

Chapter 2.33
MUNICIPAL COURT

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2.33.002 Jurisdiction.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §1, 73)

2.33.004 Municipal Judges-Appointment

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §2, 73)

2.33.007 Municipal Judges-Powers and duties.

(History: Repealed by Ord. AP-853 §15, 75; DUO-745 §6, 73 (Eff. 4/11/73))

2.33.008 Court Sessions.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §4, 73)

2.33.010 Court Facilities.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §5, 73.)

2.33.012 Staff.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §6, 73.)

2.33.014 City Attorney.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §7, 73)

2.33.016 Prosecutions - Docket.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §8, 73)

2.33.018 Police.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §9, 73)

2.33.020 Complaint.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §10, 73)

2.33.022 Warrant.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §11,73)

2.33.024 Bail.

(History: Repealed by Ord. AP-853 & 15, 75; MCP-707 §12, 73)

2.33.026 Continuance.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §13, 73)

2.33.028 Witnesses.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §14, 73)

2.33.030 Trial - Plea.

(History: Repealed by Ord. AP-853 §5, 75; MCF-707 §15, 73)

2.33.032 Judgment.

(History: Repealed by Ord AP-853 §15, 75; MCP-707 §16, 73)

2.33.034 Contempt.

(History: Repealed by Ord. AP-853 §1, 75; MCP-707 §17, 73)

2.33.036 Malicious Prosecution

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §18, 73)

2.33.038 Refusal to Prosecute.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §19. 731.

2.33.040 Bond Forfeitures.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §20 73)

2.33.042 Appeal by Defendant.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §21, 73)

2.33.044 Appeal by City.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §22, 73)

2.33.046 Parole and Suspension.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §23, 73)

2.33.048 Court Reports.

(History: Repealed by Ord. AP-853 §15, 75; MCP-707 §24, 73)

2.33.050 Abandoned Vehicle.

(History: Repealed by Ord. AP-853 §15, 75; MCE-613 §1, 71)

2.33.060 Court Costs and Fine for Parking Violation.

(History: Repealed by Ord. AP-853 §15, 75; CCV0-451-A §1, 68; CCV0-451 §1, 67)

2.33.080 Violation of Other Ordinances Court Costs.

(History: Repealed by Ord. AP-853 §15, 75; CCV0-451-A §2, 68; CCV0-451 §3, 67)

2.33.120 Definitions.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §1, 71)

2.33.130 Search Without Search Warrant.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §2, 71)

2.33.140 Grounds for Search Warrant.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §3 71)

2.33.150 Procedure for Issuance of Search Warrant.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §4, 71)

2.33.160 Persons Authorized to Execute Search Warrants.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §5, 71)

2.33.170 Execution of Search Warrants.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §6, 71)

2.33.180 Command of Search Warrant.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §7, 71)

2.33.190 Use of Force in Execution of Search Warrant.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §8. 71)

2.33.200 Detention and Search of Persons on Premises.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §9, 71)

2.33.210 When Search Warrant May Be Executed.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §10, 71.)

2.33.220 No Warrant Quashed for Technicality.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §11, 71.)

2.33.230 Custody and Disposition of Thing Seized.

(History: Repealed by Ord. AP-853 §15, 75; SW-652 §12, 71.)

