



LOUISBURG MUNICIPAL COURT

LOCAL COURT RULES

RULE 1: PREFATORY RULE

- a) The following rules of the Louisburg Municipal Court are hereby adopted January 10TH, 2023.
- b) In these rules, when there is a reference to a section of a statute by number, it shall be presumed to be a reference to the Kansas Statutes Annotated (hereinafter "K.S.A.") unless a different reference is stated.
- c) In these rules, when there is a reference to an ordinance number, it shall be presumed to be a reference to the Louisburg City Code unless a different reference is stated.

RULE 2: DEFINITIONS

As used in these rules, and unless the context requires otherwise, the following definitions shall supplement those found in the Louisburg City Code, Chapter 9.

- a) "Court" means any duly authorized Municipal Judge, sitting to hear cases of the Municipal Court of Louisburg, Kansas, including any Judge Pro Tempore appointed for a particular case, docket, division or session of the municipal court.
- b) "Court Clerk" means the Clerk of the Municipal Court of Louisburg, Kansas, or any duly designated deputy thereof as designated by the City Administrator.
- c) "Court costs" or "costs" means any fee or assessment ordered by the Court other than fines, including but not limited to restitution, reinstatement fees, warrant fees, late fees, and any other fee the Court is authorized or required to assess.
- d) "Criminal offense" means any act or omission defined by City Code or City Ordinance and for which, upon conviction, imprisonment or fine, or both imprisonment and fine, is authorized.
- e) "Legal Holidays" means those days designated as holidays by the governing body of the City of Louisburg, Kansas.
- f) "Prosecutor" means any attorney appointed by the Mayor by and with the consent and approval of the Council of Louisburg, Kansas to represent the City in the prosecution of a defendant for the violation of any duly adopted City Ordinance, including any Prosecutor Pro Tempore.
- g) "Traffic offense" means any act or omission related to the regulation of traffic on the roads, highways or streets for which, upon conviction, imprisonment or fine, or both imprisonment and fine, is authorized.

RULE 3: COURT HOURS

- a) Court is in regular session at Louisburg City Hall 215 S. Broadway Louisburg, Kansas. Court is held the 2nd and 4th Tuesday of each month except for Holidays. Any changes made to the regular schedule will be noted on the City's website Calendar.
- b) Special session of Louisburg Municipal Court may be set at the discretion of the Court. Likewise, any regular session may be cancelled at the discretion of the Court.
- c) The Court Clerk's office is open to the public from 8:00 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

RULE 4: JUDGE PRO TEMPORE

- a) In the event a Municipal Judge is temporarily unable to preside due to absence, illness, or disqualification, or as maybe otherwise required to preside at additional sessions of the Municipal Court docket as needed due to the caseload, the Municipal Judge may designate an attorney to act as Judge Pro Tempore.
- b) The Judge Pro Tempore shall have the same powers and duties as the duly authorized Municipal Judge as to all cases on the docket to which the Judge Pro Tempore is assigned.
- c) The Municipal Judge shall use his/her discretion in designating a Judge Pro Tempore, subject to the approval of the City Administrator of the City of Louisburg, Kansas.

RULE 5: APPEARANCE BONDS

- a) The Municipal Court's rules regarding appearance bonds are controlled by K.S.A. 12-4301 et. seq.
- b) Any person arrested and charged with operating or attempting to operate a motor vehicle while under the influence of alcohol and/or drugs may be transported and held by the Miami County jail. If held on a DUI/OUI charge, they will be released upon the payment of the bond (Bond schedule listed below). Upon posting bond, to the extent the accused is not a danger to himself/herself or others, and can be released to a sober, competent adult with a valid driver's license, he/she may be released. If no bond can be posted, he or she will be held and released after 18 hours and given a date to appear in court.
- c) A person arrested on a charge other than a DUI, will be released on his or her own recognizance or an appearance bond. (Bond schedule listed below). They will be released as soon as is practical. If bond was set but no bond can be posted, he or she will be held and released after 18 hours and given a date to appear in court, unless being held on a warrant.

