

PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 2A
AN ORDINANCE AMENDING PACIFIC COUNTY BOARD OF HEALTH
ORDINANCE NO. 2, WHICH PERTAINS TO SOLID WASTE HANDLING, LITTER,
AND UNAUTHORIZED DUMPING

WHEREAS, pursuant to RCW 70.95.160 the Pacific County Board of Health is required to adopt an ordinance governing solid waste handling;

WHEREAS, local solid waste handling regulations cannot be less stringent than those set forth in Chapter 173-304 WAC and Chapter 173-351 WAC;

WHEREAS, Pacific County Board of Health Ordinance No. 2 needs to be amended to include the regulations contained in Chapter 173-304 WAC and Chapter 173-351 WAC; and

WHEREAS, the adoption of Chapter 173-304 WAC and Chapter 173-351 WAC by the Pacific County Board of Health is necessary to protect the health, safety, and welfare of the residents of Pacific County;

NOW THEREFORE, IN ACCORDANCE WITH CHAPTER 70.05 RCW, CHAPTER 70.95 RCW, CHAPTER 173-304 WAC AND CHAPTER 173-351 WAC, IT IS HEREBY ORDAINED BY THE PACIFIC COUNTY BOARD OF HEALTH THAT PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 2 IS AMENDED AS FOLLOWS:

1. Section 1 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:
 - I. SECTION 1 PURPOSE
 - 1.1 Statement of Authority and Applicability. This Ordinance is established pursuant to Chapter 70.05 RCW, RCW 70.95.160, Chapter 173-304 WAC, and Chapter 173-351 WAC. This Ordinance applies to the incorporated and unincorporated areas of Pacific County.

1.2 Statement of purpose

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.

2. Section 2 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:

II. SECTION 2 DEFINITIONS

- 2.1 Approved – “Approved” means acceptable by the health officer or department as stated in writing.
- 2.2 Department – “Department” means Pacific County Department of Community Development.
- 2.3 Health Officer – “Health Officer” means the legally designated Health Officer of the Pacific County Board of Health or his or her authorized representative(s).
- 2.4 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.
- 2.5 Litter – “Litter” means any garbage, trash, debris, rubbish, tires or any other form of solid waste.
- 2.6 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.
- 2.7 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.

- 2.8 Prosecuting Authority – “Prosecuting Authority” means the Pacific County prosecuting attorney, his or her deputies and assistants, or such other person as may be designated by statute.
- 2.9 Public Nuisance – “Public Nuisance” means:
- a. To cause, permit, or allow the carcass of any animal of 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 use, 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 building 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.
- 2.10 Regulation – “Regulation” means a statute. “Regulation” also means an administrative rule or adjudicatory decision which is adopted under the authority of the Pacific County Board of Health, the Board of Supervisors of Pacific County Flood Control District No. 1, the Pacific County Board of Commissioners, the State of Washington, or the Federal government.
- 2.11 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.
- 2.12 Statute – “Statute” means any Ordinance of the Pacific County Board of Health, the Pacific County Flood Control Zone District No. 1, the Pacific County Board of Commissioners, or any State or Federal law.
- 2.13 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.

3. Section 3 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:

III. SECTION 3 ADMINISTRATION

- 3.1 The Administrative Officer of the Pacific County Board of Health, or his or her designee, shall be the administrator of this Ordinance and shall be responsible for administering the provisions and requirements of this Ordinance.
- 3.2 The Administrative Officer of the Pacific County Board of Health, or his or her designee, is hereby authorized to adopt and implement written administrative rules which are consistent with and effectuate the purpose of this Ordinance. Any activity pertaining to solid waste handling and disposal shall conform to any such administrative rules that are adopted by the Administrative Officer of the Pacific County Board of Health, or his or designee. Where the provisions of Chapter 173-304 WAC and Chapter 173-351 WAC, and any amendments thereto, conflict with this Ordinance, or any written administrative rules adopted under Subsection 3.2, the more strict regulation shall apply.
- 3.3 The Administrative Officer of the Pacific County Board of Health or his or her designee is hereby authorized to develop a fee schedule to cover all of the activities delineated in this Ordinance. Any proposed fees shall not become effective until approved by resolution of the Board of Health. The Department shall not accept for review any material supplied by an applicant, or issue any permit, nor in any manner take any official action, until the appropriate fees are paid.
- 3.4 In the event of any conflict between this Ordinance and any other ordinance of Pacific County, or the Pacific County Board of Health, the regulation which provides the greater environmental protection shall apply. Satisfying the requirements of this Ordinance does not affect a person's obligation to comply in all respects with other Federal, State, and local regulations.

4. Section 4 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:

IV. SECTION 4 PROHIBITED ACTIVITIES

- 4.1 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:

- 4.1.1 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
 - 4.1.2 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
 - 4.1.3 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.
- 4.2 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 in duly designated locations authorized by and under a permit issued by the Department.
- 4.3 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.
- 4.4 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.
- 4.5 Handbills
- 4.5.1 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.

4.5.2. 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.

4.6 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 purpose of enhancing public safety and/or facilitating construction projects by public authorities or persons holding contracts therefrom.

4.7 Solid Waste Handling – Chapter 173-304 WAC and any amendments thereto are herein adopted by reference. No person shall act in a manner contrary to the requirements of Chapter 173-304 WAC, or any amendments thereto.

4.8 Municipal Solid Waste Landfills – Chapter 173-351 WAC and any amendments thereto are herein adopted by reference. No person shall act in a manner contrary to the requirements of Chapter 173-351 WAC, or any amendments thereto.

5. Section 5 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:

V. SECTION 5 LITTER RECEPTACLES

5.1 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.

5.2 It shall be the responsibility of any person owning or operating any establishment or public place in which letter 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.

- 5.3 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.
- 5.4 No person shall willfully damage or deface any litter receptacle.
- 5.5 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.
- 5.6 Litter receptacles shall be of a size and design approved by the Department and the Department of Ecology.

6. Section 6 of Pacific Board of Health Ordinance No. 2 is amended to read as follows:

IV. SECTION 6 VIOLATIONS

- 6.1 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.
- 6.2 In addition to the civil penalty provisions provided in Pacific County Board of Health Ordinance No. 1 or any amendments thereto, any person who violated 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 one thousand dollars (\$1,000) or imprisonment for not more than ninety (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.
- 6.3 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.
- 6.4 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 prosecuting, 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.

6.5 Any or all of the remedies articulated in Subsection 6.1, 6.2, and 6.4 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.

7. Section 7 of Pacific County Board of Health Ordinance No. 2 is amended to read as follows:

VII. SECTION 7 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.

8. A new Section is added to the Pacific County Board of Health Ordinance No. 2 which reads as follows:

VIII. SECTION 8 EFFECTIVE DATE

Pacific County Board of Health Ordinance No. 2 is effective as of October 8, 1996. The amendments and additions contained in Pacific County Board of Health Ordinance No. 2A shall take effect five (5) days after notice of the adoption of this Ordinance is published in Pacific County's official legal newspaper.

9.

This Ordinance shall take effect five (5) days after notice of the adoption of this Ordinance is published in Pacific County's official legal newspaper.

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 27th day of July, 1999.