

**PACIFIC COUNTY
BOARD OF HEALTH
ORDINANCE NO. 4
AN ORDINANCE WHICH PERTAINS TO PUBLIC NUISANCES**

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 needs to enact special legislation pertaining to public nuisances 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 public nuisance 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 DEFINITIONS

- 1.1 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.**

- 1.2 **Pollution** - "Pollution" means such contamination, or other alteration of the physical, chemical or biological properties of any waters of the State, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the State which will create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to the domestic, commercial, industrial, agricultural, recreations, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- 1.3 **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.
- 1.4 **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.

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

1.6 Statute - "Statute" means any State law or regulation, or any County ordinance or resolution.

II. SECTION 2 PUBLIC NUISANCE PROHIBITION

It is unlawful for a person directly or indirectly to cause, permit, or allow a public nuisance to exist.

III. SECTION 3 VIOLATIONS

- 3.1 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 as set forth in Pacific County Board of Health Ordinance No. 1 or any amendments thereto.**
- 3.2 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.**
- 3.3 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 County Board of Health.**
- 3.4 Any disposition of a violation pursuant to this Ordinance and 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 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 County Board of Health of abatement or of enforcement of an injunction, or both.**
- 3.5 Any or all of the remedies articulated in Subsections 3.1, 3.2, and 3.4 may be used by the Pacific County Board of Health to**

enforce this Ordinance. Nothing contained in this Ordinance shall prevent the 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.

IV. SECTION 4 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.

V. SECTION 5 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.