

## Chapter 130

### MUNICIPAL COURT

#### ARTICLE I

##### In General

**Section 130.001. Municipal Court Established.** [Code 1995]

There is hereby established a Municipal Court for the City of Mulvane, Kansas. The Municipal Court shall have jurisdiction to hear and determine cases involving violation of the ordinances of the City.

**Section 130.005. Municipal Court — Practice and Procedure.** [Code 1995]

The Kansas Code of Procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq., and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the Municipal Court.

**Section 130.010. Place and Date of the Municipal Court.** [Ord. No. 962 §9-100, 12-6-1993; Ord. No. 990 §9-100, 6-19-1995; Ord. No. 1061 §130.010, 6-7-1999; Ord. No. 1083, 7-5-2000]

Court shall be held at the Mulvane City Building, in the Council Chambers, 211 N. Second, on the first (1st), third (3rd) and fourth (4th) Tuesdays of each month effective September 5, 2000. The time of each Court session will be set by Administrative Order of the Court upon the advice and consent of the Governing Body.

**Section 130.020. Jurisdiction and Power of the Municipal Judge.** [CC 1985 §9-101; Ord. No. 548, 8-1-1977]

The Municipal Judge shall have exclusive original jurisdiction to hear and determine all offenses against the ordinances of the City. He/she shall have power to enforce due obedience to all orders, writs, rules and judgments made by him/her and may fine or imprison or both for contempt committed in Court or for failure to obey process issued by such Municipal Judge, in the same manner and to the same extent as the District Court and, for all such purposes, the jurisdiction of the Municipal Judge shall be co-extensive with the Counties in which the City is located. The powers of the Municipal Judge shall be those as set out in Article 41, Code of Procedure for Municipal Courts, General Provisions, pursuant to K.S.A. 12-4101, et seq., known as the Code of Procedure for Municipal Court, together with Article 42, 43, 44, 45 and 46 and amendments thereto.

**Section 130.025. Municipal Judge — Appointment — Qualifications — Compensation.**

- A. The Municipal Court shall be presided over by a Municipal Judge. The Judge shall be selected in the manner provided by Statute. The person who is selected shall be:

1. A citizen of the United States;
2. A graduate of a high school or secondary school or the equivalent thereof; and
3. An attorney regularly admitted to practice law in the State of Kansas or certified by the Supreme Court in the manner prescribed by K.S.A. 12-4114, as qualified to serve as a Municipal Judge.

The Municipal Judge shall receive a monthly or annual salary set by ordinance of the City in which such Municipal Judge presides, except where otherwise provided by law.

**Section 130.030. Municipal Judge — Powers and Duties.**

- A. The Municipal Judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such Municipal Judge, and may fine or imprison for contempt committed in court or for failure to obey process issued by such Municipal Judge, in the same manner and to the same extent as a Judge of the District Court.
- B. The Municipal Judge shall have the power to hear and determine all cases properly brought before such Municipal Judge; to grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.
- C. The Municipal Judge shall maintain a docket in which every cause commenced before such Municipal Judge shall be entered. Such docket shall contain the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the Court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.
- D. The Municipal Judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the Supreme Court.
- E. The Municipal Judge shall ensure that information concerning dispositions of City ordinance violations that result in convictions comparable to convictions for Class A and B misdemeanors under Kansas Criminal Statutes is forwarded to the Kansas Bureau of Investigation Central Repository. This information shall be transmitted, on a form or in a format approved by the Attorney General, within thirty (30) days of final disposition.

**Section 130.035. Municipal Judge — Absence — Vacancy — Pro Tem.**

- A. In the event the Municipal Judge is temporarily unable to preside due to absence, illness or disqualification, the Municipal Judge shall designate an attorney or other qualified person to act as Judge Pro Tempore. In the event the Municipal Judge fails to appoint a Judge Pro Tempore, the Judge Pro Tempore shall be appointed in the same manner as the Municipal Judge is selected. The Judge Pro Tempore shall receive compensation as shall be provided

by ordinance, payable in the same manner as the compensation of the regular Municipal Judge.

- B. In the event a vacancy shall occur in the office of Municipal Judge, a successor shall be appointed to fill the unexpired term in the same manner as the Municipal Judge was appointed.

