

# Municipal Court Definitions

## **Arraignment**

Arraignment is the time scheduled for a defendant to appear in court and enter a plea on the violations for which they have been charged. Defendants may enter a plea of:

## **Guilty**

Defendant admits to having committed the act charged. The Judge will order a fine, jail time or other sentence.

## **Not Guilty**

Defendant denies guilt thereby making it necessary for the City to prove its charge.

## **No Contest**

Defendant does not contest the City's charge. Upon a plea of no contest, the Judge will enter a verdict of guilty and order a fine, jail time or other sentence. A plea of no contest is not an admission of fault and cannot be used against you in a civil proceeding.

If all violations charged on your traffic ticket have a specified fine amount, you may choose not to appear in court and to pay fines and fees prior to your court date. If any violation charged on your traffic ticket specifies 'Court', you must appear in court for arraignment on your Notice to Appear date.

If your violation has a specified fine amount and you choose to pay fines and fees prior to your court date, you may enter your appearance, waive your right to trial, plead guilty or no contest to the violation and pay in person or by mail. At the bottom of the back of your traffic ticket, you must circle your plea of **Guilty** or **No Contest** in the paragraph under **Appearance, Plea of Guilty and Waiver**. Complete the designated line with the date and your signature. This traffic ticket must accompany your payment for fines and fees.

You may send a personal check or money order made payable to the **City of Derby** for the total due for fines plus court costs.

Payment by credit card may be accepted by the court clerk by telephone or appearance at the Derby Municipal Court.

Failure to appear in court or pay scheduled fines and fees could result in a warrant being issued for your arrest.

## **Continuances**

In most instances, the court clerk may grant one continuance from the Notice To Appear date on the traffic ticket or complaint.

The court clerk may grant one 30-day continuance from the Notice to Appear date to an arraignment date for an infraction/citation. If the original Notice to Appear was issued for a court appearance required offense and a bond was issued, the clerk will not grant the continuance.

Exceptions to this continuance policy include, but are not limited to, certain traffic charges, driving under the influence, possession of an illegal drug or charges involving a victim.

Failure to appear on your scheduled court date may result in a warrant being issued for your arrest.

### **Diversion**

A diversion program allows persons accused of a crime to possibly avoid a conviction. In diversion, you enter into a contract to comply with certain conditions. If you successfully complete all of the conditions of your diversion program, your charges will be dismissed.

A defendant is required to attend his/her arraignment date issued on his/her Notice to Appear. At this date, the defendant can inform the Judge of his/her intention to apply for diversion.

The appropriate forms will be given to the defendant and a continuance will be granted to a diversion docket.

### **Plea Agreement**

A case may be resolved through a plea agreement or diversion program.

A defendant has two options to have a moving violation amended to a non-moving violation:

- Appear on your court date and speak with a prosecutor about the violation not being recorded on your driving record. The prosecutor will consider your driving record and the circumstances surrounding the traffic offense. If the prosecutor agrees to amend the moving violation, fine amounts are set at the prosecutor's discretion based on a person's prior driving record.
- A second option is to call the prosecutor's office at 788-3754 and leave a message to have him arrange a plea negotiation by telephone. If, for some reason you have not spoken with the prosecutor prior to your appearance date, you will be required to appear.

Failure to appear at your scheduled docket may result in a warrant being issued for your arrest.

### **Right to an Attorney**

A defendant has the right to representation by an attorney in all Municipal Court cases.

If the defendant is charged with an offense that may result in jail time he/she must decide if he/she will hire an attorney, waive his/her right to an attorney, or apply for a court appointed attorney. (A defendant may only apply for a court appointed attorney if he/she has been charged with an offense that he/she may be sentenced to jail for.)

The Judge will determine if the defendant has means to hire his/her own attorney based on the defendant submitting an indigence affidavit.

### **Trial**

Under Kansas law a person can be brought to trial only after a complaint or traffic citation has been filed with the court. The complaint or traffic citation is a document which alleges the action of which the defendant is accused and that the action is unlawful.

In a trial, the burden of proof is on the City to prove that the defendant is guilty of the charges outlined in the complaint or citation. You have the right to be represented by an attorney or you may appear pro se. Pro se indicates you choose to act as your own attorney.

Jury trials are not held at the Municipal Court level. A judge will hear all testimony, reach a verdict and impose a sentence. Any fines and fees assessed on your case are due the day of your trial.

### **Right to Appeal**

Under Kansas law you have the right to appeal a Guilty finding in the Derby Municipal Court to the District Court of Sedgwick County. ([Kansas Statute 12-4601](#))

Kansas statutes set forth the specific procedures that you must follow in order to exercise this right to appeal. These provisions may be found at [Kansas Statute 12-4602](#).

The full text of these Kansas statutes is available on-line at <http://www.kslegislature.org>