

Guide to Municipal Court

What Types of Cases Are Heard in Municipal Court?

Cases heard in municipal court are divided into four general categories:

- Violations of motor vehicle and traffic laws
- Violations of disorderly and petty disorderly persons offenses (criminal matters which may result in fines or jail)
- Violations of Fish and Game laws, Parks and Forests, Weights and Measures, SPCA, and Boating Regulations
- Violations of municipal ordinances (local laws)

More serious offenses, known as indictable offenses, are sent to the County Prosecutor's office. The County Prosecutor decides whether to present the case to a Grand Jury or to return the case to the municipal court as a less serious offense (a downgrade).

Plea of Guilty by Payment Through Violations Bureau

A court appearance is always required in criminal matters. However, non-criminal matters such as traffic, boating, Fish and Game, and Parks and Forests violations can often be paid through the mail or at the court office. If you wish to plead guilty and give up your right to a hearing for such a violation, you may do so provided "court appearance required" has not been checked on the ticket and provided the charge is listed on the Statewide Violations Bureau Schedule. If the penalty does not appear on the back of the ticket, contact the court office to find out whether a court appearance is required.

To dispose of your case, complete the **APPEARANCE, PLEA AND WAIVER** section on the back of your ticket and bring or mail it, together with payment in the correct amount, to the Violations Bureau at the address found on the ticket. Payments received after the appearance date may be assessed additional penalties. Failure to pay a traffic ticket will result in a suspension of your driving privileges and the issuance of a warrant.

If you have posted bail, you may contact the court about a bail waiver. That means your bail could be applied to the fines, costs and contempt penalty you owe, eliminating the need to appear in court.

When Is a Court Appearance Required?

A court appearance is always required in criminal matters, (such as an assault, shoplifting, harassment, drug charge). In traffic or other matters, if "court appearance required" is checked on the ticket, you must appear in court at the time and place indicated, even if you wish to plead guilty. If "court appearance required" is not checked on the traffic ticket, you must still appear in court if:

- You wish to have a trial, or

- The charge is not listed on the Statewide Violations Schedule (it cannot be paid by mail or in the court office), or
- Personal injury is involved.

How Do I Enter a Plea of Not Guilty in a Traffic case?

If you intend to plead not guilty to the offense charged in the summons and you want to have a trial, you must notify the Court Administrator of your intention at least five (5) days before your scheduled court date. (Address and other instructions can be found on your summons.) If you fail to notify the court, it may be necessary for you to make two court appearances, because the prosecutor may not be prepared for trial. In cases where the summons could have been prepared for trial. In cases where the summons could have been paid by mail, the Judge has the discretion to impose a higher fine and court costs after a trial and in certain cases; he/she could suspend your driving privileges.

What Happens on your Day in Court?

It is very important that you arrive in court on the day and time stated on your ticket, summons, subpoena or court notice. Before the session starts, or once court begins, roll call is generally taken. If you arrive late, or if your name is not called, you should notify court personnel immediately.

If the defendant does not appear, the Judge will advise all witnesses when they may leave. Witnesses will be notified through the mail when they are to return. A warrant may be issued for the defendant who fails to appear, and his/her driving privileges may be suspended.

All municipal court proceedings are tape-recorded. Therefore, it is necessary for everyone in the courtroom to remain quiet until it is their turn to speak. The length of time you will be in court depends on many things. Some cases take longer than others. Please be patient so that the court may give each case the time and attention it deserves.

At the beginning of the court session, the Judge will give an opening statement, explaining court procedures, defendants' rights and penalties. As each is called, the Judge will individually advise each defendant of his/her rights. A case may be postponed to permit the defendant to hire a lawyer. If the defendant wishes to go ahead without a lawyer, the Judge will ask for his/her plea. If the defendant pleads guilty, the Judge will ask questions regarding the offense charged to make sure there is a basis for the guilty plea.

