without legal authority, any river, harbor, lake, or other collection of water, or any public highway, private way, street, alley, commons, landing places, ways to burying places, or public rights of way.
 - d. To establish and maintain, without authority of law, any inherently dangerous business, or activity which emits odors, smells, or noise that is dangerous to the health of individuals or the public or which prevents an individual from the quiet enjoyment of his or her property.
 - e. To cause, permit, or allow to remain on property a condition, such as an open well, which is inherently dangerous to the general public and which would be classified as an attractive nuisance.
 - f. To cause, permit, or allow the presence in the open, as opposed to an enclosed building, of any abandoned or discarded objects or equipment, such as automobiles, furniture, stoves, refrigerators, washers, dryers, freezers or hot water tanks.

- g. To keep, permit, or allow on premises any putrescent material that is attractive to vermin, unless the same is in containers that deny access to vermin and contain any obnoxious odors therefrom.
- h. To cause, permit, or allow the continuation of failed septic systems.
- i. To cause, permit, or allow any fence that has the purpose of containing livestock or horses to fall into disrepair, if the field is used or intended to be used, for the housing of livestock or horses.
- j. To cause, permit, or allow the accumulation of, or growth of, vegetation or materials that constitute an unreasonable fire hazard to any buildings or real property.
- k. To cause, permit, or allow the disposal of garbage except in an approved container or solid waste site.
- l. To cause, permit, or allow to remain on premises any building which has been damaged by fire or elements, or which has deteriorated to a point that is not economically feasible to repair the same, and which building constitutes a potential hazard to the public.
- m. To cause, permit, or allow loud noise to emanate from their premises, by mechanical, electrical, human or animal means of transmission, in such a manner and at such times as to cause another to lose the quiet and peaceful enjoyment of their property. An isolated instance of this prohibited activity is not a public nuisance. A pattern of this activity is a public nuisance.

2.12 **Regulation** - "Regulation" means a statute, an administrative rule, or an adjudicatory decision.

2.13 **Solid Waste** - "Solid Waste" means all putrescible and nonputrescible solid and semisolid wastes, including but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to sludge from wastewater treatment plants and

septage, from septic tanks, woodwaste, dangerous waste, and problem wastes.

- 2.14 **Statute** - "Statute" means any State law or regulation, or any County ordinance or resolution.
- 2.15 **Unauthorized Dumping** - "Unauthorized Dumping" means to discard, dump, deposit, throw or otherwise dispose of any material defined by the State of Washington, or any Pacific County Board of Health ordinance, or any Pacific County ordinance as "solid waste" in any location when a person does not have a valid permit for the disposal of such waste or the activity in question is not exempted under this Ordinance.

III. SECTION 3 PROHIBITED ACTIVITIES

- 3.1 **Littering** - No person shall throw, drop, deposit, discard, or otherwise dispose of litter on any public place in the County or upon any private property not owned by him, or in any waters within the jurisdiction of the County or the incorporated cities whether from a vehicle or otherwise, including, but not limited to, any street, sidewalk, alley, or park, except:
- 3.1.1 When such property is duly designated by the State, by any of its agencies, by the County or the incorporated cities for disposal of garbage and refuse, and a person is authorized by the appropriate permitting authority to so use such property; or
- 3.1.2 When a person puts litter into a litter receptacle or other container in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said public place or any private property; or
- 3.1.3 When a person is the owner or has control or custody of the property, or has prior consent of an owner or tenant in lawful possession of the property and the person is authorized by permit to dispose of such material or unless the act is done under the personal direction of the said property owner or tenant and provided said litter shall not cause a public nuisance or be in violation of any State or local laws, rules or regulations.
- 3.2 **Unauthorized dumping** - No person shall dump, deposit, drop, discard or otherwise dispose of any solid waste material including, but not limited to, garbage, rubbish, trash, tires,

wood waste or seafood waste upon any public place in the County, or any private property including, but not limited to, any highway, street, road, lane, alley, sidewalk, lot, park or surface water, except:

3.2.1 In duly designated locations authorized by and under a permit issued by the Department;

3.2.2 On private properties of 40 acres or more where disposal is 500 feet or more from any surface water; or

3.2.3 On private properties in control of the property owner for his or her exclusive use where material is handled and disposed of in a manner which does not cause a public nuisance.

3.3 Litter Bags - No owner or person in possession of a vehicle or watercraft operating in Pacific County shall do so without a litter bag in said vehicle or watercraft at all times.

3.4 Litter Accumulation - No person shall sweep into or deposit in any gutter, street, alley or other public place the accumulation of litter from any building, lot or from any public or private driveway or sidewalk. Persons owning or occupying property shall keep the sidewalks or the roadside in front of their premises free from litter.

