

**ORDINANCE AMENDING CHAPTER 9, GARBAGE, TRASH AND WEEDS,
ARTICLE I, SECTION 9-8 ENTITLED EFFECT OF NONCOMPLIANCE WITH
SECTIONS 9-6 AND 9-7,**

(007-)

INTRODUCED BY COUNCILMEMBER _____

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 9-8 of Chapter 9, Article I is amended and added as follows:

Section 9-8 Effect of noncompliance with Section 9-6 and 9-7

a) *Notice required.* If the provisions of Sections 9-6 and 9-7 are not complied with, the Commissioner of Public Works or his/her designee may serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of such sections.

(b) *Service, contents of notice.* Such notice shall be affixed or posted upon the lot or land and a copy of such notice shall be mailed by regular and certified mail, return receipt requested, to such owner, lessee, occupant or person at his/her last known address. Such notice shall require compliance with the provisions of such sections within **120 hours to abate for first, second and third violation after the time of posting of such notice as aforesaid within any twelve month period and within 48 hours to abate for the fourth and fifth violations within any twelve month period** after the time of posting of such notice as aforesaid **and any property posted for any six or more violations under sections 9-6 and 9-7 shall require immediate abatement and the property may be declared a nuisance as defined in Section 14-48 for which there are additional penalties.**

(c) *Correction of condition by City.* If the person upon whom such a notice is served fails, neglects or refuses to cut and remove or to kill by spraying or to cause to be cut or removed or killed by spraying such weeds, grass or other vegetation as provided in 9-8 (b) for the first, second and third for violations under sections 9-6 and 9-7 and within ~~within 48 hours after the date of the mailing and posting of such notice as aforesaid,~~ the Commissioner of Public Works or his/her designee shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed or killed by spraying. **If the person upon whom such a notice for the fourth and fifth violations under sections 9-6 and 9-7 in any one twelve month period is served fails, neglects or refuses to cut and remove or to kill by spraying or to cause to be cut or removed or killed by spraying such weeds, grass or other vegetation within 48 hours after the date of the mailing and posting of such notice as aforesaid, the Commissioner of Public Works or his/her designee shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed or killed by spraying. Any property posted for any six or more for violations under section 9-6 and 9-7 in any twelve month period shall require immediate abatement and fines recoverable in accordance with section 9-34**

and may have the property be declared a *nuisance* as defined in Section 14-48 for which there are additional penalties.

(d) Collection of costs. The actual costs to the City of such cutting and removing or killing by spraying, plus a sum equal to 10% of such actual cost for inspection and other additional costs in connection therewith plus a penalty in the amount of \$250 shall be certified by the Commissioner of Public Works to the Commissioner of Finance, and the amount thereof shall thereupon become and be a lien upon the property on which such weeds, grass or other vegetation were located, and the total; amount thereof shall be added to and become a part of the next annual assessment toll at the time and in the manner prescribed by the Charter of the City and subject to all the provisions thereof.

(e) Fine/Civil penalty. In addition to the collection of costs as provided in Subsection (d) of this section, any person violating sections 9-6 and 9-7 of this chapter shall be punished by a fine in City Court or a civil penalty recovered in accordance with Section 9-11 **and 9-35** of this chapter in the following amounts: \$100 for the first violation, \$150 for the second violation, \$175 for the third violation, \$200 for the fourth violation, \$250 for the fifth violation and \$500 for each violation thereafter in any one ~~calendar year~~ **twelve month period.**

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER

**ORDINANCE AMENDING CHAPTER 9, GARBAGE, TRASH AND WEEDS,
ARTICLE I, ENTITLED IN GENERAL, SECTION 9-9, ENTITLED REMOVAL
OF VEGETATION CAUSING SIGHT OR PASSAGE OBSTRUCTIONS**

(O07-)

INTRODUCED BY COUNCILMEMBER _____

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 9-9 of Chapter 9, Article I is amended and added as follows:

Section 9-9 Removal of vegetation causing sight or passage obstructions

(a) Trees, shrubbery and vegetation of any kind or any type of obstruction, whether on private or public property, which obscures or interferes with the view of motorists entering any intersection of the City or interferes with pedestrian traffic on the sidewalks of the City is hereby declared a hazard and shall be removed or trimmed upon the order of the Commissioner of Public Works served in accordance with Section 9-8 of this chapter.