2.33.290 Municipal Judges; Powers and Duties.

- A. The Municipal Judge shall have the power to administer oaths and enforce due obedience to all orders, rules and judgments made by him or her, and may fine or imprison for contempt, in the same manner and to the same extent as the district court.
- B. The Municipal Judge shall have the power to hear and determine all cases properly brought before him or her, to grant continuances, to sentence those found guilty to a fine or confinement in jail or in a house arrest program, or both such fine and confinement, to commit accused persons to jail in default of bond, to determine applications for parole, to release on probation, to grant time in which a fine may be paid, to correct a sentence, to suspend imposition of a sentence, to set aside a judgment, to permit time for post trial motions and to discharge accused persons.
- C. 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.
- D. The Municipal Judge shall maintain a docket in which he or she shall enter every cause commenced before him or her. Said 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.
- E. Court security officers.
 - 1. In addition to all the powers and duties of the Municipal Judge, the Presiding Judge of the Municipal Court is authorized to appoint court security officers, in such numbers and for such compensation as is in accordance with the annual budget adopted by the Governing Body. The court security officers shall serve under the direction and control of the Presiding Judge, who shall set the qualifications for appointment to that office consistent with the requirements of law. The Mayor may issue commissions and badges for the court security officers upon the recommendation of the Presiding Judge.
 - 2. The duties of a court security officer shall include enforcing and serving court orders and processes, maintaining public order in the court operations and facilities, protecting the court and its officers in the exercise of their judicial functions, and executing all orders issued or made by lawful authority of the Municipal Court. A court security officer may, subject to the direction and control of the Presiding Judge as set forth in subsection E(1), exercise the power to make an arrest or otherwise take a person into custody, detain or otherwise restrain a person, carry firearms, concealed or otherwise, serve process, or exercise any other lawful power necessary to execute or enforce Municipal Court orders or perform their duties as specified in this subsection. The Presiding Judge may delegate, at his or her discretion, supervision of the court security officer to the Court Administrator. The Court Administrator shall receive training in supervision of commissioned personnel. The Mayor may issue a commission and badge for the Court Administrator upon the recommendation of the Presiding Judge.

F. The Municipal Judge shall have the authority to establish the sessions, dockets and locations of the municipal court as set forth in O.P.M.C. 2.33.291.

(History: Ord. MCC-2572 §1, 2005; MCC-2498 §5, 2004; MCC-2351 §1, 2002; MCP-1987 §1, 96; Ch. Ord. 61)

2.33.291 Sessions, Dockets and Locations of the Municipal Court.

Municipal Court shall be held on each day of the year, except Saturdays, Sundays, City recognized holidays, or at other times determined by the Presiding Judge, provided, the Presiding Judge, or if the Presiding Judge is unavailable, a Municipal Judge, shall have the authority to find that an emergency, disaster or other compelling reason exists not to hold court. Dockets of the Municipal Court shall be established and scheduled by the Presiding Judge. Municipal Court shall convene in the W. Jack Sanders Justice Center located at 12400 Foster, Overland Park, Kansas, provided, during times of an emergency, disaster or other times when the W. Jack Sanders Justice Center facility is uninhabitable or unavailable for court, the Presiding Judge, or if the Presiding Judge is unavailable, a Municipal Judge shall have the authority to designate an alternative location for the Municipal Court, provided, the alternative location is as close to the W. Jack Sanders Justice Center as reasonably possible.

(History: Ord. MCC-2351 §2, 2002)

2.33.294 Sentencing.

A. Whenever an accused person is found guilty of the violation of an ordinance, the Municipal Judge may:

1. Release the accused person without imposition of sentence; or
2. Release the accused person on probation after the imposition of sentence without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court as provided in subsection E; or
3. Impose such sentence of fine, imprisonment, or both, as may be authorized for the ordinance violation; or
4. Suspend any sentence or fine imposed subject to conditions imposed by the court as provided in subsection E; or
5. After any portion of said imprisonment has been served, release the accused person on parole, subject to conditions imposed by the court as provided in subsection E.

B. In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the judge may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services.

- C. Except as provided in subsection D, in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, an ordinance prohibiting an act prohibited by the uniform controlled substances act (K.S.A. 65-4101 et seq. and amendments thereto) or K.S.A. 41-719, 41-727, 41-804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and amendments thereto, the Municipal Judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by the statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.
- D. If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection C are permissive and not mandatory.
- E. The court may impose any conditions of probation, parole or suspension of sentence that the court deems proper. In the case of a probation or parole, the following conditions are mandatory, however any additional conditions the court deems proper may be ordered by the court. The defendant shall:
1. not violate the laws of the United States or of any state or city with the exception of minor traffic infractions;
 2. not use, consume, possess or ingest any intoxicating liquor, cereal malt beverage, or any other mood altering substance or drug without a doctor's prescription;
 3. not associate with anyone who has been convicted of a crime, excepting persons who have been convicted solely of traffic infractions;
 4. not move from his or her current address without prior notification and the written permission of the Court or his/her Probation Officer;
 5. submit to a test of saliva, breath, blood, or urine at any time during the term of Probation, if requested to do so by his/her Probation Officer, Prosecutor, Judge, or any law enforcement officer at his/her own expense and further agrees that the results of said tests shall be admitted against him/her in his/her Probation revocation hearing and stipulates to the evidentiary foundation thereof;
 6. if a motion to revoke is filed during the term of the probation or parole, continue to report as directed and continue to abide by the terms and conditions of the probation;
 7. notify his/her Probation Officer in writing within 72 hours of any arrest. The term "arrest" shall include instances during which he is stopped or questioned by a law enforcement officer regarding violation of the law, whether or not charges are filed at that time, as well as instances where he is released upon the issuance of a ticket or Notice to Appear or released pending the mailing of charges in the future;

