

ROSEBURG URBAN SANITARY AUTHORITY

Douglas County, Oregon

ORDINANCE NO. 15

AN ORDINANCE PROVIDING FOR THE ELIMINATION OF PUBLIC HEALTH HAZARDS RESULTING FROM FAILED OR INADEQUATE SEWAGE DISPOSAL, COLLECTION OR DRAINAGE SYSTEMS PROVIDING FOR NOTICE AND DEMAND TO ELIMINATE A PUBLIC HEALTH HAZARD; AUTHORIZING ENTRY ON PRIVATE PROPERTY BY AUTHORIZED REPRESENTATIVES OF THE ROSEBURG URBAN SANITARY AUTHORITY TO ACCOMPLISH SUCH REPAIR UPON FAILURE OF THE PERSON RESPONSIBLE TO DO SO IN A TIMELY MANNER; AUTHORIZING THE ADDITION OF THE COST OF SUCH REPAIRS TO THE SEWER SERVICE CHARGES ASSESSED TO THE PROPERTY UPON WHICH THE REPAIRS WERE MADE AND CREATING A LIEN; PROVIDING FOR THE ENFORCEMENT AND COLLECTION OF COSTS; ESTABLISHING AND PROVIDING FOR THE COLLECTION OF PENALTIES.

IT IS ORDAINED by the Board of Directors of the Roseburg Urban Sanitary Authority ("Authority", herein) as follows:

Section 1. Definitions.

For the purposes of this Ordinance, the following words and phrases mean:

- a. "Authorized Representative" means the person authorized by the Board of Directors or the Manager of the Authority to enforce the abatement provisions of this Ordinance.
- b. "Person in charge of property" means an agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of a construction project on the property.
- c. "Person responsible" means any or all of the following:
  1. The owner of the property on which the public health hazard exists or the owner of the property which abuts a public way where a public health hazard exists.
  2. The person in charge of the property or of property which abuts a public way where a public health hazard exists.

3. The person who causes the public health hazard to come into or continue in existence.
- d. "Public way" means any street, road, alley, right-of-way, pedestrian or bicycle easement for public use.
- e. "Public health hazard" mean any unsanitary condition resulting from a failed or inadequate sewage treatment, disposal, collection or drainage system.

Section 2. Inspection and enforcement.

The Authority Manager or the Manager's designee is authorized and empowered to make inspection of the exterior, interior and underneath any building or structure or premises in the Authority. It is unlawful for an owner or person in charge of property to fail to permit such inspection when requested to do so in accordance with law.

Section 3. Public health hazards--Prohibition and responsibility to abate.

- a. No person responsible shall cause or permit a public health hazard on public or private property.
- b. The person responsible shall be liable for injury, damage or loss to person or property caused by the negligent failure or refusal to abate any public health hazard described in this Ordinance.
- c. The Authority shall not be liable for injury, damage or loss as to any person or property caused in whole or in part by the failure or refusal of the person responsible to comply with subsection a. of this section.
- d. Neither the duty of the person responsible to keep property free of a public health hazard nor his/her failure to do so is dependent upon notice from the Authority to abate the public health hazard.
- e. The person responsible shall defend and hold harmless the Authority from all claims for loss or damage arising from the failure to comply with subsection a. of this section.

Section 4. Abatement procedures--Notice.

- a. If the authorized representative is satisfied that a public health hazard exists, (s)he shall cause a notice to be posted on the premises or at the site of the public health hazard directing a person responsible to abate the health hazard.

- b. At the time of posting, the authorized representative shall cause a copy of the notice to be personally served on any known person responsible or to be forwarded by registered or certified mail, postage prepaid, to any known person responsible at the person's last known address.
- c. The notice to abate shall contain:
  - 1. A description of the real property, by street address or otherwise, on which the public health hazard exists;
  - 2. A direction to abate the health hazard within ten days from the date of the notice;
  - 3. A description of the public health hazard;
  - 4. A statement that unless the public health hazard is abated, the Authority may abate the hazard and the cost of abatement shall be charged to the person responsible, shall be included in the sewer services charges for the property at the next succeeding billing cycle, and shall become a lien upon the property;
  - 5. A statement that failure to abate a public health hazard may result in a court prosecution;
  - 6. A statement that the person responsible may appeal the order to abate by giving notice to the Manager of the Authority within ten days from the date of the notice.
- d. Upon completion of the posting and serving or mailing, the enforcing officer shall execute and file with the Manager certificates stating the date and place of the posting and serving or mailing respectively.
- e. An error in the name or address of a person responsible shall not make the notice void and in such case the notice shall be sufficient.