(b) If the person upon whom such order is served fails, neglects or refuses to remove or trim the said trees, shrubs or weeds or any type of obstruction within the time described in Section 9-8 of this chapter, the Commissioner of Public Works shall cause such trees, shrubs and other vegetation or obstruction on such lot or land to be cut and removed or killed by spraying, and (s)he is authorized to collect the actual costs to the City of such cutting or removing or killing, plus a sum equal to 10% of such actual cost, in accordance with Section 9-8 of this chapter.

(c) In addition to the collection of costs as provided in Subsection (b) of this section, any person who violates this section shall be punished by a fine of \$250 in City Court or a civil penalty of \$250 recoverable in accordance with Section 9-11 of this chapter **and penalties under section 9-34.** (Ord. of 10-21-1974, § 1; Ord. of 3-6-1989, § 5; Ord. of 11-7-1994, § 5; Ord. of 7-23-2001, § 3)

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER _____

**ORDINANCE AMENDING CHAPTER 9, GARBAGE, TRASH AND WEEDS,
ARTICLE I, ENTITLED IN GENERAL, SECTION 9-10, ENTITLED DUTY TO
REMOVE GARBAGE, TRASH, LITTER, DEBRIS, BULKY WASTE AND
JUNKED VEHICLES**

(O07-)

INTRODUCED BY COUNCILMEMBER _____

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 9-10 of Chapter 9, Article I is amended and added as follows:

Section 9-10 Duty to remove garbage, trash, litter, debris, bulky waste and junked vehicles

- (a) It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land any garbage, trash, litter or debris, unless the same is placed in a receptacle as provided in Section 9-20. It shall also be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land any bulky waste or to place any bulky waste at the curb of said lot or land, unless a day for municipal collection has been designated and publicized by the City; and, in such case, bulky waste must be placed for collection in accordance with the instructions publicized by the City and in compliance with the time limit set forth in Section 9-24.1 of this chapter. It shall further be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any owner, lessee or occupant, having control of any occupied or unoccupied lot or land or any part thereof in the City, to permit or maintain on any such lot a vehicle in a dismantled, partially dismantled, wrecked or inoperable condition or more than one unregistered motor vehicle on any piece of property for more than one day or more than two dismantled or unregistered and inoperative motor vehicles on the premises of a legally established garage or repair shop for a period of more than 30 days.
- (b) It shall be the duty of any owner, lessee or occupant of any lot or land to remove all such garbage, trash, litter, debris, bulky waste or any vehicle(s) in a dismantled, partially dismantled, wrecked, inoperable or unregistered condition.
- (c) If the provisions of Subsections (a) and/or (b) are not complied with, the Commissioner of Public Works or his/her designee shall serve written notice to comply with the provisions of such subsection upon the owner, lessee or occupant or any person having control of any such lot or land.
- (d) Such written notice shall be mailed to such owner, lessee, occupant or person at his/her last known address and affixed to or posted upon such lot or land, or affixed to the bulky waste or vehicles. Such notice shall require compliance with the provisions of such subsections after the date of the mailing and posting of this notice.
- (e) If the person upon whom such a notice is served fails, neglects or refuses to remove such garbage, trash, litter, debris, bulky waste or vehicle(s) within 48 hours after

such notice as aforesaid, the Commissioner of Public Works shall cause such garbage, trash, litter, debris, bulky waste or vehicles in a dismantled, partially dismantled, wrecked, inoperable and/or unregistered condition to be removed. A hearing may be requested, in writing, by any person aggrieved by a determination resulting in a notice of violation, heretofore set forth, within 48 hours after such notice has been mailed. Such hearing shall be held in accordance with the provisions of Section 12-50 of the City of Poughkeepsie Code of Ordinances, as such are consistent herewith, except that an electronic recording may be kept of the hearing, instead of a stenographic transcript, as determined by the hearing officer.