8. report to his/her Probation Officer not less than one time per month, and at such other times and in such a manner as directed by the Court or his/her Probation Officer. Failure to report to the Court as ordered may result in the summary revocation of the probation by the Court;
 9. clear all outstanding warrants within thirty (30) days and remain warrant free during the term of probation;
 10. comply with all recommendations of his/her evaluation, if one was ordered;
 11. pay any applicable fine, costs, or restitution in the matter as directed by the court; and
 12. report to jail, weekend intervention, education classes, counseling, victim impact panels, offender mediation and/or treatment as ordered by the court.
- F. In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance, the judge may order such person to reimburse the City for all or a part of the reasonable expenditures by the City to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.
- G. The term of probation, parole or suspended sentence shall not exceed two years, although the judge may discharge the person at any time for good cause shown. If the person has been convicted of violating municipal ordinance provisions that prohibit conduct comparable to a misdemeanor under the Kansas criminal statutes, the term of probation, parole or suspension ordered by the court is subject to renewal and extension for additional periods not exceeding an additional two years upon the court's finding that the defendant has not yet successfully completed the conditions imposed therein within the original term of probation.
- H. The Municipal Judge may revoke such probation, parole or suspended sentence for violation of conditions by directing the appropriate law enforcement officers to execute the sentence and imprison the defendant for the time specified by the court, which shall not exceed the initial sentence imposed, less any time served and may order the payment of any previously probated, suspended or paroled fines and fees. Upon an affidavit submitted to the court by a Court Services Officer, Prosecutor, or Community Corrections Officer alleging that the defendant has violated the conditions of release, the court may order the defendant incarcerated pending a hearing to revoke probation, parole, or suspended sentence. The affidavit, which shall contain a request for incarceration pending a hearing, shall be served on the defendant.

- I. For purposes of this Chapter, the terms “imprisonment” or “imprison” shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of the accused person including, but not limited to any adult detention center, a juvenile detention center as allowed by law, house arrest, assignment to a community corrections residential center or any other environment approved by the Governing Body of the City.

(History: Ord. MCC-2664 §1, 2007; MCC-2498 §6, 2004; MCP-1987 §2, 96; Ch.Ord. 51)

2.33.296 Parole.

Repealed.

(History: Ord. MCC-2498 §7, 2004; MCP-1987 §3, 96; Ch.Ord. 51)

2.33.300 Schedule of Costs and Fees.

1. There is hereby established the following schedule of costs and fees for the administration of justice in the municipal court of Overland Park, Kansas:
 - a. Costs of one dollar and fifty cents (\$1.50) shall be assessed against each accused person who is found guilty of, or who is diverted from prosecution for violating any ordinance of the City of Overland Park, *except*, that this subsection shall not apply to a person who is found guilty of, or who is diverted from prosecution for violating any ordinance of the City of Overland Park that involves a parking violation or that involves failure to use safety belts or failure to use child restraint belts. For the purpose of determining the amount to be assessed according to this subsection, if more than one complaint is filed against one individual arising out of the same incident, all such complaints shall be considered as one case. These costs are imposed for the operation of the City's victim assistance program;
 - b. Costs may be assessed against each accused person in any case in which the accused person has failed to appear in court or to satisfy the financial or other requirements of the court's order. These costs shall be in addition to the reinstatement fee collected by the court pursuant to K.S.A. 8-2110(c) and amendments thereto. The court may assess these costs for each case in which the person failed to appear or to make satisfaction regardless of the disposition of the case for which the complaint was originally issued;
 - c. A monitoring fee of thirty-five dollars (\$35.00) per month shall be assessed against a defendant in any case in which the Municipal Court Judge orders said defendant placed on probation or parole or in which the City Attorney enters a diversion agreement. Said fee shall be assessed for each month the defendant is required to report to a probation/parole/diversion officer;
 - d. A fee in the amount of ninety dollars (\$90.00) shall be assessed against a defendant in each case in which the Municipal Court Judge appoints counsel for said defendant;