**Section 130.040. Court Clerk.**

- A. There is hereby established the office of the Clerk of the Municipal Court of the City of Mulvane, Kansas. The Clerk shall issue all processes of the Court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the Court. The Clerk shall receive, account for and pay to the City Treasurer all fines and forfeited bonds paid into the Court.
- B. The Clerk of the Municipal Court, or the Municipal Judge if no Clerk is appointed, within ten (10) days after selection, and before entering upon the duties of office, shall execute to the City such bond as the City Council may require, which shall be approved by the City Council, and filed in the office of the City Clerk, conditioned for the faithful performance of the duties required of such Clerk by law, and for the faithful application and payment of all moneys that may come into such Clerk's hands in the execution of the duties of the office. The City shall pay the cost of such bond.

**Section 130.045. Failure to Appear in Municipal Court.** [CC 1985 §9-103; Ord. No. 636, 9-15-1980]

Any person released from custody to appear at a later time before the Municipal Court and who fails to make such appearance at the designated time is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment.

**Section 130.050. Failure to Answer a Written Summons, Complaint or Notice to Appear.** [CC 1985 §9-104; Ord. No. 636, 9-15-1980]

Any person who fails to appear and answer a written summons, complaint or notice to appear issued or delivered to him/her by a Police Officer, Fire Department Official, Help Officer or Park Officer for any violation of any provision of this Code or any ordinance, rule or regulation formulated by any such officer or official of such agency of the City, under authority vested in him/her, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

**Section 130.060. Collection and Disposition of Fines and Costs.**

When a fine is levied as punishment, the Municipal Judge or Clerk of the Municipal Court shall issue a statement setting forth the amount of the fine and the manner of payment. Failure to pay in the manner specified may constitute contempt of Court.

**Section 130.070. Municipal Prosecutor.**

- A. The position of Municipal Prosecutor is hereby created as a job title within the City of

Mulvane, Sedgwick and Sumner Counties, Kansas, to be appointed by the Mayor upon the advice and consent of a majority of the City Council. The term of office to commence the first (1st) Council meeting of May of each year.

- B. The Municipal Prosecutor is responsible for exercising all prosecutorial functions under Article 44 of Chapter 12, K.S.A.

**Section 130.080. Function.** [CC 1985 §9-107; Ord. No. 717, 5-16-1983]

It shall be the function of the Municipal Prosecutor, or the Municipal Prosecutor's designee, to administer, prosecute or otherwise handle each and every claim to be presented in the Municipal Court of the City of Mulvane, Kansas.

**Section 130.090. Compensation.** [CC 1985 §9-108; Ord. No. 818, 4-6-1987; Ord. No. 964, 2-21-1994; Ord. No. 1008, 6-17-1996]

In light of the foregoing duties, the compensation of the Municipal Prosecutor is a matter for agreement between the City and the Municipal Prosecutor.

**Section 130.100. Municipal Court Charges.** [CC 1985 §9-109; Ord. No. 947, 7-6-1992; Ord. No. 970, 7-18-1994; Ord. No. 1009, 7-15-1996; Ord. No. 1085, 8-21-2000; Ord. No. 1149 §3, 8-19-2002; Ord. No. 1410 §3, 2-18-2013]

- A. There shall be charged as costs in each case, motion or order pending before the Municipal Court Judge of the City of Mulvane, Sedgwick and Sumner Counties, Kansas, sums in an amount as set forth in Section 100.240.
- B. Additional charges may be levied by the State of Kansas and collected by the City of Mulvane.
- C. *Payment Of Fees And Charges.* All payments of fees and charges due to the City under this Chapter shall be made by cash, check, money order, wire transfer, automated clearing house transfer, electronic check, credit card, debit card, or any other form of payment acceptable to the City; provided however, that no payment in cash may include more than two dollars (\$2.00) in coins for each invoice or monthly bill.
- D. *Returned Payment.* In the event any payment by a person for fees and charges due under this Chapter is returned to the City as not payable (e.g., a "worthless check", insufficient funds, stop-payment, refused automatic debit), the City shall impose a returned payment service charge as set forth in Section 100.160 upon such person and shall accept only verified immediately available funds (e.g., cash, money order) from such person for payments of fees and charges due to the City under this Chapter for the twelve (12) months following such return.
- E. *Waiver Of Available Funds Requirement.* For good cause shown upon satisfactory proof, the Court Clerk may waive the requirement of payment in verified, immediately available funds whenever exceptional circumstances are shown. In the event this waiver is granted by the Court Clerk, the Court Clerk shall enter in the official records of the City an explanation of the circumstances under which the waiver was granted.