Bond Schedule:

Class A Misdemeanor - \$500-\$2,500

Class B Misdemeanor - \$300-\$1,000

Class C Misdemeanor - \$200-\$500

If a defendant who has posted a bond fails to appear at the time designated in the appearance bond or at any other time to which the appearance has been continued, the bond may be forfeited and the court may order a warrant to be issued for the defendant's arrest. If a warrant is ordered, bond will be set in an amount determined appropriate by the court. If arrested on the warrant, the defendant may elect to post the bond in cash. Any person posting cash for another person is hereby placed on notice that any cash posted as a bail bond is the property of the accused person and may be forfeited, applied to payment of court-ordered financial obligations, or refunded to the arrested party. When an accused person who has posted a cash bond is discharged from all appearances and financial obligations to the court and provides identification to the clerk.

The portion of the cash bond not allocated to fines, costs, fees or restitution will be refunded. Any arrangements to furnish bond money are between the lender and the accused person.

BOND CONDITIONS

1. Released to sober competent adult with valid driver's license.
2. No use of drugs or alcohol during the pendency of defendant's case(s). Violations of this condition may result in bond revocation, defendant being held in contempt, and may require (or increase the frequency of) random drug and alcohol screenings.
3. No additional violations of law.
4. The above referenced bond conditions are in addition to any other orders issued relative to the defendant's case(s).

RULE 6: PROCEDURES INVOLVING NOTICES TO APPEAR

- a) Any person having been served with a Notice to Appear in Louisburg Municipal Court, or who has been released on a bond and ordered to appear in Louisburg Municipal Court, may obtain from the Municipal Court clerk one (1) extension of time of not more than two (2) weeks in the appearance date.
- b) After one (1) clerk's extension of time has been given, the clerk may not again extend or reschedule a court appearance except upon written authority of a Municipal Judge or as may be otherwise authorized by these local rules.
- c) Any request for second extension of time or continuance shall be made by motion in writing with good cause shown. Parties must seek concurrence from the opposing party. Stipulated or Consent Motions for extension of time or continuance submitted in writing to the court at least (5) days before the scheduled appearance may be granted at the discretion of the municipal judge without a hearing with good cause shown.

RULE 7: COUNSEL

- a) All defendants in Municipal Court may be represented by counsel or may represent themselves and appear without counsel.
- b) An attorney appearing for a defendant shall enter his or her appearance by notifying the Municipal Court in writing, which shall be entered in the Court file on the case; or counsel may appear before the Court in person and advise the Court that he or she is representing the defendant, in which case the attorney will be entered as counsel of record in the Court file.
- c) No attorney shall be permitted to request the withdrawal of any warrant or to continue any case in which the attorney is not a counsel of record.
- d) No limited entries of appearance will be permitted by counsel merely to apply for the defendant's release from custody, to reduce a bond, to withdraw a warrant, or to obtain a continuance of the case. Once an attorney has voluntarily entered his or her appearance on behalf of a defendant, such attorney may not withdraw from such representation except as permitted by these Rules, or by the Municipal Judge with due consideration of the Kansas Rules of Professional Conduct.
- e) If the Municipal Judge has reason to believe that if found guilty, the accused person might be deprived of his or her liberty, and such person is not financially able to employ counsel, the judge shall, if requested by the accused person, appoint an attorney to represent the accused person. Financial inability to employ counsel shall be determined pursuant to K. S. A. 12-4405. An Indigency financial affidavit shall be filled out and approved by the Judge for a court appointed attorney.
- f) If the Municipal Judge has reason to believe that if found guilty, the accused person might be deprived of his or her liberty and the accused person indicates his or her intention to represent himself or herself, the Municipal Judge may permit the accused person to waive their right to counsel. Such waiver shall be in writing upon a form approved by the Municipal Judge.