If the defendant pleads not guilty and all involved parties are present and prepared, the case will proceed to trial. Once the Judge has heard the testimony, he/she will decide if the defendant is guilty, not guilty, or if the case should be dismissed. If the defendant pleads guilty or is found guilty after a trial, the Judge will impose a sentence.

In What Order Are Cases Called?

The order in which cases are called is controlled by the New Jersey Court Rules. Cases are generally called in the following order:

- Request for postponements
- Arraignments (Advising defendants of rights/penalties)
- Guilty pleas
 - a. Where defendant **is** represented by an attorney
 - b. Where defendant **is not** represented by an attorney
- Not guilty pleas
 - a. Where defendant **is** represented by an attorney
 - b. Where defendant **is not** represented by an attorney

Who Are the People Involved?

The Complainant: The complainant is the person who signed the complaint (may be a private citizen or police officer). The complainant is a witness for the State and will generally be given an opportunity to speak with the Municipal Prosecutor about the case. Once a complaint has been filed, it cannot be withdrawn and it generally cannot be dismissed without the consent of the Prosecutor.

The Defendant: The defendant is the person formally accused of the violation. The defendant will be informed of the charges, possible penalties, and his/her right to an attorney. The defendant is presumed innocent until proven guilty beyond a reasonable doubt. The burden of proof is always on the State. The Prosecutor must prove that the defendant committed each part of the offense charged. The defendant has the right to testify or not testify.

The Victim: If there is a trial, the victim may be called as a witness. If the defendant pleads guilty, no trial is needed but the victim has the right to address the court before the Judge decides what sentence to impose.

The Prosecutor: The Prosecutor is the lawyer hired by the municipality to represent the State.

The Public Defender: The Public Defender is the lawyer hired by the municipality to represent those defendants who cannot afford their own attorney.

The Defense Attorney: The Defense Attorney is the lawyer the defendant hires to represent him/her.

Who Is Entitled to the Public Defender?

A defendant is only entitled to be represented by the public defender when:

- The charge presents a risk of the defendant going to jail, losing driving privileges, or receiving a substantial fine, and
- The court determines that the defendant is unable to afford an attorney

The defendant will be required to complete an application form that can be obtained from the court. The court may charge an application fee. The Judge will review the application and decide if the defendant qualifies for a public defender. The Judge may require the defendant to bring in proof of income or employment (tax returns, pay stubs), and may verify the information.

What Is a Plea Agreement?

The New Jersey Supreme Court allows plea agreements to be made within the Municipal Courts except in drunk driving and certain drug related cases. A plea agreement is an agreement between the defendant and the prosecutor about how the case will be resolved. In exchange for a guilty plea, the Prosecutor may amend the charge to one that is less serious or that may result in fewer points on one's license. Certain charges may be dismissed or a specific sentence may be recommended. Before trial, a defendant may speak with the Prosecutor to try to settle his/her case through this process.

How Do I (the Defendant) Present My Case at Trial?

You must have your witnesses present in court on the day of trial. If they will not come to court voluntarily, you may ask the court administrator to provide you with subpoenas to require them to appear in court. Written statements of witnesses are not allowed to be presented---the person must appear in court.

First, the Prosecutor calls each of the State's witnesses and asks them questions. You will have a chance to ask them questions too (to cross-examine them). After the prosecutor has called all of the State's witnesses, you have the opportunity to make a statement under oath (to testify) on your own behalf and to call any witnesses you may have. You have a constitutional right to remain silent---the decision about whether to testify is yours. If you do testify, the Prosecutor can ask you questions and may also ask questions of your witnesses.

What Are the Possible Penalties?

Fines:

The Judge must follow the law in deciding the amount of any fine imposed. Sometimes there are minimum penalties and mandatory assessments that must be imposed by law. Fines are generally expected to be paid at the time they are imposed.

The Judge may allow the fine to be paid installments if the Judge is satisfied that payments cannot be made in full. You may apply for partial payments by filling out a form. The Judge will then make a decision about your payment arrangements. You will sign a court order that will explain the terms of your payments. Failure to comply with this order can result in a warrant for your arrest and /or suspension of your driving privileges.

