

APPEAL FROM MUNICIPAL COURT OF RECORD

Rights and Procedures for Defendants

Right to Appeal

You have the right to appeal a conviction in municipal court. Before you can appeal, the municipal court must enter a final judgment of guilt against you and impose a penalty (fine and costs). To appeal from a municipal court of record you must have filed a motion in advance that the proceedings be recorded.

Motion for New Trial

Before you can appeal, you must file a written motion for new trial with the municipal clerk not later than the 10th day after the date on which judgment is rendered.

- The motion must set forth the points of error which you complain.
- If the municipal court consents, you may amend the motion at any time before the court takes action on the motion, but not later than the 20th day after the date on which the original motion is filed.
- You may, but are not required to, request a hearing on the motion for new trial.
- If the court grants the motion for new trial, you will again proceed to trial in the municipal court. Only one motion for new trial will be granted.
- If the court denies the motion for new trial you may appeal.
- If the court does not act on the motion for new trial before the expiration of the 30 days allowed the motion is overruled by operation of law—This means that your motion for a new trial is automatically overruled

Notice of Appeal

- You must give the court notice of appeal
- If you requested a hearing on the motion for new trial, you may give notice of appeal orally in open court when the court overrules your motion for new trial.
- If there was no hearing, you must give written notice of appeal that must be filed with the court no later than 10th day after the motion for new trial was overruled.

Appeal Bonds

The court must set the appeal bond at double the fine and costs assessed against you. The court must approve the appeal bond.

Types of Appeal bond:

- The court may not require a cash bond, but you may chose to file a cash bond. No personal checks accepted; must be either cashier check or money order and made payable to "*Pearland Municipal Court*".
- You may file a surety bond. The court has a duty to determine the sufficiency of your surety.
- If you have an attorney, the attorney may act as surety on your bond. The attorney must meet the requirements of a surety. The court has a duty to determine to determine the sufficiency of the bond filed by your attorney.
- If you are indigent you may request the court conduct an indigency hearing to determine your ability to make bond. The court has the authority to grant a personal appeal bond if you are determined indigent.

You must file the appeal bond with the court no later than the 10th day after the date on which the motion for new trial was overruled. You are required to pay to the court a \$25 record preparation fee in the form of money order or cashier check made payable to "*Pearland Municipal Court*". This fee will be refunded if your case is reversed on appeal. (Sec. 30.00014(f) G. C.)

You are required to pay the cost for an actual transcript of the proceedings. This fee varies depending on the length of your trial. You must pay for a statement of facts (the facts of the case presented at trial).

Not later than the 60th day after the date on which the notice of appeal was given you must file the following with the municipal clerk: the statement of facts, a written description of material to be included in the transcript in addition to the required material and any material to be included in the transcript that is not in the custody of the clerk.

Your will receive notice from the appellate court (usually the county court) that the record has been filed with the court.

You must file a brief with the appellate court that presents points of error in the manner required by law for a brief on appeal to the court of appeals

- You must file the brief with the appellate court clerk not later than the 15th day after the date on which the transcript and statement of facts are filed with the appellate clerk.
- You or your attorney must certify that the brief has been properly mailed to the city attorney of the city in which your case was tried (the city attorney must file a brief with the appellate court clerk not later than the 15th day after date on which you filed your brief).

The appellate court may base the appeal on the brief or require you to submit oral argument on behalf of your case.

The appellate court may:

- Affirm the judgment of the municipal court of record.
- Reverse and remand for a new trial.
- Reverse and dismiss the case.
- Reform and correct the judgment.

You will receive a copy of the decision by mail as soon as a decision is rendered.

If the appellate court dismisses the case, you will be released without liability. The \$25 transcript preparation fee will be refunded.

If the municipal court judgment is affirmed, the municipal court of record may:
Forfeit your appeal bond, demand payment of the fine or issue a capias pro fine warrant.

If the appellate court awards you a new trial, the case stands as if the municipal court granted you a new trial and the municipal court will conduct another trial.

If the fine assessed against you is more than \$100 and the judgment is affirmed by the appellate court, you have the right to appeal your case to a Texas Court of Appeals in the judicial district in which your county is located.