**Section 130.110. Various Costs and Charges.** [CC 1985 §9-110; Ord. No. 729, 10-17-1983]

The Municipal Judge shall have authority to set various costs and charges either for the reproduction of reports or records, the appointment of counsel to assist indigent defendants or the cost of obtaining expert testimony. Each and all of the items as determined by the Judge shall become effective upon posting and notice to the public. The Judge shall maintain discretion to tax any and all of the posted items against either the petitioner, the City of Mulvane or the defendant as cost in the litigation.

**Section 130.120. Alcohol and Drug Safety Action Program.** [CC 1985 §9-111; Ord. No. 772, 11-4-1985; Ord. No. 971, 7-18-1994]

The Municipal Judge shall be authorized to assess as cost, in addition to any other costs assessable by this Code or other applicable laws, a fee not to exceed one hundred twenty-five dollars (\$125.00), the same being reimbursement for the costs and expenses of the City of Mulvane, Kansas, in providing and supervising an alcohol and drug safety action program as provided by K.S.A. 8-1008.

**Section 130.130. Assessing Costs.** [CC 1985 §9-112; Ord. No. 738, 2-6-1984]

The Municipal Judge shall have authority to assess as costs against a defendant the expenses and monies charged by or paid to an attorney appointed on behalf of an indigent defendant.

**Section 130.140. Municipal Court, Authorized Dispositions and Sentencing — Intent.** [CC 1985 §9-113; Amended Ord. No. 772, 11-4-1985]

This Code is intended to provide for the just determination of all cases coming before the Municipal Court for violation of City ordinances. Its provisions shall be construed to provide a simplified procedure, fair administration of justice, and the elimination of unjustifiable delay and expense. If no procedure is provided by this Code, the Court shall proceed in any lawful manner consistent with the Kansas Code of Criminal Procedure and those Statutes providing for authorized dispositions of persons convicted of violations of City ordinances as the State shall provide and not inconsistent with other laws.

ARTICLE II

**Powers to Write and Issue Complaints**

**Section 130.150. Definitions.** [CC 1985 §9-1a101]

As used in this Article the following terms shall have these prescribed meanings:

**APPEARANCE BOND** — An undertaking, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions of the undertaking.

**ACCUSED PERSON** — Any person, corporation or other legal entity accused by a complaint of the violation of a City ordinance.

**ARRAIGNMENT** — The formal act of calling the person accused of violating an ordinance before the Municipal Court to inform the person of the offense with which the person is charged, to ask the person whether the person is guilty or not guilty, and if guilty, to impose sentence.

**ARREST** — The taking of a person into custody in order that the person will appear to answer

for the violation of an ordinance. The giving of a notice to appear is not an arrest.

BAIL — The security given for the purpose of insuring compliance with the terms of an appearance bond.

COMPLAINT — A sworn written statement, or a written statements by a Law Enforcement Officer, of the essential facts constituting a violation of an ordinance.

CUSTODY — The restraint of a person pursuant to arrest.

DETENTION — The temporary restraint of a person by a Law Enforcement Officer.

LAW ENFORCEMENT OFFICER — Any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests for violation of the laws of the State of Kansas or ordinances of the City.

MUNICIPAL PROSECUTOR — Any attorney who represents the City in the prosecution of an accused person for the violation of a City ordinance.

NOTICE TO APPEAR — A written notice to a person accused by a complaint of having violated an ordinance of the City to appear at a stated time and place to answer to the charge of the complaint.

ORDINANCE CIGARETTE OR TOBACCO INFRACTION — A violation of an ordinance that proscribes the same behavior as proscribed by the definitions of *Ordinance Traffic Infraction* and *Warrant* of K.S.A. 79-3321 and amendments thereto.

ORDINANCE TRAFFIC INFRACTION — A violation of an ordinance that proscribes or requires the same behavior as that proscribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. (1984 Supp.) 8-2118 and amendments thereto.

SUBPOENA — A process issued by the Court to cause a witness to appear and give testimony at a time and place therein specified.

WARRANT — A written order made by a Judge directed to any Law Enforcement Officer commanding the officer to arrest the person named or described in it.

**Section 130.160. Commencement of Prosecution.** [CC 1985 §9-1a102]

The prosecution for the violation of the Municipal Code of the City of Mulvane, Kansas, or any ordinance of the City of Mulvane, Kansas, shall be commenced by the filing of a complaint with the Municipal Court.