Jail:

The maximum jail term that can be imposed for offenses heard in the municipal court is six months. The sentence is served at the County Jail. The Judge may allow a defendant to serve the sentence on weekends. Work release is coordinated through the Jail's Work Release Administrator. Juveniles sentenced to Jail by the municipal court serve their sentence at the County's Juvenile Detention Facility.

License Suspension:

Many offenses require suspensions for a minimum period. You cannot drive for any reason until the period of suspension ends, you have paid your restoration fee, and have received written notification from the Division of Motor Vehicles that your driving privileges have been restored. If your license has been suspended for failure to appear, pay fines, or comply with a condition of your sentence, it generally will not be restored until your case is completed. Conditional or special work licenses are not allowed in New Jersey.

Intoxicated Driver Resource Center (IDRC)

If convicted of DWI or refusal to take a breathalyzer, the court must order attendance at the Intoxicated Driver Resource Center, where the defendant must satisfy the screening, evaluation, referral, program and fee requirements. Failure to comply with the IDRC guidelines will result in further court action.

Community Service:

By law, the Judge must order community service for certain traffic offenses and may order community service for a criminal conviction. The defendant must work for a municipality or non-profit organization for a certain period of time, without compensation. Failure to perform community service may result in the case being returned to court.

Other Related Penalties:

In addition to penalties imposed by the court for traffic violations, defendants may also receive points on their driving records, auto insurance surcharges, or may be required to pay restoration and administrative fees. Out of State motorists should check with their State's Motor Vehicle Agency regarding the impact of a New Jersey traffic violation on their driving privileges.

What Is Mediation?

The Judge, Court Administrator or a police officer may suggest that the parties try to settle their differences through mediation. This is a confidential process, which allows the parties to meet with a mediator who will aid them in resolving their dispute. You may request mediation before your court date and the court will decide if your case is eligible. Neighborhood disputes are often resolved best through mediation. You may request mediation instead of filing a formal complaint.

What Is a Conditional Discharge?

This procedure allows defendants charged with certain drug offenses to be placed on probation for a period of time determined by the court. The Judge may require the defendant to get drug counseling, have random drug tests, to attend narcotics anonymous meetings, or may place other conditions on probation (this is called supervisory treatment). To be eligible, a defendant must have:

- Never been convicted of a drug offense in any State or Federal Court, and
- Never been granted a conditional discharge before, and
- Never received Pre-Trial Intervention or Pre-Trial Diversion in any State or Federal Court.

The Judge ultimately determines who is eligible for a conditional discharge. If granted a conditional discharge, the defendant must pay mandatory assessments and the Judge may suspend his/her driving privileges. If during the period of supervisory treatment no additional offenses have been committed, and there is compliance with all conditions (including satisfying all financial obligations), the defendant will be scheduled for a court hearing at which time the charges will be dismissed. If new offenses have been committed during this period, the defendant may be tried on the original charge(s) and the new offenses.

To Whom Is Bail Returned?

Bail is money required to be deposited with the court to release the defendant and assure the defendant's future appearance in court. Bail can only be returned to the person who posted it. Bail will not be returned until the case is concluded. The bail receipt should be brought to the court to speed the return of bail. It may be possible to have the bail applied to any fines or assessments that may be imposed by the court if the holder of the bail agrees.

How Can I Appeal My Case?

If the defendant does not agree with the court's decision, he/she may appeal to the County Superior Court. The appeal does not involve a new trial. No new testimony or new witnesses may be considered. The County Superior Court reviews the transcript of the municipal court trial and the decision of the Municipal Court Judge, and will reverse the decision only if there has been a mistake made regarding the facts or the law. An appeal must be filed within twenty (20) days of the Municipal Court Judge's decision. A filing fee and transcript deposit is due at that time. Upon request, the Court Administrator will supply any defendant with all of the necessary forms to be filed with the court office to appeal the decision. The defendant may request that his/her penalty be stayed pending the appeal. The Municipal Court Judge will decide whether or not to do so.