

# Municipal Court Trial Procedures:

## Trophy Club Municipal Court of Record

### Purpose

This pamphlet is designed to provide basic information about criminal proceedings in the Northeast municipal court. It is not a substitute for legal advice from an attorney. You are encouraged to seek legal advice if you have questions about your charge or the consequences of a conviction. 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 "beyond a reasonable doubt" of the offense with which you are charged. 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.

If you plead not guilty, the court will schedule a jury trial. You may waive a jury trial and request and have a trial before the judge, commonly called a "bench" or "non-jury" trial. If you elect to represent yourself, no person other than a licensed Texas attorney can assist you during a 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 in the prosecution;
- 2) The right to inspect the complaint before trial, and have it read to you at the 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 on 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 guilt.); and
- 7) You may call witnesses to testify on 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.

### 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.

### Pre-Trial Procedures

If you need a continuance, you must put the request in writing with your reason for your request and submit it to the court prior to trial. You should consult the Judge's standing orders or any pre-trial order for more specific details regarding the filing and granting of motions. You may request a continuance for the following reasons: (1) A religious holy day where the tenets of your religious organization prohibit members from participating in secular activities such as court proceedings (you must file an affidavit with the court stating this information); (2) you feel it is necessary for justice in your case; or (3) by agreement of the parties (you and the prosecutor). The judge decides whether or not to grant the continuance. Failure to submit a timely request in writing may cause your request to be denied.

All Pre-Trial Motions, including motions to dismiss or jurisdictional arguments, must be filed prior to any Pre-Trial date set forth in a pre-trial order and movant must request a hearing.

### 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 choose, except a strike based solely upon race or gender.

As in all criminal trials, the trial begins with each party given an opportunity to make an opening statement. Then the State presents its case first by calling witnesses to testify against you.

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

After the prosecution has rested, you may present your case. You have the right to call witnesses who have first-hand facts about the incident. The State has the right to cross-examine the witnesses that you call.

If you so desire, you may testify on 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.

### Evidence

There are numerous rules which govern the admissibility of evidence in a trial. You should review the Texas Rules of Evidence on how to admit and offer certain evidence, including photos, diagrams and documents. You may also want to review objections regarding testimony and trial procedures. Things such as out-of-court hearsay testimony or items printed off the internet are often not admissible under the rules of evidence. The court cannot assist you in the trial of your case and evidence will only be admitted if properly introduced according to the Tex.R.Evid., including laying a proper legal foundation for evidence to be admitted. All evidence

admitted during the trial must remain as part of the court's file; therefore, documents or photographs contained on a flash drive, cell phone, tablet, laptop or other media may not be admissible.

After all testimony is concluded, both sides can make a closing argument. This is your opportunity to summarize the evidence, present your theory of the case, argue why the State has failed to meet its burden of proof, and make other arguments allowed by law. You may not provide new facts that have not been presented by witnesses during the trial. 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 evidence admitted during the trial. The judge or jury must find the defendant guilty "beyond a reasonable doubt."

### Courtroom Decorum

All parties must conduct themselves at all times in a professional manner. Parties and witnesses should speak clearly and loudly enough to be heard in the courtroom. No shouting, cursing, side comments or other inappropriate conduct will be allowed by the court. Parties and participants shall be referred to by their proper names, such as "Mister" [last name], "Miss/Misses" [last name], "Officer" [last name] "Your Honor" or "Judge". Parties may not speak over each other or interrupt the Judge when he is speaking. Any outward display of disagreement or agreement with a witnesses' testimony or a ruling of the Judge is inappropriate and will not be allowed. Any participant who fails to abide by the rules of decorum shall be subject to discipline by the court including, but not limited to, being held in contempt. The Judge may set reasonable time restrictions on all parts of the trial, including voir dire, length of witnesses' testimony and opening and closing statements.