City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144
770-424-8274
770-429-4559 Fax
www.kennesaw-ga.gov

APPLICATION FOR BAIL BOND LICENSE

Applicant_____

Home Address_____

Home Phone _____ Social Security #_____

Are you a U. S. Citizen? _____ Date of Birth_____
(Must be 21 years of age)

Are you a Georgia Resident? _____ How long? _____
(Minimum of 1 year)

Name of Business_____

Business location_____

Business Phone_____

Corporation [ ] Limited Liability Company [ ] Partnership [ ] Sole Proprietor [ ]

List names and address of all individuals, partners, officers, directors, trusts, shareholders, members, or other entities composing the company. (If necessary use additional page.)

_____

_____

_____

List names and addresses of all individuals authorized to execute bonds sign or act on behalf of the bonding company. (If necessary use additional page.)

_____

_____

_____

Has the applicant or any individual authorized to act on behalf of the bonding company been convicted or entered a plea of nolo contendre within ten (10) years immediately prior to the filing of this application for any felony or misdemeanor of any Sate of the United States or any municipal ordinance except traffic violations?_____

If the answer is YES, describe in detail and give dates._____

_____

_____

_____

Are you familiar with the City of Kennesaw Ordinances, State Laws and Regulations governing the operation of this type of business?

_____

Do you agree to abide by such Ordinances, Laws, and Regulations? _____

The following are required items to be submitted with application:

1. Application Fee ($75.00)
2. Complete set of fingerprints, current full face photograph and consent form for records check to be made by the Police Department for the applicant and any individuals composing the company as set forth above
3. Two character affidavits from residents of Cobb County for the applicant and any individuals composing the company as set forth above
4. Notarized affidavit listing all of his property of the applicant and any individuals composing the company as set forth above, stating any liens or encumbrances thereon, and describing such property in detail, including but not limited to the true market value of such property
5. A completed employee application for each person authorized to execute bonds or act on behalf of the company
6. Signed agreement providing for an escrow account §22-71(h)(1)
7. Kennesaw business license ($100.00 regulatory fee)

For each employee the following must also be submitted:

1. A completed application for each employee who will write bonds
2. Fingerprints and photographs from the Kennesaw police Department (performed at the employees expense)
3. A consent form for background check
4. A properly executed power of attorney from the bonding company

I have submitted all required items with my application.

I hereby certify the above information submitted by me is true and correct and agree to abide by all Ordinances of the City of Kennesaw in regards to professional bonding.

_____ _____

Signature of Applicant Date

_____ _____

Signature of Notary Date

My Commission Expires:

Application to be heard by Mayor & Council on _____ at _____

Date Time

A REPRESENTATIVE MUST BE PRESENT AT HEARING

Office Use Only

Application received by_____ Date_____

Action of Mayor and Council: Approved Denied Date_____

Revised July 2, 2001

City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144
770-424-8274
770-429-4559 Fax
www.kennesaw-ga.gov

APPLICATION FOR BAIL BONDING EMPLOYEES

Business Name_____

Applicant_____

Home Address_____

Home Phone _____ Social Security #_____

Are you a U. S. Citizen? _____ If not alien registration number_____

Date of Birth _____ Are you a Georgia resident? _____How long? _____

Have you been convicted or entered a plea of nolo contendre within ten (10) years immediately prior to the filing of this application for any felony or misdemeanor of any Sate of the United States or any municipal ordinance except traffic violations?_____

If the answer is YES, describe in detail and give dates._____

_____

_____

Are you familiar with the City of Kennesaw Ordinances, State Laws and Regulations governing the operation of this type of business?

_____

Do you agree to abide by such Ordinances, Laws, and Regulations? _____

I hereby certify the above information submitted by me is true and correct and agree to abide by all Ordinances of the City of Kennesaw in regards to professional bonding.

_____ _____
Signature of Applicant Date

_____ _____
Signature of Notary Date

My Commission Expires:

1. Must have a license from the City of Kennesaw
2. Application must state:
   - Citizen of the United States
   - State resident for the past year
   - At least 21 years
   - Business located in state and accessible to the public
   - Two residents of the county to provide character references
   - Application fees
   - Fingerprints
   - Full face photograph of individual
   - Consent to background check (to be performed by police chief)
   - Statement confirming requirements are met
   - List of all property including liens, description of property, true market value of property
   - Business license fee
3. Escrow agreement
4. Provide police chief with names of partners, officers, stockholder, or other interested parties of a corporation
5. Each employee must be fingerprinted and photographed by police department
6. Power of attorney from bonding company for each employee
7. Monthly reports to be filed with police chief
   - List of bonds signed including name, amount, and date
   - List of bonds settled including name, case number, and date
   - List of all judgments subject to collection in Kennesaw
   - List of all forfeitures subject to collection in Kennesaw
   - List of all employees of bonding company

