

## **PACIFIC COUNTY BOARD OF HEALTH ORDINANCE 7**

### **RULES AND REGULATIONS OF THE PACIFIC COUNTY BOARD OF HEALTH GOVERNING WATER RECREATION FACILITIES**

WHEREAS, under the provisions of Chapter 70.90 RCW, the Pacific County Board of Health is charged with the duty of protecting the public health of Pacific County by ensuring water recreational facilities are safe and sanitary;

WHEREAS, CHAPTER 70.05.030 RCW directs the Board of Health to enforce public health rules in the incorporated and unincorporated areas of Pacific County;

WHEREAS, the Pacific County Board of Health needs to adopt minimum standards and guidelines pertaining to pools, spas (water recreation facilities), etc. where the public health may be threatened by substandard facilities; and

WHEREAS, the Washington State Board of Health enacted new rules and regulations for Water Recreation Facilities in 2004 which are codified in Chapter 246-260 WAC;

NOW THEREFORE, IN ACCORDANCE WITH CHAPTER 70.90 RCW AND CHAPTER 246-260 WAC, IT IS HEREBY ORDAINED BY THE PACIFIC COUNTY BOARD OF HEALTH THAT BOARD OF HEALTH ORDINANCE NO. 7 IS ADOPTED AS FOLLOWS:

#### **SECTION 1 – PURPOSE AND APPLICABILITY**

- 1.1 **AUTHORITY.** Pursuant to RCW 70.90.120 and 70.90.125, and Chapter 246-260 WAC, these regulations are adopted to promote and protect the health, safety and well-being of the public and prevent the spread of disease through the use of water recreation facilities (WRF).
- 1.2. **SCOPE.** These regulations apply to water recreation facilities as that term is defined in Chapter 246-260-010 WAC, and excludes the following:
  - 1.2.1 Water recreation facilities which are privately operated in a single family residence and solely used by the residence and invited guests;
  - 1.2.2 Therapeutic water facilities operated exclusively for physical therapy;

1.2.3 Multi-family dwelling containing up to four residential units, are exempt this Ordinance provided the on-site water recreation facilities are operated in a manner that does not constitute a potential health hazard or nuisance;

1.2.4 Steam baths and saunas.

## **SECTION 2 - ADMINISTRATION**

- 2.1 The Administrative Officer for the Board of Health shall be the Administrator of this Ordinance and shall be responsible for administering the provisions and requirements of this Ordinance.
- 2.2 The Health Officer shall act under the direction of the Board of Health or the Administrative Officer. The Health Officer shall have the power and duties enumerated in RCW 70.05.070.
- 2.3 The Health Officer or his/her designee shall be responsible for administering the provisions and requirements of this Ordinance.
- 2.4 The Administrative Officer is hereby authorized to formulate administrative rules, which are consistent with and effectuate the purpose of this Ordinance. Any such rules must be approved by resolution of the Board of Health. Any activity pertaining to water recreation facilities shall conform to any such administrative rules that are formulated by the Administrative Officer and approved by the Board of Health.
- 2.5 Unless otherwise noted, the Rules of the Washington State Board of Health for water recreation facilities, as set forth in Chapter 246-260 WAC, are adopted and incorporated herein by reference.
- 2.6 The Administrative Officer 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. Pacific County shall not accept for review any material supplied by an applicant, nor issue any license, nor in any manner take any official action, until the appropriate fees are paid.
- 2.6 Where the provisions of any local, State, or Federal regulation shall conflict with this Ordinance, the more strict regulation shall apply.

### **SECTION 3 - DEFINITIONS**

The definitions contained in Chapter 246-260-010 WAC are hereby adopted by reference, with the following exceptions:

- 3.1 Administrative Officer – “Administrative Officer” means the Administrative Officer appointed by the Board of Health under RCW 70.05.040.
- 3.2 Board of Health - "Board of Health" means the Pacific County Board of Health.
- 3.3 County – “County” means Pacific County.
- 3.4 Health Hazard – “Health Hazard” means a condition or situation where disease potential exists, and if left unabated the disease potential will increase and may result in a public health emergency.
- 3.5 Health Officer – “Health Officer” means the Health Officer appointed by the Board of Health pursuant to RCW 70.05.050, or a representative authorized by and under the supervision of the appointed Health Officer.

