

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2007-26

SUBJECT: Dissolve Board of Adjustment and Appeals

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk 8/16/2007
- (X) Passed by the City Council 9/5/2007
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication 9/19/2007
- (X) Effective 9/24/2007
- () Recorded

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City Clerk

9/19/2007

Date

ORDINANCE NO. 2007-26

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, REPEALING CHAPTER 2.28 OF THE POULSBO MUNICIPAL CODE RELATING TO THE BOARD OF ADJUSTMENT; ADDING A NEW SUBSECTION 2.46.040(E) TO TRANSFER THE POWERS OF THE BOARD OF ADJUSTMENT TO THE HEARING EXAMINER; AMENDING SECTION 15.04.190 TO PROVIDE THAT THE HEARING EXAMINER SHALL PERFORM THE DUTIES OF THE CONSTRUCTION BOARD OF APPEALS; AMENDING TABLE 19.01.001 TO REFERENCE THE HEARING EXAMINER AS THE REVIEW AUTHORITY FOR ZONING VARIANCES; AMENDING SUBSECTION 19.04.040(A)(1) TO REMOVE REFERENCES TO THE BOARD OF ADJUSTMENT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 2.28 of the Poulsbo Municipal Code creates a Board of Adjustment, and

WHEREAS, the Board of Adjustment is given the authority, via various sections of the Poulsbo Municipal Code, to decide zoning variances and to act as a construction board of appeals, and

WHEREAS, very few matters within the Board's jurisdiction have been filed in recent years and it has therefore been difficult to keep the Board at full membership, and

WHEREAS, the City has recently employed a hearing examiner to conduct hearings on many land use matters and the Mayor and Planning Director have recommended that the Board of Adjustment be disbanded and that all of the duties of the Board be transferred to the Hearing Examiner, and

WHEREAS, the Planning Commission held a public hearing on the code amendments set forth in this ordinance and, after considering any and all testimony received, recommended approval of the amendments, and

WHEREAS, the Poulsbo City Council has determined that the City would be best served by the adoption of the amendments, now, therefore,

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

Section 1. Repeal of Board of Adjustment Chapter. Chapter 2.28 of the Poulsbo Municipal Code entitled, "Board of Adjustment," is hereby repealed.

Section 2. Hearing Examiner's Authority Amended. A new subsection 2.46.040(E) is hereby added to the Poulsbo Municipal Code in order to transfer the authority and duties of the Board of Adjustment and Construction Board of Appeals to the Hearing Examiner and to read as follows:

E. The hearing examiner shall have all of the powers and duties formerly provided by this Code to the board of adjustment and the construction board of appeals, including, but not limited to, all such powers and duties regarding zoning variances, interpretation of construction codes, and construction appeals. Whenever the terms "board of adjustment" or "construction board of appeals" appear in this Code, said terms shall be deemed to refer to the hearing examiner.

Section 3. Construction Board of Appeals. Section 15.04.190 of the Poulsbo Municipal Code is hereby amended to transfer the duties of the Construction Board of Appeals from the Board of Adjustment to the Hearing Examiner and to read as follows:

15.04.190 Construction board of appeals.

A. In order to provide for final interpretation of the provisions of this chapter and all the codes adopted by this chapter and to hear appeals provided for under such codes, the hearing examiner shall serve as a construction board of appeals.

B. All appeals under this section shall be processed according to the rules and regulations of the hearing examiner and the ordinances governing the same, except that:

1. All appeals of decisions under the International Property Maintenance Code shall be held pursuant to Section 111 of that code;

2. The hearing need not be public unless the hearing examiner determines in his or her sole discretion that because of the importance of, or public interest in, the particular appeal a public hearing would be in the public interest, in which case a public hearing shall be held in accordance with the procedures set forth by ordinance for public hearings before the hearing examiner. Notice of the hearing shall be given by completion of each of the following at least ten days prior to the hearing:

a. Publication in the city's official newspaper;
and

b. Posting notice of the hearing at a conspicuous place on the property; and

c. Posting a notice of the hearing at three public places normally used by the city for posting notices;

d. Mailing notice of the hearing to all owners of property within four hundred feet of the property to which the appeal relates, as shown by the records of the county assessor.

C. In the event that the hearing examiner shall determine, in his or her discretion, that certain tests or research would prove helpful in deciding the appeal and the issues raised thereby, the appellant shall cause such research or tests to be completed at the appellants own

expense and within such time as may be specified by the hearing examiner.

Section 4. **Review Authority Table.** Table 19.01.001 of the Poulsbo Municipal Code is hereby amended to change the review authority for a “Variance” from the “BOA (Board of Adjustment)” to the “HE (Hearing Examiner).”

Section 5. **Type III Procedure.** Subsection 19.01.040(A)(1) of the Poulsbo Municipal Code is hereby amended to delete reference to the Board of Adjustment and to read as follows:

1. A Type III review process requires one open record hearing before the hearing examiner. All Type III permits except variances shall be reviewed by the planning commission in a public meeting and a recommendation shall be forwarded to the hearing examiner prior to the public hearing. The planning commission public meeting should be held within sixty calendar days after the date the applicable official issues the determination that the application is complete.

Section 6. **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 7. **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:



MAYOR KATHRYN H. QUADE

ATTEST/AUTHENTICATED:

Karol Jones
CITY CLERK KAROL JONES, CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY James E. Haney
JAMES E. HANEY

FILED WITH THE CITY CLERK: 8/16/2007
PASSED BY THE CITY COUNCIL: 9/5/2007
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SUMMARY OF ORDINANCE NO. 2007-26

of the City of Poulsbo, Washington

On the 5th day of September, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-26. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, REPEALING CHAPTER 2.28 OF THE POULSBO MUNICIPAL CODE RELATING TO THE BOARD OF ADJUSTMENT; ADDING A NEW SUBSECTION 2.46.040(E) TO TRANSFER THE POWERS OF THE BOARD OF ADJUSTMENT TO THE HEARING EXAMINER; AMENDING SECTION 15.04.190 TO PROVIDE THAT THE HEARING EXAMINER SHALL PERFORM THE DUTIES OF THE CONSTRUCTION BOARD OF APPEALS; AMENDING TABLE 19.01.001 TO REFERENCE THE HEARING EXAMINER AS THE REVIEW AUTHORITY FOR ZONING VARIANCES; AMENDING SUBSECTION 19.04.040(A)(1) TO REMOVE REFERENCES TO THE BOARD OF ADJUSTMENT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 7th day of September, 2007.

Karol Jones
CITY CLERK KAROL JONES, CMC