ORDINANCE NO. 12697

AN ORDINANCE introduced by Councilmembers John Alcala and Betty Dunn relating to Merchant Guard appeals and license qualifications; amending Sections 30-420 and 30-421 of the Code of the City of Topeka (1994), as amended, and repealing the original sections.

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

Section 1. That Section 30-420 of the Code of the City of Topeka (1994), as amended, shall hereby read as follows:

Sec. 30-420. Approval Licensing procedure; Appeals.

(a) When the applicant for a license under this article receives an application, the applicant shall complete the application and the attached forms in full. The applicant shall return the completed original and forms to the police department. The chief of police shall, after receipt of the completed application, direct that the applicant's qualifications be investigated. Upon completion of the investigation, the chief of police shall approve or disapprove the application. The chief of police may, at any time during the approval procedure, seek the advice or recommendations of the city attorney's office.

(b) The chief of police is authorized to promulgate all necessary rules and regulations concerning the review and processing of merchant guard applications. The rules and regulations so promulgated shall be with the approval of the city attorney.

(c) If the chief of police initially disapproves the application for a license under this article, or in the event the applicant is denied a license pursuant to section 30-421, the chief of police shall promptly notify the applicant of the action. Within ten days after
receiving notice from the chief of police that his application for a merchant guard license has been disapproved or denied, the applicant may appeal in writing to the council for a hearing on the matter. The issue in any such appeal shall be limited to determining whether the facts supporting the disapproval or denial of the license are correct.

Section 2. That Section 30-421 of the Code of the City of Topeka (1994), as amended, shall hereby read as follows:

Sec. 30-421. Causes for mandatory denial.

No license shall be issued under this article to:

(1) Any person under 18 years of age; provided, however, that no person between the age of 18 and 21 years of age shall be authorized to carry a firearm;

(2) Any person who is not a citizen of the United States of America;

(3) Any person whose character and reputation or record of sobriety is not satisfactory to the council;

(4) Any person convicted of a felony within 20 years immediately preceding the date of application or any person convicted of two or more class A or class B misdemeanors within ten years immediately preceding the date of application; or in the case of a corporation, if any officer, director or principal stockholder has been convicted as provided in this subsection.; Offenses classified as class A or class B misdemeanors by Chapter 8 of the Kansas Statutes Annotated or K.S.A. 40-3104, and amendments thereto, or any city ordinance or county resolution in conformity therewith, shall not disqualify an otherwise qualified applicant unless they are convictions of Reckless Driving, Driving Under the Influence of Intoxicating Liquor or Drugs, Driving a Commercial Vehicle Under the Influence of Intoxicating Liquor or Drugs, Refusing a
Preliminary Breath Test, Tampering with an Ignition Interlock Device, or Fleeing or Attempting to Elude a Police Officer:

(5) Any person against whom a judgment or conviction for fraud, deceit or misrepresentation has been entered within ten years immediately preceding the date of application; or

(6) Any person who has a record of one or more convictions for controlled substance abuse or a record of violent acts against persons or property within ten years immediately preceding the date of application.

Section 3. That original Sections 30-420 and 30-421 of the Code of the City of Topeka (1994), as amended, are hereby specifically repealed.

Section 4. 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 July 10, 2001

Harry Felker, Mayor

ATTEST:

Iris E. Walker, City Clerk