### **SECTION 4 – WATER RECREATION FACILITIES**

- 4.1 License Required. No person shall operate a water recreation facility without a valid license issued by the Health Officer. No person shall receive or retain a license unless he/she complies with the requirements of this Ordinance.
- 4.2 License Application. Any person desiring to operate a water recreation facility shall submit a completed application for a license on forms provided by the Health Officer. The following shall be submitted:
  - 4.2.1 The information required by Chapter 246-260 WAC;
  - 4.2.2 The expected dates and duration of operation;
  - 4.2.3 Applicable fees as established by resolution of the Board of Health; and
  - 4.2.4 Any other information that the Health Officer deems necessary for the proper review of the proposed construction, conversion, modification or procedures for operating a water recreation facility.

- 4.3 License Issuance. A license shall be issued by the Health Officer after all application materials and all applicable application fees have been submitted. A license shall be issued for each calendar year, or part thereof, and shall terminate on the 31st day of December.
- 4.4 License Fees. An annual license fee shall be charged as specified in Subsection 4.2.3. Yearly license renewal fees which are not paid prior to January 1, will also include a late fee as specified in Subsection 4.2.3. Water recreation facilities which continue operations past January 31st without a valid license shall be ordered CLOSED by the Health Officer until such time as a license is applied for and obtained.
- 4.5 License Transfer. Any change in the type of operation, the type of establishment, or changes in ownership requires review and licensing by Pacific County within 60 days of said change and pursuant to the license application process enumerated in Subsections 4.1 - 4.4 of this Ordinance, or any amendments thereto.
- 4.6 Probation. A water recreation facility license may be placed on a probationary status for a specified period of time by the Health Officer as a result of an administrative hearing conducted in accordance with Section 9 of this Ordinance, or any amendments thereto. During the probationary period, the water recreation facility shall comply with specific conditions and requirements established in the administrative hearing decision in order to retain the water recreation facility license. Upon failure to comply with the probationary conditions, the license shall be revoked and the water recreation facility shall be closed.

## **SECTION 5 - INSPECTIONS**

- 5.1 Inspections Required. The Health Officer shall periodically inspect each water recreation facility located in Pacific County for compliance with this Ordinance, or any amendments thereto. The inspection of the water recreation facility will generally occur when the facility is open for use.
- 5.2 Report of Violation and Correction Requirements. Whenever the Health Officer inspects a water recreation facility and discovers that any of the requirements of Chapter 246-260 WAC or this Ordinance, or any amendments thereto, have been violated, he/she shall notify the permit holder or person in charge of such violations

by means of an Inspection Report Form or other written notice. In such notification, the Health Officer shall:

5.2.1 Set forth the specific violations found and the required corrective action; and

5.2.2 Establish a specific and reasonable period of time for the correction of the violation(s).

5.3 Reinspection. A reinspection of a water recreation facility shall be required, in addition to the minimum required inspection schedule, if any of the following circumstances occur:

5.3.2 A decision pursuant to an administrative hearing as established in Section 9 requiring reinspection.

5.3.3 A determination by the Health Officer determines that a reinspection is necessary in order to assure protection of the public's health.

5.4 Reinspection Fees. If a reinspection of a water recreation facility is required, a fee for reinspection shall be charged according to the latest fee schedule adopted by the Board of Health.

## **SECTION 6 – MINIMUM FUNCTIONAL STANDARDS**

6.1 Disinfectant Feeder. In addition to the provisions of Chapter 246-260 WAC, all swimming pools and spas in Pacific County shall have an automatic disinfectant feeder which:

6.1.1 Shall be of sturdy construction and durable material to withstand wear, corrosion, or attack by disinfectant solutions or vapors, and which are not adversely affected by repeated adjustment or other conditions anticipated in the use of the device;

6.1.2 Shall be capable of being easily disassembled for cleaning and maintenance;

6.1.3 Shall be designed and constructed in order to preclude stoppage from chemicals intended to be used, or foreign materials that may be contained therein;

6.1.4 Shall incorporate failure proof features so that the disinfectant cannot feed directly into the pool, pool piping, water supply system, or pool enclosure under any type of failure of the equipment or maintenance.

- 6.2 Automatic Disinfectant Feeder. Automatic disinfectant feeders shall be capable of maintaining the minimum required disinfectant levels in the swimming pool/spa at all times the pool or spa is in use.
- 6.3 Hand Disinfectant. Hand feeding of disinfectant may be used on an emergency basis only.

## **SECTION 7 - MODIFICATIONS**

- 7.1 Modification or Construction of Facility. If any modifications are made to the physical plan of an existing water recreational facility, the modification shall comply with Chapter 246-260 WAC. All plans and specifications for the modification or construction shall be submitted to the State Department of Health for review and permitting.

