

TRIAL TIPS

Do I need an attorney?

If you decide to take your case to trial, an attorney will not be provided for you by the court. You may, of course, choose to hire an attorney or represent yourself. If you choose to represent yourself, please read the following information carefully.

What happens at a trial?

This is a formal hearing where the Village Attorney and the Defendant have the opportunity to present their evidence before the Municipal Judge. The Village has the burden of proving its case by clear, satisfactory and convincing evidence. The Village presents its case first. This usually involves calling the officer and other witnesses and introducing documentary evidence. Once each witness for the Village has testified, the Defendant has a right to cross-examine that witness. After the Village has introduced all of the evidence that it wishes to present, the Defendant then has the opportunity to testify on his or her own behalf, call witnesses and introduce documentary evidence. The Village Attorney is entitled to cross-examine the Defendant and any witness called by the Defendant. After all the evidence has been heard by the Judge, each side is given an opportunity to make a closing argument. The Judge then applies the admissible evidence to the specific state statute or Village ordinance that the Defendant is charged with violating, and determines whether he or she is guilty or not guilty.

What should I do to prepare for a trial?

There are several things you should consider when preparing for a trial:

1. Are there witnesses you want to testify? You need to make sure that they will be there on the day of the trial. Any such witness should have personal knowledge of the incident based on what he or she saw or heard. Do not bring in letters or statements written at your request. They may be hearsay and more than likely will not be admitted as evidence. If you have any doubts that a witness(es) you would like to call will appear voluntarily, you have the right to subpoena them into court. You may pick up subpoena forms from the Clerk of Court. Return the subpoena form(s) at least two weeks before your trial date to allow enough time for proper service.
2. Photos, Maps and Drawings. If you think such evidence will help the Judge understand your case, bring them to court. However, you or whoever took the photos or drew the maps/drawings should be prepared to testify about how and when the items came into being.
3. Testimony by the Defendant. If you plan to testify on your own behalf, think about what you are going to say beforehand. The Village Attorney will have the right to cross-examine you. If you made a statement to the police or others, those statements can be used against you at trial.

What is the burden of proof in municipal cases?

The Village Attorney has the burden of proof to establish your guilty with "evidence which is clear, convincing, and satisfactory." It is not as heavy a burden as establishing proof "beyond a reasonable doubt" as would be required if you were charged with a crime.

Will I have to pay more than the amount on the citation if I am found guilty?

It is a possibility. The Village Attorney can request payment for such things as witness fees (\$7.00 per lay witness plus mileage allowance). The fine amount on your citation is not the maximum fine in most cases. The Judge has the authority to impose a higher fine if he deems it appropriate. The fine can also be lower. If you subpoena witnesses, you will not be reimbursed for these expenses even if you are found not guilty.

What if I need a postponement?

If you have good cause to delay your trial date, you may ask the Judge for an adjournment. You must do so at least one week before the trial date. The Judge will then decide whether or not to grant your request.

If I am found guilty, can I appeal?

If you are found guilty after a trial, the judge will notify you of your appeal rights. The appeal must be filed within twenty (20) days after the Judge's decision. Your appeal will be heard in the Rock County Circuit Court either before a jury or a judge. You must file a written notice of appeal (clerk has forms) and pay an appeal fee.

If I change my mind, can I change my plea before the trial?

You may change your plea to guilty or no contest by contacting the Village Attorney at least one (1) week in advance of your trial date.