RULE 8: GENERAL RULES OF COURT DECORUM AND SAFETY

- a) No person shall be permitted in the working area of the Municipal Judge, Prosecutor, Court Clerk or Court security officers unless authorized by the Municipal Judge, the Court Clerk, the Court officer, or one of their duly designated deputies or staff members, except those city employees whose duties require their presence therein.
- b) An attorney desiring to confer with an incarcerated defendant, Court staff will provide a secured area for that meeting.
- c) No weapons are permitted in Court, except as carried or possessed by law enforcement officers, Court security staff, or as needed for evidence in Court, without the permission of the Court.
- d) All persons at the Municipal Court shall conduct themselves in a manner consistent with and appropriate to the operation of a court of law. All persons in or near the courtroom or any of the business or office areas of any of the Court staff or Court security personnel will conduct their conversations and other activities in such a manner as not to disrupt the business and operations of the Municipal Court, the Municipal Judge, the Municipal Court staff and personnel. Any such misconduct may be punishable by contempt of Court or other appropriate sanctions by the Court. Pursuant KSA 12-4106 the Municipal Judge shall have the power to administer the oaths and enforce all orders, rules and judgements made by such municipal judge, and may fine or imprison for contempt in the same manner and to the same extent as a judge of the district
- e) Persons bringing children to the Municipal Court shall keep such children within adult supervision and reasonably quiet to not disrupt the business and operations of the Municipal Court, the Municipal Judge, the Municipal Court staff and personnel. Children are not permitted in the courtroom unless specific permission is granted by the Municipal Judge.
- f) All personal or portable telephones, audible pagers, and other electronic devices brought into the courtroom shall be turned off while court is in session. Any audible electronic equipment creating noise in the courtroom which is not authorized by the Court is subject to confiscation, and the person who possessed such item may be subject to contempt of court or other appropriate sanctions by the Court.
- g) All persons attending court are expected to be dressed appropriately for the dignity and decorum of a court proceeding. Hats, hoods and scarfs shall be removed in the courtroom. Clothing displaying suggestive, vulgar or inappropriate messages is not appropriate attire for court proceedings. Persons dressed inappropriately may be required to exit the courtroom and may be subject to a contempt citation.
- h) Food and drink will not be brought into the courtroom except upon the express permission of the Municipal Judge.
- i) Spectators, litigants and attorneys shall not engage in any activity which interferes with court proceedings.

RULE 9: COURT APPEARANCES

- a) The Municipal Court may compel the appearance of an accused person at every court appearance. At the Court's discretion, the Court may permit appearance, pleas, and judgment, including sentencing, of a defendant through the appearance of his or her counsel in the absence of the accused as to any misdemeanor or traffic infraction which does not carry the possibility of incarceration.
- b) In all cases in which a defendant represents himself or herself, without the benefit of counsel, said defendant must appear before the Court in person, unless agreed to prior to arraignment by the defendant, city prosecutor, and the Municipal Judge.
- c) If a duly summoned defendant shall fail to appear before the Court at the time and place scheduled, or rescheduled, the Court may order a warrant for the defendant's arrest and order a previously ordered bond to be forfeited to the Court.
- d) Every defendant charged in Municipal Court and his or her counsel are required to keep the Clerk of the Municipal Court advised of any change of such defendant's current address within seven (7) days of such change of address. Failure of a defendant or such defendant's counsel to comply with this rule may be deemed sufficient grounds to revoke or modify the accused's conditions of release.
- e) The failure of a defendant to appear at any appearance as ordered by the Court may be deemed by the Court to create a rebuttable presumption that the existing conditions of the defendant's bond, if any, are insufficient to secure his or her appearance for any future court date, and that the Court may modify the conditions of the defendant's bond before permitting the accused to be released again prior to trial or sentencing.