CONSENT FORM

I HEREBY AUTHORIZE THE CITY OF KENNESAW POLICE DEPARTMENT TO RECEIVE ANY CRIMINAL HISTORY RECORD AND OR DRIVERS HISTORY RECORD INFORMATION PERTAININGTO ME WHICH MAY BE IN THE FILES OF ANY STATE OR LOCAL CRIMINAL JUSTICE AGENCY IN THE STATE OF GEORGIA FOR THE PURPOSE OF OBTAINING A BAIL BONDING LICENSE FOR:

_____.
NAME OF ESTABLISHMENT

_____
FULL NAME (PRINTED)

_____
ADDRESS

_____ _____ _____ _____
SEX RACE DOB SOCIAL SECURITY NO.

_____
SIGNATURE OF APPLICANT

_____ _____
NOTARY DATE

CONSENT FORM

I HEREBY AUTHORIZE THE CITY OF KENNESAW POLICE DEPARTMENT TO RECEIVE ANY CRIMINAL HISTORY RECORD AND OR DRIVERS HISTORY RECORD INFORMATION PERTAINING TO ME WHICH MAY BE IN THE FILES OF ANY STATE OR LOCAL CRIMINAL JUSTICE AGENCY IN THE STATE OF GEORGIA FOR THE PURPOSE OF OBTAINING A BAIL BONDING LICENSE FOR:

_____.
NAME OF ESTABLISHMENT

_____
FULL NAME (PRINTED)

_____
ADDRESS

_____ _____ _____ _____
SEX RACE DOB SOCIAL SECURITY NO.

_____
SIGNATURE OF APPLICANT

_____ _____
NOTARY DATE

STATE OF GEORGIA
COBB COUNTY

AGREEMENT

THIS AGREEMENT entered into this_____ day of _____, 20_____, in duplicate originals, by and between Chief Westenberger, in his official capacity as Chief of Police of the City of Kennesaw, or his successors in office, hereinafter referred to as Chief; and a professional bonding business in said State and County, hereinafter referred to as professional bonding business.

WITNESSETH:

WHEREAS, said Chief, in the exercise of the duty and discretion placed in him by law, has determined in accordance with O.C.G.A. Section 17-6-15(b)(1)(E) that the City of Kennesaw cannot accept real property solely as surety for appearance bonds made by professional bondsmen, and that it is necessary for a cash reserve or deposit account to be utilized to underwrite said appearance bonds;

NOW THEREFORE, to insure that adequate provisions be made to underwrite said appearance bonds, it is agreed between the parties as follows:

1.

A "required sum deposited" of Two Thousand Five Hundred Dollars ($2,500.00) or such sums as may be determined by the Chief under his statutory duty to provide for the reliability, solvency and approval of sureties, shall be deposited with the City of Kennesaw by said professional bonding business and placed in an escrow account with not more than a twelve month maturity date or any lesser term as the City shall determine is most feasible, in any one or more financial institutions designed as city depositories. The name on the account and the signature at said Bank shall read "City of Kennesaw, Trustee for "_____," professional bonding business. This agreement may be terminated as provided herein or where satisfaction of any judgment against professional bonding business exceeds the outstanding balance on deposit in said escrow account.

2.

After the City has deposited the sum of money with a designated depository in the City of Kennesaw and said escrow account has been established by the City, then and in that event, and after all other prerequisites are met as provided for by law, said professional bonding business may at that time begin underwriting appearance bonds in the City of Kennesaw with a limit not to exceed a

"total underwriting capacity" of Twenty Five Thousand Dollars ($25,000.00) or such sums as may be designated by the City based upon the amount of said escrow deposit. It is agreed and consented to by said professional bonding business that should it exceed said fixed underwriting limit or limits, as amended, then and in that event, its bonding privileges shall immediately terminate as of that date, and it would be unable to underwrite any further bonds in the City of Kennesaw until such time as its liability shall no longer exceed the fixed underwriting limit or limits, as amended, and it has met any other conditions of solvency and reliability as my be required by the Chief. It is further agreed and stipulated that said professional bonding business shall complete a sworn affidavit each month to the Chief's of the City of Kennesaw detailing the exact and total amount of its outstanding liabilities on bonds underwritten in the City of Kennesaw. The report shall be in form of a monthly summary, on forms provided by the Chief, and due in the Chief's office by the 10th calendar day of each month. Failure to submit this report in a timely fashion may result in the suspension or termination of bonding privileges at the discretion of the Chief. The parties agree that all interest generated from such escrow account shall become the property of the City.