(f) The actual cost to the City of such removal, plus a sum equal to 10% of such actual cost for inspection and other additional costs in connection therewith, together with a penalty in the amount of ~~\$150~~ **\$250** shall be certified by the Commissioner of Public Works to the Commissioner of Finance, and the amount thereof shall become and be a lien upon the property on which garbage, trash, litter, debris, bulky waste or any vehicle(s) in a dismantled, partially dismantled, wrecked, inoperable or unregistered condition exists, and the total amount thereof shall be added to and become a part of the next annual assessment roll at the time and in the manner prescribed by the Charter of the City and subject to all the provisions thereof.

(g) In addition to the recovery of costs and penalty as provided for in Subsection (f) of this section, any person violating the provisions of this section shall be punished by a fine of ~~\$150~~ **\$250** in City Court or a civil penalty in the amount of ~~\$150~~ **\$250** recoverable in accordance with Section 9-11 **and \$2,500 in accordance with Section 9-34 of this chapter.** (Ord. of 4-19-1976, §§ 1 through 6; Ord. of 8-1-1977, § 1, 2; Ord. of 2-27-1978, § 1; Ord. of 5-16-1978, § 1; Ord. of 6-3-1980, § 1, 2; Ord. of 9-4-1984; Ord. of 3-6-1989, § 1; Ord. of 1-6-1992, § 2; Ord. of 11-7-1994, § 6; Ord. of 8-21-1997, § 1; Ord. of 8-14-2000, § 1; Ord. of 7-23-2001, § 4; Ord. of 5-13-2002, § 1)

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER

Section 9-11 Recovery of civil penalty

(a) Whenever the Superintendent of Public Works or the Sanitation Inspector determines that there has been a violation, or that there are reasonable grounds for belief that there has been a violation of any provision of this Chapter, the Superintendent of Public Works or the Sanitation Inspector shall give notice of such violation or violations and an order to pay a civil penalty as prescribed herein to the person or persons responsible for such violation or violations. Such notice shall be in writing and shall specify the alleged violation. Such notice shall be served upon the persons responsible for the violation or violations, who may be the owner, occupant, operator or agent of a dwelling as the case may require, in accordance with the requirements hereinafter set forth.

(b) Such notice shall be deemed to be properly served upon such person, owner, agent occupant or operator if a copy is served upon such person, owner, agent, occupant or operator personally; or if a copy thereof is sent by certified mail, return receipt requested, to the last known address of such person; or if a copy is posted in a conspicuous place in the building affected by the notice and a copy of said notice is mailed by certified mail, return receipt requested, on the same day as posted to the person, owner, agent, occupant or operator; or such other method of service authorized by the Civil Practice Law and Rules of the State of New York. Such notice shall inform the person to whom it is directed of his right to apply for a hearing as provided in this section.

(c) Following receipt of the notice of violation with notice of right to a hearing, the person responsible for such violation shall have 10 days from the date of the notice to request a hearing, in the manner provided herein. In the event that said person fails to request said hearing as so provided, (s)he shall be deemed to have waived his right to a hearing and to any further administrative remedies, and the determination of the Superintendent of Public Works or the Sanitation Inspector shall be deemed final and conclusive.

(d) Any person affected by any notice of violation issued in connection with the enforcement of any provisions of this article or of any rule or regulations adopted pursuant thereto may request and shall be granted a hearing before a hearing officer to be appointed by the City Administrator, provided that such person shall file, within 10 days of the date of the notice of violation, in the office of the Superintendent of Public Works, a written request for such hearing, setting forth a brief statement of the grounds therefor, designating the person and his/her address upon whom orders may be served and setting forth the reasons why such notice of violation should be modified or withdrawn, on a form as provided by the Superintendent of Public Works. If this request is filed within such ten-day period, no action to collect the civil penalty shall be taken while the hearing is pending.

