

# Contaminated Properties Hearing Request

## Hearing for Contaminated Properties RCW 64.44

### Guidelines

Hearings regarding the Health Officers determination of “Unfit for Use” are governed by RCW 64.44.030.

1. Hearings regarding Contaminated Property Health Orders must be made within ten (10) days of the Health Officer’s Health Order (Order) by the property owner, or person or party having a recorded right, title, estate, lien, or interest in the property, henceforth referred to as Person.
2. Requests for hearings after 10 days of the Health Officer’s Order regarding a contaminated property must be submitted to the jurisdictional Building Official within 30 days of the date the Order was issued.
3. The owner or Person must cite the specific Order or section of an Order they wish to challenge.
4. During the hearing the owner or Person must cite the specific reasons why they believe the Health Officer’s action is arbitrary and capricious, or unlawful.
5. If the owner or Person wishes the Health Officer to consider technical reports or exhibits, the owner or Person must submit such materials with the hearing request or during the hearing. Reports or exhibits submitted after the hearing shall not be considered.
6. The owner or any Person having an interest in the property may file an appeal on any “Unfit for Use” Health Order issued by the local health board or officer within thirty days from the date of service of the Order with the appeals commission established pursuant to RCW [35.80.030](#).

### Process

The Health Officer will schedule the hearing. At the hearing, the Health Officer will provide the owner and/or Person an opportunity to be heard, to present evidence, and to show why the Health Officer’s Order or decision should be modified or withdrawn. In any hearing concerning whether property is “Fit for Use”, the property owner, or interested Person, has the burden of showing that the property is decontaminated or “Fit For Use” (RCW 64.44.030). The owner or Person may have legal counsel present during the hearing.

### Decision

The Health Officer’s Order may be rescinded or modified if and only if the Health Officer finds that the Order is arbitrary and capricious. The Health Officer may not order changes that would (a) jeopardize the public health or (b) appear to authorize actions contrary to the laws of the State of Washington.

The Health Officer’s decision will be final unless the owner or Person timely seeks further review through the appeals commission established pursuant to RCW 35.80.030, or in Superior Court by a writ of certiorari or as otherwise specified by law.

The Health Officer shall prohibit use of the property as long as the property is found to be contaminated (RCW 64.44.030).

# Contaminated Properties Request For Hearing



Your hearing will follow the guidelines and processes listed on the reverse side of this sheet. Use this checklist to be sure that you provide all of the information necessary for your hearing request. Submit the entire package to:

Health Officer, Tacoma Pierce County Health Department  
3629 South D Street Tacoma, WA 98418-6813

Name \_\_\_\_\_

Contact Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

**If you will use an attorney during the hearing, please provide the following information:**

Attorney's Name \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

**Identify the Health Officer's order or decision you wish to have reconsidered**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Address of the location noted on the Health Order**

Address \_\_\_\_\_ Parcel \_\_\_\_\_

**Your full request for hearing must include each of the following:**

- A statement describing how the Health Officer's action harms you
- An argument explaining why the Health Officer's action was arbitrary and capricious
- A statement describing the relief you want the Hearing Examiner to grant

**Check this box if you want the Health Officer to consider technical reports and/or exhibits.**

Attach the reports and/or exhibits and an itemized list of the reports and exhibits.

I affirm that the information I have included on this request to be true and accurate.

\_\_\_\_\_  
Signature of Individual Requesting Hearing

\_\_\_\_\_  
Date