**Section 130.170. Complaint, Requirements, Form.**

A complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. A complaint shall be deemed sufficient if in substantially the form of the complaint set forth in Section 130.200 and amendments thereto or in substantially the following form:

IN THE MUNICIPAL COURT OF MULVANE, KANSAS
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_____ (Accused Person)_____
_____
The undersigned, complains that on or about the ____ day of _____, A.D., 19____, in the City of Mulvane, Counties of Sedgwick and Sumner, and State of Kansas, did then and there unlawfully _____ in violation of Section _____ of Ordinance No. _____ of the City of Mulvane, Kansas. Complainant
*Sworn to positively before me, this ____ day of _____, A.D., 19____ _____ Officer authorized to administer oaths
(*This complaint is not required to be sworn if it is signed by a Law Enforcement Officer.)

**Section 130.180. Complaints — How Used — Issuance of Warrant — Refusal to Issue — Effect.**

- A. A copy of the complaint shall be served, together with a notice to appear or a warrant, by a Law Enforcement Officer upon the accused person, and forthwith, the complaint shall be filed with the Municipal Court, except that a complaint may be filed initially with the Municipal Court, and if so filed, a copy of the complaint shall forthwith be delivered to the Municipal Prosecutor. The Municipal Prosecutor shall cause a notice to appear to be issued, unless he/she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case the Municipal Prosecutor may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the Municipal Judge has probable cause to believe that:
1. There has been the commission of a violation of a municipal ordinance;
  2. The accused person committed such violation; and
  3. The accused person will not appear in response to a notice to appear.
- B. If a Municipal Prosecutor fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the Municipal Court, the Municipal Judge may, upon affidavits filed with him/her alleging the violation of an ordinance, order the Municipal Prosecutor to institute proceedings against any person. Any such Municipal Judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the Municipal Judge pro tem appointed by the Municipal Judge to preside therein.

**Section 130.190. Notice to Appear — Contents — Form.** [CC 1985 §9-1a105]

- A. A notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five (5) days after such notice to appear is given, unless the accused person shall demand an earlier hearing. A notice to appear may be signed by a Municipal Judge, the Clerk of the Municipal Court, the Municipal Prosecutor, or any Law Enforcement Officer of the City.

- B. A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out in Section 130.200 or if in substantially the following form, to wit:

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE, KANSAS		
THE CITY OF MULVANE, KANSAS,	)	
Plaintiff,	)	
vs.	)	No. _____
(Name of Accused Person)	)	
Defendant.	)	
(Address of Accused Person)	)	
NOTICE TO APPEAR		
THE CITY OF MULVANE, KANSAS, TO:		
(To The Above Named Accused Person)		
You are hereby summoned to appear before the Municipal Court of the City of Mulvane, Kansas, on the ____ day of _____, 19____, at _____M., to answer a complaint charging you with (specific violation) _____.		
If you fail to appear a warrant will be issued for your arrest.		
Dated: _____, 19____.		
		_____ Signature of Official
		_____ Title of Official
I agree to appear in said Court at said time and place.		
		_____ Signature of Accused Person
RETURN		
The undersigned hereby certifies that on the ____ day of _____, 19____, the notice to appear was served, mailed or delivered.		
		_____ Law Enforcement Officer



**Section 130.200. Uniform Complaint and Notice to Appear .**<sup>1</sup> [CC 1985 §9-1a106]

In all cases a complaint and notice to appear in Municipal Court may be made in the form of the complaint and notice to appear which shall be deemed sufficient if it contains the information required by Subsection (b) of K.S.A. 8-2106, and amendments thereto.

**Section 130.210. Notice to Appear — When Used.** [CC 1985 §9-1a107]

A notice to appear shall be used in all cases involving the violation of a municipal ordinance, except when a warrant is issued.

**Section 130.220. Notice to Appear — Service — Return.** [CC 1985 §9-1a108]

The notice to appear shall be served upon the accused person by delivering a copy to him/her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A notice to appear may be served by any Law Enforcement Officer within the state and, if mailed, shall be mailed by a Law Enforcement Officer of the City of its issuance or the Clerk of the Municipal Court. Upon service by mail, the Law Enforcement Officer shall execute a verification to be filed with a copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a copy of the notice to appear was mailed to \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
Signature of Law Enforcement Officer  
or Clerk of the Municipal Court

**Section 130.230. Warrant — Contents — Form.** [CC 1985 §9-1a109]

A warrant shall contain the name of the accused person, or if unknown, any name or description by which the accused person may be identified with reasonable certainty, shall describe the nature of the violation of the ordinance of the City, shall command that the accused person be arrested, shall be signed by the Judge of the Municipal Court, and shall state the amount of the appearance bond to be required. A warrant shall be deemed sufficient if substantially in the following form:

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<sup>1</sup>. Cross Reference — As to form of the "Uniform Complaint and Notice to Appear", see ord. no. 860 which is on file in the city offices.