(e) Upon receipt of a request for a hearing, the Superintendent of Public Works or the Sanitation Inspector shall set a time and place for such hearing and shall give the

applicant at least 10 days' written notice thereof. Such hearing shall commence not later than 30 days after the date on which the request was filed; however, hearings may be postponed by the hearing officer beyond such thirty-day period for good and sufficient reason. At such hearing, the applicant or his/her representative shall be given an opportunity to show cause why such notice of violation should be withdrawn. The applicant shall be entitled to be represented by legal counsel of his/her choosing at such hearing and to cross-examine all witnesses against him.

(f) After a hearing held in accordance with this section, and on consideration of the evidence presented, the hearing officer shall sustain, modify or withdraw the notice. If the notice of violation is sustained or modified, such final determination shall be deemed a final order and shall be served on the parties. The hearing officer shall keep a written summary of testimony and a copy of every notice or order, records of appearances, findings of fact and final determination, and such record shall be maintained as a public record. Stenographic minutes or an electronic recording of every hearing shall be made, as determined by the hearing officer, and filed in the offices of the Public Works Department. Such recording or minutes shall be made available to any person requesting the same upon payment of a reasonable charge for copying pursuant to law. A copy shall be furnished to the appellant upon request, free of charge.

(g) Any person or party aggrieved by an order of the hearing officer may seek to have such order reviewed by the Supreme Court in the manner prescribed by Article 78 of the Civil Practice Law and Rules.

(h) The civil penalty assessed pursuant to the notice of violation, if no hearing is requested pursuant to this section, or as modified or sustained by the hearing officer, if a hearing is requested and held, shall be recoverable in a civil action in court by the Corporation Counsel, together with costs and disbursements. When the Corporation Counsel obtains a judgment in an action under this section, in addition to the appropriate methods of enforcement for judgments established in the Civil Practice Law and Rules, such judgments for civil penalties shall constitute a lien against the affected property and shall be filed with the Commissioner of Finance, within one year from the entry of judgment, and the total amount thereof shall be added to and become a part of the next annual assessment roll for the affected property at the time and in the manner prescribed by the Charter of the City and subject to all the provisions thereof. (Ord. of 11-7-1994, § 7; Ord. of 5-13-2002, § 2)

Section 9-12 Power to act in emergencies

Whenever the Superintendent of Public Works or Sanitation Inspector, at any stage of the proceedings instituted under the provisions of this Chapter, finds that a violation of this Chapter exists which, in his/her opinion, requires immediate action to abate a direct hazard or immediate danger to the health, safety, morals or welfare of the public, (s)he may, without prior notice or hearing, issue an order citing the violation and directing that such action be taken as is necessary to remove or abate the hazard or danger.

Notwithstanding any other provision of this Chapter, such order shall be effective immediately upon service and shall be complied with immediately or as otherwise provided. Expenses incurred in the execution of such orders shall be recovered as provided in the section violated. (Ord. of 11-7-1994, § 8)

Section 9-13 Extension of compliance time

The Superintendent of Public Works or the Sanitation Inspector may extend the compliance time specified in any notice or order issued under the provisions of this Chapter where there is evidence of intent to comply within the period specified, provided that reasonable conditions exist which prevent immediate compliance. Evidence of intent to comply within the period specified shall consist of a written agreement entered into between the city and the person who was served a notice of violation. (Ord. of 11-7-1994, § 9)

Section 9-14 Recording of notices

Whenever a notice or order has been issued for any infraction of this Chapter, the Superintendent of Public Works or the Sanitation Inspector may file a copy of such notice or order in the office of the City Clerk or agency having jurisdiction. Such recording shall constitute appropriate information of such notice or order to any subsequent purchaser, transferee, grantee, mortgagee or lessee of the property affected thereby. (Ord. of 11-7-1994, § 10)

Sections 9-15 -- 9-18 Reserved

ARTICLE II, COLLECTION REGULATIONS

GENERAL REFERENCES

General powers of city enumerated -- See Administrative Code Section 2.04.