3.

In the event a principal fails to appear on a bond signed by the professional bonding business, upon the entry of a judgment against the professional bonding business as provided in O.C.G.A. Section 17-6-70, 17-6-71 and 17-6-72:

(a) parties agree that after 120 days from the date of such judgment, if no sums have been paid into the court in satisfaction of such judgment by the professional bonding business, fifty per cent of such judgment amount shall be paid immediately by the professional bonding business, or such funds be set off against the funds in said professional bonding businesses' escrow account until said amount is paid in full, and if the money after said set off in said escrow account for the professional bonding business is less than ($2,500.00), or the amended sum deposited, then and in that event, all bonding privileges are immediately revoked, and said professional bonding business shall then be unable to post any further bonds until said escrow account has been brought up to not less than the required sum to be deposited, and it has met other conditions of solvency and reliability as may be required by the Chief, including but not limited to the full payment of fifty per cent of such judgment amount;

(b) parties agree that after two years and thirty days from the date of such judgment, if the full judgment amount has not been paid into the court in satisfaction of such judgment by the professional bonding business, the outstanding amount of such judgment shall be paid immediately by the professional bonding business, or such funds shall be set off against the funds in said professional bonding businesses' escrow account until said amount is paid in full, and if the money after said set off in said escrow account for the professional bonding business is less than ($2,500.00), or the amended sum deposited, then and in that event, all bonding privileges are immediately revoked, and said professional bonding business shall then be unable to post any further bonds until said escrow account has been brought up to not less than the required sum to be deposited, and it has met other conditions of solvency and reliability as may be required by the Chief, including but not limited to the full payment of such judgment amount.

(c) Said funds may be withdrawn from said account, solely by the Trustee, as provided for herein.

4.

The privileges of the professional bonding business shall be revoked or terminated if the business has had any permit or license issued under the police powers of any county or other governmental subdivision suspended or revoked within the last five years, or if the business has exceeded its escrow limits within the last five years, or if the business has exceeded its escrow limits in another jurisdiction without satisfying the same or failed to meet bonding obligations in any other county or municipality in the State of Georgia or elsewhere.

5.

In addition to other provisions herein concerning the suspension or termination of bonding privileges, this contract may also be terminated at the instance of the professional bonding business upon it being made to appear to the satisfaction of the Chief that the professional bonding business has satisfied all liability on bonds signed in said Chief's office and that no further liability will be incurred by the professional bonding business on such bonds. This contract may also be terminated by mutual consent of the parties hereto at any time and without regard to the liability referred to in this numbered paragraph. Upon such mutual termination of this contract, the principal amount of said savings account, not due and owing on any forfeited bonds or other liability, shall be withdrawn from said account by check or other withdrawal instrument required by said Bank, singed by the Trustee at such time, and the proceeds shall be paid over to the professional bonding business after meeting any requirements or provisions that me be in force and effect under Georgia Law governing such agreements entered into by the State of Georgia.

6.

The amounts provided in the "required sums deposited" and in the "total underwriting capacity" may be amended or modified from time to time by the Chief pursuant to said Chief's statutory responsibility and authority to provide for the approval of sureties. Notice of any such amendments regarding "required sums deposited" or "total underwriting capacity" shall be given by the Chief in writing at least 60 days in advance of such amendment taking effect. Provided further that the Chief may suspend or terminate the operation of this Agreement upon failure of the professional bonding business to comply with the provisions herein, including those concerning the "total underwriting" and "required sums deposited." Said amendment shall be in writing, signed by both parties, attached to this Agreement, and the required sums shall be deposited with the City or appointed Trustee. Said amendment or modification shall not affect the other provisions of this Agreement and same shall remain binding; said amendment or modification Shall be attached hereto and made a part hereof.

7.

The professional bonding business acknowledges that this Agreement is made in compliance with those certain Regulations and Requirements pertaining to Bail Bonding, promulgated the City of Kennesaw Code of Ordinances and which are specifically incorporated herein and made a part hereof. Professional bonding business also agrees to abide by and comply with said rules and regulations as

they presently exist and as they may be amended or modified from time to time. Failure of professional bonding business to comply with said rules shall result in the suspension and/or termination of its rights to exercise the privileges granted herein.

