



## **Municipal Court Trial Procedures**

All trials in the Municipal Court are presided over by a fair and impartial Judge. The defendant's first appearance in Court is to enter a plea. If the defendant decides to waive the right to a jury trial and plead guilty or nolo contendere (no contest), the defendant may request a hearing with the judge to discuss extenuating circumstances to the judge. If the defendant pleads not guilty, the defendant will need to decide whether they want a trial by jury or a trial by judge. The defendant will NOT be allowed to speak with the judge. The judge must remain impartial because he will be hearing the defendant's case. Upon the plea of not guilty, the court will set a pre-trial hearing with the City Prosecutor. At this time, the City Prosecutor will advise the defendant of their rights. The prosecutor may offer the defendant a plea agreement. The defendant may accept this agreement or refuse the offer and proceed to trial. Any plea agreement is subject to approval of the Court. If the defendant refuses the plea bargain, a trial date will be given to the defendant at this time.

**The following are some of the rights and duties protected and enforced by the Court.**

- The right to inspect the complaint before trial and to have it read to the defendant at the trial;
- The right to hear all testimony introduced against the defendant;
- The right to cross-examine any witness that testifies against the defendant;
- The right to testify on the defendant's own behalf;
- The right not to testify. If the defendant chooses not to testify, the defendant's refusal cannot be held against the defendant; and
- The defendant may call witnesses to testify on their behalf and have the court issue a subpoena (a court order) to any relevant witness to ensure their appearance at the trial. The request for a subpoena must be made in writing two weeks before the scheduled trial date.
- If the defendant are convicted, the defendant may be subject to a jury cost fee, and officer's overtime.
- If the defendant decides on a trial by jury, the defendant has the right to participate in the jury selection. The defendant may question the prospective jurors about their qualifications to hear the defendant's case. Refer to section Juror Info. If the defendant think a juror will not be fair, impartial or unbiased, the defendant may ask the judge to excuse the juror. The judge will decide whether to grant the defendant's request. The defendant is also permitted to strike three (3) members of the jury panel for any non-discriminatory reason.

**Presenting the Case**

In criminal trials, the State will present its case first by calling witnesses to testify against the defendant.

After each prosecution witness has finished testifying, the defendant (or their attorney) may ask the witness questions about his/her testimony or any other facts relating to the case. The defendant cannot argue with the witness. The defendant's cross-examination of the witness must be in the form of questions only. The defendant may not tell the defendant's version of the incident at this time. The defendant will have an opportunity to do so later in the trial.

After the prosecution has presented its case, the defendant may present the defendant's defense. It is not required that a defendant present any defense at trial. The defendant has the

right to call any witness. The State has the right to cross-examine any witness that the defendant call with information relevant to the defendant's case.

Once all testimony is concluded, both sides can make a closing statement. This is the defendant's opportunity to tell the court or jury why the defendant think that the defendant are not guilty of the offense charged. The State has the right to present the first and last arguments. The closing argument can be based only on the testimony presented during the trial.

### Judgment/Verdict

If the case is tried by a judge, the decision is called a judgment. If a jury tries the case, the jury's decision is called a verdict. The judge or jury can only consider the testimony of witnesses and any evidence properly admitted during the trial.

If the defendant are found guilty by either judge or jury, the penalty will be announced at that time. If the defendant are convicted, the defendant must be prepared to pay the fine and court costs at this time. Refer to section entitled Payments.

### New Trial

If the defendant are found guilty, the defendant may make a written motion to the court for a new trial. The judge may grant a new trial, if the judge is persuaded that justice has not been done in the first trial. The time limit on filing a Motion for New Trial is 24 hours from conviction.

### Appeal

If the defendant is found guilty and is not satisfied with the judgment of the court, the defendant has the right to appeal the case. First, the defendant must file with the court a written motion to appeal within 10 days. An appeal bond will be required by the court.

### Rescheduling a Court Date (Continuance)

If the defendant needs to reschedule the trial, the defendant (or their attorney) must make the request in writing, and submit the request to the court within 48 hours prior to the trial. Requests made less than 48 hours of the defendant's Court date will not be granted absent special or emergency circumstances. The judge will make a decision whether or not to grant the request.

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