

CITY OF GALENA MUNICIPAL COURT

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 to 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.

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. Appropriate clothing and shoes will be worn.
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.
5. There will be no cell phones allowed in the courtroom.

BEFORE COURT BEGINS

You must decide upon and enter a plea to the charge against you. If you sign 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. "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 the act is prohibited by law, and that you have no defense for your act.

Before entering 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 require it to prove its case, when you go to trial. The law does not require you to prove anything.

2. If you are involved in a traffic accident at the time of the alleged offense, your plea of guilty could be used later in a civil suit for damages as an admission by you that you were at fault or were the party responsible for the accident.

PLEA OF NO CONTEST

A plea of NO CONTEST simply means that you do not wish to contest the City's charge against you but wish to talk to the Judge about mitigating circumstances. Judgment will be entered by the Judge and some penalty set. A plea of no contest 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 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) one of your parents 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 of traffic citation has been filed. The complaint or citation is a document which alleges what you are supposed to have done, and that your actions were unlawful.

You have a right to inspect this complaint before trial and have it read to you at the 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 a right to testify on 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 do choose to testify, the prosecutor will have the right to cross-examine you.

You may call witnesses to testify in your own behalf. You also have the right to have the court issue subpoenas for witnesses to ensure their appearance at trial. However, you must furnish the names, addresses and telephone numbers of these witnesses to the Court at least ten working days before your trial date, so that witnesses may be located, and the subpoenas served. The Court will serve subpoenas within the City. Any service outside of the City will be your responsibility.

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 witness. 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, and to introduce exhibits such as photographs and diagrams.

THE VERDICT

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

If the Judge finds you guilty, he will announce the penalty at the time. You should be prepared to pay the penalty at this time. However, you may be granted an extension often (10) days to appeal the ruling of the Judge.

RIGHT TO APPEAL

If you are not satisfied with the judgment of the Court, you have the right to appeal your case to the County District Court. If you do appeal the Judge's judgment, you must file a written notice of appeal with the Clerk of the Municipal Court, deliver a copy to City Attorney's Office. The District Court charges a filing fee. This fee is paid directly to the District Court and is non-refundable. The appeal must be filed within ten (10) days from the date of judgment.

After filing your appeal, you will be assigned a new court date to appear in District Court for an arraignment date. After arraignment, another date will then be scheduled for a completely new trial before a different Judge or jury in the Court.

FINES

The facts and the circumstances of the case affect the amount of fine assessed by the Court. Mitigating circumstances may lower the fine, even if you are guilty. However, aggravating circumstances may increase the fine. A fine will not exceed \$500 for most traffic violations; and up to \$2,500 for City ordinance violations involving driving under the influence of intoxicating liquor or drugs.

ACCIDENT CASES

The Municipal Court has no jurisdiction over damages caused by an auto accident. Settlement of damages is a matter for a Civil Court to decide, and in order to recover from any damages you will have to file a separate civil suit in another Court. Municipal Courts hear only Criminal misdemeanor cases involving violations of City Ordinances or Traffic Infractions.