8.

This Agreement shall be binding upon said Chief of the City of Kennesaw and his successor(s) in office and upon said professional bonding business, its partners, heirs, legal representative, successors and assigns, until this Agreement is terminated as herein provided.

9.

It is specifically provided that neither the Chief nor any successor(s) in office, or any respective estates or heirs, shall ever acquire any title or ownership in said savings account or the funds deposited therein.

10.

The professional bonding business shall provide to the Chief the names of all partners, officers, stockholders, and any other person or corporation having an interest in the ownership and/or direction of the business of the professional bonding business. Said information shall be given prior to the professional bonding business initiating business hereunder, and the professional bonding business shall immediately and within not more than ten (10) days notify the Chief of any changes in said ownership or direction. Failure of the professional bonding business to comply herewith shall result in suspension or termination of its privileges in this Agreement.

CITY OF KENNESAW, GEORGIA

By:_____
William Westenberger, Chief of Police

_____(Attest)

PROFESSIONAL BONDING COMPANY

_____(Attest) By:_____

_____(Attest) By:_____
Mark Mathews, Mayor

DIVISION 1. - GENERALLY

Sec. 22-46. - Definitions.
Sec. 22-47. - Persons prohibited from signing bonds.
Sec. 22-48. - Fees of sureties.
Sec. 22-49. - Additional compensation prohibited.
Sec. 22-50. - Prenumbered receipt as evidence of payment.
Sec. 22-51. - Power of attorney.
Sec. 22-52. - Bondsmen to have equal access to jail.
Sec. 22-53. - Unlawful inducements for benefit of bondsman; unlawful execution of bond.
Sec. 22-54. - Display of signs.
Sec. 22-55. - Conditions of bond.
Sec. 22-56. - Forfeiture of bond; surrender of custody of defendant; procedure.
Sec. 22-57. - Conditions not warranting forfeiture of bond for failure to appear; remission of forfeiture.
Sec. 22-58. - Cancelling bond.
Sec. 22-59. - Officer taking insufficient bail or accepting unqualified surety.
Sec. 22-60. - Employee termination.
Secs. 22-61—22-70. - Reserved.

Sec. 22-46.- Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bondsmen, professional or surety means any persons who hold themselves out as signers or sureties of bail bonds for compensation, and who are licensed as provided in this article.

(Code 1986, § 9-4-1; Ord. No. 2000-19, 9-19-00)
Cross reference— Definitions generally, § 1-2.

Sec. 22-47.- Persons prohibited from signing bonds.

No attorney at law and no official authorized to admit to bail, nor any city or county official, shall become surety on any bond.

(Code 1986, § 9-4-6; Ord. No. 2000-19, 9-19-00)

Sec. 22-48.- Fees of sureties.

(a) Sureties on criminal bonds in any court shall not, when receiving compensation, charge or receive more than 12 percent of the principal amount of bonds set in the amount of $10,000.00 or less and shall not charge or receive more than 15 percent of the principal amount of bonds set in an amount in excess of $10,000.00 as compensation from defendants or from anyone acting for defendants.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

(Code 1986, § 9-4-7; Ord. of 6-19-89(2); Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)
State law reference— *O.C.G.A. § 17-6-30*

Sec. 22-49.- Additional compensation prohibited.

No professional bondsman, becoming surety on a bond and receiving the compensation in the case for signing such bond as surety, shall thereafter receive any other sum in the case to the final disposition of such case.

(Code 1986, § 9-4-8; Ord. No. 2000-19, 9-19-00)

Sec. 22-50.- Prenumbered receipt as evidence of payment.

(a) All professional bondsmen engaged in the bail bond business who accept money or any other consideration for any bail bond which they execute must, for payment received, give to the person paying the money or giving the consideration a prenumbered receipt as evidence of payment, which receipt shall state the date, name of the principal, amount of money or consideration received and purpose for which received, number of the power of attorney form attached to the bond, penal sum of the bond (amount of cash bond), and name of person making payment or giving consideration.

(b) All professional bondsmen must retain a duplicate copy of each receipt issued as part of their records.

(Code 1986, § 9-4-9; Ord. No. 2000-19, 9-19-00)

Sec. 22-51.- Power of attorney.

All professional bondsmen must attach to each bail bond a duly executed power of attorney in an amount of at least the penal sum of the bond. This section shall not apply to any card or certificate of membership of any automobile club.

(Code 1986, § 9-4-10; Ord. No. 2000-19, 9-19-00)

Sec. 22-52.- Bondsmen to have equal access to jail.