RULE 10: GENERAL PRACTICE AND PROCEDURE

- a) All pleadings, briefs and other papers prepared by attorneys or pro se defendant for filing in the Court shall, unless the Municipal Judge permits otherwise, be typed with black ink on one side only of standard size (8.5 x 11 inch) sheets and shall include the name, address and telephone number of the attorney (or of the defendant, if pro se) filing them. The Municipal Court case number must be included with the caption upon each pleading to be filed.
- b) In the absence of a specific directive by the Court, the original of a pleading, brief or memorandum shall be filed with the Clerk of the Municipal Court. Copies of motions, briefs, memoranda, or other pleadings shall be forwarded to other counsel of record. This rule does not supersede the requirement of any specific statute or ordinance as to the filing of documents.
- c) The records of the Municipal Court Clerk's office are subject to the Kansas Open Records Act. Copies of such records may be provided, subject to the provisions of said Act, at a reasonable reproduction cost to be set by the Court. The Court may also set a fee for certification of copies of the records of the Municipal Court Clerk. Non-court personnel or other persons not employed by the Court who request access to, or copies of, records of the Municipal Court Clerk may be required to wait a reasonable time for such access or copies, in accordance with the Kansas Open Records Act, if applicable, or subject to the duties and responsibilities of the Court staff.
- d) No Court file or record of the Court shall be permitted to be outside of the physical possession and control of the Municipal Court clerk or the Municipal Judge except to counsel of record in the case or other officer of the Court, subject to being returned immediately upon request. No Court file or record shall be taken outside the Municipal Court building or probation office except by order of the Municipal Judge and with the prior knowledge of the Court Clerk.
- e) In all contested matters submitted to the Municipal Judge, including pre-trial motions, the Judge may state the controlling facts and the legal principles controlling the decision. If evidence was admitted over proper objections, and the Municipal Judge does not specifically state in the decision that such evidence was not considered, then it shall be presumed in all subsequent proceedings that the evidence was considered by the judge.
- f) Except as otherwise directed by the Municipal Judge, the notations and memoranda entered upon a disposition sheet, in the notation area of a Court case file, reentered into the Court's electronic case file records shall serve as a journal entry of judgment and sentencing, unless a formal written journal entry is filed in the case file. If the Municipal Judge directs counsel to prepare a formal written journal entry, said journal entry shall be prepared and within ten (10) days served on all other counsel of record in said matter. Within ten (10) days of said service, counsel receiving said journal entry shall either approve and return the journal entry for submission to the Court, or shall serve upon counsel, in writing, any objections to the proposed journal entry. At the expiration of the time for submitting objections, counsel preparing the journal entry shall submit the journal entry along with any written objections, to the Municipal Judge for approval. Any disputes over the content or form of the journal entry that cannot be resolved by agreement will be resolved by the Municipal Judge after a hearing. Any other orders or other documents

containing rulings of the Municipal Judge shall be prepared in accordance with the directions of the Municipal Judge.

- g) No photographic, audio, or electronic recording shall be allowed in the Municipal Court except upon prior permission by the Municipal Judge pursuant to the guidelines consistent with Kansas Supreme Court Rules, Code of Judicial Conduct.
- h) No general index kept pursuant to statute or ordinance shall be destroyed.
- i) Facsimile filing through the transmission of a document to the Court shall be permitted.
- j) On motion with good cause shown, the Court may allow house arrest with work release in lieu of incarceration. All documentation and information pertaining to the house arrest from the monitoring agency must be provided to the court.

RULE 11: DIVERSION PROGRAM

- a) Eligibility for and acceptance to the diversion program is at the sole discretion of the city prosecutor, pursuant to K.S.A. 12-4412 et seq.
- b) It is the duty of any defendant who applies for or who is granted diversion to keep the Municipal Court and the city prosecutor's office advised of his or her current address, employment and telephone numbers. By applying for diversion, the defendant agrees to accept service by mail at such defendant's last known address or any hearings or other court proceedings in such case, including any motion by the prosecution to terminate the diversion previously granted.
- c) The failure of a defendant to appear for hearing on a motion to terminate a diversion agreement upon notification by U. S. first class mail to his or her last known address shall be deemed sufficient grounds for the issuance of a bench warrant for the defendant's arrest.

RULE 12: DISCOVERY

- a) Pursuant to K.S.A. 12-4410, a defendant shall be permitted to inspect all materials relevant to the case. If a defendant is represented by counsel, such materials will be made available to counsel. If a defendant is representing himself or herself, such materials will be made available to the defendant upon request. Requests are to be made to the Louisburg Police Department.
- b) According to the policy of the Louisburg Police Department, a reasonable fee may be assessed for copying or other reproduction of discovery materials. Expenses for defendants represented by counsel appointed by the Court are controlled by the contract between the City of Louisburg and counsel.
- c) If either party refuses to approve a written request for discovery, the requesting party shall file a motion and bring the matter before the Court for ruling pursuant to these Rules regarding filing of motions with the Court.

