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February 28, 2001)

ORDINANCE NO. 12642

AN ORDINANCE introduced by Mayor Joan Wagonl relating to Administrative Hearing procedures for nuisance violations amending City of Topeka Code § 66-31.2 and specifically repealing said original section.

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

Section 1. 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. In addition, the administrative hearing officer may
modify an order if it is determined that the owner of the property is utilizing remedies
provided by the Residential Landlord Tenant Act.

(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 2. Original City of Topeka Code § 66-31.2 is hereby specifically repealed.

Section 3. 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, February 13, 2001

Joan Wagnon, Mayor

ATTEST:

Honesty Kent
DEPUTY, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE: 1/22/01
TO BE CODIFIED
NOT TO BE CODIFIED