- e. A fee in the amount of thirty-five dollars (\$35.00) per day shall be assessed against a defendant in each case in which said defendant is incarcerated pursuant to an order of the Municipal Court Judge;
 - f. A fingerprinting fee in the amount of \$25.00 shall be assessed against a defendant in each case in which the defendant has been convicted of violating municipal ordinance provisions that prohibit conduct comparable to a class A or B misdemeanor or assault as defined in K.S.A. 21-3408 and amendments thereto under the Kansas criminal statutes.
 - g. Costs and fees shall be assessed as may be required by state statutes;
 - h. Additional court costs and fees may be assessed by the municipal court for service of process, for transcripts and depositions, and for expenses incurred in serving a warrant.
- 2. Such costs and fees shall be assessed as part of the judgment and shall be collected by the court clerk/court administrator of the municipal court.
 - 3. The costs and fees assessed pursuant to this section shall be in addition to the fine imposed.

(History: Ord. MCC-2492 §1, 2004; MCC-2351 §3, 2002; MCC-2252 §1, 2000; MCC-2179 §1, 2000; MCC-2082 §1, 97; MCC-2052 §1, 97; MCC-1909 §1, 94; MCC-1802 §1, 93)

2.33.310 Municipal Court; Detention Authority of Law Enforcement Officers; Service of Complaint and Summons.

A law enforcement officer may detain a person when:

- A. He or she has a warrant commanding that such person be arrested; or
- B. he or she has reason to believe that a warrant for the person's arrest has been issued by any municipal court of this state; or
- C. he or 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
- D. any violation of an ordinance has been or is being committed by such person in his or her view.

A law enforcement officer having detained a person pursuant to the preceding paragraph, except subsection A or B thereof, may release the person or may prepare and serve upon such person a complaint and notice to appear, 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 set forth in O.P.M.C. 2.33.320.

(History: Ord. MCP-1997 §1, 96)[See Ch. Ord. 67 eff. 9-23-96]

2.33.320 Municipal Court; Arrest Authority of Law Enforcement Officers.

- 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 C or D of O.P.M.C. 2.33.310 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.

(History: Ord. MCP-1997 §2, 96) [See Ch. Ord. 67 effective 9-23-96]

2.33.325 Persons under arrest; procedures; right to post bond; release on personal recognizance.

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 2.33.330 and K.S.A. 12-4302, and amendments thereto and the Municipal Court Bond Schedule.

However, if the law enforcement officer has probable cause to believe that such person may cause injury to himself, herself 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 hours, at which time such person shall be given an opportunity to post bond for his or her 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 48 hours after arrest and if no warrant has been issued for the person's arrest. At said court appearance, the Municipal Judge shall review the complaint, any affidavits filed with the complaint, or any other evidence and shall determine whether there is sufficient probable cause to believe that a crime has been committed by the accused and sufficient basis to continue to hold the accused for trial in accordance with 2.33.340. The judge will give the accused an opportunity to address the court. The judge will advise the accused of the charges, the possible penalties, and advise the accused of the right to counsel. (History: Ord. MCC-2498 §1, 2004)

2.33.330 Appearance bonds; methods of securing appearance.

A person having the right to post bond for appearance shall, in order to do so, execute in writing a promise to appear at the Municipal Court at a stated time and place. Such appearance bond shall be in an amount as determined by the Municipal Judge. Such bond may be secured by any one of the following methods, and when so secured, such person shall be released from custody.

The methods of securing the appearance of an accused person are as follows:

- (a) Payment of cash, except that the Municipal Judge may permit a credit voucher in lieu of cash; or
- (b) The execution of an appearance bond by a responsible individual residing within the state of Kansas, as surety with the approval of the Municipal Judge; or
- (c) A guaranteed surety bond certificate issued by a company authorized by the Presiding Judge to write surety bonds in the Overland Park Municipal Court.

(History: Ord. MCC-2498 §2, 2004)

2.33.335 Warrants; when issued; limitations.

Repealed.