All professional bondsmen who hold a currently effective license issued by the business license supervisor shall be entitled to equal access to the jail of this city for the purpose of making bond.

(Code 1986, § 9-4-11; Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)

Sec. 22-53.- Unlawful inducements for benefit of bondsman; unlawful execution of bond.

No professional bondsman shall:

(1) Pay a fee or rebate or give or promise anything of value to a jailor, police officer, peace officer, municipal court judge or any other person who has power to arrest or to hold in custody; or to any city official or city employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond.

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond.

(3) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf.

(4) Sign or countersign in blank any bond, or give a power of attorney to, or otherwise authorize anyone to countersign his name to bonds unless the person so authorized is directly employed by the bondsman giving such power of attorney.

(Code 1986, § 9-4-12; Ord. No. 2000-19, 9-19-00)

Sec. 22-54.- Display of signs.

(a) Each professional bondsman duly licensed by the city shall be allowed to display a sign of his own making or choosing in a place designated by the chief of police at or near the book-in, book-out section of the city jail.

(b) Two signs per licensed bondman shall be permitted and shall be limited to lettering and numbering of no more than three inches high and one and one-half inches in width for each letter or numeral.

(c) Signs shall be limited to two lines to allow the name of the business licensed under this article at the top and the phone number at the bottom.

(d) The overall dimensions of the said signs shall be limited to four inches in height and 12 inches in width.

(Code 1986, § 9-4-13; Ord. of 6-19-89(2); Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)

Sec. 22-55.- Conditions of bond.

If a person is admitted to bail for his appearance in municipal court, the condition of the bail bond shall be that he will appear for such hearing, at the time and date specified on the copy of charges, to answer the charge, and will submit himself to the orders and processes of the municipal court judge trying the case and will not depart without leave of the municipal court judge.

(Code 1986, § 9-4-21; Ord. No. 2000-19, 9-19-00)

Sec. 22-56.- Forfeiture of bond; surrender of custody of defendant; procedure.

(a) The clerk of the court shall give the surety on all appearance bonds at least 72 hours written notice, exclusive of Saturdays, Sundays, and legal holidays, before the time of the required appearance of the principal. Such notice shall not be necessary if the time for appearance is within 72 hours from the time of arrest, provided the time for appearance is stated on the bond, or where the principal is given actual notice in open court.

(b) On the date required for appearance of the principal, the presiding municipal judge or designee shall call the case, and, if the accused is not in court and does not answer the call, and, if no good and sufficient reason is given for non-appearance, the judge shall, at the end of the court day, upon the failure of the principal to appear, enter on the docket where the case is stated "bond forfeited" or similar words thereby forfeiting the bond and order an execution hearing not sooner than 120 days but later than 150 days after such failure to appear. Notice of the execution hearing shall be served within ten days of such failure to appear by certified mail or statutory overnight delivery to the surety at the address listed on the bond or by personal service to the surety within ten days of such failure to appear at its home or office or to its designated registered agent. Service shall be considered complete upon the mailing of such certified notice.

(c) If at the execution hearing it is determined that judgment should be entered, the judge shall so order and a writ of fieri facis shall be filed in the office of the clerk of the court where such judgment is entered.

(Code 1986, § 9-4-22; Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)

Cross reference— O.C.G.A. § 17-6-70(b); O.C.G.A. § 17-6-71(a); O.C.G.A. § 17-6-71(b).

State law reference— *O.C.G.A. § 17-6-71(a).*

Sec. 22-57.- Conditions not warranting forfeiture of bond for failure to appear; remission of forfeiture.

(a) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court by the written statement of a licensed physician that the principal on the bond was prevented from attending by some mental or physical disability.

(b) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that the principal on the bond was prevented from attending because he or she was detained by reason of arrest, sentence, or confinement in a penal institution or jail in the State of Georgia, or so detained in another jurisdiction, or because he or she was involuntarily confined or detained pursuant to court order in a mental institution in the State of Georgia or another jurisdiction. An official written notice of the holding institution in which the principal is being detained or confined shall be considered proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon the presentation of such written notice to clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case, along with a letter of intent to pay all costs of returning the principal to the jurisdiction of court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed upon the principal. Should there be a failure to place a detainer or hold within 15 days, excluding Saturdays, Sundays, and legal holidays, and after such presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of liability for the appearance bond without further order of the court.

