ORDINANCE NO. 7481

AN ORDINANCE introduced by Mayor Joan Wagnon amending Topeka City Code §§ 66-27, 66-31, 66-31.1, and 66-31.2, pertaining to nuisances, including defacement of property by graffiti in the illustrative enumeration, excepting graffiti nuisances from the imposition of the Thirty-five dollar ($35.00) administrative fee, and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code § 66-27, Illustrative enumeration, is hereby amended to read as follows:

Illustrative enumeration.

The maintaining or permitting to be or remain on any public or private property of any of the following conditions is hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

(1) Weeds and obnoxious vegetation when such growths reach 12 inches in height.

(2) Placement, storage or accumulation of garbage, rubbish, trash, refuse, junk and other materials, metals, plumbing fixtures, appliances, auto parts, junked, wrecked or inoperative vehicles, lumber or other litter and furniture, stuffed furniture, clothing, or other household items which creates an unsightly appearance. This section applies without limitation to homeowners, renters, landlords, tenants, antique dealers, contractors, pawnbrokers, plumbers, precious metal dealers, secondhand goods dealers, or any other business whether or not required to be licensed under Chapter 30 of this code, whether or not outside storage of items and materials is authorized by the zoning ordinances of the city and whether or not the building, land or property is occupied by human beings.

(3) Any condition which provides harborage for rats, mice, snakes and other vermin.

(4) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
(5) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(6) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes or other substances which are injurious to overland flow or ground water.

(7) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(8) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(9) Any building where exterior surfaces, other than decay-resistant surfaces, are not protected from the weather, elements and decay by paint or other protective covering or treatment.

(10) Any vacant or unoccupied structure which is not secured or is in a condition that allows access by any person.

(11) Graffiti, which shall mean any unauthorized writing, inscription, word, figure, or design which is marked, etched, scratched, drawn, or painted on any structural component of any building, structure, or other facility, regardless of the nature of the material used in its application or upon which it is applied.

Section 2. City of Topeka Code § 66-31, Contents of violation notice, is hereby amended to read as follows:

Contents of violation notice.

The violation notice shall contain:

(1) An order to abate the nuisance within ten calendar days of the date of the violation notice or request a hearing within ten calendar days of the date of the violation notice. A list of persons to contact shall be included.

(2) The location of the nuisance, if such nuisance is stationary;

(3) A description of what constitutes the nuisance;

(4) A statement of acts necessary to abate the nuisance;
(5) A statement that if the nuisance is not abated as directed and no request for
hearing is made within ten calendar days of the date of the violation notice, the city shall seek
the remedy of an administrative penalty of $35.00 per day, except in those cases where
graffiti constitutes the nuisance;

(6) A statement that the administrative penalty will continue to accrue for each day the
nuisance condition continues to exist for a period of not to exceed five calendar days, except
in those cases where graffiti constitutes the nuisance; and

(7) A statement that the owner, occupant or agent may stop the accrual of the
administrative penalty by abating the nuisance and advising environmental code services of
the abatement. A list of persons to contact shall be included.

(8) A statement that if the nuisance is not abated following the administrative penalty
period, the city will seek the remedy of prosecution and enforcement for failure to comply with
the administrative order and for maintaining a nuisance under section 1-7 of the Code of the
city and will abate such nuisance and assess the cost thereof against the property and pursue
any other remedies available.

Section 3. City of Topeka Code § 66-31.1, Administrative penalties, is hereby
amended to read as follows:

Administrative penalties.

There shall be an administrative penalty assessed for each day a nuisance condition
continues to exist after expiration of the ten calendar days allowed for abatement of the
nuisance, except in those cases where graffiti constitutes the nuisance. The administrative
penalty shall be in the amount of $35.00 per day and shall in no event exceed five days. Ten
calendar days shall be calculated based upon the date of the violation notice.
Section 4. City of Topeka Code § 66-31.2, Designation of hearing officer; procedures, penalty for failure to comply with administrative order, is hereby amended to read as follows:

Designation of hearing officer; procedures, penalty for failure to comply with administrative order.

(a) For purposes of this article, the city shall designate an administrative hearing officer who shall have the duty and authority to enter such administrative orders as are necessary to the enforcement of this article.

(b) The administrative hearing officer, upon request of the environmental code services officer, or designee, shall review the violation notice and all relevant information. If the hearing officer determines after such review that: 1) a nuisance condition exists; 2) no request for a hearing has been made by the owner, occupant or agent; and 3) the nuisance condition remains unabated, then the hearing officer may enter an administrative order. The administrative order shall contain: (1) a finding of whether the city properly sent notice to the owner, occupant or agent in accordance with provisions herein; (2) a finding of the nuisance conditions which exist; (3) the failure of the owner, occupant or agent to abate or otherwise remove the nuisance conditions; and (4) an administrative penalty not to exceed $35.00 per day for each day the nuisance condition exists not to exceed a total of five days. In no event shall an administrative penalty exceed a period of five calendar days. The administrative penalty shall not apply in those cases where graffiti constitutes the nuisance.

(c) If the owner, occupant or agent requests a hearing within ten calendar days of the date of the violation notice, the administrative hearing officer shall schedule a hearing within three working days of receipt of the hearing request. Written notice of the hearing date and time shall be provided to the owner. At the hearing, owner shall be given the opportunity to
present information relevant to the violation notice. The environmental code services officer 
or designee of the city also shall be given the opportunity to present information relevant to 
the violation notice. The hearing may be continued to a later time in exceptional cases where 
additional information is needed, as determined by the hearing officer. After all information 
has been offered, the hearing officer shall render a written decision.

(d) The administrative hearing officer may modify an order, including the administrative 
penalty in cases of undue hardship or in cases presenting extenuating circumstances.

(e) It shall be unlawful for any person to whom an administrative order is issued to fail 
to comply with the provisions of the administrative order.

(f) The administrative hearing officer shall provide the option of daytime or evening 
administrative hearing times.

Section 5. Original City of Topeka Code §§ 66-27, 66-31, 66-31.1 and 66-31.2 are 
hereby specifically repealed.

Section 6. This ordinance shall take effect and be in force from and after its 
passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council MAR 21 2000

Joan Wagon, Mayor

ATTEST: Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY 
DATE 3/22/00 BY 
TO BE CODIFIED X 
NOT TO BE CODIFIED 

DORD/GRAFFITI CHAPTER 66 1/21/00 5