## **SECTION 8 - SUSPENSION OF LICENSE**

- 8.1 Suspension of License. The Health Officer may, with written notice, immediately suspend any license to operate a water recreation facility if the holder of the license does not comply with the requirements of this Ordinance, or any amendments thereto, or if the operation of the water recreation facility otherwise constitutes a substantial hazard to public health. Suspension shall be effective upon service of the notice. When a license is suspended, the facility shall close immediately.
- 8.2 Notification of Suspension. Whenever a license is suspended, the holder of the license or the person in charge shall be notified in writing that the license is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided in accordance with Section 9. The specific reasons for the license suspension shall also be given in writing.
- 8.3 Causes for License Suspension. A license may be suspended for a violation of this Ordinance which, in the opinion of the Health Officer, constitutes an imminent health hazard as described in this Ordinance or any amendments thereto.

## **SECTION 9 - ADMINISTRATIVE HEARINGS**

- 9.1 Any action which is taken that requires a valid license when no such license has been issued, or when the license has expired, or when the license is suspended or revoked, is subject to the sanctions listed in Section 10 and Board of Health Ordinance No. 1,

or any amendments thereto. 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 Board of Health Ordinance No. 1, or any amendments thereto.

- 9.2 A person aggrieved by any action taken by the authorized designee of the Health Officer pertaining to the activities listed in this Ordinance, and excluding any civil citation issued by the Health Officer's designee pursuant to Section 10 of this Ordinance or Board of Health Ordinance No. 1, or any amendments thereto, may request an administrative hearing before the Health Officer. Such request shall be filed in writing with the Health Officer within ten (10) business days of the date of the action being challenged. Upon receipt of such request, the Health Officer shall notify the person aggrieved of the time and date of such hearing, which shall be set at a mutually convenient time not less than five (5) working days nor more than fifteen (15) working days from the date the request was received, unless a later date is agreed to by the person aggrieved.
- 9.3 The administrative hearing shall be conducted in an informal manner. The Rules of Evidence shall not apply. All relevant evidence is admissible which, in the opinion of the Health Officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability, and trustworthiness. The person aggrieved may be represented by a lawyer.
- 9.4 The Health Officer shall decide disputed matters based on a preponderance of the evidence. The Health Officer shall determine whether the explanation of the events by the person aggrieved justifies modifying or reversing the initial decision. The decision of the Health Officer to affirm, reverse, or modify the initial decision shall be in writing and shall be issued within thirty (30) days after the close of the hearing. The decision shall be justified with written findings of fact and shall be promptly sent to the person aggrieved.
- 9.5 If the person who requested the administrative hearing disagrees with the final decision of the Health Officer, he/she may appeal the decision to the Administrative Officer. The decision of the Administrative Officer shall constitute final agency action.

## **SECTION 10 - PENALTIES AND ENFORCEMENT**

- 10.1 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 Board of Health Ordinance No. 1, or any amendments thereto.
- 10.2 In addition to the civil penalty provisions provided in 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 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.
- 10.3 When a Court determines that a person has committed a civil infraction under this Ordinance and Ordinance No. 1, or any amendments thereto, Pacific County may collect penalties, assessments, costs, and/or fines by any procedure established for the collection of debts that are owed to the County.
- 10.4 Any disposition of a violation pursuant to this Ordinance and 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 Pacific County prevails in a separate civil action, the Court may award the County 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 of abatement or of enforcement of an injunction, or both.
- 10.5 Any or all of the remedies articulated in Section 10 PENALTIES AND ENFORCEMENT may be used by the Board of Health to enforce this Ordinance. Nothing contained in this Ordinance shall prevent the Board of Health from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION 11 - SAVINGS AND SEVERABILITY**

11.1 If any provision, or portion thereof, contained in this Ordinance is held to be unconstitutional, invalid, or unenforceable, said provisions, 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.

**SECTION 12 - EFFECTIVE DATE**

12.1 Pacific County Board of Health Ordinance No. 7 shall take effect May 1, 2007. Notice of the effective date of this Ordinance shall be published in Pacific County's official legal newspaper at least five (5) days before the effective date.

PASSED by the Pacific County Board of Health 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 \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ AYE; \_\_\_\_\_ NAY; \_\_\_\_\_ ABSTAIN; \_\_\_\_\_ ABSENT

BOARD OF HEALTH  
PACIFIC COUNTY, WASHINGTON

\_\_\_\_\_  
Jon Kaino, Chairman

\_\_\_\_\_  
Norman "Bud" Cuffel, Commissioner

\_\_\_\_\_  
Clay Harwood, Commissioner

ATTEST:

\_\_\_\_\_  
Kathy Noren  
Clerk of the Board