

**ORDINANCE NO. 3020**

**AN ORDINANCE AMENDING TITLE III TRAFFIC CODE, CHAPTER 315 PROCEDURE ON ARREST OF TRAFFIC VIOLATIONS, SECTION 315.020 PERSONS UNDER ARREST – PROCEDURES – RIGHT TO POST BOND – RELEASE ON PERSONAL RECOGNIZANCE; ADDING SECTION 315.025 APPEARANCE BOND PROCEDURE; AND ADDING SECTION 315.027 PERSONAL RECOGNIZANCE; TO THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS.**

Be it ordained by the City Council of the City of Paola, Kansas, as follows:

**SECTION 1.** That Article III, Section 315.020 of the Code of the City of Paola is hereby amended to read as follows:

**SECTION 315.020: PERSONS UNDER ARREST – PROCEDURES – RIGHT TO POST BOND – RELEASE ON PERSONAL RECOGNIZANCE**

- A. Any person arrested by a law enforcement officer shall be taken immediately by the law enforcement officer to the police station of the city or the office in the city designated by the municipal judge. At that time, the person shall have the right to post bond for the person's appearance, in accordance with K.S.A. 12-4301 and 12-4302, and amendments thereto or such schedule as adopted from time to time by the Municipal Court of the City, a copy of which shall be on file with the Municipal Court Clerk.
- B. A law enforcement officer may detain a person arrested for violation of a municipal ordinance in protective custody for a period not to exceed six hours, including custody in a city or county jail, if such officer has probable cause to believe that: (1) Such person may cause injury to oneself or others, or damage to property; and (2) there is no responsible person or institution to which such person might be released. Any person so held in protective custody shall be permitted to consult with counsel or other persons who may act on such person's behalf. Such person held in protective custody for six (6) hours shall be given an opportunity to post bond for such person's appearance in the municipal court.
- C. Any person held in custody pursuant to the provisions of this section, and who has not made bond for such person's appearance, may be held in custody until the earliest practical time for such person's appearance in municipal court upon a warrant being issued by the municipal court in accordance with K.S.A. 12-4209, and amendments thereto.
- D. Any person who remains in custody for forty-eight (48) hours pursuant to the provisions of this section after arrest, and who is awaiting a first appearance before a municipal judge in the absence of a warrant being issued, shall be released on the person's personal recognizance. Bond shall be set within eighteen (18) hours of the person being placed in custody.  
(K.S.A. 12-4213)

**SECTION 2.** That Article III, Section 315.025 of the Code of the City of Paola is hereby added and shall read as follows:

**SECTION 315.025: APPEARANCE BOND PROCEDURE**

A. A person having the right to post bond for appearance shall, in order to do so, execute in writing a promise to appear at the municipal court at a stated time and place. Such appearance bond shall be in an amount as determined by the municipal judge. Unless the judge makes a specific finding otherwise, every bond for a person charged with an offense that would be a person offense pursuant to state law shall have a condition of release prohibiting the person from having contact with the alleged victim of such offense for a period of at least seventy-two (72) hours. Such bond may be secured by any one of the following methods, and when so secured, such person shall be released from custody.

The methods of securing the appearance of an accused person are as follows:

1. Payment of cash, except that the municipal judge may permit negotiable securities or a personal check in lieu of cash.
2. The execution of an appearance bond by a responsible individual residing within the state of Kansas, as surety with the approval of the municipal judge.
3. A guaranteed arrest bond certificate issued by either a surety company authorized to transact such business within the state of Kansas, or an automobile club authorized to transact business in this state by the commissioner of insurance, except that such "guaranteed arrest bond certificate" must be signed by the person to whom it is issued and must contain a printed statement that the surety guarantees the appearance of such person and, in the event of failure of such person to appear in court at the time of trial, will pay any fine or forfeiture imposed upon such person not to exceed an amount to be stated on such certificate.
4. In lieu of giving security in the manner provided by subsections (1), (2) and (3) above, if the arrest is for the violation of a city ordinance relating to the operation of a motor vehicle the accused person may deposit with the arresting law enforcement officer or the clerk of the municipal court a valid Kansas driver's license in exchange for a receipt therefore issued by the law enforcement officer or the clerk of the municipal court, the form of which shall be approved by the division of vehicles of the state department of revenue. Such receipt shall be recognized as a valid temporary Kansas driver's license authorizing the operation of a motor vehicle by the accused person to the date of the hearing stated on the receipt. Such driver's license and written copy of the notice to appear shall be delivered by the law enforcement officer to the municipal court as soon as reasonably possible. If the hearing on any such charge is continued for any reason, the municipal judge may note on the receipt the date to which such hearing has been continued, and such receipt shall be recognized as a valid temporary Kansas driver's license until such date, but in no event shall such receipt be recognized as a valid Kansas driver's license for a period longer than 30 days from the date for the original hearing. Any person who deposited a driver's license to secure such person's appearance, in lieu of giving a bond as provided in subsections (1), (2) and (3) above, shall have such driver's license returned upon the giving of the

required bond pursuant to (1), (2) and (3) above or upon final determination of the charge.

- B. In the event the accused person deposits a valid Kansas driver's license with the municipal court and fails to appear in court on the date set for appearance, or any continuance thereof, and in any event within 30 days from the date set for the original hearing, the municipal judge shall forward the driver's license of such person to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of the driver's license of such person the division of vehicles shall suspend such person's privilege to operate a motor vehicle in this state until such person appears before the municipal court, or the municipal court makes a final disposition thereof, and notice of such disposition is given by the municipal court to the division, or for a period not exceeding six months from the date such person's driver's license is received by the division, whichever is earlier.
- C. Any person who applies for a replacement or new driver's license prior to the return of such person's original license, when such license has been deposited in lieu of the giving of a bond as provided in this section, shall be guilty of a misdemeanor punishable as set forth in K.S.A. 8-2116, and amendments thereto. (K.S.A. 12-4301)

**SECTION 3.** That Article III, Section 315.027 of the Code of the City of Paola is hereby added and shall read as follows:

**SECTION 315.027: PERSONAL RECOGNIZANCE**

Notwithstanding the provisions of Section 315.025 (K.S.A. 12-4301), a law enforcement officer may release an accused person from custody without requiring security for his or her appearance, and shall release such accused person without requiring security for the appearance, pursuant to any rule or order of the municipal judge. (K.S.A. 12-4302)

**SECTION 4.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 5.** That this ordinance shall become effective after its passage, approval and publication.

**PASSED AND APPROVED** by the Governing Body this 27<sup>th</sup> day of July, 2010.

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Artie Stuteville, Mayor

ATTEST: [seal]

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Daniel G. Droste, City Clerk