

IN THE CIRCUIT COURT OF CAPE GIRARDEAU COUNTY, MISSOURI
32ND JUDICIAL CIRCUIT
MUNICIPAL DIVISION—CITY OF CAPE GIRARDEAU

YOUR RIGHTS IN THE MUNICIPAL DIVISION

Overview of Municipal Courts and Your Right to Attend Court

Municipal courts are authorized by the Missouri Constitution and are part of the circuit courts. They are open to the public of all ages. The purpose of these courts is to provide you with a place to obtain a fair and impartial trial on any alleged violation of a city ordinance. While this is a general overview of your rights in municipal court, each individual court may have local rules that apply to your case. Please check with your local municipal court for any local court rules. Municipal division courts are courts of law established to protect the rights of all citizens. If there is anything you do not understand, do not hesitate to ask the judge any questions.

Your presence in Court today is perhaps your first experience in any court. This information has been prepared to help you understand the court proceedings and to inform you of your rights and duties. Attire should be appropriate for court.

- The Municipal Division of the 32nd Judicial Circuit is a Municipal Division of the Circuit Court of Cape Girardeau County, Missouri government, and is a part of the state judicial system.
- In the Municipal Division you have the following rights:
 - Right to trial
 - Right to know when the court is open
 - Right to attend court
 - Right to release pending hearing
 - Right to access court records
 - Right to an attorney
 - Right to have a judge decide if you can afford a lawyer or afford to pay fines
 - Right to a court-appointed attorney
 - Right to request a different judge
- Ordinance violations for which the maximum fine, upon conviction, does not exceed \$500.00 and/or 90 days in jail, are tried in the Municipal Division. This is the maximum allowed penalty in Cape Girardeau Municipal Court. Some offenses,

however, have fine only penalties with lesser maximum amounts.

Right to Know When Court is Open

Every Municipal Court has different hours it is open. Cape Girardeau Municipal Court is open Monday – Friday 8:00 a.m.- 5:00 p.m. It is important that you check each court’s website or call the court’s clerks to determine when it is open. A comprehensive listing of the websites and phone numbers for all municipal courts in Missouri can be found at <http://www.courts.mo.gov/mcw/findacourt/muniDivisionList.htm>

Before Court Begins

As the Judge enters the courtroom, please rise. Afterwards, please be seated. There is no talking, drinking, eating, videoing or phone use during court. When your name is called, come forward to the podium before the Judge. The violations that you are alleged to have committed will be read and at that time you should be prepared to plead either guilty or not guilty.

If you signed a citation in front of an officer, you did not plead guilty, but only signed a promise to dispose of the charges of which you were accused through appearance or pre-payment of fine and cost.

Your decision on what plea to enter is the most important decision you will make. We suggest that you read the following explanations before entering your plea.

Right to Release Pending Hearing

If you are in jail for a municipal court charge, you have the right to be released unless the court decides you need to be in jail for the protection of the community or because you may not appear for court. If the court orders your release from jail, there may be conditions of your release, including bail.

Right to Access Court Records

If you have a case in municipal court, you have the right to see the court records for your case. This includes records that show charges, court rulings, and fines, and other information for your case.

Right to an Attorney

You have the right to be represented by an attorney and may hire one at any time. If you decide that you would like to seek the services of an attorney, please inform the Judge and you will be given time to do so. However, you are not required to have an attorney represent you. You may represent yourself.

Right to Have a Judge Decide if You Can Afford a Lawyer or Pay Fines

If you want an attorney, but cannot afford one, you can ask that the judge decide if you qualify for a court-appointed attorney. You may be required to fill out paperwork about your finances as part of this process.

You also may ask the judge to decide if you are able to pay court fines or to be granted an alternative sentence. You may be required to fill out paperwork regarding your finances as part of this process. You may not be put in jail for failure to pay fines and costs unless the judge finds you have the ability to pay but are unwilling to pay or when alternative sanctions to jail are not sufficient.

Right to a Court Appointed Attorney

If you show you cannot afford an attorney, and the city is seeking to put you in jail, the court will provide an attorney to represent you.

Right to a Different Judge

You may request a change of judge for any reason within ten (10) days after you enter your initial plea. If it is past the ten days, then you must show cause why the judge should be changed. In addition, a judge may decide he or she cannot hear the case if they have a conflict of interest in the case or the judge will appear as the prosecuting attorney in a neighboring county where the prosecuting attorney will serve as judge.

