

1 (Published in the Topeka Metro News December 26, 2007)

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3 **ORDINANCE NO. 19006**

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5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending
6 City of Topeka Code § 112-71 concerning administrative hearings
7 and specifically repealing said original section.
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9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

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11 Section 1. That City of Topeka Code Chapter 112, Division 5, Appeal
12 Procedures, is hereby amended to read as follows:

13 **Division 5**

14 **~~Appeal Procedures~~Administrative Hearings**

15 Section 2. That City of Topeka Code § 112-71, Designation of hearing officer;
16 procedures, penalty for failure to comply with administrative order, is hereby amended
17 to read as follows:

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

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

23 (b) The owner, occupant, PUC or agent may request an administrative
24 hearing within the time specified in the notice of violation. Additionally, the public works
25 director may request an administrative hearing to seek enforcement or abatement of
26 violations contained in the notice of violation. The administrative hearing officer shall
27 schedule a hearing within three (3) working days of receipt of the hearing request.
28 Written notice of the hearing date and time shall be provided to the person requesting

29 the hearing as well as the other party by first class mail. At the hearing, the owner,
30 occupant, PUC or agent shall be given the opportunity to present information relevant to
31 the violation notice. The public works director also shall be given the opportunity to
32 present information relevant to the violation notice. The hearing may be continued to a
33 later time in exceptional cases where additional information is needed, as determined
34 by the hearing officer.

35 (c) The administrative hearing officer shall review the notice of violation and
36 all relevant information. If the hearing officer determines after such review that: 1) a
37 violation exists; 2) no request for a hearing has been made by the owner, occupant,
38 PUC or taxpayer/agent; and 3) the condition remains unabated, then the hearing officer
39 shall enter an administrative order. The administrative order shall contain: (1) a finding
40 of whether the city properly sent notice to the owner, occupant, PUC or agent in
41 accordance with provisions herein; (2) a finding of the violation conditions which exist;
42 (3) the failure of the owner, occupant, PUC or agent to abate or otherwise remove the
43 violated conditions and (4) an administrative monetary penalty for failure to correct the
44 violations.

45 (d) If, after any order of the administrative hearing officer has become final,
46 the person to whom such order is directed shall fail, neglect, or refuse to obey such
47 order, the public works director may cause such person to be prosecuted in Municipal
48 Court for violations of this chapter.

49 (e) The administrative hearing officer shall provide the option of daytime or
50 telephone evening administrative hearing times.

51 (f) The administrative hearing officer may grant variances from the provisions
52 of this chapter or from applicable rules and regulations issued by the public works
53 director when not inconsistent with the intent of this chapter.

54 Section 3. That original City of Topeka Code § 112-71 is hereby specifically
55 repealed.

56 Section 4. This ordinance shall take effect and be in force from and after its
57 passage, approval and publication in the official City newspaper.

58 PASSED AND APPROVED by the City Council December 18, 2007.

59 CITY OF TOPEKA, KANSAS
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65 William W. Bunten, Mayor
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67 ATTEST:
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72 Brenda Younger, City Clerk