Penalty for violations of Ch. 9 -- See Administrative Code Section 10.10.

Burning garbage, rubbish or refuse in open fires -- See Code of Ordinances Section 11-25.

Interior of structure used for human habitation to be free from rubbish and garbage -- See Code of Ordinances Section 12-108.

Obstructing sidewalks -- See Code of Ordinances Section 15-4.

Section 9-19 Definitions

For the purpose of this article, the following terms shall have the meanings respectively ascribed:

Aluminum products -- Uncontaminated aluminum packaging, such as pie plates and frozen dinner trays.

Ashes -- The residue of coal, wood or other fuel after burning.

Bulky waste -- Large household items, such as furniture, mattresses, major appliances, tires, scrap metal items and carpets.

Cans -- Containers comprised of aluminum, tin, steel or a combination thereof, which contain or formerly contained only food and/or beverage substances.

Cardboard -- All corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material but excluding plastic-, foam- or wax-coated or soiled cardboard.

Construction and demolition debris -- Remains of major remodeling, construction, reconstruction, repair and demolition operations on houses, apartments, pavements and other structures, such as excavated earth, stones, concrete, bricks, plaster, roofing, sheathing, lumber and insulation, as well as rubble from the installation of plumbing, heating and electrical systems.

Electronics -- Computers (desktop, main frames, laptops), keyboards, mice, modems, power supplies, docking stations, cable and wiring, circuit boards, monitors, CRTs, terminals, printers, copiers, facsimile machines, telephones, cellular phones, two-way radios, walkie-talkies, pagers, beepers, answering machines, typewriters, word processors, audio visual equipment such as overhead projectors, security equipment (cameras, monitors), stereo equipment, televisions, VCRs, radios and camcorders.

Garbage -- Organic waste such as meat, fat, bones, fish, fruit or vegetables or any other animal, fish, fruit or vegetable matter used for food by human beings or used in the preparation, preservation, dressing or cooking thereof.

Glass -- All products made from silica or sand, soda ash and limestone, the product being transparent or translucent and being used for the packaging or bottling of various matter and all other material commonly known as "glass"; excluding, however, ceramics, light bulbs, blue and flat glass and glass commonly known as "window glass."

Major appliances -- Large and/or bulky household appliances (refrigerator, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

Newspaper -- All uncontaminated paper commonly referred to as "newsprint" and distributed at stated intervals, usually daily or weekly, having printed thereon news and

opinion and containing advertisements and other matter of public interest, and shall include supplements, comics and enclosures.

Office paper -- All bond paper, including computer printouts, stationery, photo copy and ledger from commercial waste generators.

Plastic -- All containers made from high-density polyethylene or polyethylene terephthalate (PET), including but not limited to bottles having contained the following products: milk, water, juice, detergent, bleach, antifreeze and soda; or other resins that may be designated as a recyclable material in accordance with the Dutchess County local law providing for the mandatory collection and disposition of recyclables in Dutchess County once economic markets exist.

Recyclable material -- Office paper, cardboard, newspaper, cans, glass, plastic, aluminum products, tires, major appliances, electronics and such other materials as may be designated by the Commissioner of Solid Waste Management of Dutchess County and the Recyclables Oversight Committee established and appointed pursuant to the Dutchess County local law providing for the mandatory collection and disposition of recyclables in Dutchess County.

Refuse -- Building material and any other incombustible matter or material.

Rubbish -- Any paper, plastic, cardboard or other material used to wrap, cover or contain food other than recyclable material as defined in this section; any other household waste resulting from the use, consumption and preparation of food; small metal household discards; miscellaneous waste material, including rags, drugs, health aids and materials, sweepings, rubber, leather, cloth, clothing, magazines, paper (other than newspapers, office paper and corrugated cardboard), waste materials from normal maintenance and repair activities, pasteboard, crockery, shells, dirt, wood and glass, other than recyclable material and construction and demolition items as defined in this section.

