

## **A Citizen's Guide to Municipal Court**

To ensure a speedy and fair hearing, the New Mexico Legislature has provided for the establishment of a municipal court in each city, town, and village in New Mexico. Any municipality with a population greater than 1,500 must have a municipal court; communities smaller than that have an option whether to have a municipal court.

Currently, municipal courts exist in 81 municipalities in the State of New Mexico. Municipal courts hear only those cases involving a violation of municipal ordinances. Each municipality adopts its own ordinances, and the category of the crime relating to the penalty for violating an ordinance is generally referred to as a petty misdemeanor.

### **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 sees you violating an ordinance (law) or 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 shoplifting or assault. In other cases, a private individual may have accused you of violating a municipal ordinance and has filed a complaint in municipal court asking for your arrest.

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 given to you by the police officer, either by mail or by appearing at the municipal court. If you choose to pay the standard fine, you must do so within the time specified on the citation. Otherwise, another charge of failure to pay the fine will be filed against you. You may also have your driver's license suspended by the Motor Vehicle Division of the State for failure to pay a fine assessed against you by a municipal court. By choosing to pay the standard fine, you are admitting that you are guilty of the offense charged, and MVD will reflect the conviction for that offense 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 and wish to explain certain circumstances to the judge in the hopes the penalty will be reduced, you will have to appear in municipal court. When you are charged with violating the ordinances of the city, town, or village in which you are arrested and you choose to go to court, the municipal court will provide you with a fair and impartial hearing.

The people of the municipality elect the Municipal Judge. The judge's job is to give you a fair hearing 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 will be.

The judge is paid a salary as determined 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 to 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 the court staff are paid a salary and because the municipality furnishes their office space, 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 plead or are found guilty.

If you plead guilty or are found guilty after a trial, your fine for one offense may be as much as \$500.00, or you could be sentenced to jail for as many as 90 days, or both. For a conviction of Driving While Intoxicated for the third time, you could be fined up to \$999.00 (Nine Hundred and Ninety Nine Dollars) and put in jail for up to 179 days, or both.

The penalty is usually lighter for persons with good driving records. Those who have been convicted before can expect harsher punishment. Additionally, if you are convicted of a serious traffic violation, such as DWI, or if you have been convicted of a series of traffic violations within a specific period of time, the state authorities (Motor Vehicle Division) may take away your driver's license.

### **Plea and Trial**

Your first contact with the municipal judge may be at your arraignment. At this time the judge will read the charge(s) against you. Make sure 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. Or, 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 if the sentence upon pleading or being found guilty involves jail time. If you cannot afford an attorney, the court may, under certain circumstances, appoint one for you.

If you plead not guilty to some or all 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.
- An attorney may represent you 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, arresting police officer or judge. You or your attorney has the right to ask questions of an officer or any witness who testifies against you. If an attorney does not represent you, 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 proceedings 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 be allowed to 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 of (cross examine) these witnesses.
- After all of 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 on your behalf. The municipality may then cross-examine you and/or your witnesses.
- After all the 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 municipal court cases, 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.

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 the consequences of your plea. If the judge accepts the plea of guilty, no trial will take place 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 that 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.

### **Appeal**

After the judge sentences you, you may accept the decision and pay your fine or begin serving your jail sentence, or both. If you accept the decision, then you are in fact admitting your guilt at the end of the trial, even though you entered a plea of 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.

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. Some expense is involved in appealing your case to the District Court, but it may be cheaper and better for you than accepting the decision of the Municipal Court, 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's sentencing you, you must file a Notice of Appeal with the District Court in the county where the Municipal Court is located.
- You must pay a docket fee of Ten Dollars (\$10.00) to the District Court when you file the Notice of Appeal.

--You must deliver a copy of the Notice of Appeal to the Municipal Court where you were convicted.

Your case will be set for trial in the District Court. You must show up at the appointed time or your case will go back to the Municipal Court for enforcement of its sentence.

As in Municipal Court, in District Court you have the right to represent yourself. Most people, however, find that having an attorney in District Court is very helpful, because the proceedings are more formal and technical than in Municipal Court.

If you are unable to attend your trial in District Court due to illness or some other reason, you or your attorney must notify the District Court before your case is called so that a new trial date may be set.