

IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS

ADMINISTRATIVE ORDER 98-4

SURETY BOND POLICY

A guaranteed bond certificate issued by a surety company authorized to transact business in the State of Kansas and in the Overland Park Municipal Court guarantees the appearance of such person in Court at the time specified on the bond and at all subsequent court appearances unless and until the surety company is released on the bond. If a bond is posted on a charge for which a disposition has not yet been entered, the bond remains in effect until such time as the defendant answers the complaint and sentence or disposition is entered thereon. This would not include future court appearances for time to pay or comply with court orders. However, if the bond is posted for a non-appearance on a post-conviction or post-diversion matter, the bond remains in effect until a final disposition or satisfaction of the post-conviction or post-diversion matter.

In the event of failure to appear at any time specified by the Court, the surety company guarantees payment of the amount on the bond by the surety company. Except as otherwise provided by law no professional surety or surety company engaged in the business of writing bonds for profit shall be authorized to act as sureties in this Court until having fully complied with the rules of the Court relating to bonds. Individual citizens of the community may act as sureties in this Court on a case by case basis without complying with rules A, B, D and E, if no fee is charged and if a judge of this Court approves.

A. Criteria for Authorization to Act as Surety in Overland Park Municipal Court

In order to become authorized to act as surety in the Overland Park Municipal Court, the surety company must make application in writing to the Presiding Judge of the Overland Park Municipal Court. Accompanying its request for authorization, it must submit, ***to the extent applicable***, the following information:

1. A Surety Bond Applicant Information Sheet
2. A current and valid certificate from the Kansas Secretary of State evidencing authorization to do business in the state of Kansas;
3. A copy of any and all Power of Attorney certificates issued to it by any insurance company
4. A current and valid Certificate of License from the Kansas Insurance Department
5. A current and valid Certificate of Authority from the Kansas Insurance Department;

6. A current affidavit regarding employees or contractors (See, Attachment C and Subsection C herein)
7. A current affidavit of assets (See, Attachment B and Subsection D herein)
8. A statement that the applicant has read this Administrative Order in its entirety and agrees to comply with all provisions. See, Attachment A.
9. A list of all employees or contractors that will be working for or assisting the applicant in writing or enforcing bonds out of the City of Overland Park. The list of employees shall include all employee names, insurance license numbers, insurance license expiration dates, the maximum amount each agent is authorized by the company to write surety bonds for, and the employee's signature.
10. Such other information as may be requested by the Presiding Judge.

B. Disqualification

Applicants, as well as approved surety companies, shall be automatically disqualified if:

1. The applicant or surety company has failed to meet financial responsibilities. This may be evidenced by legal action to collect past due amounts among other indications.
2. The applicant or surety company or authorized agent has not been truthful in any information submitted to the Court for approval.
3. The applicant or surety company or any authorized agent has outstanding warrant(s) issued for his or her arrest.
4. The applicant or surety company or any authorized agent allows an unauthorized person to write bonds.
5. The applicant or surety company or any authorized agent who is writing a bond under the authority of an insurance company, allows a bond to be submitted to the Court which does not contain an individual, numbered, power of attorney properly executed.
6. The applicant or surety company does not notify the Court within 30 days of a significant change in financial status, including a decrease in value of assets of more than \$20,000 or 20% (whichever is greater), a change in status with the underwriting insurance company, or a change of underwriting insurance companies.
7. Good cause exists for the Presiding Judge to determine that it is not in the best interest of the Court and the community that the applicant or surety company be allowed to write bonds in the Overland Park Municipal Court.

C. Affidavit Regarding Employees Or Contractors and List of Persons Authorized to Write Bonds

Each surety company shall file an affidavit regarding employees or contractors and a list of all employees or contractors with the Presiding Judge on or before the first day of January and the first day of July and such

other times as directed by the Presiding Judge. No employee or contractor authorized to write and/or enforce bonds or any authorized agent will have been convicted, in this or any other jurisdiction of any person felony within the preceding 10 years. All employee(s) or contractor(s) authorized to write and/or enforce bonds or any authorized agent shall possess a current valid driver's license. No employee or contractor authorized to write and/or enforce bonds or any authorized agent shall have outstanding warrant(s) issued for their arrest. All employees or contractors authorized to write and/or enforce bonds by the surety company shall be properly licensed agents through the state of Kansas and have the appropriate paperwork to act as an agent for an underwriting insurance company as applicable. See Attachment C.