(c) No judgment shall be rendered on a forfeiture of any appearance bond if it is shown to the satisfaction of the court that prior to the entry of the judgment on the forfeiture the principal on the bond is in the custody of the sheriff or other responsible law enforcement agency. An official written notice of the holding institution in which the principal is being detained or confined shall be proof of the principal's detention or confinement and such notice may be sent from the holding institution by mail or delivered by hand or by facsimile machine. Upon presentation of such written notice to the clerk of the proper court, the prosecuting attorney, and the sheriff or other law enforcement officer having jurisdiction over the case along with a letter of intent to pay all of the costs of returning the principal to the jurisdiction of the court, such notice and letter shall serve as the surety's request for a detainer or hold to be placed upon the principal. Should there be a failure to place a detainer or hold within 15 days, excluding Saturdays, Sundays, and legal holidays, and after such presentation of such notice and letter of intent to pay costs, the surety shall then be relieved of liability for the appearance bond without further order of the court.

(d) In cases in which paragraph (3) of this subsection is not applicable, on application filed within 120 days from the payment of the judgment, the court shall order remission under the following conditions:

(1) Provided the bond amount has been paid within 120 days after judgment and the delay has not prevented prosecution of the principal and upon application to the court with prior notice to the

prosecuting attorney of such application, said court shall direct remission of 95 percent of the bond amount remitted to the surety if the surety located the principal in the custody of the sheriff in the jurisdiction where the bond was made, apprehends, surrenders, or produces the principal, if the apprehension or surrender of the principal was substantially procured or caused by the surety, or if the location of the principal caused the adjudication of the principal in the jurisdiction where the bond was made. Should the surety, within two years of the principal's failure to appear, locate the principal in the custody of the sheriff in the jurisdiction where the bond was made or another jurisdiction causing the return of the principal to the jurisdiction where the bond was made or in another jurisdiction causing the return of the principal to the jurisdiction where the bond was made, apprehend, surrender, or produce the principal, if the apprehension or surrender of the principal is substantially procured or caused by the surety, or if the location of the principal by the surety causes the adjudication of the principal in the jurisdiction in which the bond was made, the surety shall be entitled to a refund of 50 percent of the bond amount. The application for 50 percent remission shall be made no later than 30 days following the expiration of the two-year period following the date of judgment.

(2) Remission shall be granted upon condition of the payment of court costs and of the expenses of returning the principal to the jurisdiction of the surety; or

(3) If, within 120 days after judgment, the surety surrenders the principal to the sheriff or responsible law enforcement officer, or said surrender has been denied by the sheriff or responsible law enforcement officer, surety locates the principal in custody of another jurisdiction, the surety shall only be required to pay costs and five percent of the face amount of the bond, which amount includes all surcharges. If it is shown to the satisfaction of the court, by presentation of competent evidence from the sheriff or the holding institution, that said surrender has been made or denied or that the principal is in custody in another jurisdiction or that said surrender has been made and that five percent of the face amount of the bond and all costs have been tendered to the sheriff, the court shall direct that the judgment be marked satisfied and that the writ of execution, fi. fa., be cancelled.

(Code 1986, § 9-4-23; Ord. No. 2000-19, 9-19-00)

Cross reference— O.C.G.A. § 17-6-72.

Sec. 22-58.- Cancelling bond.

When the condition of the bond is satisfied or the forfeiture of the bond has been discharged or remitted, the municipal court judge shall make an order canceling the bond. Conviction or acquittal of the defendant shall satisfy the terms of the bond written by any bail bondsman.

(Code 1986, § 9-4-24; Ord. No. 2000-19, 9-19-00)

Sec. 22-59.- Officer taking insufficient bail or accepting unqualified surety.

Any person authorized to take bail, who takes bail which he knows to be insufficient, or accepts as surety any professional bondsman who is not qualified to act as surety, shall be guilty of an act of misconduct and shall be subject to disciplinary action by the department head in accordance with existing rules and regulations for same.

(Code 1986, § 9-4-25; Ord. No. 2000-19, 9-19-00)

Sec. 22-60.- Employee termination.

Any professional bondsman who terminates the appointment of any employee authorized to sign bonds shall immediately file written notice thereof with the chief of police and business license supervisor, together with a statement that he has given or mailed notice to the employee. Such filed notice shall state the reasons, if any, for such termination. Information so furnished shall be privileged and shall not be used as evidence in any action against the professional bondsman.

(Code 1986, § 9-4-5; Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)

Secs. 22-61—22-70.- Reserved.