RULE 13: MOTIONS

- a) The Kansas Code of Criminal Procedure shall govern, insofar as may be applicable, the procedure for filing, service and hearing of motions, except as otherwise provided for by these Rules. The provisions of K.S.A. 60-206 shall govern when determining whether motions were filed in a timely manner, except as otherwise specified in these Rules.
- b) Any motion requiring a hearing and the opportunity to present evidence by either or both parties must be scheduled on a trial docket. Said hearing date and time must be approved by the Municipal Judge. Counsel seeking a time for a hearing on a motion may file the motion and prepare a notice of hearing, placing the matter on a regular scheduling docket. Notice shall be given to opposing counsel. At the scheduling docket, the Court will not hear evidence or rule on the merits of the motion but will find a trial docket setting agreeable to all parties for the Court to consider evidence on the motion. In lieu of setting the matter for hearing on a scheduling docket, counsel may contact the Municipal Judge and find an agreeable trial docket setting to allow the parties to present evidence on the motion. Counsel shall then give proper notice to opposing counsel of the date and time set for the Court to hear the motion.
- c) Motions to suppress evidence and/or motions to suppress a confession or admission must be made in writing, filed and served on opposing counsel or parties no less than five (5) days before the scheduled trial on the case, unless evidence subject to suppression arises in the course of trial as a matter of legitimate surprise during such trial.
- d) Any motion that does not require an opportunity to present evidence by either or both parties may be scheduled on a regular scheduling docket according to the Court's current docket schedule. Counsel or the party, if pro se, filing such motion shall provide written notice of the hearing to all other counsel or the party, if pro se, five (5) days prior to the hearing, or as soon as may be practicable under the circumstances.
- e) After prior notice to opposing counsel or parties, if pro se, pre-trial motions and matters requiring a ruling prior to a trial on the merits (motion to endorse witnesses, motion to amend a complaint, etc.) may be oral and informal and heard on the day of trial in the discretion of the Municipal Judge.
- f) A motion made in writing which seeks a ruling on some part of the merits of the action may be accompanied by a short memorandum setting forth 1) any reasons for the motion not fully stated in the motion itself, and 2) the citation of any authorities which it is necessary for the Municipal Judge to consider in ruling upon the motion. An adverse party may serve and file a similar memorandum in opposition to the motion. If the matter has not already been scheduled for a hearing, the Municipal Judge may set the matter for hearing or rule upon the motion forthwith and provide the parties with written notice of the ruling on the motion.
- g) Whenever practicable, the Municipal Judge shall rule on a motion upon which evidence has been presented at the time of the hearing. If the matter is taken under advisement, the Municipal Judge shall issue a ruling within thirty (30) days of when the matter was finally submitted for consideration.

RULE 14: DOCKET CALL, ARRAIGNMENT AND TRIAL PRACTICE

- a) The procedures for the call of dockets and the schedule of dockets shall be established by the Municipal Judge.
- b) At the time of arraignment, a defendant, either pro se or with counsel, may request the matter be scheduled for trial, or may request the matter be scheduled for a pre-trial hearing. If a defendant appears pro se at the time of arraignment, he or she may request a reasonable period of time to make arrangements for counsel. If discovery has not been completed prior to arraignment, counsel or the pro-se defendant may request a reasonable period of time to complete discovery before requesting either a pre-trial or trial setting.

If counsel enters an appearance in writing, the matter may be continued for arraignment one time for no more than thirty (30) days. If counsel enters an appearance in writing and requests a continuance from the original arraignment date, counsel must either submit a Motion to Continue and Order to Continue or an Order for Hearing. If proper paperwork rescheduling the hearing date is not received and filed with the Court prior to the start of the scheduled arraignment, the case is subject to being processed for the defendant's failure to appear for a hearing. This includes processing for failure to comply with a traffic citation pursuant to Kansas statutes, or other applicable procedures. Cases will not be held from processing to allow time for the filing of a Motion to Continue and Order to Continue.

