

City of Lawrence
Administrative Policy

SUBJECT Dismissal of Citations in Municipal Court By Prosecutors' Office and Court staff		APPLIES TO Prosecutors' Office, Municipal Court, Fire & Medical Department & Planning & Development Services Department	
EFFECTIVE DATE August 20, 2012	REVISED DATE None		
APPROVED BY City Manager	TOTAL PAGES 4	POLICY NUMBER	

The decision to dismiss charges and citations in Municipal Court lies in the sound discretion of the prosecuting attorney. No other city employee, with the exception of the Municipal Court Judge, possesses the legal authority to dismiss charges or tickets pending in Lawrence Municipal Court. This policy shall not be read or interpreted to interfere with the authority or autonomy of the Municipal Court Judge or sitting Pro-Tem Municipal Court Judge.

Charges and Authority for Dismissing Charges

A description of the type of charges that may be dismissed by the city prosecutor, or the Municipal Court Judge, and an explanation of the policy, rule, or statutory authority for such dismissals are set forth below.¹

No proof of motor vehicle liability insurance (STO Sec. 200): Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with the Kansas Automobile Injury Reparations Act of 1979, K.S.A. 40-3101 *et seq.*, and amendments thereto. Under that Act, any person operating a motor vehicle upon property open to public use shall provide proof of motor vehicle liability insurance upon demand by a law enforcement officer.

When an individual is charged with not having proof of liability insurance, the individual has 10 days from the date the citation is issued to show proof of motor vehicle liability insurance to the Municipal Court Clerk, covering the date of offense. If the insurance is verified by the insurance company as valid, the charge will be dismissed by the Court.

No driver's license in possession (STO Sec. 193): Every licensee shall have his or her driver's license in his or her immediate possession at all times when operating a motor vehicle, and shall display the same upon demand by any law enforcement officer.

¹ *References to the Standard Traffic Ordinance for Kansas Cities (hereinafter "STO") is the comprehensive traffic code published by the League of Kansas Municipalities. The City of Lawrence annually adopts the STO, with local amendments, as appropriate, to address changes in the Kansas traffic code.*

The Municipal Court Judge shall dismiss a citation issued to any person charged with a violation of Section 193 of the STO if the person charged produces to the Municipal Court Judge a driver's license which was issued to the person and valid at the time the citation was issued.

Expired Vehicle Registration Tag (STO Sec. 198): It shall be unlawful for any person to knowingly operate a motor vehicle upon any highway which does not have a current license plate attached thereto by the division of motor vehicles for the current registration year, including the registration decal required to be affixed to the license plate pursuant to K.S.A. 8-134.

If an individual shows proof of valid vehicle registration within 10 days of the date the vehicle registration expired, the charge will be dismissed as a matter of policy by the prosecuting attorney. Court costs will be assessed in those cases where costs are included with the citation.

By order of the Municipal Court Judge, a court clerk can dismiss a citation for parking with expired registration, with proof timely submitted to the court clerk that the vehicle had valid registration prior to the date the citation was issued.

Defective Lights, Brakes, Horns and Other Equipment (STO Art. 17 et. seq.): It is unlawful for any person to drive or move on any highway any vehicle which does not contain parts, lamps and equipment as required by this article in proper working condition. These parts include but are not limited to head lamps, electronic turn signals, tail lamps, reflectors, stop lamps, brakes, horn, muffler, left side mounted mirror, review mirror, unobstructed windshields, windshield wipers, and seat belts.

If an individual receives a citation for having defective equipment and repairs are made and approved by an officer from the Police Department within 72 hours of the violation date and the person cited provides proof of repair to the prosecutor's office prior to the individual's first scheduled appearance, the prosecutor may dismiss the charge.

Accessible Parking (STO Sec. 87): No person shall stop, stand or park any vehicle in a parking space, whether on public or private property, which is clearly marked as being reserved for use of persons with a disability unless such vehicle bears a special license plate or placard pursuant to K.S.A. 8-161 or K.S.A. 8-1, 125.

If an individual receives a citation for violating STO Sec. 87, upon proof the person had a special license plate or placard at the time the citation was issued in accordance with K.S.A. 8-161 or K.S.A. 8-1, 125, the charge may be dismissed by the prosecuting attorney. Any person who habitually fails to place the required placard on his or her vehicle may, or may not receive a dismissal of the citation.

Child Passenger Safety Restraints (STO Sec. 182):

Every driver who transports a child under the age of 14 years in a passenger car shall provide for the protection of such child by properly using an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications for the child's age, height, and weight.

If an individual receives a citation for not having or using the proper child passenger safety restraints, the fine will be waived if the individual provides proof that he or she has purchased or acquired a child passenger safety restraining system that conforms to the requirements of the law.

Overtime Parking: The prosecutor may dismiss the overtime parking violations of city employees, officials or vendors if the overtime parking violation(s) occurred while the employee, official, or vendor was performing the business of the City.

Cases referred to the District Attorney: Cases are filed with Municipal Court that upon review should be handled by the Douglas County District Attorney's Office. The prosecutor may dismiss the municipal court charge(s) and refer the matter to the District Attorney's Office.

Insufficient evidence: If there is insufficient evidence to obtain a conviction, as determined by the prosecuting attorney, the case may be dismissed by the prosecuting attorney.

Plea agreements: Cases and/or charges may be dismissed in exchange for a defendant's guilty plea to other cases and/or charges as deemed appropriate by the prosecuting attorney.

The prosecutors may dismiss charges based upon facts and circumstances that, in the prosecutor's determination, are in the interest of justice and consistent with the Kansas Rules of Professional Conduct.

The prosecutor or the Judge will determine whether court costs will be assessed.

PROCEDURE

Once a citation is filed with Municipal Court, it may only be dismissed by the prosecuting attorney. Any city employee, other than a Lawrence Police Department officer², recommending dismissal of a citation shall:

1. Complete the Citation Dismissal Form and submit it to the employee's direct supervisor for approval. The form is attached hereto as Exhibit A.
2. If the supervisor approves and signs the Citation Dismissal form, the employee shall provide the form and the citation if it is available, to the prosecuting attorney to request dismissal;
3. The prosecuting attorney may dismiss the citation if it complies with this policy.
4. The City Prosecutor's Office shall retain the Citation Dismissal Form and the citation, if it is available, for a period of not less than seven (7) years. The Citation Dismissal Forms and citations shall be public records subject to the Kansas Open Records Act of 1989, K.S.A. 45-215 *et seq.*, and amendments thereto.

² Lawrence Police Department Officers seeking to void or dismiss citations shall adhere to Lawrence Police Department Administrative Policy Number _____.