The list of all employees or contractors shall include employee / contractor names, insurance license numbers, insurance license expiration dates, maximum bond amounts and the employee's signature as applicable.

Failure to have a current affidavit regarding employees or contractors and a list of said names on file on those dates or as directed shall result in automatic and ex parte suspension of authorization to act as surety until current affidavits are on file.

Additionally, the name of the employee or contractor shall be submitted in writing within 14 days to the Senior Court Clerk when an employee or contractor has been added or withdrawn from the list of authorized agents for the surety bond company.

D. Affidavit of Assets

Each surety company shall file an affidavit of assets with the Presiding Judge setting out the assets declared for bonding purposes on or before the first day of January of each year and such other times as directed by the Presiding Judge. See Attachment B. Failure to have a current affidavit of assets on file on that date or as directed shall result in automatic and ex parte suspension of authorization to act as surety until current affidavits are on file.

E. Failure to Appear

It is the responsibility of the bonding company to know the whereabouts of the defendant, to be aware of the court dates, and to see to it that the defendant appears as ordered. Upon failure of the defendant to appear as ordered, the Court shall send a letter to the surety company responsible for the defendant's appearance advising it of the defendant's failure to appear and allowing 60 days from the date of the letter to either surrender the defendant or pay the bond forfeiture. The letter will be sent by regular mail to the

address registered with the Court. Failure to receive the letter does not relieve the surety company from responsibility on the bond.

As a courtesy, but not as a condition of surety responsibility, the Court shall send the surety a reminder letter 40 days after the initial letter, which will include the exact date the defendant/forfeiture are due.

F. Failure to Produce the Defendant or the Forfeited Funds

If the defendant is not surrendered or the bond forfeiture paid by the due date, the surety company's privileges will be suspended at 12:00 p.m. of the next business day.

G. Reinstatement of Bonding Privileges

Once suspended, the surety company must pay all amounts owing before consideration will be given for reinstatement.

Once payment in full is made the following schedule will be followed:

For the first removal in a 5 year period, the company's privileges will be suspended for 30 days after payment.

For a second removal in a 5 year period, the company's privileges will be suspended for 90 days after payment with eligibility for reinstatement after reapplication.

For a third removal within 5 years, the company's privileges will be suspended for one year after payment with eligibility for reinstatement after reapplication.

H. Extensions of Time

Extensions of time to surrender the person or pay the forfeiture will only be considered upon requests made to the Municipal Judge prior to the due date. Said extensions shall be granted at the sole discretion of the Municipal Judge. Extension requests must be made in person at 12:45 p.m. Monday - Friday.

I. Refunds

If the bond forfeiture is paid on time, and the defendant is later surrendered **by the surety company**, a partial refund will be allowed as indicated below:

1 – 30 days after payment	75% refund
31– 60 days after payment	50% refund
61 – 90 days after payment	25% refund

No refunds will be given for surrenders that occur in excess of 90 days after payment. No refunds will be given unless the defendant is surrendered by the surety company to the Overland Park Municipal Court (See Subsection J). If the defendant is arrested by law enforcement personnel within 90 days of forfeiture, without the assistance of the surety company, no refunds will be provided.

J. Surrender

A defendant is considered surrendered to the Court when he or she is surrendered to the Overland Park Municipal Court during business hours M-F 8 a.m. to 5 p.m. with or without an active warrant for their arrest. After court business hours those persons with active warrants may be surrendered to the Overland Park Police at Sanders Station or the Johnson County Sheriff at the detention center. For all persons without an active warrant and after court business hours surrender will be to the Johnson County Sheriff at the detention center.

K. Persons Incarcerated Outside Johnson County, Kansas

If a surety finds that due to the defendant's incarceration outside Johnson County, Kansas it is not able to surrender the defendant on the date required, the surety company must ask for an extension of time to surrender the defendant prior to the due date. Said request must be accompanied by proof of incarceration from the jurisdiction or detention facility holding the defendant. In such cases, an extension will be granted to require surrender or payment within 30 days of the defendant's release from said incarceration. The surety company must advise the court, with the accompanying documentation, of the defendant's status as requested by the court. The surety company will not be released from the bond commitment until the defendant is surrendered in Johnson County, Kansas, or at the Municipal Judge's discretion.

L. Ability to Sue

Nothing contained herein shall in any way limit the City or the Court's ability to proceed with any and all proper civil remedies against the surety to collect on the bond if such payment is not forthcoming upon demand.