- c) A defendant may request a case be scheduled for a pre-trial hearing. Cases will be scheduled for a pre-trial hearing on a pre-trial docket. At the time scheduled for a pre-trial hearing, the defendant must appear in person unless for good cause shown the defendant's personal appearance is excused by the Municipal Judge, or unless the defendant appears by counsel and counsel has authority of the defendant to enter a plea on behalf of the defendant. Failure of the defendant to appear in person without prior approval of the Municipal Judge or without authority of counsel to enter a plea will result in the issuance of a bench warrant for the defendant. The purpose of the pre-trial hearing is to give the parties the opportunity to explore plea negotiations. If the parties do not reach an agreement at the time of the pre-trial hearing, the matter will be scheduled for trial on a future date, to allow witnesses to be subpoenaed and to allow the parties to prepare for trial.
- d) Counsel or a defendant should not request a matter be scheduled on a trial docket unless all discovery is completed. After discovery is completed, counsel or a pro-se defendant may either request the matter be scheduled for a pre-trial hearing or may request the matter be scheduled for trial. Once a matter is scheduled for trial, the Court will not continue the matter to have it scheduled on a pre-trial docket.
- e) Cases will be scheduled for trial on a trial docket, unless for good cause shown a special trial setting is required. All defendants and their attorneys, if any, will be present at the time of the trial docket, along with any witnesses and physical evidence necessary to proceed with the trial. Cases on the trial docket will be called in an order to be determined at the discretion of the Municipal Judge.

- f) Counsel and defendants will not be allowed time during a trial docket to discuss possible plea negotiations. If the parties are interested in plea negotiations, such matters must be discussed prior to the trial docket commencing.
- g) Additional protocols governing pleas of guilty or nolo contendere and time limitations for same will be governed by K.S.A. 22-3210:
 - (1) Before or during trial a plea of guilty or nolo contendere may be accepted when:
 - (A) The defendant or counsel for the defendant enters such plea in open court;
 - and
 - (B) the court is satisfied that there is a factual basis for the plea.
 - (2) In traffic infraction, cigarette or tobacco infraction and misdemeanor cases the court may allow the defendant to appear and plead by counsel.
 - (3) (A) A plea of guilty or nolo contendere, for good cause shown and within the discretion of the court, may be withdrawn at any time before sentence is adjudged.
 - (B) To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.
 - (4) Any action under subsection (3)(A) must be brought within one year of the final order in the case.
 - (5) The time limitation herein may be extended by the court only upon an additional, affirmative showing of excusable neglect by the defendant.
- h) Any requests for subpoenas should be submitted to the Clerk of the Municipal Court no less than seven (7) days prior to the date a case is set for trial. The return of service included with the subpoena shall be a form in substantial compliance with the form included with this rule. Parties submitting a subpoena request less than seven (7) days prior to a trial date should not expect a motion to continue to be granted on the basis that a witness is not available for the trial. All subpoenas will include on the subpoena a notation of the date the subpoena is to be served by. The last date of possible service of a subpoena shall be no later than the day prior to the date of the trial.

RETURN OF SERVICE BY MAIL

I hereby certify that I have mailed a copy of this subpoena to the address given above through the United States Mail, first class, postage prepaid this _____ day of _____, _____.

CLERK OF THE MUNICIPAL COURT

RETURN OF SERVICE BY FAX

I hereby certify that I have faxed a copy of this subpoena to the fax number _____, this ____ day of _____, _____.

CLERK OF THE MUNICIPAL COURT

RETURN OF PERSONAL SERVICE

This subpoena was served on the above listed person by:

_____ Personal Service _____ Non-Service

_____ Leaving at residence located at:

This _____ day of _____, _____ at _____ a.m./p.m.

PROCESS SERVER

RULE 15: CONTINUANCES

- a) Consistent with the mission of the Louisburg Municipal Court and the requirements of Kansas law, a defendant requesting a trial should have his or her case proceed to trial on the earliest practical date set, unless continued for good cause shown. The party requesting any continuance shall set forth the grounds for the continuance.
- b) Requests for continuance of a trial date should be made in writing no less than five (5) days prior to the date set for trial. Notice shall be given to opposing counsel, if any, or to the defendant if the defendant is not represented by counsel and the City is requesting the continuance.
- c) No party should expect a continuance to be granted simply on the basis that the party has not previously requested a continuance. Once a defendant has requested the matter be placed on a trial docket all parties should be ready to proceed to trial on the date set unless exceptional circumstances prevent the case from proceeding.
- d) Except for continuance of an arraignment as provided for in Rule 14, all requests for continuance of any hearing must be approved by the Court prior to the scheduled hearing time. Dates for a continuance of a pre-trial hearing or a trial cannot be secured by any means other than contact with the Court.
- e) A request for continuance made less than five (5) days prior to trial is not favored by the Court. The party requesting a continuance less than five (5) days prior to trial shall be prepared to set forth the exceptional circumstances that necessitate the request without proper notice as required herein. Examples of grounds that do not constitute exceptional circumstances include but are not limited to:

