

## **Court Procedures and General Information**

### **General Information**

Why are you to appear in Municipal Court? A police officer may have issued you a ticket or citation ordering you to appear in Municipal Court if s/he has evidence that you violated an ordinance.

Sometimes, a police officer will arrest you and take you into custody if s/he has a warrant signed by the municipal judge ordering your arrest. You may also be arrested and taken into custody for violations of certain serious traffic offenses or other criminal offenses such as assault or shoplifting

For minor traffic violations, such as speeding or parking tickets, it is possible for you to pay a standard fine and avoid ever appearing in court. You may pay the standard fine, which will be noted on the citation, either by mail or you may appear at a violations bureau (usually located at the office of the municipal court). If you choose to pay the standard fine, you must do so within the time specified on the citation or another charge for failure to pay the fine will be filed against you. You may also have your driver's license suspended by the State for failure to pay the fine. By choosing to pay the standard fine you are admitting that you are guilty of the offense charged, and a conviction for that offense will appear on your driving record.

If you believe you are not guilty, or when more serious violations or charges are involved, or if you believe you are guilty, but wish to explain certain circumstances to the judge, you will have to appear in Municipal Court. The Municipal Court will provide you with a fair and impartial hearing when you are charged with violating the Ordinances of the city and you choose to go to court.

The Municipal Judge is elected by the people of the municipality. It is the judge's job to give you a fair hearing and to determine if you have broken any laws of the municipality. The judge does not serve as the prosecutor. S/he decides, after hearing all the evidence (both sides of the story), if you are guilty or not guilty, and what your punishment should be.

The judge is paid a salary by the municipality and does not earn any more money if s/he finds you guilty instead of not guilty. The Municipal Court is not connected with the municipal police department. All money collected from fines is turned over to the general fund of the municipality and none of the money from fines goes to the police or to the municipal judge. Because the judge and court are paid a salary and because their office space is furnished by the municipality, you will not be required to pay any court costs in Municipal Court. You may, however, be required to pay certain fees associated with your punishment, if you are convicted.

If you plead guilty or are found guilty after a trial, your fine may be as much as \$500 or you could be sentenced to jail for as many as 90 days, or both. For a conviction of DWI for the second time or more, you must have a DWI screening done before sentencing can take place and you could be fined up to \$999 and put in jail for up to 179 days.

### **Plea and Trial**

Your first contact with the Municipal Judge will be at your arraignment. At this time the judge will read the charge(s) against you. Make sure that you understand exactly what

you are charged with doing wrong. Do not hesitate to ask questions if you do not understand. After you understand the charge(s), you will be asked to enter your plea.

If you believe that you are not guilty, or that you did the right thing under the circumstances, you should plead not guilty. If you believe that the municipality cannot prove the charge(s) against you, you may enter a plea of not guilty. If you are ultimately found guilty, you will not be given a heavier penalty just because you pleaded not guilty. You may also plead not guilty to some of the charges and guilty to others.

If you plead not guilty, a trial date will be set and the judge will set conditions of release (bail), if necessary. You will also be told that you have a right to be represented by an attorney, and, if you cannot afford one, the court may, under certain circumstances, appoint one for you.

If you agree that you have violated the law as charged, and that you were not justified in doing so, you should enter a plea of guilty. If you plead guilty, the judge will ask you some questions to make sure that your plea is voluntary and that you understand the charge(s) and consequences of your plea. If the judge accepts the plea of guilty, there will be no trial, and you will either be sentenced immediately or sent for a pre-sentence evaluation and be told to report back to the court on a specific date for sentencing. If you are to be sentenced immediately, the judge will decide upon a punishment which matches the seriousness of your violation(s), taking into account whether you have a past record of violations. **IF YOU PLEAD GUILTY, YOU WILL NOT BE ABLE TO APPEAL.**

If you plead not guilty to some or all of the charges, you will have a trial on those charges for which you plead not guilty. You do not have the right to a jury trial in Municipal Court, but you do have every other right that you would have in any other court.

You may ask for a continuance of your trial date. This means that you may ask that the trial be postponed until a later date. For example, you might ask for a continuance to give you a chance to find an attorney, to give you a better chance to prepare your case, or to find witnesses to support your story. Do not, however, ask for continuances just to delay your case for no good reason. The judge always has the option of refusing to grant a continuance.

You may be represented by an attorney or you may represent yourself.

You do not have to testify (tell your side of the story) unless you wish to do so. If you do testify, then you may be required to answer questions from the prosecuting attorney or judge. You or your attorney has the right to ask questions of an officer or any witness who testifies against you. If you are not represented by an attorney, the judge may require that you direct the question to him or her, and then s/he will ask the questions of the witnesses

A trial in Municipal Court looks just like a trial in any other court. The proceeding will follow a particular order, and certain requirements must be met.

Prior to testifying, all witnesses must swear to tell the truth. The municipality will have witnesses to testify against you, and you may have witnesses to testify for you. You or

the municipality may ask that all witnesses except the person testifying be excluded from the courtroom until they are called to testify. Witnesses who have already testified, and who will not be called again, may stay in the courtroom.

The municipality will present its case against you first. The municipality's witnesses will testify as to what you are supposed to have done wrong. You or your attorney may ask questions (cross-examine) of these witnesses.

After all the municipality's witnesses have testified, you may tell your side of the story if you choose to, and you may have your witnesses testify in your behalf. The municipality may then cross-examine you and your witnesses.

After all witnesses have finished, both sides may make a closing argument, if desired. The purpose of a closing argument is to sum up the testimony of all witnesses and to point out differences. It is very rare when a closing argument is needed in a Municipal Court case because the judge can usually follow all of the testimony.

After all the testimony and closing arguments are finished, the Municipal Judge makes his or her decision whether s/he thinks you are guilty or not guilty of the charge(s) against you.

If you are found not guilty, the case is over. You will not be fined or sent to jail.

If you are found guilty, the judge will either sentence you immediately or you will be sent for a pre-sentence evaluation and told to report back on a specific date for sentencing.

### **Appeal**

After the judge sentences you, you may accept the decision and pay your fine or begin serving your jail sentence. If you accept the decision, then you are in fact admitting your guilt at the end of the trial, even though you pleaded not guilty at the beginning of the trial. If you are found guilty, or if you plead guilty, the decision will be placed on your record and may prove harmful to you in the future.

If you still believe that you are not guilty of the charge(s) against you, then you have the right to appeal your case to the District Court where you will have a new trial with a new judge. There will be some expense in appealing your case to the District Court, but it may appear cheaper and better for you than accepting the decision of the Municipal Judge if you still believe that you are not guilty. You must take certain steps to ensure that you do not lose your right to appeal. Within fifteen (15) days of the Municipal Court sentencing, you must file a notice of appeal with the District Court.

If you are going to appeal to District Court, you must notify Municipal Court so we can provide you with the necessary paperwork to file with District Court.