M. Questions

Questions concerning this policy or its application are to be directed to the Senior Court Clerk at (913) 327- 6800. Only the Presiding Judge has the authority to waive or modify any provision of this policy and said waiver or modification must be obtained in writing.

O. Notification to Overland Park Police Department

Any surety or authorized agent of a surety who intends to apprehend any person in the City of Overland Park shall inform the Overland Park Police Department before attempting such apprehension. The surety or the authorized agent of the surety shall present to the Overland Park Police Department a certified copy of the bond, valid government-issued photo identification, written appointment of agency if not the actual surety, and all other appropriate paperwork identifying the principal and the person to be apprehended. At its discretion, the Overland Park Police Department may accompany the surety or authorized agent. If the surety or authorized agent of a surety intends to apprehend any person outside of the limits of the City of Overland Park, the surety or the authorized agent shall notify the appropriate authorities in that jurisdiction and comply with that jurisdiction's apprehension policies.

IT IS SO ORDERED.

DATED THIS 31ST DAY OF AUGUST, 1998 and revised 18th day of July, 2002, 5th day of December, 2002, 16th day of August, 2004, 1st day of March 2013, 1st day of January, 2016.

RYAN DIXON
PRESIDING JUDGE

IN THE MUNICIPAL COURT OF GARDNER, KANSAS
120 E Main St
Gardner, Kansas 66030

CITY OF GARDNER

vs

Case No:

MOTION FOR JUDGMENT OF DEFAULT AND BOND FORFEITURE

The City of Gardner, moves for judgment of default upon the appearance bond posted herein in the amount of \$ for appearance of the defendant on , 2015. On defendant's failure to appear as ordered, said bond was ordered forfeited and the forfeiture has not been set aside.

Wherefore, the City respectfully requests the Court set this matter for hearing on, 2015, at 5:00 p.m. and thereafter order the bond be forfeited and the amount pledged to secure the bond be paid to the Municipal Court.

Christopher M. Reecht KS #18969
City Prosecutor, Complainant
120 E Main St
Gardner, Kansas 66030
(913) 856-0904 Fax (913) 856-5784

**IN THE MUNICIPAL COURT OF GARDNER, KANSAS
120 E Main St
Gardner, Kansas 66030**

NOTICE OF HEARING

To:

Please take notice that the foregoing motion will be heard in the Municipal Court of Gardner, Kansas at 5:00 p.m., on _____, 2015.

Christopher M. Reecht KS #18969
City Prosecutor, Complainant
120 E Main St
Gardner, Kansas 66030
(913) 856-0904

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2015, a copy of the Notice of Hearing was sent via US Mail, at the Sureties last known address.

Deana Scott
Municipal Court Clerk

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2015, I served true and correct copies of the forgoing Motion and Notice of Hearing upon the Clerk of the Municipal Court of Gardner, agent for service of process appointed by the City of Gardner, for service upon the defendant.

Christopher M. Reecht KS #18969
City Prosecutor, Complainant

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 2015, a copy of the Notice of Hearing was sent to the defendant, via US Mail and Certified Mail, at the Defendant's/Sureties last known address.

Deana Scott
Municipal Court Clerk

CERTIFICATE OF SERVICE

I hereby certify that I personally served a true and correct copy of the foregoing Motion and Notice of Hearing, via Personal Service to the defendant/Surety, dated this day of _____, 2015.

Deana Scott
Municipal Court Clerk

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the ____ day of _____, 2015, at ____am/pm a copy of the Notice of Hearing was served to the defendant/Surety by personal service.

Officer

IN THE MUNICIPAL COURT OF GARDNER, KANSAS

CITY OF GARDNER

Vs

Case No:

ORDER FORFEITING BOND

NOW, on this day of , 2015, this matter comes on for hearing pursuant to assignment of the Court and Motion filed by the Plaintiff, City, to forfeit the bond in the above entitled matter due to the nonappearance of the captioned Defendant.

THEREUPON, the Court reviews the file and pleadings herein and finds that the Defendant/Principal entered into an appearance bond with the Bondsman/Surety as surety in the principal sum of \$. The conditions of the bond were breached and bail was declared forfeited on , 2015.

THEREUPON, the Court reviews the file and finds that notice has been given to Bondsman/Surety of the City's Motion for Judgment of Default and Bond Forfeiture at the Bondsman/Sureties last known address.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED AND ADJUDGED AND DECREED that the appearance bond of the above captioned Defendant/Principal be forfeited and this Court recover from the Bondsman/Surety the sum of \$, which is the amount of the bond forfeited.