- 1. Lack of notice by counsel to a defendant or material witness that the matter was scheduled for trial.
- 2. The decision to file a pre-trial motion such as a motion to suppress evidence.
- 3. Failure of the defendant to request discovery materials.

If a witness has been personally served with a subpoena and fails to appear, a continuance may be granted to allow a show cause proceeding to be instituted.

- f) A request for continuance that has not been approved by the Court with the filing of proper paperwork prior to the start of the scheduled hearing is subject to the case being processed for the defendant's failure to appear for a hearing. This includes processing for failure to comply with a traffic citation pursuant to Kansas statutes, or other applicable procedures. Cases will not be held from processing to allow time for the filing of a Motion to Continue and Order to Continue.
- g) Any request for second extension of time or continuance shall be made by motion in writing with good cause shown. Parties must seek concurrence from the opposing party. Stipulated or Consent Motions for extension of time or continuance submitted in writing to the court at least 5 days before the scheduled appearance may be granted at the discretion of the Municipal Judge without a hearing with good cause shown.

RULE 16: DISMISSALS

- a) Prior to trial, the dismissal of a complaint or notice to appear shall be at the sole discretion of the prosecutor unless the Judge finds:
 - 1. that the complaint fails to allege a criminal offense; or
 - 2. that the dismissal is otherwise permitted by ordinance, statute, common law, or constitution or as a sanction for pre-trial delay or serious misconduct attributable to the prosecution prejudicing the defendant's right to a fair and/or speedy trial; or
 - 3. that such dismissal is the result of the prosecutor's failure to inability to proceed on the scheduled day of trial, and in the discretion of the Court, such failure or inability to proceed is not excusable.
- b) Dismissals prior to the commencement of trial are generally deemed to be dismissals without prejudice, allowing leave to the prosecution to re-file the matter within the applicable time standards relating to the statute of limitations and speedy trial.
- c) The Judge will not dismiss a case with prejudice unless jeopardy has attached by the commencement of trial and where required by law or where the totality of the facts and circumstances giving rise to such dismissal make such a remedy or sanction appropriate under the law.

RULE 17: COSTS, FEES AND CONDITIONS OF RELEASE AFTER SENTENCE

- a) In any case resulting in a conviction the court shall assess costs against the defendant as set by the Municipal Judge.
- b) Such costs as imposed shall be collected by the Clerk of the Municipal Court.
- c) If the court orders suspension of a defendant's driver's license, then all fines and court costs assessed on the case must be paid in full before the court will provide said defendant and/or the State of Kansas with any license reinstatement or notification documentation.
- d) The Municipal Court Judge can order unpaid fines, costs and other reimbursements to be sent to collections. Collection Bureau of Kansas is contracted with the Municipal Court of Louisburg to handle collection accounts.
- e) Any defendant transported to the Louisburg Police Department or Miami County Jail will be responsible to pay the \$40 administrative fee. This will be deducted from the bond amount collected.
- f) If a defendant is unable to pay restitution, fines, costs, and/or other reimbursements assessed on a case at the time of sentencing, the defendant may be ordered to make payments according to a schedule established by the court. If a defendant owes restitution, fines, costs, and/or other reimbursements on more than one case, the defendant will be allowed to make one payment each month and be considered as meeting his/her payment obligation on all cases. Any payments made will be applied to the oldest case first until that obligation is paid in full, at which time payments will be applied to the next oldest case.
- g) If the defendant is unable to pay fines /costs or other fees on motion and demonstration of indigency, the court may suspend waive or otherwise modify these amounts. A defendant that cannot pay fines and is seeking an adjusted amount, may fill out an Indigency affidavit form. The Judge will determine based off information provided, if the fine amounts need to be modified.
- h) The Municipal Judge may without notice modify these rules including fines, fees and bonds without notice.