IN THE MUNICIPAL COURT OF THE CITY OF MULVANE, KANSAS		
THE CITY OF MULVANE, KANSAS,	)	
Plaintiff,	)	
vs.	)	No. _____
(Name of Accused Person)	)	
Defendant.	)	
(Address of Accused Person)	)	

WARRANT	
THE CITY OF MULVANE, KANSAS, TO the Chief of Police of Mulvane, Kansas, or any duly authorized Law Enforcement Officer of the State of Kansas:	
WHEREAS, a sworn complaint in writing has been made to me and it appearing that there is probable cause to believe that on or about the ____ day of _____, 19__ within the corporate limits of the City of Mulvane, Kansas, the above-named accused person did unlawfully:	
_____	
_____	
_____	
in violating of Section _____ of Ordinance (or Municipal Code) No. _____ of the said City of Mulvane, Kansas;	
Therefore, you are commanded to forthwith arrest the above-named accused person and bring said accused person before this Court to be dealt with according to law.	
Given under my hand this ____ day of _____, 19__.	
	_____ Municipal Judge City of Mulvane, Kansas
The amount of the appearance bond is hereby set to be \$_____ for the appearance of the accused person before the Municipal Court of the City of Mulvane, Kansas, on the ____ day of _____, 19__, at _____M.	
	_____ Municipal Judge City of Mulvane, Kansas
RETURN	
I hereby certify that I have executed the within warrant by arresting the named accused person (and taking a bond in the sum of _____ (\$ _____) as security for appearance before the Municipal Court of the City of Mulvane, Kansas.)	

This is to certify that I have made a diligent search for the within-named accused person but have been unable to find same.	
City: _____	
Date: _____	
	_____ Signature
	_____ Title

**Section 130.240. Warrants — When Issued — Limitations.** [CC 1985 §9-1a110]

- A. A warrant may be issued:
1. When an accused person fails to appear as required in a notice to appear after its service.
  2. In all other cases where a complaint has been filed and the Municipal Judge determines that a warrant should be issued.
- B. No warrant shall issue unless the complaint giving rise to its issuance is supported by oath or affirmation.
- C. No warrant shall issue for an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction.

**Section 130.250. Warrants — Service.** [CC 1985 §9-1a111]

A warrant may be directed to any Law Enforcement Officer within the State and may be executed any place within the State, by the arrest of the accused person. The officer need not have the warrant in his/her possession at the time of the arrest, but upon request, the officer shall show the warrant to the accused person as soon as possible. If the officer does not have the warrant in his/her possession at the time of the arrest, the officer shall then inform the accused person of the offense charged, of the fact that a warrant has been issued, and the amount of the bond required.

**Section 130.260. Detention — Service of Complaint and Summons.** [CC 1985 §9-1a112]

- A. A Law Enforcement Officer may detain a person when:
1. He/she has a warrant commanding that such person be arrested;
  2. He/she has reason to believe that a warrant for the person's arrest has been issued by any Municipal Court;
  3. He/she has probable cause to believe that the person is committing or has committed a violation of an ordinance, and the Law Enforcement Officer has probable cause to

believe that such person will not be apprehended or evidence of the violation of the ordinance will be irretrievably lost unless such person is immediately detained, or such person may cause injury to himself/herself or others or damage to property unless immediately detained; or

4. Any violation of an ordinance has been or is being committed by such person in his/her view.
- B. A Law Enforcement Officer having detained a person pursuant to the preceding Subsection, except Subparagraphs (1) or (2) thereof, may release the person or may prepare and serve upon such person a complaint and notice to appear, as provided by Section 130.190 or Section 130.200 and shall then release such accused person from such detention, except in such instances where the Law Enforcement Officer has power and authority to arrest such accused person as hereinafter set forth.