IT IS FURTHER ORDERED that the Bondsman/Surety pay the total amount of \$, by , 2015 or appear on that date at 5:00 p.m. Failure to do so will result in a bench warrant being issued for failure to appear.

IT IS SO ORDERED.

Honorable Robin Lewis
Municipal Court Judge

IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS

SURETY BOND APPLICANT INFORMATION SHEET

NAME OF APPLICANT: _____

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

BUSINESS TELEPHONE: _____

DIRECT TELEPHONE: _____ **FAX:** _____

CELLULAR PHONE: _____

EMAIL ADDRESS: _____

NAME OF INSURANCE COMPANY: _____

INSURANCE COMPANY ADDRESS: _____

INSURANCE COMPANY TELEPHONE: _____

List all jurisdictions for which the applicant is currently authorized to post surety bonds:

IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS

STATEMENT OF UNDERSTANDING

I state that I have read Overland Park Municipal Court Administrative Order 98-4, revised March 1, 2013. I understand the provisions of said order and agree to abide by its terms as a condition of appearing as surety in the City of Overland Park Municipal Court.

(Signature of Applicant)

(Name of Surety Company)

(Address of Surety Company)

ATTACHMENT A

IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS

AFFIDAVIT OF ASSETS

Now on this _____ day of _____, _____, comes now

_____ by and through its authorized representative
Name of Surety Company

_____ and swears to the following, under the pains and
Name of Representative
penalties of perjury (Additional sheets may be attached if necessary):

List Assets Declared For Bonding Purposes:

List all property by which the surety proposes to justify the bonds, along with any encumbrances on said property:

List all outstanding lawsuits in any jurisdiction against the applicant and/or the insurance company guaranteeing payment concerning bail bonds. Include the name of the lawsuit, case number and jurisdiction:

(Signature of representative)

(Title of representative)

STATE OF _____)
COUNTY OF _____)

This instrument was signed and sworn to before me on _____ by _____
as _____ (date) (name of signator)
_____ of _____
(officer, owner, trustee, etc.) (name of surety company)

(Signature of notarial officer)

[My appointment expires: _____]

ATTACHMENT B

IN THE MUNICIPAL COURT OF OVERLAND PARK, KANSAS
AFFIDAVIT REGARDING EMPLOYEES OR CONTRACTORS

NOW ON THIS _____ day of _____, 20____, comes now

_____ by and through its authorized representative
name of surety company

_____ name of authorized representative

and swears to the following, under pains and penalties of perjury that:

1) No employee or contractor authorized to write and/or enforce bonds for the above-named applicant or any authorized agent has been convicted, in this or any other jurisdiction of any person felony within the preceding 10 years.

2) All employee(s) or contractor(s) authorized to write and/or enforce bonds for the above-named applicant or any authorized agent possesses a current valid driver's license.

3) No employee or contractor authorized to write and/or enforce bonds for the above-named applicant or any authorized agent has outstanding warrant(s) issued for their arrest.

4) All employees or contractors authorized to write and/or enforce bonds by the surety company are properly licensed agents through the state of Kansas and have the appropriate paperwork to act as an agent for an underwriting insurance company as applicable.

_____ signature of representative

_____ printed name

_____ title of representative

State of _____)

County of _____)

This instrument was signed and sworn before me on _____ by _____
date name of signator

_____ signature of notary public/notary officer

My appointment expires: _____

ATTACHMENT C

Check Attachments included herein:

- Surety Bond Applicant Information Sheet
- Certificate from Secretary of State authorizing applicant to do business in the State of Kansas
- Power of Attorney certificate from insurance company
- Certificate of License from the Kansas Insurance Department
- Certificate of Authority from the Kansas Insurance Department
- Affidavit Regarding Employees or Contractors (Attachment C)
- Affidavit of Assets (Attachment B)
- List of Employees with requested information
- Statement of Understanding (Attachment A)

I do solemnly swear or affirm that the information contained in the foregoing Surety Bond Application is true and correct to the best of my knowledge and this I state under the pains and penalties of perjury.

Signature of Applicant

STATE OF _____)
COUNTY OF _____)

This application was signed and sworn to before me on _____ by _____
(Date) (Name of Applicant)

(Signature of notarial officer)

[My appointment expires: _____]