

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2007-38

SUBJECT: Amend PMC Chapter 9.70, Public Morals

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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City Clerk

10-5-2007
Date

ORDINANCE NO. 2007-38

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO PUBLIC MORALS; AMENDING CHAPTER 9.70 TO BE KNOWN AS PUBLIC MORALS, CRIMES RELATING TO; AND ADOPTING BY REFERENCE VARIOUS SECTIONS OF TITLES 9 AND 9A OF THE REVISED CODE OF WASHINGTON IN ORDER TO ESTABLISH CRIMES DESIGNATED BY THE STATE AS MISDEMEANORS AND GROSS MISDEMEANORS AS CRIMINAL OFFENSES UNDER THE CITY'S MUNICIPAL CODE; 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 roadways; Now, Therefore,

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

Section 1. Chapter 9.70 of the Poulsbo Municipal Code is hereby amended to read as follows: 9.70 PUBLIC MORALS, CRIMES RELATING TO.

Section 2. PMC 9.70.010 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.010 Obscenity and pornography - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9.68, RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

- 9.68.015 Obscene literature, shows, etc. – exemptions
- 9.68.030 Indecent articles, etc.
- 9.68.050 “Erotic material” – definitions
- 9.68.060 “Erotic material” – determination by court – labeling – penalties
- 9.68.070 Prosecution for violation of RCW 9.68.060 – defense
- 9.68.080 Unlawful acts
- 9.68.090 Civil liability of wholesaler or wholesaler-distributor
- 9.68.100 Exception to RCW 9.68.050 through 9.68.120
- 9.68.110 Motion picture operator or projectionist exempt, when
- 9.68.120 Provision of RCW 9.68.050 through 9.68.120 exclusive
- 9.68.130 “Sexually explicit material” – defined – unlawful display

Section 3. PMC 9.70.020 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.020 Criminal mistreatment - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9A.42 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

9A.42.110 Leaving a child in the care of a sex offender

Section 4. PMC 9.70.030 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.030 Sex offenses - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9A.44 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

9A.44.010 Definitions

9A.44.020 Testimony – evidence – written motion – admissibility

9A.44.030 Defenses to prosecution under this chapter

9A.44.096 Sexual misconduct with a minor in the second degree

9A.44.100 Indecent liberties

9A.44.130 Registration of sex offenders and kidnapping offenders – procedures – definitions – penalties

9A.44.135 Address verification

9A.44.140 Registration of sex offenders and kidnapping offenders – end of duty to register – expiration of subsection

9A.44.145 Notification of offenders of changed requirements

9A.44.170 Custodial sexual misconduct in the second degree

Section 5. PMC 9.70.040 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.040 Sexual exploitation of children - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9.68A RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

9.68A.001 Legislative finding

9.68A.011 Definitions

9.68A.080 Reporting of depictions of minor engaged in sexually explicit conduct – civil immunity

9.68A.090 Communication with minor for immoral purposes – penalties

9.68A.103 Comm Sex Abuse Minor Permit

9.68A.105 Additional fee assessment

- 9.68A.120 Seizure and forfeiture of property
- 9.68A.110 Certain defenses barred, permitted
- 9.68A.120 Seizure and forfeiture of property
- 9.68A.150 Allowing minor on premises of live erotic performance – definitions – penalty
- 9.68A.910 Severability
- 9.68A.911 Severability

Section 6. PMC 9.70.050 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.050 Indecent exposure - statutes adopted by reference

Pursuant to the authority contained in RCW 35A.12.140 the following sections of Chapter 9A.88 RCW as enacted or hereinafter amended are hereby adopted by reference as if fully set forth herein including penalties.