Yard waste -- Grass clippings, leaves, and cuttings from shrubs, hedges, trees, brush, and garden debris. (Ord. of 2-15-1937, § 1; Ord. of 12-6-1937, § 1; Ord. of 6-18-1973, § 1; Ord. of 4-1-1991, § 1; Ord. of 2-3-2003, §§ 1, 2)

**ORDINANCE AMENDING CHAPTER 14, ENTITLED OFFENSES AND
MISCELLANEOUS PROVISIONS, ARTICLE IV, ENTITLED NUISANCES,
SECTION 14-48, ENTITLED NUISANCE DEFINED
(007-27)**

INTRODUCED BY COUNCILMEMBER LEWIS

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 14-48 of Chapter 14, Article IV is amended and added as follows:

Section 14-48 Nuisance defined

The term "nuisance" shall be held to embrace whatever is dangerous to human life or detrimental to health or welfare and shall include but not be limited to:

- (a) A public nuisance as known as common law, statutory law and in equity jurisprudence.
- (b) Any building, structure, erection or place where, within a period of one (1) year prior to the commencement of an action under this Article, there have occurred two (2) or more violations of any provision of the Alcoholic Beverage Control Law of New York State.
- (c) Any building, structure, erection or place wherein there is occurring a criminal nuisance as defined in Section 240.45 of the Penal Law of New York State.
- (d) Any building, structure, erection or place wherein, within the period of one (1) year prior to the commencement of an action under this Article, there have occurred two (2) or more violations of any of the provisions of Article 220, 221 or 225 of the Penal Law of New York State.
- (e) Any building, structure, erection or place wherein there has occurred any violation of any of the provisions of Article 39 of the General Business Law of New York State.
- (f) Any building, structure, erection or place used for the purpose of a business activity or enterprise which is not licensed as required by law.
- (g) Any building, structure, erection or place containing any rent impairing violation as defined in the New York State Multiple Residence Law and regulations promulgated thereunder, regardless of whether such building, structure, erection or place is subject to the New York State Multiple Residence Law, or any violation of any state or local law, ordinance or regulation which endangers human life or constitutes a threat to human life or health, including but not limited to structures which do not have adequate egress, safeguards against fire, adequate electrical service, installation and wiring, structural support, ventilation, plumbing, sewerage or drainage facilities, is overcrowded or inadequately cleaned or lighted.
- (h) The building, structure, erection or place is deemed abandoned in that it has been unoccupied for more than one (1) year and one (1) or more of the following criteria is present:
 - (1) There are unpaid real property taxes or water and sewer charges against the property for one (1) year or more.
 - (2) Junk or debris has accumulated on the property or in the building or structure.
 - (3) The building or structure has unsecured openings.
 - (4) There is evidence of insect, vermin or rodent infestation.
 - (5) The building or structure has a negative visual impact on the surrounding neighborhood and/or caused a substantial depreciation in property values in the immediate neighborhood.

(6) The building or structure contains one (1) or more violations of any state or local law, ordinance or regulation, and the owner has failed to remove or repair said building or structure for a period of one (1) year or more.

(i) Any building, structure, erection or place used for congregate housing for students or others which has been the subject of two (2) or more complaints to the city administration or City Police Department, which have been confirmed and verified by the city administration or Police Department, for disturbing the surrounding neighborhood by excessive noise and/or holding large parties, which have resulted in excessive noise, garbage and litter, destruction of neighborhood property, increased traffic and parking problems and/or violations, abusive and threatening conduct to neighbors and/or illegal sale and consumption of alcoholic beverages. (Ord. of 5-20-1991, § 1; Ord. of 5-2-1994, § 1)

(j) Any building, structure, erection or place, within a period of twelve months prior to the commencement of an action under this Article, there have occurred six or more violations of any provision of Chapters 9 and 15.

