

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2007-37

SUBJECT: Amend PMC Chapter 9.60, Graffiti

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 9/24/2007
- (X) Passed by the City Council: 10/3/2007
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 10/~~27~~²⁶/2007
- (X) Effective: 10/~~22~~²⁵/2007

DISTRIBUTED COPIES AS FOLLOWS: email all departments

- (K) NK Herald: Emailed by kj 10/5/2007
- (1) Ordinance or Resolution Book
- (K) Code Publishing - via email if in electronic format
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- (K) Clerk's Department: Original
- () City Council
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- () Municipal Court
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- () Bookshelf Contracts Copy
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City Clerk

10-5-2007
Date

ORDINANCE NO. 2007-37

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON RELATING TO GRAFFITI; AMENDING CHAPTER 9.60 TO BE KNOWN AS GRAFFITI; AND AMENDING 9.60.010 TO DEFINITIONS, 9.60.020 TO GRAFFITI DEEMED NUISANCE, 9.60.030 TO GRAFFITI PROHIBITED; AND ADDING NEW SECTIONS 9.60.040 GRAFFITI – NOTICE OF REMOVAL, 9.60.050 GRAFFITI CITY COSTS ENFORCEABLE – DEBT – LIEN, 9.60.060 GRAFFITI APPEAL, 9.60.070 GRAFFITI REMOVAL BY CITY, GRAFFITI CIVIL INFRACTION; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Poulsbo is concerned about the safety and welfare of its citizens, and

WHEREAS, the City Council of the City of Poulsbo is concerned about the illegal acts of those involved in application of graffiti and that the property where graffiti is located and surrounding properties do not suffer diminution of value; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO DO ORDAIN AS FOLLOWS:

Section 1. Chapter 9.60 of the Poulsbo Municipal Code is hereby amended to read as follows: Chapter 9.60 GRAFFITI.

Section 2. PMC 9.60.010 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.60.010 Definitions

“Enforcement officer” means a law enforcement officer, code enforcement officer or other person or persons appointed by the city council for purposes of enforcing this chapter.

“Graffiti” means the defacing, damaging or destroying by etching, scratching, spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, places and property, both real and personal.

“Graffiti abatement procedure” means the abatement procedure, which identifies graffiti, issues notice to the landowner to abate the graffiti, and cures in absence of response.

“Private contractor” means any person with whom the city shall have duly contracted to remove graffiti.

Section 3. PMC 9.60.020 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.60.020 Graffiti deemed nuisance.

(1) Graffiti and other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates, signage, and other structures, trees, and other real and personal property within the city constitutes a nuisance.

(2) Although it is appropriate, where possible, to request that the courts require people who are convicted of acts of defacement and vandalism involving application of graffiti to public or private property to restore the property so defaced, damaged or destroyed, obtaining convictions for such acts is difficult because the offenses involving graffiti can be committed so very quickly and secretly that witnesses to the acts are frequently nonexistent.

(3) Although the public should be encouraged to cooperate in the elimination of graffiti by reporting the same to the proper authorities, it is also important to eliminate the presence of graffiti from the community so that the product of the illegal acts of those involved in application of graffiti is not visible and the property on which the graffiti is located and surrounding properties do not suffer diminution of value.

Section 4. PMC 9.60.030 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.60.030 Graffiti prohibited.

It shall be unlawful for any person to etch, scratch, write, paint or draw upon any wall, rock, bridge, building, fence, gate, signage or other structure, tree or other real or personal property, either publicly or privately owned, any drawing, inscription, figure or mark of the type which is commonly known and referred to as “graffiti” within the city without permission from the city. Violation of any of the provisions of this section shall constitute a gross misdemeanor.

Section 5. A new section is added to Chapter 9.60 of the Poulsbo Municipal Code to read as follows:

9.60.040 Graffiti – notice of removal.

(1) Whenever an enforcement officer determines that graffiti exists on any public or private buildings, structures, places, or other real or personal property which are visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the city and when weather conditions permit the painting of exterior surfaces, the city engineer or designee shall cause a notice to be issued to abate such nuisance. The responsible party shall have 15 days after the date of the notice to remove the graffiti or the same will be subject to abatement by the city. If the graffiti is on personal property, which is removable from public view (such as an automobile), the responsible party shall have 48 hours to remove the property from public view.

(2) The notice to abate graffiti pursuant to this section shall be served upon the responsible party of the affected premises by mail at the party’s last known address. The notice shall also be posted at the property. As an alternative to mailing the notice, the enforcement officer may cause a copy of the notice to be personally served to the responsible party in the manner authorized by statute for personal service. The notice shall be in substantially the following form:

NOTICE TO ABATE GRAFFITI

Date:

To:

NOTICE IS HEREBY GIVEN that pursuant to Chapter 9.60 of the city of Poulsbo Municipal Code, the city of Poulsbo has determined that there is a graffiti nuisance located on the property commonly known as [address], Poulsbo, Washington, which is visible to public view. You are required, at your own expense, to remove or paint over the graffiti within fifteen (15) days after the date of this notice [or if the graffiti is on removable personal property to remove the personal property from public view within forty eight hours after the date of this notice]; or, if you fail to do so, the city requires the nuisance to be abated by removal or painting over of the graffiti. The cost of the abatement by the city or private contractors employed by the city to abate the nuisance will be assessed upon your property and such costs will constitute a lien upon the land until paid.