RCW

- 9A.88.010 Indecent exposure
- 9A.88.030 Prostitution
- 9A.88.050 Prostitution – sex of parties immaterial
- 9A.88.060 Definitions – promoting prostitution
- 9A.88.090 Permitting prostitution
- 9A.88.110 Patronizing a prostitute
- 9A.88.120 Additional fee assessments – prostitution
- 9A.88.130 Additional requirements – prostitution
- 9A.88.140 Vehicle impoundment – prostitution

Section 7. PMC 9.70.060 and Ordinance 97-33 Section 1 are hereby amended to read as follows:

9.70.100 Unlawful lewd acts

- A. Every person who intentionally performs any lewd act in a public place knowing that such conduct is likely to cause reasonable affront and alarm is guilty of a misdemeanor.
- B. “Lewd act” means public:
 1. Exposure of any portion of the human anus or genitals, including display of the male genitals in a discernable turgid state, even if completely and opaquely covered; or
 2. Exposure of any portion of the female breast lower than the upper edge of the areola; provided, however, that nothing in this section shall prohibit breastfeeding or an infant or a child under the age of thirty-six months; or
 3. Touching, caressing or fondling of the male or female genitals or female breasts, whether clothed or naked; or
 4. Sexual conduct as defined by subsection D of this section; or
 5. Simulated acts of human sex, including intercourse, oral copulation, sodomy or masturbation of oneself or of one person by another; or
 6. Urinating or defecating in a place other than a restroom or toilet facility.

C. "Public" or "public display" means easily visible from a public thoroughfare or from property of others in any portion of any public facility or park, or in any other public place in a manner so obtrusive as to make it difficult for an unwilling person to avoid exposure.

D. "Sexual conduct" means sexual intercourse or sexual contact.

E. "Sexual intercourse" means:

1. Its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object, when committed by one person on another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or

3. Any contact between persons involving the sex organs of one person in the mouth or anus of another, whether such persons are of the same or opposite sex.

F. "Sexual contact" means:

1. Any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party;

2. Masturbation, manual or instrumental, of oneself in the presence of another, or one person by another.

Section 8. A new section is added to Chapter 9.70 of the Poulsbo Municipal Code to read as follows:

9.70.110 Peeping Toms

A. Definitions

1. "Building" shall have the same meaning as in RCW 9A.04.110 (5) as now or hereafter amended. Each room shall constitute a separate building. Restrooms, locker rooms and bedrooms are specifically included in this definition.

2. "Fully clothed" means having a person's genitals, underclothing or a woman's breasts covered. A person using a toilet or a urinal or wrapped in a towel is not fully clothed.

3. "Curtilage" shall be within ten feet from the exterior of a wall of any building, regardless of whether the premises are enclosed.

B. It is unlawful for any person to enter or remain in or upon the curtilage of a building or premises of another for the purposes of observing, photographing, videotaping or filming another person, under circumstances where the other person has a reasonable expectation of privacy and may not be fully clothed.

C. Violation of this section shall be a gross misdemeanor.

Section 9. A new section is added to Chapter 9.70 of the Poulsbo Municipal Code to read as follows:

9.70.150 Penalty

A. Unless otherwise provided, any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

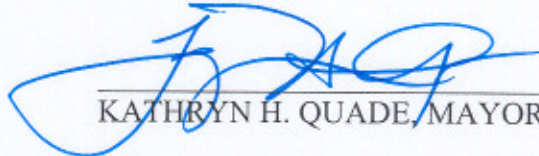
B. Such penalty is in addition to any other remedies or penalties specifically provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

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.

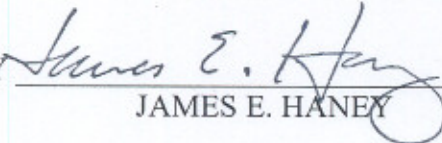
APPROVED:


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
ORDINANCE NO. 2007-38

SUMMARY OF ORDINANCE NO. 2007-38

of the City of Poulsbo, Washington

On the 3rd day of October, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-38. 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 PUBLIC MORALS; AMENDING CHAPTER 9.70 TO BE KNOWN AS PUBLIC MORALS; AND ADOPTING BY REFERENCE VARIOUS SECTIONS OF TITLES 9 AND 9A OF THE REVISED CODE OF WASHINGTON IN ORDER TO ESTABLISH CRIMES DESIGNATED BY THE STATE AS MISDEMEANORS AND GROSS MISDEMEANORS AS CRIMINAL OFFENSES UNDER THE CITY'S MUNICIPAL CODE; 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