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER WEINEL

**ORDINANCE AMENDING CHAPTER 14, ENTITLED OFFENSES AND
MISCELLANEOUS PROVISIONS,
ARTICLE IV ENTITLED NUISANCES,
SECTION 14-49, ENTITLED ACTION FOR PERMANENT INJUNCTION
(O07-)**

INTRODUCED BY COUNCILMEMBER _____

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 14-49 of Chapter 14, Article IV is amended and added as follows:

Section 14-49 Action for permanent injunction

(a) In addition to all other remedies provided for by law and in the City of Poughkeepsie Code of Ordinances, as an additional supplemental remedy, the Corporation Counsel shall bring and maintain a civil proceeding in the name of the city in the Dutchess County Supreme Court or other court of competent jurisdiction pursuant to Article 63 of the Civil Practice Law and Rules to permanently enjoin the nuisance defined in Section 14-48 of this Article and the person or persons conducting, maintaining or permitting the nuisance from further conducting, maintaining or permitting the nuisance. The owner, lessor and lessee of a building, structure, erection or place, wherein the nuisance is being conducted, maintained or permitted shall be made defendants in the action. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this Article. During the pendency of such proceeding, the city may obtain a temporary order for the immediate vacating of such building, structure, erection or place and/or restraining the defendant and all persons from further conducting, maintaining or permitting the nuisance upon proof that the public health, safety or welfare is threatened or endangered and immediately require a closing of said building, structure, erection or place or order restraining defendants and all other persons from conducting, maintaining or permitting the nuisance.

(b) Notice of pendency. With respect to any action commenced or to be commenced by him or her pursuant to this Article, the Corporation Counsel may file a notice of pendency pursuant to the provisions of Article 65 of the Civil Practice Law and Rules.

(c) Penalty. If, upon the trial of an action under this Chapter or, upon a motion for summary judgment in an action under this Article, a finding is made that the defendants have intentionally conducted, maintained or permitted a nuisance defined in this Article, in addition to a permanent injunction, a penalty, to be included in the judgment, may be awarded in an amount not to exceed one thousand dollars (\$1,000.) for each day it is found that the defendants intentionally conducted, maintained or permitted the nuisance. Upon recovery, such penalty shall be paid into the general fund of the City of Poughkeepsie. (Ord. of 5-20-1991, § 1)

Section 14-50 Permanent injunction

(a) A judgment awarding a permanent injunction pursuant to this Article may direct the closing of the building, structure, erection or place by the Sheriff to the extent necessary to abate the nuisance and shall direct the Sheriff to post a copy of the judgment

and a printed notice of such closing on the building, structure, erection or place. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than ~~two hundred fifty dollars~~ **two thousand five hundred dollars** (~~\$250.~~) **(\$2,500)** or by imprisonment not exceeding fifteen (15) days, or by both, provided that such judgment contains therein a notice of such penalty. The closing directed by the judgment shall be for such period as the court may direct. A closing by the Sheriff pursuant to the provisions of this subdivision shall not constitute an act of possession, ownership or control by the sheriff of the closed premises.

(b) Intentional disobedience or resistance to any provision of a judgment awarding a permanent injunction pursuant to this Article, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than five hundred dollars (\$500.) or by imprisonment not exceeding six (6) months, or both.

(c) A judgment rendered awarding a permanent injunction pursuant to this Article shall be and become a lien upon the building, structure, erection or place named in the complaint in such action, such lien to date from the time of filing a notice of lis pendens in the office of the County Clerk. Every such lien shall have priority before any mortgage or other lien that exists prior to such filing except tax liens.

(d) A judgment awarding a permanent injunction pursuant to this Article shall provide, in addition to the costs and disbursements allowed by the Civil Practice Law and Rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements of the city in investigating, bringing and maintaining the action. (Ord. of 5-20-1991, § 1)

Section 14-51 Severability of parts of Article

The section of this Article are severable, and if any phrase, clause, sentence, paragraph, subsection or section shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Article. (Ord. of 5-20-1991, § 1)

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER

**ORDINANCE AMENDING CHAPTER 15,
ENTITLED STREETS, SIDEWALKS AND PUBLIC PLACES,
ARTICLE I, IN GENERAL,
SECTION 15-11, SIDEWALKS, REQUIREMENTS FOR CLEANING
(O07-37)**

