

**YOUR RIGHTS
IN
MUNICIPAL
COURT**

**Abilene Municipal Court
419 N. Broadway
Abilene, Kansas 67410**

Court Clerk
Alicia Hoffman
419 N. Broadway
Abilene, Kansas 67410
(785) 263-1213

Office Hours
8:00 a.m. - 5:00 p.m.
Monday - Friday

**Municipal Court Judge
Douglas G. Thompson**

**YOUR RIGHTS IN
MUNICIPAL COURT**

Your presence in Municipal Court today is perhaps your first experience in any Court. This brochure has been prepared to help you understand the Court proceedings and inform you of your rights and duties. We want every person to leave this Court feeling that he/she has been treated fairly.

Municipal Court is the judicial branch of City Government. Traffic violations and violations of City Ordinances are tried in Municipal Court and, upon conviction, carry a maximum fine of \$2,500 and a possible jail term of up to one (1) year.

Trials are conducted under the Code of Criminal Procedure, Code for Municipal Courts and the Kansas Rules of Evidence, as adopted by the Kansas Legislature.

APPEARANCE IN COURT

When you appear in Court, you will be required to obey the following rules:

- 1) Your clothing must include a shirt, pants or skirt, and shoes.
- 2) The wearing of hats and caps is not allowed.
- 3) Food and drinks are not allowed in the Courtroom.
- 4) While Court is in session, talking is not allowed, except with authorized Court personnel.

RIGHT TO AN ATTORNEY

In all cases in the Municipal Court, you may have an attorney to represent you.

When you are charged with an offense that may result in jail time as part of your sentence, you will need to decide whether you want to continue with or without an attorney. If you desire an attorney, and if the Court finds you do not have the means to hire one, the Court will consider appointing an attorney for you. (You will have no choice in the selection of an attorney.) If the Court appoints an attorney to represent you, and you are found guilty or plead guilty or no contest to the charge, the Court can assess your attorney fees as part of the Court Costs.

BEFORE COURT BEGINS

You must decide upon and enter a plea to the charge against you on or before the appearance date on your citation. If you signed a citation in front of an officer, you did not plead guilty, but only signed a promise to appear in Court on your appearance date. There are three possible pleas to a complaint:

- 1) "Guilty"
- 2) "Nolo Contendere" (No Contest)
- 3) "Not Guilty"

Your decision on what plea to enter is the most important decision you will have to make. We suggest that you read the following explanations of all three pleas before entering your plea.

PLEA OF GUILTY

By a plea of guilty, you admit that you committed the act charged, that law prohibits this act and that you have no defense for your act.

Before you enter your plea of guilty, you need to understand the following:

- 1) The City has the burden of proving its case against you. You have the right to hear the City's evidence and to require it to probe its case. If it does not, the law does not require you to prove anything.
- 2) If you were involved in a traffic accident at the time of the alleged offense, your plea of guilty can be an admission by you that you were at fault or were the party responsible for the act and this could be used later in a civil suit for damages.

PLEA OF NO CONTEST

A plea of nolo contendere, also known as no contest, means that you do not wish to contest the City's charge against you. The Judge will enter a judgment and a fine amount will be set. A plea of nolo contendere cannot be used against you in a civil suit for damages.

PLEA OF NOT GUILTY

A plea of not guilty means that you are informing the Court that you deny guilty and that the City must prove its charges against you. If you plead not guilty, you will need to decide whether to employ an attorney to represent you at trial. You may defend yourself, but no one else except an attorney may represent you. However, if you are a minor, under 18 years of age, your parent(s) should be present.

If you defend yourself, please consult the following sections of this brochure regarding the trial procedure and the manner of presenting your case.

Under our American system of justice, all persons are presumed to be innocent until proven guilty beyond a reasonable doubt. On a plea of "Not Guilty," a trial is held and the City is required to prove all the allegations against you as contained in the formal complaint, "beyond a reasonable doubt", before a verdict of guilty can be reached.

THE TRIAL

Under Kansas law, you can be brought to trial only after a complaint or traffic citation has been filed and you have entered a plea of not guilty to the charge(s) against you. The complaint or citation is a document which alleges what you are supposed to have done and that your actions were unlawful.

You have the right to inspect this complaint before trial and have it read to you at trial. You do not have the right to have your case tried before a jury in Municipal Court. You are entitled to hear all testimony introduced against you. You have the right to testify in your own behalf. You also have a constitutional right not to testify. If you choose not to testify, your refusal cannot and will not be used against you in determining your guilt or innocence. However, if you choose to testify, the prosecutor will have the right to cross-examine you. You may call witnesses to testify in your own behalf. You have the right to have the Court issue subpoenas for witnesses to ensure their appearance at trial. A subpoena form is located on the abilenecityhall.com website for this purpose. However, you must furnish names, addresses and telephone numbers of the witnesses to the Court as soon as possible so that they may be located and the subpoenas served. (In all cases, this information must be supplied more than three (3) days before the scheduled trial date).

PRESENTING THE CASE

As in all trials, the City will present its case first by calling witnesses to testify against you. After each prosecution witness has finished his/her testimony, you will have the right to cross-examine him/her. Your examination must be in the form of questions and you must not argue with the witnesses. Do not attempt to tell your side of the story at this time. You will have an opportunity to do so later in the trial.

After the prosecution has presented its case, you may present your case. You have the right to call any witness who knows anything about the incident. As stated previously, if you desire, you may testify on your own behalf but you cannot be compelled to do so. It is your choice and your silence will not be used against you.

THE VERDICT

The verdict of the Judge will be based on the testimony of witnesses and on the fact presented during the trial. In making his determination, he can only consider the testimony of the witnesses who are under oath.

FINES

The amount of fine assessed by the Court is affected by the facts and circumstances of the case. Mitigating circumstances may lower the fine, even if you are guilty. However, aggravating circumstances may increase the fine.

RIGHT TO APPEAL

If you are not satisfied with the judgment of the Court, you have the right to appeal your case to the District Court of Dickinson County, KS. If you appeal the judgment, you must file a written Notice of Appeal, post an Appeal Bond and pay a filing fee in the Dickinson County District Court. The Appeal must be filed within 10 days from date of judgment.

Your appeal will be set for a new trial before a different Judge, or Jury, in the District Court.

EXPUNGEMENT

Any defendant who is convicted of, or pleads guilty to, an ordinance violation may apply for an expungement of that conviction.

Generally, an expungement may be filed three years or more after the defendant has fulfilled the sentence and probation that was imposed. Exceptions to this would be Driving Under the Influence, Driving While Suspended, Leave the Scene of Injury Accident and Failing to Maintain Liability Insurance. These violations cannot be expunged for five years after all sentencing and probation are completed.