

# Municipal Court Procedures (Adults)

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City: TAYLOR

Address: 109 W. FIFTH ST.  
TAYLOR, TX 76574

Telephone: 512-352-5977

## Purpose

This pamphlet is designed to provide information about court proceedings. It is not a substitute for legal advice from a licensed attorney. If you have questions about your best course of action, what plea you should enter, your rights, or the consequence of a conviction of the offense for which you are charged you should contact an attorney. Neither the clerk, judge nor prosecutor can give you legal advice.

## Your Rights

Under our American system of justice, all persons are presumed to be innocent until proven guilty. The State must prove you guilty of the offense with which you are charged "beyond a reasonable doubt". Every criminal defendant has the right to

remain silent and refuse to testify (without consequences). You have the right to retain an attorney and have them try your case or answer your questions. Since offenses in this court are punishable only by fine and not by incarceration, you do not have the right to appointed counsel.

You have the right to a jury trial. You may also waive a jury trial and have a trial before the judge, commonly called a bench trial. At trial you have many rights including:

- 1) The right to have notice of the complaint not later than the day before any proceedings;
- 2) The right to inspect the complaint before trial, and have it read to you at trial;
- 3) The right to hear all testimony introduced against you;
- 4) The right to cross-examine witnesses who testify against you;
- 5) The right to testify in your own behalf;
- 6) The right not to testify. Your refusal to do so may not be held against you in determining your innocence or guilty; and
- 7) You may call witnesses to testify in your behalf at the trial, and have the court issue a subpoena (a court order) to any witnesses to ensure their appearance at the trial.

## Appearance

In addition to your rights, you also have some legal responsibilities. The law requires you to make an appearance on your case. Your appearance date is noted on your citation, bond, summons, or release papers. You or your attorney may appear in person in open court, by mail, or you may deliver your plea in person to the court. *(Juveniles have a separate set of rules for their appearance. Please read the juveniles pamphlet).*

Your first appearance is to determine your plea. If you waive a jury trial and plead guilty or no contest you may present extenuating circumstances for the judge to consider when setting your fine. If you plead not guilty, the court will schedule a jury trial. You may waive a jury trial and be set for trial before the court. When you make your appearance by mail, the court must receive your plea before your scheduled appearance date. If you plead not guilty, the court will notify you of the date of your trial.

If you plead guilty or no contest, you waive your right to a jury trial. You may request the amount of fine and appeal bond in writing and mail or deliver it to the court before your appearance date. You then have up to 31 days from the time you received a certified notice from the court to pay the fine or file an appeal bond with the municipal court.

## Pleas

Unless your case is covered by the information on the back of this pamphlet, you must enter one of these three pleas:

Plea of Not Guilty – A plea of not guilty means that you deny guilt, and require the State to prove the charge. A plea of not guilty does not waive any of your rights. A plea of not guilty does not prevent a plea of guilty or no contest at a later time.

Plea of Guilty – By a plea of guilty, you admit that the act is prohibited by law and that you committed the act charged.

Plea of Nolo Contendere (no contest) – A plea of nolo contendere means that you do not contest the State's charge against you.

If you plead guilty or nolo contendere, you will be found guilty and should be prepared to pay the fine. A plea of guilty waives all of the trial rights discussed earlier. You should contact the court regarding how to make payments if you are unable to pay the entire fine and cost.

## Fines, Cost and Fees

The amount of fine the court assesses is determined by the facts and circumstances of the case. Mitigating circumstances may lower the fine and aggravating circumstances may increase the fine. The maximum fine amount allowed for most traffic violations is \$200; for most other violations of State law and city ordinances--\$500; for health and safety city ordinance violations--\$2,000. The court may set the fine between \$1 and the maximum.

Courts are required by State law to collect court costs and fees for the State of Texas. If you go to trial, you may have to also pay the costs of overtime paid to a peace officer spent testifying in the trial. If you request a jury trial, a \$3 jury fee is assessed. If you do not pay the whole fine and costs within 30 days of the court's judgment you must pay a \$25 time payment fee.

Court costs are assessed if you are found guilty at trial, if you plead guilty or nolo contendere, if your case is deferred for a driving safety course, or if your case is deferred and you are placed on probation. If you are found not guilty courts costs are not assessed.

## Judge's Ability to Dismiss

The municipal judge is responsible for conducting a fair, impartial and public trial. The case against you is brought by the State of Texas through the prosecutor, not the court. Therefore, the judge may not dismiss a case without the prosecutor having the right to try the case.

## Exceptions

There are several exceptions to this rule, they are contained later in this pamphlet and include Driver's Safety Courses, Deferred Disposition, Inspection, Registration, some Driver's License violations, and No Insurance violations.