INTRODUCED BY COUNCILMEMBER LEWIS

BE IT ORDAINED, by the Common Council of the City of Poughkeepsie, as follows:

SECTION 1: Section 15-11 of Chapter 15, Article I is amended and added as follows:

Section 15-11 Sidewalks, requirements for cleaning

(a) Snow and ice. Every owner or occupant of a house, building or lot of land situate in the city and every agent or such owner who owns real estate in, but does not reside in the city, and every person having charge of any unoccupied house, building or lot of land, church or public building in the city shall at all times during the season of frost and snow, keep the whole of the sidewalk in front of their respective houses, buildings or lots of land, free from snow and ice, as aforesaid, and by reasons of the intensity of the frost, the said owner, occupant, agent or person in charge as aforesaid shall keep the sidewalks in front of their respective houses, buildings or lots strewn with ashes, sand or other material in such manner as to enable persons to walk thereon with safety.

(b) Time limits for removal. Every owner or occupant of a house, building or lot of land in the city and every agent of such owner who owns real estate in but does not reside in the city and every person having charge of any unoccupied house, building or lot of land, church or public buildings in the city shall remove the snow from the entire sidewalk in front of their properties within twelve (12) hours after any fall of snow occurring between the hours of 8:00 a.m. and 8:00 p.m. or, if occurring between the hours of 8:00 p.m. in the evening and 8:00 a.m., then with twelve (12) hours after the expiration of such periods.

(c) Deposits in streets, roads. It shall be unlawful for any person to throw, place or deposit or to assist others in throwing, placing or depositing of any snow or ice in any public street, road or highway in the city, except that whenever the paved portion of the sidewalk extends to the curb, the owner of the abutting property, his employees or agents may throw, place or deposit, in the public street, road or highway adjacent thereto, the snow from the sidewalk area only within the same time limitations as are set forth in Subsection (b).

(d) Sidewalks to be swept clean.

(1) Business areas. All sidewalks adjoining property utilized for any business purpose shall be swept clean by the property owner concerned or by his duly designated agent or agents daily before 10:00 a.m. of each business day on which such establishment is open to the public. The residue from each sweeping is to be gathered and deposited into an approved rubbish receptacle, said receptacle to be properly covered.

(2) Residential areas. All sidewalks adjoining residential properties shall be swept clean by the property owner or his duly designated agent or agents.

(3) Tenants responsibilities. In all cases in which the property owner does not individually reside within the City of Poughkeepsie or the property owner, if a corporation is not a New York corporation, then the tenant or tenants occupying the business establishment or residence shall be

responsible for the sidewalk cleaning after written notice to the property owner concerned has been forwarded by the appropriate city department.

(e) Penalty. Any person, persons, corporation, corporations, partnership, partnerships, clubs, associations or government units who shall violate this section will be deemed to be a civil violator and will be fined \$25 for the first violation, ~~\$50~~ **\$100** for the second violation and ~~\$100~~ **\$250** for the third and **\$500 each violation thereafter in any one twelve month period** ~~one calendar year~~, and each day that said violation is allowed to remain in existence shall constitute a separate violation. Said fine may be collected in City Court or as a civil penalty recovered in accordance with Section 9-11 of Chapter 9 of the Code of Ordinances and shall be in addition to the collection of costs as provided in Section 8.02 of the City of Poughkeepsie Administrative Code. (Ord. of 1-21-1999, § 1)

(f) Rights preserved. This section shall not be so construed as to affect or diminish in any way the powers of the Superintendent of Public Works under Section 103(7) of the Charter of the city. (Ord. of 12-19-1910, § 1 through 3, 5; Ord. of 2-6-1950, § 1 through 3, 5; Ord. of 12-19-1962, § 1; Ord. of 8-17-1970; Ord. of 1-17-1995, § 1)

(g) Any violations under this Chapter shall be part of the cumulative count of violations under Chapter 9 for additional graduated penalty in Chapters 9 and 15.

SECTION 2: This Ordinance shall take effect immediately.

SECONDED BY COUNCILMEMBER WEINEL