

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2007-36

SUBJECT: Amend PMC Chapter 9.50, Nuisance

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: 10/17/2007
- (X) Effective: 10/22/2007

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DISTRIBUTED COPIES AS FOLLOWS: email all departments

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- (K) Clerk's Department: Original
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Kj.
City Clerk

10-5-2007
Date

ORDINANCE NO. 2007-36

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO NUISANCE AND AMENDING CHAPTER 9.50 TO BE KNOWN AS NUISANCE; AND AMENDING SECTIONS 9.50.010 TO DEFINITIONS, 9.50.020 TO ABANDONED REFRIGERATION EQUIPMENT – STATUTES ADOPTED BY REFERENCE, 9.50.030 TO NUISANCE – STATUTES ADOPTED BY REFERENCE, 9.50.040 TO PROHIBITED CONDUCT, AND ADDING SECTIONS 9.50.050 PUBLIC NUISANCES – TYPES, 9.50.060 AUTHORIZED ACT NOT A PUBLIC NUISANCE, 9.50.070 PUBLIC NUISANCE – VIOLATION – PENALTY, 9.50.080 PUBLIC NUISANCE – CITY COSTS ENFORCEABLE – DEBT – LIEN; 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 how a certain nuisances can affect the rights of an entire community or neighborhood; Now, Therefore,

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

Section 1. Chapter 9.50 of the Poulsbo Municipal Code is hereby amended to read as: Chapter 9.50 NUISANCE.

Section 2. PMC 9.50.010 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.50.010 Definitions

"Ashes" includes the solid waste products of coal, wood and other fuels used for heating and cooking from all public and private establishments and from all residences.

"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.

"Garbage" includes all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but not including recognized industrial by-products, and shall include all such substances from all public and private establishments and from all residences.

"Nuisance vegetation" means trees, plants, shrubs or vegetation, or any parts thereof, which overhang any sidewalk at a clearance height of less than eight (8) feet or street at a clearance height of less than sixteen (16) feet or which are situated on the property or on the portion of the street or sidewalk abutting thereon, in such manner as to obstruct or impair the free and

full use of the sidewalk or street, including the interruption or interference with the clear vision of pedestrians or persons operating vehicles thereon, or interfering with sidewalks, streets, poles, wires, pipes, fixtures or any other part of any public utility situate in the street.

(1) Grass and weeds exceeding twelve inches in height except in areas maintained for domestic livestock.

(2) Shrubs, brush, vines, trees or other vegetation growing or which has grown and died, cut vegetation, blackberry vines, and organic debris, which constitutes a fire hazard, or provides a harborage for rats, rodents or horticultural pests or otherwise constitutes a health hazard.

(3) Noxious and poisonous plants, including poison ivy, poison oak, poison hemlock, poison sumac, nettles and nightshade.

(4) Dead, decayed, diseased or hazardous trees.

Responsible party” means an owner, tenant, or an entity or person acting as an agent for an owner by agreement, who has authority over the property or is responsible for the property’s maintenance or management. Irrespective of any arrangement to the contrary with any other party, each owner shall always be a responsible party for the purposes of this chapter. There may be more than one responsible party for a particular property.

"Refuse" includes garbage, rubbish, ashes, swill and all other nonputrescible and putrescible wastes except sewage, from all public and private establishments and residences.

"Rubbish" includes all nonputrescible wastes, including, but not limited to:

(1) Broken or discarded furniture, household equipment, appliances and furnishings, and personal belongings;

(2) Salvage materials and automobile parts, including, but not limited to, tires, wheels, engine parts, body parts, interior parts and auto glass; and

(3) Abandoned, broken or neglected equipment and machinery.