Section 5. Abatement procedures--By a person responsible.

- a. Within ten days after the posting and serving or mailing of the notice required by Section 4, a person responsible shall remove the public health hazard or show that no public health hazard exists.
- b. A person responsible, protesting that no public health hazard exists, shall file with the Manager a written statement specifying the basis for the protest.

- c. The statement shall be referred to the Board of Directors of the Authority, or its designee, for hearing. The appellant shall be given at least five days prior written notice of the time set for the hearing to consider the abatement. The Board of Directors or its designee shall take oral or written testimony at the time and place specified in the notice. The Board of Directors or its designee shall prepare written findings of the facts and conclusions of law when determining whether a public health hazard exists. The determination of the Board of Directors or its designee shall be final.
- d. If the Board of Directors or its designee determines that a public health hazard exists, a person responsible shall, within ten days after such determination, or within a time set by the Board of Directors or its designee, abate the health hazard.

Section 6. Abatement procedures--By the Authority.

- a. If within the time allowed, the public health hazard has not been abated by a person responsible, the Manager or the Manager's designee may cause the public health hazard to be abated.
- b. The authorized representative charged with abatement of the hazard, or contractors acting under the direction of the representative, shall have the right at reasonable times to enter into or upon such property in accordance with law to investigate or cause the removal of a public health hazard.
- c. The finance officer of the Authority shall keep an accurate record of the expense incurred by the Authority in physically abating the public health hazard and shall include therein a penalty of five percent (5%) or one hundred fifty dollars, whichever is greater, for administrative overhead. A statement thereof shall be made available to the public upon reasonable request and shall be the basis for the cost assessment as provided in Section 8.

Section 7. Abatement procedures--Joint responsibility.

If more than one person is responsible, they shall be jointly and severally liable for abating the public health hazard or for the costs incurred by the Authority in abating the hazard.

Section 8. Abatement procedures--Assessment of costs.

- a. The Manager, by registered or certified mail, postage prepaid, shall forward to a person responsible a notice stating:
  1. The total cost of abatement including the administrative overhead;
  2. That the cost as indicated will be assessed to and become a lien against the property unless paid within ten days from the date of the notice, and, in addition, will become a part of the sewer service charge assessed against the property at the next sewer service charge billing cycle.
  3. That if the person responsible objects to the cost of the abatement as indicated, (s)he may file a written notice of objection with the Manager not more than 10 days from the date of the notice.
- b. The person responsible's objection to the costs of the abatement shall be heard by the Board of Directors of the Authority, or its designee. The objector shall be given at least five days' prior written notice of the time set to consider his or her objections. The Board, or its designee, shall take oral or written testimony at the time and place specified in the notice. The Board or its designee shall determine the abatement costs to be assessed and shall communicate the decision in writing to the objector, which writing shall also state that if the costs of abatement are not paid within ten (10) days from the date of the decision, the costs shall be entered in the Authority lien docket and notice thereof recorded in the Official Records of Douglas County, Oregon. The said entry shall constitute a lien upon the property from which the public health hazard was removed or abated or upon the abutting property when the hazard was removed or abated from the public way.
- c. If no objection is filed or if the costs of the abatement are not paid within ten (10) days from the date of the notice, the assessment shall be enforced as a lien for sewer improvements or collected as a sewer service charge against the property. The lien shall bear interest at the rate of nine (9%) percent per annum and shall commence from the date of entry of the lien in the lien docket and be satisfied of record upon payment in full.
- d. An error in the name of a person responsible shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment

void, but it shall remain a valid lien against the property.

Section 9. Abatement procedure--Summary abatement.

The Manager or the Manager's designee may proceed to summarily abate any condition described in this Ordinance as a public health hazard when conditions unmistakably exist which imminently endanger human life, health or property. The cost of such abatement may be assessed and collected as provided in Sections 4 through 8 of this Ordinance.

First reading: Jan. 10, 1990.  
Second reading: Feb 14, 1990.  
Date adopted: Feb 14, 1990.  
Effective date: Mar 16, 1990.

ROSEBURG URBAN SANITARY AUTHORITY

By: J. William New  
Chairman, Board of Directors

Countersigned:

John G. O'Brien  
Manager