RULE 18: POST JUDGEMENT PROCEDURES

Relief from judgment or order will be governed by K.S.A. 60-260:

(a) *Corrections based on clerical mistakes, oversights and omissions.* The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order or other part of the record. The court may do so on motion, or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) *Grounds for relief from a final judgment, order or proceeding.* On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise or excusable neglect.

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under subsection (b) of K.S.A. [60-259](#), and amendments thereto;

(3) fraud, whether previously called intrinsic or extrinsic, misrepresentation or misconduct by an opposing party.

(4) the judgment is void.

(5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

(6) any other reason that justifies relief.

(c) *Timing and effect of the motion.*

(1) *Timing.* A motion under subsection (b) must be made within a reasonable time, and for reasons under paragraphs (b)(1), (2) and (3) no more than one year after the entry of the judgment or order, or the date of the proceeding.

(2) *Effect on finality.* The motion does not affect the judgment's finality or suspend its operation.

(d) *Other powers to grant relief.* This section does not limit a court's power to:

(1) Entertain an independent action to relieve a party from a judgment, order or proceeding; or

(2) set aside a judgment for fraud on the court.

Motions attacking sentence, hearing and judgment; time limitations for Prisoner in custody under sentence will be governed by K.S.A. 60-1507.

(a) *Motion attacking sentence.* A prisoner in custody under sentence of this court claiming the right to be released upon the ground that the sentence was imposed in violation of the constitution or laws of the United States, or the constitution or laws of the state of Kansas, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may, pursuant to the time limitations imposed by subsection (f), move the court which imposed the sentence to vacate, set aside or correct the sentence.

(b) *Hearing and judgment.* Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the city attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. The court may entertain and determine such motion without requiring the production of the prisoner at the hearing. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not

authorized by law or is otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence said prisoner or grant a new trial or correct the sentence as may appear appropriate.

(c) *Time limitations.*

(1) Any action under this section must be brought within one year of:

(A) The final order in this case.

(B) the denial of a petition for writ of certiorari to the United States supreme court or issuance of such court's final order following granting such petition; or

(C) the decision of the district court denying a prior motion under this section, the opinion of the last appellate court in this state to exercise jurisdiction on such prior motion or the denial of the petition for review on such prior motion, whichever is later.

(2) The time limitation herein may be extended by the court only to prevent a manifest injustice.

(A) For purposes of finding manifest injustice under this section, the court's inquiry shall be limited to determining why the prisoner failed to file the motion within the one-year time limitation or whether the prisoner makes a colorable claim of actual innocence. As used herein, the term actual innocence requires the prisoner to show it is more likely than not that no reasonable juror would have convicted the prisoner in light of new evidence.

(B) If the court makes a manifest-injustice finding, it must state the factual and legal basis for such finding in writing with service to the parties.

(3) If the court, upon its own inspection of the motions, files and records of the case, determines the time limitations under this section have been exceeded and that the dismissal of the motion would not equate with manifest injustice, the district court must dismiss the motion as untimely filed.

RULE 19: APPEALS

- a) At the time of sentencing, or at such later date as a defendant may request, the Judge will set an Appearance Bond for the appeal. The Bond will be set at an amount sufficient to secure the payment of any fines, court costs, probation fees, evaluation fees, or other costs related to the sentence imposed by the Court.
- b) A Notice of Appeal must be filed within 10 days after the entry of judgment, pursuant to K.S.A. 22-3609. A Notice of Appeal will not be filed by the Clerk of the Municipal Court. If the defendant is financially unable to post the bond, he/she can submit a poverty affidavit in lieu of posting the Appearance Bond in cash.

RULE 20: EXPUNGEMENT

- a. A petition for expungement must be accompanied by the filing fee as set by the Municipal Court Judge. Expungement of Municipal Court convictions and arrest records are controlled by K.S.A. 12-4516 and K.S.A. 12-4516a.
- b. Once properly filed, a petition for expungement will be placed on a scheduling docket. If either the petitioner or the city wishes to present oral argument or evidence on the petition, the matter will be scheduled on a trial docket for that purpose.