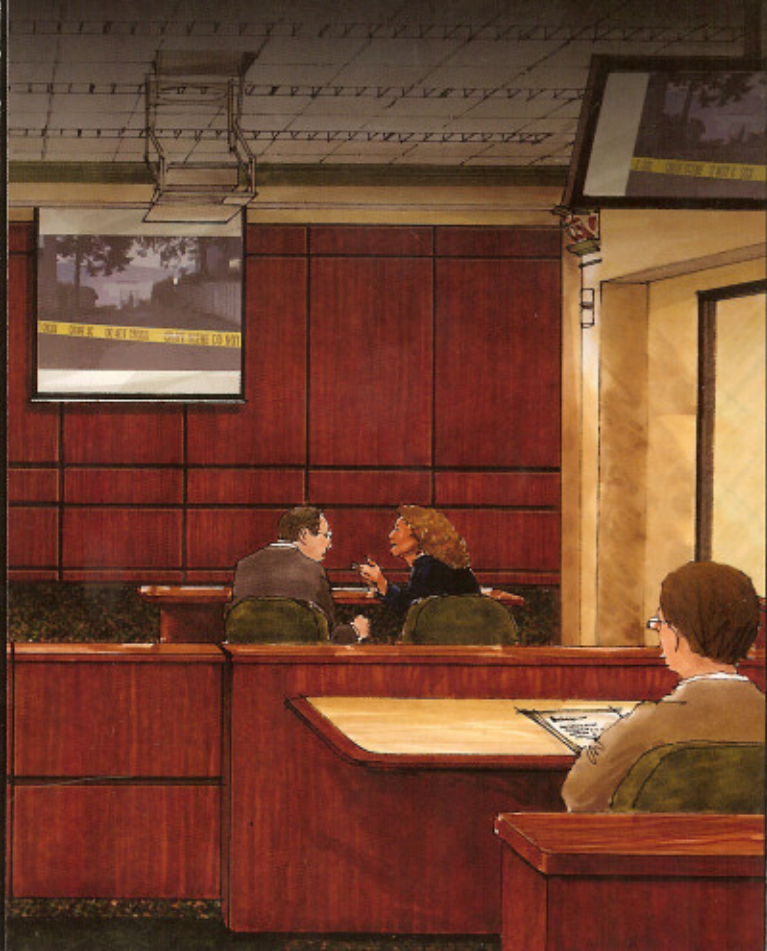


101

MUNICIPAL COURT





The Right to an Attorney

You have the right to legal representation by an attorney for any municipal court citation or violation. If you face a jail term and a judge finds you do not have the financial means to hire an attorney, a court-appointed attorney will be assigned to you at little or no cost. You do not have a choice in the selection of the court-appointed attorney. You also have the right to proceed without an attorney and represent yourself.

Plea Options

Guilty—

By pleading guilty you agree that you committed the violation listed in the citation or complaint.

No Contest—

A plea of no contest means you do not want to contest the City's charge against you. A plea of no contest is not an admission of fault and cannot be used against you in a civil suit for damages. Following a plea of no contest, the judge will enter a finding of guilty and order the appropriate sentence.

Not Guilty—

This plea means that you deny any guilt or fault and the City must prove its charges against you. A trial is scheduled for a later date. The City is required to prove all allegations against you "beyond a reasonable doubt."

Plea Agreement

Many criminal cases are concluded without a trial. A case may be disposed of without a trial through a plea agreement or diversion program.

Under a plea agreement, you agree to plead guilty or no contest and in return, the prosecutor may amend some of the charges and/or agree to ask the judge to dismiss some of the charges. This may include amending moving traffic violations to non-moving violations under certain strict guidelines.

The prosecutor cannot initiate plea negotiations. You must initiate the conversation by asking for an appointment with the prosecutor to discuss your case. The prosecutor has no obligation to discuss or negotiate your case. In plea negotiations, a prosecutor will consider the effect of the criminal offense on the victim, your criminal history, and the seriousness of the crime.

Diversion

In some cases, the prosecutor may allow you to enter into a diversion program rather than proceed with a trial. Diversion is a contract you enter into with the City. You agree to comply with certain conditions and in return, the city agrees to dismiss the charge after your successful completion of the diversion. The diversion usually lasts up to one year and common conditions include attendance at educational classes, counseling, abstention from alcohol and drugs and monthly meetings with a diversion officer. If you fail to comply with the diversion agreement the charges against you will be reinstated, and a trial will be held. Your trial will consist solely of the judge reading the police reports. No further evidence will be allowed.

Diversion is only offered to first time offenders and those who do not appear likely to engage in further criminal conduct.

The Trial

If you plead not guilty, a trial will be scheduled. All trials are presided over by a municipal judge.

At the trial, a prosecutor (attorney who represents the City) will call witnesses to testify against you. Many times this is the officer or city staff person who signed the charges against you. Pictures or videos of the violation may also be used as evidence against you. You have the right to cross-examine (or question) each witness.

Once the prosecution has presented its case, you have the right to present witnesses. If a witness will not testify voluntarily on your behalf, you may have the court issue subpoenas for witnesses to ensure their appearance at trial. However, you must provide names, addresses and telephone numbers of the witnesses not later than 11 days before the trial date so the subpoenas can be served sufficiently in advance of trial.

You also have the right to testify yourself and tell your side of the story. If you choose to testify, the prosecutor has a right to cross-examine you. You also have a constitutional right not to testify. Choosing not to testify cannot be used against you in determining guilt or innocence. You are presumed innocent. The prosecutor has the sole burden of proving you guilty beyond a reasonable doubt.

The Appeal

If you are dissatisfied with the judge's decision, you have the right to appeal the case to the District Court located in Olathe. To appeal, you must post an appearance bond with the municipal court clerk immediately following your conviction. You then have 10 days after the conviction to file a formal "notice of appeal" with the municipal court.

In the District Court you are entitled to a trial "de novo," a whole new trial as if the trial in municipal court had never taken place. It takes about two or three months for your case to be heard by the District Court and may require several court appearances. If you are found guilty, the District Judge may give you a lesser sentence or a more stringent sentence than the one you received in municipal court.

The Verdict

The judge's decision is based upon the city ordinance involved and the testimony, and evidence presented in the trial. If you are found guilty, the penalty will usually be announced at that time. In the case of more serious charges, the judge may set a separate sentencing date. Any fines and fees assessed are due at the time of sentencing. Should the judge find that you do not have the financial means to pay your fines, you will be allowed to complete a program of community service to satisfy your court obligation.

Expungement

If you are found not guilty, if your case is dismissed, or if you are convicted, you may petition for expungement. Expungement means that the case information will be considered "erased" and the public will not have access to the information, except in certain situations. You can petition for expungement of most city ordinance convictions or diversions three (3) years after you have satisfied the sentence imposed, although there are some exceptions. You can petition for expungement of acquittals or dismissals immediately following the conclusion of the case. You are encouraged to review K.S.A. 12-4516 and 12-4516a for a list of situations in which your expunged records can be revealed.