

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE III, ADMINISTRATION, BY ADDING CHAPTER 31 LEGISLATIVE HEARING OFFICER AND APPEALS FROM ENFORCEMENT OFFICERS

The City Council of the City of Worthington, do ordain:

SECTION I.

Sec. 31.01. LEGISLATIVE HEARING OFFICER

In order to hear and decide appeals from a notice of violation or emergency issued by enforcement officers pursuant to Chapter 92, 99 and 98 of the Worthington City Code, there shall be and is hereby created a Legislative Hearing Officer. The Legislative Hearing Officer shall be a person appointed by the City Council. The Legislative Hearing Officer shall also have the authority to conduct hearings on such other matters, **except those matters which are governed by Title XV of the Worthington City Code**, as the Worthington City Council may from time to time direct be heard by the Legislative Hearing Officer.

SECTION II.

Sec. 31.02 APPEAL TITLE IX, GENERAL REGULATIONS, CHAPTERS 92, 99 AND 98

- A. Right to Appeal
 - B. Filing Appeal
 - C. Contents of Written Appeal
 - D. Hearing Date and Notice of Hearing
 - E. Conduct of Hearing and Evidence
 - F. Decisions of the Legislative Hearing Officer
 - G. Record of Proceedings
 - H. Prosecution of Appeal
 - I. Appeal to Council from Decision of the Legislative Hearing Officer
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- A. Right to Appeal - Any person affected by any notice of violation or emergency order issued and served pursuant to Chapters 92, 99 and 98 of the Worthington City Code which has been issued may appeal such order by following the procedures set forth in this Chapter 31.
 - B. Filing Appeal - Any person affected by any notice of violation or emergency order issued and served pursuant to Chapters 92, 99, and 98 of the Worthington City Code shall be granted a hearing before the Legislative Hearing Officer upon filing in the office of the City Clerk a written appeal requesting such hearing. Said appeal shall be filed within ten days after the notice or order from which the appeal is taken is served.

- C. Contents of Written Appeal - The written appeal shall set forth the date of the notice of violation or emergency order issued by the enforcement officer and shall set forth the grounds for the appeal.
- D. Hearing Date and Notice of Hearing - Upon receipt of a written appeal, the Legislative Hearing Officer shall set a time and place for such hearing and shall give the appellant written notice thereof. Unless the relevant Chapter of the Worthington City Code provides for a shorter time period, the hearing shall be commenced not later than 14 days after the date on which the written appeal was filed. If the relevant chapter of the Worthington City Code provides for a shorter period of time the hearing shall be commenced during such period of time.
- E. Conduct of Hearing and Evidence - At such hearing the appellant, appellant's agent or attorney, shall be given an opportunity to show cause why the notice of violation or emergency order issued by the enforcement officer should be modified or withdrawn. The enforcement officer shall present a written statement of the findings of the enforcement officer which caused the enforcement officer to issue the notice of violation or emergency order. Such evidence as either the appellant or the enforcement officer feels is relevant may be presented. Strict rules of evidence shall not apply.
- F. Decisions of the Legislative Hearing Officer - After the hearing the Legislative Hearing Officer shall sustain, modify or withdraw the notice of violation or emergency order. If the Legislative Hearing Officer sustains or modifies such notice of violation or emergency order, it shall be deemed to be an effective notice of violation or emergency order. A copy of the decision of the Legislative Hearing Officer shall be served by mail on the petitioner or petitioners and filed in the office of the Worthington City Clerk. The Legislative Hearing Officer shall render a decision as promptly as possible. If within 10 days from the date of service of the decision of the Legislative Hearing Officer, no appeal is made from the decision of the Legislative Hearing Officer to the Worthington City Council pursuant to the provisions of Subsection I of this Section 31.02 the decision of the Legislative Hearing Officer shall be final.
- G. Record of Proceedings - The proceedings of each hearing held before the Legislative Hearing Officer pursuant to an appeal, shall be tape recorded and the recording kept as a part of the record of the proceedings. The record of the proceedings shall include a copy of every notice, order, stay, and writing issued in connection with the notice of violation or emergency order and the appeal.
- H. Prosecution of Appeal - The appellant shall prosecute the appeal in a timely fashion. If the Legislative Hearing Officer concludes that the appellant is not prosecuting the appeal in a timely manner, the Legislative Hearing Officer shall enter an order sustaining the order of the Enforcing Officer.
- I. Appeal to Council from Decision of the Legislative Hearing Officer - If either the appellant or the enforcing officer disagrees with the decision of the Legislative Hearing Officer the

appellant or the enforcing officer may, within the time period set forth in Subsection F of this Section 31.02 appeal the decision to the Worthington City Council by filing a notice of appeal with the Worthington City Clerk. The Worthington City Council shall consider the appeal at the first regularly scheduled meeting of the Worthington City Council held more than 4 days after the notice of appeal has been filed. At such meeting the record of the proceedings shall be reviewed and based on such review, the Worthington City Council shall affirm, modify, or reverse the decision of the Legislative Hearing Officer.

SECTION III.

This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed and adopted by the City Council of the City of Worthington, Minnesota, this _____ day of _____, 2004.

(SEAL)

Mayor

Attest: _____
City Clerk