ORDINANCE NO. 18504

AN ORDINANCE introduced by Councilmembers Jeff Preisner, John Nave and Clark Duffy, amending Topeka City Code § 30-77 and § 154-103 concerning the licensing of taxicab drivers, including the establishment of a drug and alcohol testing requirement and criminal record standards for taxicab driver licensure, and specifically repealing said original sections.

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

Section 1. That Topeka City Code § 30-77, Same—Driver, is hereby amended to read as follows:

Same—Driver.

The license fee for a taxicab driver's license shall be Ten dollars ($10.00) per year. Licenses shall expire on December 31 of each year twelve (12) months from their date of issuance.

Section 2. That Topeka City Code § 154-103, Qualifications, is hereby amended to read as follows:

Qualifications.

(a) Qualifications. No a taxicab driver's license shall only be issued to any person who:

1. Does not Possesses a valid Kansas driver's license of the class required to operate a taxicab;

2. Is under the age of twenty-one (21) years or older; or

3. Within the preceding five- (5) year period has does not have a conviction or adjudication under the laws of the United States, this state or any other...
state, or ordinances of the city or any other city for the following:

a. Driving under the influence of drugs and/or alcohol;

b. Reckless driving;

c. Attempting to elude; or

d. Adjudged a habitual violator.

For purposes of this section, a diversion granted after September 1, 1991, for any of the above enumerated offenses enumerated in this section shall be considered as a conviction or adjudication.

Individuals who have been licensed taxicab drivers and who have had a conviction or adjudication of any of the enumerated offenses within three years preceding November 21, 1989, shall be grandfathered in and shall not otherwise be disqualified by virtue of a prior conviction or adjudication.

(4) Submits a test from a United States Department of Transportation approved drug and alcohol testing program that indicates a negative result for alcohol and each of the controlled substances specified in part 40 (commencing with section 40.1) of title 49 of the Code of Federal Regulations. Said test shall be dated no later than thirty (30) days prior to the license application date. As a condition for license renewal, a driver shall provide written documentation of participation in a United States Department of Transportation approved drug and alcohol testing program;

(5) Has been approved for a license by the chief of police as provided herein. The chief of police may deny a license application if an applicant:
a. Has been convicted of a felony involving the sale or distribution of controlled substances, or a crime against persons or property, within ten (10) years immediately preceding the date of application, or released or discharged from incarceration on probation, parole, postrelease supervision or any other form of conditional or unconditional release for such conviction within five (5) years immediately preceding the date of application;
b. Against whom a judgment or conviction for fraud, deceit or misrepresentation, or a conviction for theft or a prostitution-related crime has been entered within ten (10) years immediately preceding the date of application.
c. Any other cause that the chief of police determines makes the applicant unfit to drive a taxicab.

(b) Temporary License. The City Clerk may issue a temporary license to an applicant who complies with the requirements of subsections (a)(1) through (4) above, pending Police Department approval or denial of the license as provided herein. The temporary license shall expire in thirty (30) days after its issuance, or upon the approval or denial of the application, whichever occurs first. An applicant shall not be permitted to drive a taxicab if his or her temporary license expires as provided herein, until his or her license application has been approved.

(c) Continuing qualifications. The requirements of this section shall be continuing in nature. The failure of a license holder to comply with any requirement or
qualification herein during the term of a license shall be considered sufficient cause for the
suspension and/or revocation of the license.

(d) Appeal to Chief of Police. Upon disapproval of a license application or prior
to suspending or revoking a license issued under the article, the chief of police shall issue
written notice to the applicant or licensee at their last known address of the reasons for the
denial or the proposed suspension or revocation and an opportunity for a hearing on the
matter. The hearing shall be scheduled for not more than fourteen (14) days from the date
of the notification, and the applicant or licensee shall be notified of the date, time and
location of the hearing. The applicant or licensee may appear in person, or by counsel, or
both. The chief of police may continue the hearing in his or her discretion. After the
hearing, the chief of police shall issue an order overturning or upholding the denial, or
revoking or suspending the license or declining to revoke or suspend the license and the
reasons therefore. The chief of police shall serve a copy of the order on the applicant or
licensee. The applicant or licensee shall not be permitted to drive a taxicab during the
pendency of the appeal to the chief of police. All notices provided herein shall also be
provided to the taxicab company that employs or contracts with the applicant or licensee.

(e) Appeal to City Council. Any person who has his or her license denied,
suspended or revoked by the chief of police may appeal the decision to the city council by
filing a written notice of appeal with the city clerk within ten (10) days of receipt of the order
denying, suspending or revoking the license. If a timely appeal is filed, the council shall
hold a hearing and the person appealing may present any evidence and be heard with
respect to the allegations that resulted in the license denial, suspension or revocation by
the chief of police. A licensee may, concurrently with appeal of a suspension or revocation,
request in writing that imposition of suspension or revocation be stayed pending the outcome of the appeal. If both the notice of appeal and request for stay are timely filed with the city clerk, imposition of the suspension or revocation shall automatically be stayed, pending the outcome of the appeal. An applicant, who has not previously been issued a license, shall not be permitted to drive a taxicab during the appeal process. The city council shall either affirm or reverse the license denial, suspension or revocation, or remand the matter to the chief of police for further proceedings.

Section 3. That Topeka City Code § 30-77 and §154-106 are hereby specially 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 SEP 13 2005

[Signature]
William W. Bunten, Mayor

[Signature]
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
BY DATE 8/10/05
TO BE CODIFIED ✓
NOT TO BE CODIFIED