

ORDINANCE NO. 678

**AN ORDINANCE AMENDING CHAPTER 8.28 OF THE
TROUTDALE MUNICIPAL CODE PERTAINING TO
NUISANCES**

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

- A. It will be easier and more efficient to abate nuisances and enforce compliance with Chapter 8.28 if these amendments are made to the abatement section of this chapter.
- B. The proposed revisions in the ordinance are in the best interest of the public and will expedite abatement of nuisance violations, which pose risks to the health, safety, and general welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
TROUTDALE:**

Section 1. Chapter 8.28.090 of the Troutdale Municipal Code is amended to read and provide as follows:

8.28.090 Abatement - General procedures

- A. An investigation may be conducted whenever the director receives a complaint that a nuisance exists.
- B. Whenever it appears to the director that there is reasonable cause to believe that a nuisance exists, the director shall provide written notice to the owner of the existence of the nuisance and shall demand abatement within ten days from the date of the written notice or such lesser time as may be set by the director to protect the public health, safety and welfare. The notice shall contain:
 - 1. A description of the real property by street address or otherwise on which the nuisance exists;
 - 2. A description of the nature of the nuisance;
 - 3. The action necessary to abate the nuisance;
 - 4. The time within which the nuisance must be abated;
 - 5. A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement shall be a lien against the property and/or the city may file charges against the owner in Troutdale Municipal Court;

6. A statement that notwithstanding the city's abatement authority pursuant to Section 8.28.140, if the nuisance is not abated within ten days from the date of the written notice, enforcement penalties for non-compliance in accordance with Section 8.28.130(B) will be imposed. The enforcement penalties are separate from any penalty assessed in 8.28.200 of this chapter; and
7. A statement that the owner may request a hearing to contest whether a nuisance exists or to contest the imposition of any enforcement penalty by writing to the director within seven days of the date of the notice. (Ord. 659 § 1 Exh. A (part), 1997: Ord. 352-O § 2 (7.30.040(C) and (D)), 1981).

Section 2. Chapter 8.28.110 of the Troutdale Municipal Code is amended to read and provide as follows.

8.28.110 Appeal and hearing procedures - General Requirements

- A. Any person receiving a notice under subsection B of Section 8.28.090, subsection B of Section 8.28.130 or Section 8.28.100 of this chapter, may request a hearing by writing the director within seven days of the date of the notice.
- B. The director shall, upon receipt of a request for a hearing, promptly notify the hearings officer who shall set a time and place for the hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for the hearing. Notice may be by any means of giving actual notice. Notice may also be given to such persons as the hearings officer may determine to be interested persons.
- C. The person requesting the hearing and the director may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues. Any person may be represented by counsel.
- D. If requested by either party all hearings shall be recorded in a manner which will allow for written transcription to be made and all materials submitted at the hearing shall be retained by the hearings officer for a period of two years.
- E. Failure of the persons requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.
- F. After the hearing the hearings officer shall issue and mail a copy of the order determining the question within fifteen days from the date of the hearing, or any continuance thereof not to exceed fifteen days from the date of the hearing, to the person requesting the hearing and the director.
- G. If the hearings officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner.
- H. If the hearings officer determines that anything removed under subsection B of Section 8.28.100 of this chapter no longer constitutes a nuisance or can be released upon such condition as the hearings officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage.

- I. If the hearings officer determines that there was a wrongful abatement under subsection B of Section 8.28.100 of this chapter, the hearings officer may order the director to make reasonable restitution. (Ord. 454-0 (part), 1985; Ord 352-0 2 (7.30.050), 1981)

Section 3. Chapter 8.28.130 of the Troutdale Municipal Code is amended to read and provide as follows.

8.28.130 Abatement by owner - Required.

- A. Failure of the owner to abate the nuisance within ten days as provided by subsection B of Section 8.28.090 of this chapter, or within the time set by the hearings officer under Section 8.28.110 of this chapter, shall be a violation of this chapter. (Ord. 352-O § 2 (7.30.060), 1981)
- B. If a nuisance is not abated within ten days of the initial written notice for abatement, as provided in Section 8.28.090, unless a request for a hearing is made under Section 8.28.110 of this chapter, or if a nuisance is not abated within the time set by the hearings officer under Section 8.28.110 of this chapter, the director shall impose enforcement penalties for non-compliance in accordance with the adopted fee schedule. The director shall provide notice of the imposition of any enforcement penalty to the owner.

Section 4. Chapter 8.28.150 of the Troutdale Municipal Code is amended to read and provide as follows.

8.28.150 Waiver of assessments - Conditions.

The cost of abating a nuisance or the cost of any enforcement penalty imposed by the director may be waived for low income, elderly or disabled persons, if upon timely application it appears to the director that the following conditions are met:

1. The owner is disabled or over sixty-five years of age, and, if single, had an income during the preceding calendar year from all sources of less than three thousand six hundred dollars, or if the head of a family had an income during the preceding calendar year from all sources of less than five thousand four hundred dollars; and
2. The owner is living on the property from which the nuisance is to be abated. (Ord. 352-O § 2 (7.30.065(B)), 1981)

Section 5. Chapter 8.28.160 of the Troutdale Municipal Code is amended to read and provide as follows.

8.28.160 Waiver of assessments - Application procedures

Application for waiver of nuisance abatement costs or for waiver of enforcement penalties shall be filed with the director, in writing, within ten days from the date of notice of the amount of cost of abatement or within ten days of the date of the notice of the imposition of the enforcement

penalty. The director may require the owner to supply additional information as evidence that the applicant qualifies for a waiver under the provisions of Section 8.28.150. An application for waiver of nuisance assessment costs or enforcement penalties must be submitted for each cost of abatement notice or each enforcement penalty notice sent to the applicant. (Ord. 352-O § 2 (7.30.65(C)), 1981)

YEAS:	<u>6</u>
NAYS:	<u>0</u>
ABSTAINED:	<u>0</u>



Paul Thalhofer, Mayor

Dated: 11-24-99

ATTEST:



Debbie Stickney, City Recorder