3.5 Handbills

3.5.1 No person shall throw or deposit any handbill upon any public place within the County; provided, however, that it shall not be prohibited for any person to hand out, without charge to the receiver thereof, any handbill to any occupant of a vehicle, or to any other person who is willing to accept it.

3.5.2 No person shall throw or deposit any handbill in or upon any uninhabited or vacant property. The provisions of this Subsection do not apply to the distribution of mail by the United States nor to the delivery of newspapers. However, newspapers that are placed on private residences or other private property shall be deposited in such a manner as to prevent their being carried by the elements to any public place.

3.6 Vehicle Loads - No vehicle shall be driven or moved on any public street or highway unless such vehicle is so constructed as to prevent any of its load from dropping, shifting, leaking or

otherwise escaping therefrom, except that materials may be deposited on the roadway for the specific purposes of enhancing public safety and or facilitating construction projects by public authorities or persons holding contracts therefrom.

IV. SECTION 4 LITTER RECEPTACLES

- 4.1 Litter receptacles shall be placed in parks, trailer parks, gasoline service stations, tavern or restaurant parking lots, shopping centers, grocery store parking lots, marinas, boat launching areas, fishing access areas, beaches, bathing areas, locations that service transient habitation, and other such public places in sufficient numbers to meet the specifications contained in WAC 173-310-050 et seq. or any amendments thereto.**
- 4.2 It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles are required by this subsection to procure, place, maintain, and empty such litter receptacles at his or her own expense in accordance with WAC 173-310-050 et seq. or any amendments thereto.**
- 4.3 Litter receptacles placed in accordance with this Section shall be used only for such litter material as persons may have for disposal while passing along the street, road or other public place and shall not be used for the disposal of other solid waste accumulated in residences, industries, or business.**
- 4.4 No person shall willfully damage or deface any litter receptacle.**
- 4.5 It shall be the responsibility of the person owning or maintaining litter receptacles to remove litter from receptacles in a timely fashion and to properly dispose of the contents.**
- 4.6 Litter receptacles shall be of a size and design approved by the Department and the Department of Ecology.**

V. SECTION 5 VIOLATIONS

- 5.1 A person who violates the provisions of this Ordinance or who fails to comply with any of its requirements shall be subject to**

the procedures and sanctions set forth in Pacific County Board of Health Ordinance No. 1 or any amendments thereto.

- 5.2 In addition to the civil penalty provisions provided in Pacific County Board of Health Ordinance No. 1 or any amendments thereto, any person who violates any of the provisions of this Ordinance is guilty of a misdemeanor, and each day or portion thereof during which a violation is committed, continued, or not permitted shall constitute a separate offense. The penalty for each violation is a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. The principles of liability contained in Chapter 9A.08 RCW including, but not limited to, liability for conduct of another shall apply to the enforcement of this Ordinance as shall all judicial interpretations thereof.
- 5.3 When a court determines that a person has committed a civil infraction under this Ordinance and Pacific County Board of Health Ordinance No. 1 or any amendments thereto, The Pacific County Board of Health may collect penalties, assessments, costs, and/or fines by any procedure established for the collection of debts that are owed to the Pacific County Board of Health.
- 5.4 Any disposition of a violation pursuant to this Ordinance and Pacific County Board of Health Ordinance No. 1 or any amendments thereto shall not absolve a person from correcting or abating a violation and shall not prevent the prosecuting authority from pursuing criminal prosecution, other civil action including, but not limited to, injunctive relief, license revocation, and abatement, or all of the above. If the Pacific County Board of Health prevails in a separate civil action, the Court may award the Pacific County Board of Health reasonable costs including, but not limited to, the costs of the responsible officials' time, witness fees, attorney fees, court costs, and the costs to the Pacific County Board of Health of abatement or of enforcement of an injunction, or both.
- 5.5 Any or all of the remedies articulated in Subsections 5.1, 5.2, and 5.4 may be used by the Pacific County Board of Health to enforce this Ordinance. Nothing contained in this Ordinance shall prevent the Pacific County Board of Health, by and through the prosecuting authority, from taking such other lawful action as is necessary to prevent or remedy any violations.

VI. SECTION 6 SEVERABILITY

If any provision, or any portion thereof, contained in this Ordinance is held to be unconstitutional, invalid or unenforceable, said provision(s), or portion(s) thereof, shall be deemed severed and the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

VII. SECTION 7 EFFECTIVE DATE

This Ordinance shall take effect as of October 8, 1996.

PASSED BY THE PACIFIC COUNTY BOARD OF HEALTH meeting in regular session at South Bend, Washington, by the following vote, then signed by its membership and attested to by its Clerk in authorization of such passage the 8th day of October, 1996.