DIVISION 2. - LICENSE

Sec. 22-71. - Required; qualifications; application; guidelines.
Sec. 22-71.1. - Renewal of licenses.
Sec. 22-72. - Denial; suspension; revocation; nonrenewal.
Sec. 22-73. - Return of license upon termination of business.
Sec. 22-74. - State statutes governing professional bondsmen.
Sec. 22-75. - Individuals other than professional bondsmen.
Secs. 22-76—22-95. - Reserved.

Sec. 22-71.- Required; qualifications; application; guidelines.

(a) No person shall act as a bail or professional bondsman in the city without having a license therefore from the city as provided in this article.

(b) To qualify for a license under this article, the following certified information must affirmatively appear on, or be annexed to, the application that:

(1) The applicant is a citizen of the United States, and has been a bona fide resident of this state for one year last past.

(2) The applicant is a natural person who has reached the age of 21 years.

(3) The place of business of the applicant shall be located in this state and that such applicant will be actively engaged in the bail bond business and maintain a place of business or residential address accessible to the public.

(4) Complete documentation showing the composition of the company for which applicant is applying to be an individual, a trust, or group of individuals, whether or not formed as a partnership or other legal entity, or a corporation or a combination of individuals, trusts, or corporations and setting forth the names and addresses of each partner, officer, director, shareholder, trust, member or other entity composing the company.

(5) The employee applicants qualified to sign bonds, are persons of high character and provable integrity and each shall be vouched for by two other reputable citizens who are residents of the county.

(6) A complete set of fingerprints and a recent credential-size, full face photograph of the applicant. The applicant's fingerprints shall be processed by the chief of police, who shall conduct a background check, including but not limited to the submission of the applicant's fingerprints to federal, state and local authorities and certify the applicant to be free of any record of any crime involving moral turpitude, felony or any violation of law applicable to the bail bonding business within previous five years.

(7) A complete set of fingerprints and a recent credential-size, full face photograph of each individual authorized to execute bonds on behalf of the company. Such application shall request and provide personal information sufficient to perform a background investigation on the employee applicant. The employee applicant's fingerprints shall be processed by the chief of police, who shall conduct a background check, including but not limited to the submission of the applicant's fingerprints to federal, state and local authorities and certify the employee applicant to be free of any record of any crime involving moral turpitude, felony or any violation of law applicable to the bail bonding business. Any person who will have power of attorney extended for the purpose of writing bonds must submit the above described application.

(8) An affidavit listing all real property in which the applicant has an interest, stating the ownership of such real property, any liens or encumbrances thereon and describing such property in detail, including but not limited to the true market value of such property. Such affidavit is to be submitted according to the standards promulgated by the chief of police.

(9) The applicant has, or has applied for a business license with the city and has or will pay that rate which is specified in the business license schedule.

(c) A fee as set forth in the schedule of fees and charges shall be submitted with each application to the mayor and council, such fee to defray the cost of conducting a character investigation required by this section.

(d) No person shall be permitted to sign professional bonds or act as an agent or representative of a bonding company if such person:

(1) Has been convicted of a felony offense;

(2) Has been convicted of a crime involving moral turpitude;

(3) Has failed to meet bonding obligations in the city or any other city or county in the state of Georgia or elsewhere. This provision shall apply to all persons who have an ownership interest in a bonding business in another jurisdiction regardless of the name of the entity; or

(4) Fails to qualify as a bondsman under applicable state statutes governing who may act in such capacity.

(e) No person shall be permitted to write professional bonds which are prohibited as a matter of law.

(f) Persons employed by the city will not be permitted to operate, own an interest in, or act in any capacity as an agent for a professional bonding company. In the event this provision is violated, the approved bonding company's privileges shall be suspended and/or revoked until such time as the conflict is remedied and such persons are no longer affiliated with the bonding company.

(g) These provisions in no way prohibit the city or its authorized agents from establishing additional standards with which bonding companies must comply, nor does it an any way limit the city's legal right to regulate the privilege of writing bail bonds.

(h) Applicants seeking permission to act as professional bondsmen in the city must qualify as follows:

(1) Applicants must sign an agreement with the city providing for an escrow account in any one or more financial institutions designated as city depositories. This escrow shall be ten percent of that company's bonding capacity and shall not be less than $2,500.00. If this escrow is encroached upon for any reason or if the city's chief of police otherwise determines that additional escrow is required to ensure the solvency or reliability of the professional bonding business, the city's chief of police may amend the escrow through written notice to the professional bonding business.