Plea of Guilty

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

you have no defense for your act. Before entering a plea of guilty, you need to understand the following:

1. The City has the burden of proving its case against you. You have the right to hear the City's evidence and to require it to prove its case. The law does not require you to prove anything.
2. If you were involved in a traffic accident or other moving violation, your plea of guilty could result in points being assessed against your driver's license.
3. In certain instances, a plea of guilty can result in loss of your driving privilege. A plea or finding of guilt can also have collateral consequences regarding immigration status.
4. The judge cannot give you legal advice as to how you should or should not plea.

Plea of Not Guilty

If you plead not guilty, your case will be scheduled for trial and you will be given a date to appear. Because of the number of cases the court hears each month and the need to have the officer and any witnesses present, your case cannot be heard that day. You will be given a summons for the day of your trial. The trial will be held in the same location as your arraignment. UNLESS you request a jury trial. A request for a jury trial should be made by a written motion 10 days prior to the scheduled trial date. If the motion is timely, your case will be sent to the presiding judge of the circuit court for a new trial date with a jury.

If you plead not guilty, you will need to decide whether to employ an attorney to represent yourself at the trial. You may defend yourself, but no one else except an attorney may represent you.

At the time of the trial, the City will be required to prove all the allegations as contained in the formal complaint against you "beyond a reasonable doubt," before a verdict of guilty can be reached.

The Trial

- At trial, you have a right to testify or remain silent. If you remain silent, it is not considered an admission of guilt. If you testify, the judge may consider any

statement you make in deciding your guilt or innocence.

- At trial, you have the right to ask questions of witnesses testifying against you.
- You have the right to ask the clerk to issue a subpoena to require witnesses to come to trial and testify.
- If you are found not guilty, the case ends.
- If you are found guilty, you can accept the decision or appeal to the Circuit Court. If you appeal your case, you will be granted a new trial before a different judge. The request for appeal must be made in writing within 10 (ten) days of the Court's decision and cannot be extended for any reason; You can appeal even if you are not able to pay; Complete details of the appeal procedure can be found at www.cityofcape.org/court. You may also ask the clerk for information on the process.

Presenting the Case- Trial Process

- The case is ready to be heard by the judge.
- Witnesses are given an oath to testify.
- The City's witnesses explain their version of what happened.
- You or your attorney can ask questions of the City's witnesses.
- You may testify and call witnesses to explain your version of what happened.
- The City prosecutor may question you and your witnesses, if you and your witnesses testify.
- The judge makes the decision.

The Verdict

The verdict of the Judge will be based on the testimony of witnesses who testified under oath and on the other evidence formally received. If you are found not guilty, the case ends. If you are found guilty, you have appellate rights.

The Judge will base his/her decision only on the State Law or City Ordinance involved and the facts, as determined by the testimony and other evidence presented.

Punishments and Fines

If you plead guilty or are found guilty, you may face the following punishments or fines:

- Minor traffic violations penalties are up to \$225.00 total fines and costs.
- Housing, zoning or building code violations penalties are up to \$200.00 total fines and costs for the first violation in a year, \$275.00 for the second violation in a year, \$350.00 for the third violation in a year, and \$450.00 for the fourth and any subsequent violations in a year.
- All other Municipal Code Violations are up to \$500.00 plus costs.
- In addition to these fines and costs, certain violations may result in jail time. Such violations include any violation involving alcohol or drugs, violations endangering the health or welfare of others, or giving false information to a police officer. You may face up to 90 days in jail.
- Fines can be paid on line, by mail and in person instead of appearing in court on many violations. Please consult the website or clerk for information on how to pay fines and costs.
- You may not be put in jail for failure to pay fines or costs unless the judge finds you have the ability to pay but are unwilling to pay or when alternative sanctions to jail are not sufficient.
- If you are assessed fines and costs you may request a pay agreement or community service in lieu of fines and costs.

Non-U.S. Citizens

If you do not have the proper documentation to be in the United States, you should know that a guilty plea or conviction may result in your deportation, denial of admission to the United States, or you may be denied naturalization under United States law. You may wish to speak with an attorney, especially before entering a guilty plea to any charges.

ADA Accommodations

You have rights under the Americans with Disabilities Act (ADA). For example, if you or a witness, are deaf or hearing impaired, you have the right to request assistance, including an interpreter. For help, please contact the court's ADA coordinator or Court Clerk. A list of ADA coordinators can be found at <http://www.courts.mo.gov/page.jsp?id=180>. If you need help with other ADA disabilities, please call (573) 751-4377 or send an email to access2justice@courts.mo.gov.