Section 3. PMC 9.50.020 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.50.020 Abandoned refrigeration equipment - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9.03 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

- 9.03.010 Abandoning, discarding, refrigeration equipment
- 9.03.020 Permitting unused equipment to remain on premises
- 9.03.030 Violation of RCW 9.03.010 or RCW 9.03.020
- 9.03.040 Keeping or storing equipment for sale

Section 4. PMC 9.50.030 and Ordinance 2004-01 Section 3 are hereby amended to read as follows:

9.50.030 Nuisance - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 77 and 9.66 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

- 77.15.293 Aquatic invasive species
- 9.66.010 Public nuisance
- 9.66.020 Unequal damage
- 9.66.030 Maintaining or permitting nuisance
- 9.66.040 Abatement of nuisance
- 9.66.050 Deposit of unwholesome substance

Section 5. PMC 9.50.040 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.50.040 Prohibited conduct

It is a violation of this chapter for any person to permit, create, maintain, or allow, upon any premises, any of the acts or things declared in PMC 9.50.050 to be a public nuisance. As used herein, public nuisance means a nuisance which affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

Section 6. A new section is added to Chapter 9.50 of the Poulsbo Municipal Code to read as follows:

9.50.050 Public nuisances - types

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the director determines that any of these conditions exist upon any premises, the director may provide for the abatement thereof and monetary penalties may be assessed. pursuant to Section 9.50.070 PMC:

A. Erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any premises, which may be viewed or smelled from without the premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the city, any of the following disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:

1. Any putrid, unhealthy or unwholesome bones, meat, hides, skins, the whole or any part of any dead animal, fish or fowl, or waste parts of fish, vegetable or animal matter in any quantity; the carcass of any animal, manure, human urine and/or excrement, decayed waste or discarded food, meat, fish, animal or vegetable refuse or any putrid or offensive animal or vegetable matter; but nothing herein shall prevent the temporary retention of waste in approved appropriate covered receptacles; or
2. Any privies, vaults, cesspools, open containers of stagnant water, sumps, pits or like places which are not securely protected from flies and rats, or which are malodorous; or
3. An accumulation of material including, but not limited to, bottles, cans, glass, plastic, ashes, scrap metal, wire bric-a-brac, broken stone, broken crockery, broken glass, broken plaster, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing

hay, straw or other packing material or building materials including lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials which not properly stored or neatly piled or is offensive to a reasonable person or in which flies or rats may breed or multiply; or

4. Accumulation of any garbage and refuse as defined in Section 9.50.010, or
5. Accumulation of yard trimmings, excluding properly maintained yard compost, or other matter which is offensive to a reasonable person; except for such yard debris that is properly contained for the purpose of composting and concealed so as not to affect the health, safety or depreciation of adjoining property.
 - b. The existence of any fence or other structure on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition; or
 - c. The existence of wrecked or disassembled trailers, house trailers, boats, tractors or other vehicle, appliance or machinery of any kind, or any major parts thereof; or
 - d. The existence on any premises of any abandoned or unused well, pit, shaft, cistern or storage tank without first demolishing or removing from the premises such storage tank, or securely closing and barring any entrance or trapdoor thereto or without filling any well, pit, shaft or cistern or capping the same with sufficient security to prevent access thereto; or
 - e. The existence in a place accessible to children of any attractive nuisance dangerous to children, including but not limited to any abandoned, broken or neglected equipment, machinery, refrigerator, freezer, or other large appliance.
 - f. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes people to gather in numbers sufficient to obstruct vehicular or pedestrian traffic. This subsection shall not apply to events, programs or parades authorized by the city.
 - g. Any poisonous or harmful substance which is reasonably accessible to persons or to animals.
 - h. Soils contaminated by dangerous waste, hazardous substances or hazardous wastes as those terms are defined in RCW [70.105.010](#) as enacted or hereinafter amended.
 - i. Nuisance vegetation as defined in Section 9.50.010;
 - j. Lumber, wood, cardboard or other flammable material of any kind including, but not limited to, any hazardous materials or waste oil, gasoline or diesel products stored in such a manner as to constitute a fire hazard.
 - k. Scrap metal, appliances, rubber, tools, implements, or parts or portions thereof, batteries, rope, rags, or plastic;
 - l. The maintenance of signs and/or sign structures relating to uses no longer conducted or products no longer sold on vacant commercial, industrial or institutional buildings or lots more than forty-five (45) days after the building becomes vacant or event or purpose for which the sign or structure was erected has passed;
 - m. Buildings or structures which are abandoned, partially destroyed, or permitted to remain in a state of partial construction or partial demolition in such a state as to constitute an attractive nuisance;
 - n. The failure to safely and completely close, maintain and secure all doorways, windows or other openings into vacant structures or to secure broken windows to secure the structure from unauthorized entry;