In addition, if the graffiti is not removed or abated by the time specified, the city may begin issuing civil infractions pursuant to Poulsbo Municipal Code Section 9.60.080.

You may appeal this Notice to Abate Graffiti decision by filing a written notice of appeal with the city council of the city of Poulsbo within ten days after the date of this notice.

Section 6. A new section is added to Chapter 9.60 of the Poulsbo Municipal Code to read as follows:

9.60.050 Graffiti city costs enforceable – debt – lien.

Any and all costs incurred by the city in the abatement of the graffiti nuisance as provided in this chapter shall constitute a debt owed to the city by the responsible party and shall be enforceable as a lien against the property upon which such nuisance existed, in addition to the other legal remedies available for enforcement of debts.

Section 7. A new section is added to Chapter 9.60 of the Poulsbo Municipal Code to read as follows:

9.60.060 Graffiti appeal.

Within 10 days from the mailing or from personal service of the notice of intent to remove graffiti, the responsible party or person occupying or managing the premises affected may appeal the matter to the city council. Filing of an appeal will stay, during the pendency of the appeal, any enforcement or actions by the city to abate the graffiti nuisance.

Section 8. A new section is added to Chapter 9.60 of the Poulsbo Municipal Code to read as follows:

9.60.070 Graffiti removal by city.

Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the enforcement officer approves, then the graffiti may be abated by city forces or by private contract provided that the City obtains a court order to do so or the property owner or another person with authority over the property consents to such abatement, the city or its private contractor will enter upon the premises for graffiti abatement purposes during regular business hours or at times mutually agreeable with the property

owner or occupant. All reasonable efforts to minimize damage from such entry shall be taken by the city. If the city provides for the removal of the graffiti, it shall not authorize nor undertake to provide for the painting or repair of any more extensive area than the area where the graffiti is located. When graffiti is painted over, the city or its private contractor shall attempt to match the paint with the underlying color of the defaced surface. Property owners in the city of Poulsbo may consent in advance to city entry onto private property for graffiti removal purposes.

Section 9. A new section is added to Chapter 9.60 of the Poulsbo Municipal Code to read as follows:

9.60.080 Graffiti civil infraction.

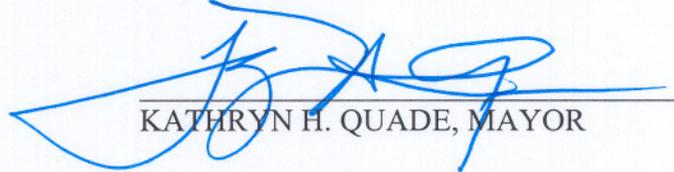
In addition to any other remedy provided in this chapter, any responsible party violating any of the provisions of this chapter shall be deemed guilty of a civil infraction, subject to a civil penalty of \$250.00. Each five-day calendar period that a violation exists constitutes a separate offense.

Section 10. Severability

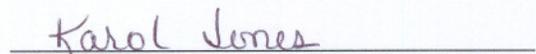
If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 11. Effective Date: This ordinance shall take effect and be in full force five (5) days after the publication of the attached summary, which is hereby approved.

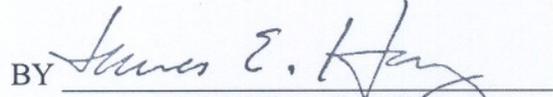
APPROVED:


KATHRYN H. QUADE, MAYOR

ATTEST/AUTHENTICATED:


CITY CLERK KAROL JONES, CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JAMES E. HANEY

FILED WITH THE CITY CLERK: 9/24/2007
PASSED BY THE CITY COUNCIL: 10/3/2007
PUBLISHED: 10/20/2007
EFFECTIVE DATE: 10/25/2007
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SUMMARY OF ORDINANCE NO. 2007-37

of the City of Poulsbo, Washington

On the 3rd day of October, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-37. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON RELATING TO GRAFFITI; AMENDING CHAPTER 9.60 TO BE KNOWN AS GRAFFITI; AND AMENDING 9.60.010 TO DEFINITIONS, 9.60.020 TO GRAFFITI DEEMED NUISANCE, 9.60.030 TO GRAFFITI PROHIBITED; AND ADDING NEW SECTIONS 9.60.040 GRAFFITI – NOTICE OF REMOVAL, 9.60.050 GRAFFITI CITY COSTS ENFORCEABLE – DEBT – LIEN, 9.60.060 GRAFFITI APPEAL, 9.60.070 GRAFFITI REMOVAL BY CITY, GRAFFITI CIVIL INFRACTION; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 5th day of October, 2007.

Karol Jones
CITY CLERK KAROL JONES, CMC