## Trial Procedures

If you choose to have the case tried before a jury, you have the right to question jurors about their qualifications to hear your case. If you think that a juror will not be fair, impartial or unbiased, you may ask the judge to excuse the juror. You are also permitted to strike three members of the jury panel for any reason you chose, (except a strike based solely upon race or gender).

As in all criminal trials, the State will present its case first by calling witnesses to testify against you.

You then have the right to cross-examine. You may not, however, argue with the witness. Cross-examination must be in the form of questions.

After the prosecution, you may present your case. You have the right to call any witness who knows anything about the incident. The State has the right to cross-examine any witness that you call.

If you so desire, you may testify in your own behalf, but as a defendant, you may not be compelled to testify. It is your choice, and your silence cannot be used against you. If you do testify the State has the right to cross-examine you.

After all testimony is concluded, both sides can make a closing argument. This is your opportunity to tell the jury or court why you are not guilty of the offense. The State has the right to present the first and last arguments.

In determining the defendant's guilt or innocence, the judge or jury may consider only the testimony of witnesses and any evidence admitted during the trial.

You may elect the jury to assess the fine if you are convicted. If you do not file an election the judge will assess the fine. You should be prepared to pay the fine or post an appeal bond if you are convicted.

## Driver's Safety Courses

If you are charged with a traffic offense, you may be eligible to ask the judge to take a driving safety course to dismiss the charge. The request must be made before the appearance date on the citation. It must be made in person, by counsel, or by certified mail. *If you were operating a motorcycle, you must take a motorcycle operator's training course.* At the time of the request, you must do the following:

- 1) Plead guilty or no contest;
- 2) Pay court costs and a \$10 administrative fee, if required;
- 3) Present proof of financial responsibility (insurance);
- 4) Present a Texas Driver's License;
- 5) Have not requested and taken a driving safety course or motorcycle operator course for a traffic offense with the last 12 months;
- 6) Are not currently taking the course for another traffic violation;
- 7) Do not hold a Commercial Driver's License; and
- 8) Have not committed one of the following offenses:
  - Failure to Give Information at Accident Scene;
  - Leaving Scene of Accident;
  - Passing a School Bus;
  - A serious traffic violation, which applies to commercial motor vehicle operators;
  - An offense in a construction maintenance work zone when workers are present; or
  - Speeding 25 mph or more over limit.

The case will be deferred for 90 days.

During that time you must:

- 1) Complete a driving safety course that has been approved by the Texas Education Agency or a motorcycle operator's course approved by the Department of Public Safety.
- 2) Present a certified copy of your driving record from the Department of Public Safety that shows that you have not had a driving safety course within the preceding 12 months; and
- 3) Swear to an affidavit that you are not currently taking a driving safety course and that you have not taken one that is not shown on your driving record.

If you do not take the course in the time required and/or fail to present the court with any of the required documents, the court will notify you to return to court and explain why you failed. The judge may, but is not required to, allow you to file the proper papers at that time. Your failure to be present at that hearing will result in a conviction, a fine being assessed, and a warrant for your arrest being issued.

## Deferred Disposition

The judge may, in its sole discretion, defer disposition on most cases. Cost must be paid, and the court may impose a special expense not to exceed the fine amount. If you complete the required terms the case is dismissed at the end of a period not to exceed 180 days.

## Inspection

Expired vehicle inspection cases must be dismissed for the payment of a \$20 fee if the defect is remedied with 10 days of the citation, and it was expired less than 60 days. If it was expired more than 60 days the court **may** dismiss.

## Registration

The court **may** dismiss a expired registration charge if the defect is remedied with 10 days of citation, all late registration fees were paid to the county, and a \$20 fee is paid.

## Failure to Display DL, Expired DL

Failure to Display a Driver's License offenses must be dismissed without any fee if you present evidence of a DL, valid at the time of the offense, to the court. Expired DL cases **may** be dismissed if remedied within 10 days of citation and a \$10 fee is paid.

## Failure to Provide Financial Responsibility (No Insurance)

Failure to Provide Financial Responsibility (No Insurance) offenses must be dismissed without a fee if you present evidence of financial responsibility (insurance), valid at the time of the offenses, to the court, and the court verified the coverage.

## Appeal and New Trial

If you are found guilty, and are not satisfied with the judgment of the court, you have the right to appeal your case. **To appeal you must file an appeal bond amount at least twice the amount of the fine and costs.** Look at the section appearance for the special rules for appealing pleas made by mail. Defendants in courts of record should check with the court for rules regarding appeals.

If you are found guilty, you may make an oral or written motion to the court for a new trial. The motion must be made within one day after the court's rendering a judgment of guilty. The judge may grant a new trial if persuaded that justice has not been done in your case. Only one new trial may be granted.