- o. Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing or giving away any controlled substance as defined in Chapter [69.50](#) RCW as enacted or hereinafter amended, legend drug as defined in Chapter [69.41](#) RCW as enacted or hereinafter amended, or imitation controlled substance as defined in Chapter [69.52](#) RCW as enacted or hereinafter amended, and every building or unit within a building wherein or upon which such acts take place.
- p. Unprotected and/or hazardous foundations and excavations;
- q. Land or property which because of conditions on site (whether its natural state or as a result of grading, surface water drainage or acts of nature such as earthquakes, rain, landslides, sinkholes and so forth) presents problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare, including to adjacent property owners.

Section 7. A new section is added to Chapter 9.50 of the Poulsbo Municipal Code to read as follows:

9.50.060 Authorized act not a public nuisance

No act which is done or maintained under the express authority of a statute or ordinance can be deemed a public nuisance.

Section 8. A new section is added to Chapter 9.50 of the Poulsbo Municipal Code to read as follows:

9.50.070 Public nuisance - violation - Penalty

- A. Any violation of any provision of this chapter constitutes a civil violation for which a monetary penalty of \$250 may be assessed 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.
- C. As an alternative to any other penalty provided in this chapter, pursuant to a violation of PMC 9.50.050(o), abatement proceedings may be instituted under Chapter [7.43](#) RCW as enacted or hereinafter amended.

Section 9. A new section is added to Chapter 9.50 of the Poulsbo Municipal Code to read as follows:

9.50.080 Public nuisance - city costs enforceable – debt – lien

Any and all costs incurred by the city in the abatement of the 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.

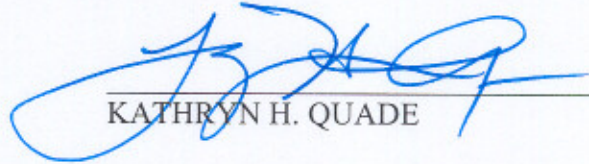
Section 10. Severability

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

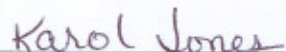
shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

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.

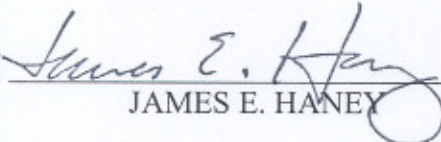
APPROVED:


KATHRYN H. QUADE

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
ORDINANCE NO. 2007-36

SUMMARY OF ORDINANCE NO. 2007-36

of the City of Poulsbo, Washington

On the 3rd day of October, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-36. 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 NUISANCES AND AMENDING CHAPTER 9.50 TO BE KNOWN AS NUISANCE; AND AMENDING SECTIONS 9.50.010 TO DEFINITIONS, 9.50.020 TO ABANDONED REFRIGERATION EQUIPMENT – STATUTES ADOPTED BY REFERENCE, 9.50.030 TO NUISANCE – STATUTES ADOPTED BY REFERENCE, 9.50.040 TO PROHIBITED CONDUCT, AND ADDING SECTIONS 9.50.050 PUBLIC NUISANCES – TYPES, 9.50.060 AUTHORIZED ACT NOT A PUBLIC NUISANCE, 9.50.070 PUBLIC NUISANCE – VIOLATION – PENALTY, 9.50.080 PUBLIC NUISANCE – CITY COSTS ENFORCEABLE – DEBT – LIEN; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 4th day of October, 2007.

Karol Jones
CITY CLERK KAROL JONES, CMC