

Jurisdiction of the Municipal Court

By Randy Van Vleck, General Counsel for the New Mexico Municipal League

As a limited jurisdiction court, the municipal court can only do that which the Constitution and Legislature authorized it to do. Of all the limited jurisdiction courts, with the exception of the Probate Court, the Municipal Court is the most limited. Municipal courts have jurisdiction only over those criminal and traffic violations, for which the municipality has adopted an ordinance and which occur within the municipal boundaries. Additionally, those ordinances can only be for violations that would be characterized as a petty misdemeanor or punishable by not more than 90 days in jail and/or a \$500 fine. Municipal courts hear mostly traffic violations. Municipal courts may, in the discretion of the governing body, also have jurisdiction over first, second and third offense driving while intoxicated. (A fourth DWI is a felony under state law). Municipal courts may hear cases involving other offenses beyond traffic such as shoplifting, minor assaults and batteries, animal control cases and cases arising under the municipalities' zoning ordinances.

State law empowers municipal courts to hear cases involving campus traffic regulations if the campus, as part of a state educational institution and is located within the municipality. There must be a written agreement between the Board of Regents of the educational institution in the municipality before the municipal court has jurisdiction to hear such cases. Any fines collected for violations of campus traffic regulations must be credited to the institution, and not the municipality.

Municipal courts have no civil jurisdiction. They cannot hear cases involving torts and contracts or other civil damages. All cases brought in municipal court involve crimes or criminal offenses. There are no jury trials in municipal court. All cases are heard and decided by the municipal judge alone.

The penalties a municipal court may impose for violations of a city ordinance are limited by state law. Municipal courts may impose a fine of not more than \$500, or a term of imprisonment of not more than 90 days, or both, for each violation of a municipal ordinance. An exception exists for charges of driving while under the influence, in which case the court may impose a fine of not more than \$999 or imprisonment for 179 days or both. For continuing violations such as violations of a zoning ordinance, each day that the illegal condition exists can be considered a separate offense.

Municipal judges also have the authority to perform marriage ceremonies, but only within the municipal boundaries. A judge may not charge to perform a marriage ceremony, but may accept a gratuity or gift, if one is offered.

Municipal judges have the authority to issue subpoenas requiring a witness's appearance in court, or a subpoena *duces tecum*, which requires certain papers or documents be brought to the court. Municipal court warrants are only valid within the county in which the municipality is located, unless the offense arises from a charge of DWI, in which case the subpoena has statewide validity. A municipal judge may issue a bench warrant, which will

authorize the arrest of an individual, who fails to appear as required. Municipal judges may issue search warrants as well, if the property to be searched, and the item for which the property is to be searched, involve a violation of a municipal ordinance and was in the court's jurisdiction.

Finally, municipal courts have the power to punish individuals for contempt of court. Contempt of court is a willful failure or refusal to abide by lawful decision or order of the court. Contempt of court takes two forms: direct contempt offenses occur in the presence of the judge; and indirect contempt, which occur outside the court's presence. Both forms of contempt are punishable by a fine of not more than \$500 or 90 days in jail or both.

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