**Section 130.270. Arrest by Law Enforcement Officer — When Authorized.** [CC 1985 §9-1a113]

- A. Except as provided in Subsection (B), a Law Enforcement Officer may arrest a person under any of the following circumstances:
1. The officer has a warrant commanding that the person be arrested.
  2. A warrant for the person's arrest has been issued by a Municipal Court in this State.
  3. The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person.
  4. The Law Enforcement Officer detained the person pursuant to Subsection (A)(3) or (4) of Section 130.260 and amendments thereto and:
    - a. The person refuses to give a written promise to appear in court when served with a notice to appear;
    - b. The person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the Law Enforcement Officer;
    - c. The person is not a resident of the State of Kansas; or
    - d. The Law Enforcement Officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.
- B. A Law Enforcement Officer may not arrest a person who is charged only with committing an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction.

**Section 130.280. Persons Under Arrest — Procedures — Right to Post Bond — Release on Personal Recognizance.** [CC 1985 §9-1a114]

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. However, if the Law Enforcement Officer has probable cause to believe that such person may cause injury to oneself or others, or damage to property, and there is no responsible person or institution to which the person might be released, the person shall remain in the protective custody of the Law Enforcement Officer, in a City or County Jail for a period not to exceed six (6) hours, at which time such person shall be given an opportunity to post bond for the person's appearance. While so held in protective custody, the person shall be permitted to consult with counsel or other persons on the person's behalf. Any person who does not make bond for the person's appearance shall be placed in the City or County Jail, to remain there until the person makes bond for the person's appearance, or appears before the Municipal Court at the earliest practical time, except that the person shall be released on the person's personal recognizance to appear at a later date if the person has not made bond, has not appeared before the Municipal Court within eighteen (18) hours after arrest and if no warrant has been issued for the person's arrest.

**Section 130.290. Notice — Explanation of Rights.** [CC 1985 §9-1a115; Ord. No. 860, 3-6-1989]

- A. When a person is charged with an ordinance traffic infraction or an ordinance cigarette or tobacco infraction, the notice to appear shall provide a place where the person may make a written entry of appearance, waive the right to a trial and plead guilty or no contest. The notice to appear shall provide a space in which the Law Enforcement Officer, except as provided in Subsection (B), shall enter the appropriate fine specified in the fine schedule established by the Municipal Judge in accordance with K.S.A. 12-4305 and amendments thereto, in the case of a traffic infraction, or a fine of twenty-five dollars (\$25.00), in the case of an ordinance cigarette or tobacco infraction. Either the notice to appear or a separate form provided to the person by the Law Enforcement Officer shall provide an explanation:
1. Of the person's right to appear and right to trial and the person's right to pay the appropriate fine prior to the appearance date;
  2. That failure to either pay such fine or appear at the specified time may result in issuance of a warrant for the person's arrest; and
  3. In the case of a traffic infraction, that failure to either pay such fine or appear at the specified time may result in the suspension of the person's driver's license.

The Law Enforcement Officer shall provide the person with the telephone number and address of the Municipal Court to which the written entry of appearance, waiver of trial, plea of guilty or no contest and payment of fine shall be mailed.

- B. In lieu of the Law Enforcement Officer entering the appropriate fine for an ordinance traffic infraction, the officer may direct the person charged with an ordinance traffic infraction to contact the Clerk of the Municipal Court to determine the applicable fine or

provide the person with a copy of the fine schedule established by the Municipal Judge in accordance with K.S.A. 12-4305 and amendments thereto.

ARTICLE III  
**Traffic Citations**

**Section 130.300. Failure to Obey Citation.** [CC 1985 §13-2107; Amended Ord. No. 765]

- A. It shall be unlawful to fail to comply with a traffic citation. Failure to comply with a traffic citation means a failure either to:
  - 1. Appear before the Municipal Court in response to a traffic citation and pay in full any fine and Court costs imposed; or
  - 2. Otherwise comply with a traffic citation issued for an ordinance traffic infraction. Failure to comply with a traffic citation shall be unlawful regardless of the disposition of the charge for which such citation was originally issued.
  
- B. In addition to penalties of law applicable under Subsection (A), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the Municipal Court shall mail notice to the person that if the person does not appear in Municipal Court or pay all fines, Court costs and any penalties within thirty (30) days from the date of mailing, the Division of Vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such thirty (30) days the Municipal Court shall notify the Division of Vehicles and assess a reinstatement fee of fifty dollars (\$50.00) for each charge in which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine or Court costs and other penalties.