

PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 3C

**AN ORDINANCE AMENDING THE ADMINISTRATIVE PROCEDURES OF
PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 3A
WHICH PERTAINS TO ON-SITE SEWAGE TREATMENT AND DISPOSAL**

WHEREAS, Section 28 of Pacific County Board of Health Ordinance No. 3A currently allows certain appeals to be heard by the Pacific County Board of Health;

WHEREAS, Section 28 of Pacific County Board of Health Ordinance No. 3A makes reference to Pacific County Board of Health Ordinance No. 1A — an Ordinance which has been modified by Pacific County Board of Health Ordinance No. 1B;

WHEREAS, Pacific County Board of Health Ordinance No. 1B, prohibits the Pacific County Board of Health from hearing any quasi-judicial administrative appeals;

WHEREAS, the difference in language between Section 28 of Pacific County Board of Health Ordinance No. 3A and Section IV of Pacific County Board of Health Ordinance No. 1B needs to be reconciled;

WHEREAS, the Pacific County Board of Health believes the administrative decisions covered under Section 28 of Pacific County Board of Health Ordinance No. 3A are best left to the technical expertise of the Pacific County Health Officer; now therefore,

IN ACCORDANCE WITH CHAPTER 70.05 RCW AND CHAPTER 246-272 WAC, IT IS HEREBY ORDAINED BY THE PACIFIC COUNTY BOARD OF HEALTH THAT SECTION 28 OF ORDINANCE NO. 3A IS AMENDED AS FOLLOWS:

1. SECTION 28 (ADMINISTRATIVE HEARINGS) OF PACIFIC COUNTY BOARD OF HEALTH ORDINANCE NO. 3A IS AMENDED TO READ AS FOLLOWS:

SECTION 28 – ADMINISTRATIVE HEARINGS

28.1 This Section only applies to:

- 28.1.1 The processing of applications for permits and licenses;
 - 28.1.2 The issuance of permits and licenses;
 - 28.1.3 The suspension of permits and licenses;
 - 28.1.4 The revocation of permits and licenses; and
 - 28.1.5 The issuance of stop work orders.
- 28.2 Notwithstanding Subsection 28.1, any action which is taken that requires a valid permit and/or license when no such permit and/or license has been issued, or when the permit and/or license has expired, or when the permit and/or license is suspended or revoked, is subject to the sanctions listed in Subsection 29.2 through 29.6. In addition, any violation of a stop work order is subject to the sanctions listed in Subsection 29.2 through 29.6.
- 28.3 A person aggrieved by any action taken by the Health Officer pertaining to the activities listed in Subsection 28.1 may request an administrative hearing before the Health Officer. Such request shall be filed in writing with the Health Officer within ten (10) working 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.
- 28.4 The administrative hearing delineated in Subsection 28.3 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.
- 28.5 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 issued within thirty (30) days after the close of the hearing. The decision/order shall be justified with written findings of fact and shall be promptly sent to the person aggrieved.
- 28.6 Any person aggrieved by a final decision/order of the Health Officer may appeal the decision/order to Superior Court. Any such final

decision/order of the Health Officer must be appealed to Superior Court within twenty-one (21) days after the issuance of the written decision/order. For the purposes of this Section, the date on which a decision/order is issued is three (3) days after the written decision/order is mailed or, if not mailed, the date on which the written decision/order has otherwise been delivered to all parties of record.

2. Effect on Other Sections.

All other Sections of Pacific County Board of Health Ordinance No. 3A as amended by Pacific County Board of Health Ordinance No. 3B remain in full force and effect.

3. Savings and Severability.

If any provision, or any 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 effects.

4. Effective Date.

Pacific County Board of Health Ordinance No. 3C shall take effect as follows:

- (1) If the Washington State Department of Health (DOH) explicitly approves this Ordinance during its ninety (90) day review period under WAC 246-272-02001, this Ordinance shall take effect five (5) days after the date on which the DOH's approval is published in the official legal newspaper for Pacific County.
- (2) If the DOH tacitly approves this Ordinance by failing to act during its ninety (90) day review period under WAC 246-272-02001, this Ordinance shall take effect five (5) days after the date on which the DOH tacit approval is published in the official legal newspaper for Pacific County.
- (3) If the DOH disapproves this Ordinance during its ninety (90) day review period under WAC 246-272-02001, this Ordinance shall not take effect.

[SIGNATURE BLOCK ON THE NEXT PAGE]

PASSED BY THE PACIFIC COUNTY BOARD OF HEALTH, meeting in continued hearing 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 12th day of March , 2002.

 3 AYE; 0 NAY; 0 ABSTAIN; 0 ABSENT

BOARD OF HEALTH
PACIFIC COUNTY, WASHINGTON

ATTEST:

Norman "Bud" Cuffel, Board Chairman

Kathy Noren, Clerk of the Board

Jon Kaino, Board Member

Pat Hamilton, Board Member