

**ORDINANCE NO. 2013-05**

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ENACTING A GENERAL PENALTY CHAPTER OF THE POULSBO MUNICIPAL CODE; AMENDING CHAPTERS 2.16, 9.50, 15.04, 15.05, 16.20, 16.24, AND 17.24, OF THE POULSBO MUNICIPAL CODE TO AMEND THE PENALTY PROVISIONS THEREIN; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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**WHEREAS**, the City of Poulsbo seeks to protect and promote the public health, safety and welfare of the community by adopting and implementing a workable and efficient code enforcement system; and

**WHEREAS**, the City desires to formally adopt a general penalty chapter of the Poulsbo Municipal Code, and specifically a more detailed procedure for issuing notices of infraction in accordance with Chapter 7.80 of the Revised Code of Washington; and

**WHEREAS**, the City desires to utilize a public nuisance regulatory framework and criminal penalties as additional enforcement mechanisms, now, therefore,

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

**Section 1. Chapter 1.16 Adopted.** A new Chapter 1.16 of the Poulsbo Municipal Code is hereby adopted to read as set forth fully in Exhibit A.

**Section 2. Amended - Municipal Court.** Chapter 2.16 of the Poulsbo Municipal Code is hereby amended to read as follows:

**2.16.020 Jurisdiction.**

A. The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city of Poulsbo.

B. The municipal court shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes.

C. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon, and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith.

D. The municipal court has the authority to hear and determine pursuant to Chapter 7.80 RCW civil infractions that are established by the Poulsbo Municipal Code and that are committed within the jurisdiction of the City of Poulsbo.

**2.16.110 Sentences—Fines—General penalty.**

A. In all cases of conviction, unless otherwise provided in Chapters 3.30 through 3.74 RCW as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly, and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

B. A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in superior court.

C. Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance shall be punished by a fine of not more than five thousand dollars or imprisonment ~~in the city jail~~ for a period not to exceed ~~one year~~ 364 days, or both such fine and imprisonment.

**Section 3. Amended - Public Nuisance.** Section 9.50.070 of the Poulsbo

Municipal Code is hereby amended to read as follows:

**9.50.070 Public nuisance—Violation—Penalty.**

A. Any violation of any provision of this chapter constitutes a civil ~~violation~~ infraction for which a monetary penalty of two hundred fifty dollars may be assessed in accordance with Chapter 1.16 PMC and abatement may be required as provided therein. Each day that a violation exists constitutes a separate offense.

~~B. In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor.~~

BE. As an alternative to any other penalty provided in this chapter, pursuant to a violation of Section 9.50.050(O), abatement proceedings may be instituted under Chapter 7.43 RCW as enacted or hereinafter amended.

**Section 4. Amended - City Construction Code.** Section 15.04.230 of the Poulsbo

Municipal Code is hereby amended to read as follows:

**15.04.230 Notice of violationinfrac~~tion~~.**

A. Whenever the enforcement officer determines that any activity, condition, structure, construction, building or use exists or is being conducted in a manner which does not conform to the provisions of this chapter, or any code adopted herein, the enforcement officer may issue a notice of ~~violation~~infrac~~tion~~ in accordance with Chapter 1.16 PMC. The notice shall ~~specifically indicate:~~

- ~~1. Which provisions of this chapter, or the codes adopted herein, are being violated;~~
- ~~2. What steps are necessary to correct the violation;~~
- ~~3. The time in which the violation is to be corrected;~~
- ~~4. A statement that all work, except work authorized by the enforcement officer to correct the violation shall be stopped; and~~
- ~~5. That failure to comply with the notice may subject the owner or person causing the violation to civil and criminal penalties.~~

B. ~~The enforcement officer shall:~~

- ~~1. Leave a copy of the notice of violation with the occupant or person in charge of the property, or post it in a conspicuous place on the subject property if no one is present, or send a copy of the notice by certified mail, return receipt requested, to the occupant or person in charge of the property; and~~
- ~~2. Send a copy of the notice by certified mail, return receipt requested, to the owner of the subject property.~~

**Section 5. Amended - Outdoor Lighting Regulations.** Section 15.05.090 of the

Poulsbo Municipal Code is hereby amended to read as follows:

**15.05.090 Notice of violation.**

A. Whenever the building inspector or his designee determines that a violation of this chapter has occurred, the building inspector or his designee may issue a notice of violation infraction in accordance with Chapter 1.16 PMC. The notice shall specifically indicate:

- ~~1. Which provisions of this chapter are being violated;~~
- ~~2. What steps are necessary to correct the violation;~~
- ~~3. The time in which the violation is to be corrected;~~
- ~~4. A statement that all work, except work authorized by the planning director or his designee to correct the violation, shall be stopped; and~~
- ~~5. That failure to comply with the notice may subject the owner or person causing the violation to civil and criminal penalties.~~

B. The building inspector or his designee shall:

- ~~1. Leave a copy of the notice of violation with the occupant or person in charge of the property, or post it in a conspicuous place on the subject property if no one is present, or send a copy of the notice by certified mail, return receipt requested, to the occupant or person in charge of the property; and~~
- ~~2. Send a copy of the notice by certified mail, return receipt requested, to the owner of the subject property.~~

**Section 6. Amended - Critical Areas.** Section 16.20.150 of the Poulsbo Municipal

Code is hereby amended to read as follows:

**16.20.150 Enforcement.**

A. Authorization. The director is authorized to enforce this chapter, and to designate city employees as authorized representatives of the city to investigate suspected violations of this chapter, and to issue ~~orders to correct violations and~~ notices of infractions. In the event of a violation of this chapter, the director shall be authorized to require complete or partial restoration of the critical area including compensatory mitigation to rectify any net loss to the structure and function of the critical area.

B. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this chapter, or when the director or his/her designee has

reasonable cause to believe that a condition exists on property which is contrary to, or in violation of, this chapter, the director or his/her designee may enter the property to inspect.

C. Stop Work Orders. Whenever any work or activity is being done contrary to the provisions of this chapter or conditions of an approved permit, the director or his/her designee may order the work stopped by notice in writing, served on any persons engaged in doing or causing such work to be done, or by posting the property, and any such persons shall forthwith stop such work or activity until authorized by the director or his/her designee to proceed. A failure to comply with a stop work order shall constitute a gross misdemeanor.

D. Penalties. The violation of any provision of this chapter or permit condition, where such violation constitutes a first offense, shall constitute a civil ~~and~~ criminal infraction. The director may issue a notice of infraction in accordance with Chapter 1.16 PMC. Any person who violates or fails to comply with any of the provisions of this chapter or permit conditions, where such person has been adjudged by the Poulso Municipal Court to have committed a previous violation of such provision, shall be guilty of a misdemeanor. Each violation shall constitute a separate ~~infraction~~offense for each and every day or portion thereof during which the violation is committed, continued or permitted. ~~Every person convicted by the municipal court of a violation of the criminal provisions, or the provisions of this chapter, shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment.~~

E. Imminent and Substantial Dangers. Notwithstanding any provisions of these regulations, the director or his/her designee may take immediate action to prevent an imminent and substantial danger to the public health, welfare, safety or the environment by the violation of any provision of this chapter.

**Section 7. Amended - Public Tree Ordinance.** Chapter 16.24 of the Poulso

Municipal Code is hereby amended to read as follows:

**16.24.110 Violations and penalties.**

A. Any planting, destruction, pruning, or maintenance, or lack thereof that does not comply with this chapter or the urban forestry standards and specifications manual is a violation of this chapter and civil infraction. Upon a determination by the Poulso municipal court that such infraction has been committed, a civil penalty in an amount not to exceed ~~one thousand~~ two hundred fifty dollars may be imposed. Each separate violation shall be deemed a

separate offense. Each tree damaged or destroyed as a result of pruning or removal shall constitute a separate offense. Failure to comply with a condition of approval to plant or prune shall constitute a separate infraction for each day the failure to comply continues.

B. Violation of any part of this chapter is hereby declared to be a public nuisance and may be abated by the appropriate proceedings under state law.

C. Upon request of the mayor and city council, the city attorney may institute appropriate action in any court of competent jurisdiction to seek injunctive or other relief to enforce the provisions of this chapter. This chapter is not intended to limit the city's remedies in any way and the city reserves the right to pursue any and all such remedies, including, but not limited to, the right to seek treble damages and attorney's fees as provided in Chapter 64.12 RCW.

**Section 8. Amended - Subdivisions.** Section 17.24.050 of the Poulsbo Municipal Code is hereby amended to read as follows:

**17.24.050 Violations—Penalty.**

A. Any person, firm, corporation or association or any agent of any person, firm, corporation or association who violates any provision of this chapter shall be guilty of a ~~gross misdemeanor and punishable by not more than six months in jail and a five hundred dollar fine.~~ Any person, firm or corporation, or association, or any agent of any person, firm, corporation, or association who knowingly violates any provision of this chapter relating to the sale, offer for sale, lease, transfer of any lot, tract or parcel of land, shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars or six months in jail or both such fine and imprisonment and each sale, offer for sale, lease or transfer of each separate lot, tract or parcel of land in violation of any provision of this chapter shall be deemed a separate and distinct offense.

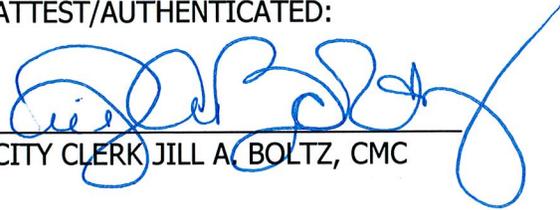
**Section 9. Severability.** If any section, sentence, clause or phrase of this ordinance or any code section adopted or amended hereby should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance or any code section adopted or amended hereby.

**Section 10. Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

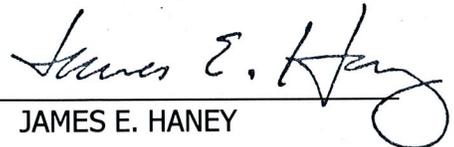
APPROVED:

  
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MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK JILL A. BOLTZ, CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
\_\_\_\_\_  
JAMES E. HANEY

FILED WITH THE CITY CLERK: 03/06/2013  
PASSED BY THE CITY COUNCIL: 03/13/2013  
PUBLISHED: 03/22/2013  
EFFECTIVE DATE: 03/27/2013  
ORDINANCE NO. 2013-05

SUMMARY OF ORDINANCE NO. 2013-05  
of the City of Poulsbo, Washington

On March 13, 2013, the City Council of the City of Poulsbo, Washington, approved Ordinance No. 2013-05, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, ENACTING A GENERAL PENALTY CHAPTER OF THE POULSBO MUNICIPAL CODE; AMENDING CHAPTERS 2.16, 9.50, 15.04, 15.05, 16.20, 16.24, AND 17.24, OF THE POULSBO MUNICIPAL CODE TO AMEND THE PENALTY PROVISIONS THEREIN; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 18th day of March, 2013

  
CITY CLERK, JILL BOLTZ, CMC