(History: Ord. MCC-2768 §8, 2008; MCC-2498 §3, 2004)

2.33.340 Plea of not guilty; trial; time; continuance.

Repealed.

(History: Ord. MCC-2768 §8, 2008; MCC-2498 §4, 2004)

2.33.350 City officer, Defined.

"City officer" shall mean those individuals designated as a city officer by the City Manager. Said officers shall have the authority to investigate violations of City ordinances, order compliance and issue complaints and notices to appear.

(History: Ord. MCC-2768 §1, 2008)

2.33.355 Complaint; requirements form.

A Complaint shall be in writing and shall be signed (either personally or electronically) by the complainant. A Complaint shall be deemed to be "in writing" if the information is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form. Electronic signatures must be obtained in compliance with the Uniform Electronic Transaction Act, K.S.A. 16-1601 *et. seq.* and/or Kansas Supreme Court Rule 122. 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 K.S.A. 8-2106(b) and amendments thereto, or in substantially the following form:

**IN THE MUNICIPAL COURT
OF OVERLAND PARK, KANSAS**

The City of Overland Park, Kansas,
vs.

(Accused person)

The undersigned, declares under penalty of perjury that the following allegations are true and correct:

That on or about the ____ day of ____, _____, in the City of Overland Park, County of Johnson, and State of Kansas, _____ did then and there unlawfully _____

in violation of Section ____ of the Overland Park Municipal Code.

Complainant

(History: Ord. MCC-2768 §2, 2008)

2.33.360 Same; how used; issuance of warrant; refusal to issue; effect.

A copy of the complaint shall be served, together with a notice to appear or a warrant, by a law enforcement officer or city 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 city attorney. The city attorney shall cause a notice to appear to be issued, unless he or she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case the city attorney may request that an arrest warrant be issued. Such arrest warrant will be issued

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if the complaint is positively sworn to and the municipal judge has probable cause to believe that (a) there has been the commission of a violation of a municipal ordinance, (b) the accused person committed such violation and (c) the accused person will not appear in response to a notice to appear.

"Filing" as used herein shall either be by manual delivery of a copy of the complaint and notice to appear or warrant to the clerk of the municipal court, or by electronic submission to the municipal court in a secure manner of a record containing the data required by Section 2.33.355. (History: Ord. MCC-2768 §3, 2008)

2.33.365 Notice to appear; contents; form.

A notice to appear shall describe the offense charged and shall summon the accused person to appear. A notice to appear may be signed by a municipal judge, the clerk of the municipal court, the city attorney, an assistant city attorney, a law enforcement officer or a city officer.

A notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out in K.S.A. 12-4204 and amendments thereto, or if in substantially the following form:

**IN THE MUNICIPAL COURT
OF OVERLAND PARK, KANSAS**

The City of Overland Park, Kansas
vs.

_____,
(Accused person)

_____,
(Address)

NOTICE TO APPEAR

The City of Overland Park, Kansas,
To The Above-Named Accused Person.

You are hereby summoned to appear before the Overland Park Municipal Court on the _____ day of _____, _____, at _____ o'clock, _____ .m., to answer a complaint charging you with _____

_____.

If you fail to appear a warrant will be issued for your arrest. Additionally, if you fail to pay your fine and court costs or appear at the specified time, your driver's license may be suspended as provided in K.S.A. 8-2110, and amendments thereto.

Dated _____, _____.

Signature and Title of Official

(History: Ord. MCC-2768 §4, 2008)

2.33.370 Complaint and notice to appear in municipal court.

In all cases a complaint and notice to appear in municipal court may be made in the form of a 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.

(History: Ord. MCC-2768 §5, 2008)

2.33.375 Notice to appear; when used.

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

(History: Ord. MCC-2768 §6, 2008)

2.33.380 Same; service; return.

The notice to appear shall be served upon the accused person by delivering a copy to him or 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 a municipal judge, the clerk of the municipal court, the city attorney, an assistant city attorney, a law enforcement officer or a city officer. Upon service by mail, the person serving the notice to appear shall execute a return of service to be filed with a copy of the notice to appear. Said return of service shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the _____ day of _____,
_____, a copy of notice to appear was served, mailed, or delivered to
_____ at _____, _____,

Signature of Person Serving
Notice to Appear

(History: Ord. MCC-2768 §7, 2008)

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