(2) The president of a corporation operating a professional bonding business in the city shall provide the chief of police with the names of all partners, officers, stockholders, and any other person(s) or corporation(s) having an interest in or involved with the business of the corporation. This information shall be provided prior to the bonding company initiating business or upon the renewal of its license. The bonding company shall immediately notify the chief of police of any changes of ownership or direction. Failure of the corporation to comply with these provisions shall result in the immediate suspension of bonding privileges.

(3) All employees and/or owners of a professional bonding company must be fingerprinted and photographed by the identification division of the city police department.

(4) Each employee of a bonding company must file a properly executed power of attorney from that bonding company.

(5) Professional bonding companies must receive the approval of the chief of police prior to posting a bond or any combination of bonds which total $25,000.00 or more for any one individual.

(i) No professional bonding company may sign a bond in which another bonding company or third party receives compensation to arrange the release of an inmate from the city jail.

(j) All bonding companies shall file with the chief of police a monthly report. These reports will include the following information and shall be filed in the form of an affidavit:

(1) List by name, in alphabetical order, amount, and date of bonds signed during each month.

(2) List by name, in alphabetical order, case or indictment number and date of all bonds officially settled during each month.

(3) List by name, amount, and date of bond, all judgments rendered by the city, state and/or Superior Court of Cobb County and/or any other counties, subject to collection in the city.

(4) List by name, amount, and date of bond all forfeitures pending in Kennesaw and/or other cities or counties, subject to collection in the city.

(5) List personnel in the employment of submitting bonding company.

(Code 1986, § 9-4-2; Ord. of 6-19-89(2); Ord. No. 2000-19, 9-19-00; Ord. No. 2001-08, 3-19-01)

Sec. 22-71.1.- Renewal of licenses.

(a) Any professional bonding company licensed under this chapter shall be required to renew its license before December 31 of each consecutive year. Failure to pay the license fee by January 31 shall automatically revoke the license.

(b) Each application for renewal of such license shall be accompanied by a certified statement from the professional bonding company that it is in compliance with all requirements of any agreements with the city and the provisions of this Code section, along with copies of the monthly reports filed each month with the chief of police as required by section 22-71(j) of this section for the previous year.

(Ord. No. 2001-08, 3-19-01)

Sec. 22-72.- Denial; suspension; revocation; nonrenewal.

Each year upon application for a license under this article, the applicant shall comply with the requirements of this article, and the license shall be granted, renewed or denied in accordance with this article. The mayor and council may deny, suspend, revoke or refuse to renew any license issued in accordance with the requirements of this article for any of the following causes:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the mayor and council.
(2) Material misstatement, misrepresentation or fraud in obtaining the license.
(3) Misappropriation, conversion or unlawful withholding of money belonging to others and received in the conduct of business under the license.
(4) Conviction of a felony.
(5) Fraudulent or dishonest practices in the conduct of business under the license.
(6) Failure to comply with the provisions of this article.
(7) Failure to return collateral security to the principal when the principal is entitled thereto.
(8) When in judgment of the mayor and council, the licensee has, in the conduct of affairs under the license, demonstrated incompetency or untrustworthiness, or conduct or practices rendering him unfit to carry on the bail bond business, or making his continuance in such business detrimental to the public interest, or that he is no longer in good faith carrying on the bail bond business, or that he is guilty of rebating, or offering to rebate, or offering to divide his compensation, and for any or all such reasons, is found by the mayor and council to be a source of detriment, injury or loss to the public.

(Code 1986, § 9-4-4; Ord. of 6-19-89(2); Ord. No. 2000-19, 9-19-00)

Sec. 22-73.- Return of license upon termination of business.

Any professional bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the chief of police and the city clerk and immediately return his license.

(Code 1986, § 9-4-3; Ord. No. 2000-19, 9-19-00)

Sec. 22-74.- State statutes governing professional bondsmen.

Bondsmen shall comply with all applicable state statutes which control bonding procedures within the State of Georgia.

(Ord. No. 2000-19, 9-19-00)

Sec. 22-75.- Individuals other than professional bondsmen.

The chief of police may allow an individual property owner to sign a bail bond under the following conditions:

(1) The individual must own real property in Kennesaw or Cobb County.
(2) The individual must prove ownership of said real property by either:
  a. A current tax receipt; or
  b. A copy of warranty deed transferring full interest in described piece of property.
  c. The individual must sign an affidavit that he/she has equity in said property of at least twice the amount of said bail bond, excluding homestead exemption on each bond written.
  d. Individual bondsmen shall not receive any compensation, gift or collateral for making or signing a defendant's bond and must sign an affidavit affirming such.

(Ord. No. 2000-19, 9-19-00)

Secs. 22-76—22-95.- Reserved.