

TRIALS IN MUNICIPAL COURT

If you decide to take your case to trial, the Court will not provide an attorney for you. You may, of course, choose to retain one at your own expense. An attorney can explain your rights, and assist you. We urge you to retain your own attorney.

If you (and/or your attorney) do not appear personally, you may be deemed to have entered a plea of no contest, and a default judgment may be entered against you. Payment of at least the amount on your citation would be owed to the Court.

WHAT HAPPENS AT A TRIAL?

All trials, except non-traffic juvenile cases, are public trials. You are presumed innocent and convicted only if evidence is clear, satisfactory and convinces the judge to reasonable certainty that you committed the violation with which you were charged.

This is a formal recorded proceeding where the Prosecutor and the Defendant have the opportunity to present their evidence before the Municipal Judge.

Because the burden of proving its case is upon the municipality, they will present their evidence first. The prosecution will produce its witness to testify as to the facts and circumstances surrounding the alleged violation and may introduce documentary evidence. You (or your attorney) will be permitted to cross-examine each witness that testifies. Cross-examine means to ask questions of the witness, not make statements to the witness.

After the prosecution has introduced all of its evidence, you (or your attorney) will then have the opportunity to testify on your behalf, call witnesses and present any evidence you have. The prosecution will be permitted to cross-examine each witness who testifies.

When you and the municipality have completed your cases, each will be given the opportunity to summarize, by brief argument, their respective cases to the Court. Thereafter, the Court will decide, based upon the testimony, the admissible evidence and the law whether to find you guilty or not guilty. This judgment is usually decided immediately following the trial.

If the Court finds you not guilty, you will be discharged and the complaint against you will be dismissed. If you are found guilty, the extent of the penalty is dependent upon the circumstances surrounding the violation and your past record.

WHAT SHOULD I DO TO PREPARE FOR A TRIAL?

Witness Testimony: If you plan to have a witness present, 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/she saw or heard. All witnesses must testify in person, and under oath. Do not bring in letters or statements written at your request; they are hearsay and more than likely will not be admitted as evidence. If you have any doubts that a witness you would like to call will appear voluntarily, you have the right to subpoena him/her into court. A subpoena is a document you can obtain from the court. You must present the subpoena with the appropriate witness fees personally to the witness. If you decide to subpoena a witness, contact the Municipal Court Clerk at least two (2) weeks before your trial date regarding the procedure to be followed, instructions for serving the subpoena and the costs involved.

Police Reports and Testimony: You should ask the Prosecutor *in writing* what witnesses he/she plans to use at the trial. If you want to ensure that those witnesses are used, you will have to subpoena them yourself. Also, do not assume that the Judge has seen the police report. The Judge has not read the police report and will not read the report unless it is properly submitted at the trial. Do not assume that the prosecution will submit it at the trial. If you want the Judge to see it, you will have to bring a copy and see whether or not it will be admitted as evidence. You can get a copy of the police report from the Prosecutor.

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 drawings should be prepared to testify about how and when the items came into being.

Testimony by the Defendant: If you plan to testify on your own behalf, think about what you are going to say beforehand. If you do testify, the Prosecutor will have the right to cross-examine. If you made a statement to the police or to others, these statements can be used against you at the trial. If you want to have copies of any statement you made, other witness

statements or the police reports at the trial, contact the Prosecutors office no later than two (2) weeks before the trial.

WILL I HAVE TO PAY MORE THAN THE AMOUNT ON THE CITATION IF I AM FOUND GUILTY?

It is a possibility. First, the prosecution may request payment for such things as witness fees, mileage and subpoenas. The forfeiture amount on your citation is not the maximum amount in most cases. The Judge has the authority to impose a higher forfeiture if he/she deems it appropriate. Finally, if you do subpoena witnesses, you will not be reimbursed for these expenses even if you are found guilty.

IF I CHANGE MY MIND, CAN I SETTLE MY CASE BEFORE THE TRIAL?

Usually you can settle your case before the trial simply by calling the Prosecutor who is handling your case. Do not wait until the last minute. Call at least one (1) week in advance of your trial date.

IF I AM FOUND GUILTY, CAN I APPEAL?

Yes, if you are found guilty, you the right to APPEAL to the Circuit Court. The Court will provide you with a copy of your appeal rights and the appellate fees. If the municipality loses, it also has the right to appeal the case.

If you decide to appeal, you must do so by filing a written NOTICE OF APPEAL with both the Municipal Court at 211 N. Grant Street, Rosendale, and the Municipality, within twenty (20) days of the date of your conviction (judgment). At the same time, you must remit appellate fees payable to "Clerk of Courts". New trials in the Circuit Court are tried without a jury, unless you request a jury trial in your Notice of Appeal. Upon payment of the appellate fee, jury fee and the amount of your penalty, you will then receive a jury trial in the Circuit Court

FAILURE TO PAY FORFEITURE

There may be serious consequences if you fail to follow the Court's orders or pay the forfeiture. The Court may commit a person to **JAIL** for not more than ninety (90) days; or the Court may order a **SUSPENSION** of your **DRIVER'S LICENSE** for a maximum of one (1) year, or until the forfeiture is paid. If you are unable to pay the forfeiture because of poverty (as defined under § 814.29(1)(d)), you must contact the Court to arrange an installment payment plan. Failure to make an ordered installment payment terminates the agreement and the Court will proceed with options listed for failure to pay forfeitures. The Court may send you notice requiring your appearance at a **GOOD CAUSE HEARING**. We are members of the Department of Revenue State Debt Collection and Wisconsin Tax Intercept Program to assist in the delinquent payment process.

GENERAL RULES

This Court has jurisdiction over traffic and non-traffic ordinance violations in the Village of Rosendale.

This is a Court of Law. We request that you **remove your hats and turn off your cell phones** out of respect for the Court, and that you refrain from smoking. **Please be quiet**, and remove loud children or crying babies. Please respect the rights and needs of others.

We offer this brochure of rules and procedures to help you understand how the Court functions. We wish to leave a lasting, positive impression on each of you, regarding our country's system of justice.

In conclusion, whether you are found not guilty or guilty, the Court would like to impress upon you the necessity of all of us to **voluntarily observe all laws**. Each of us desires to make our roads safer places to drive, and our community's better places to live and work.

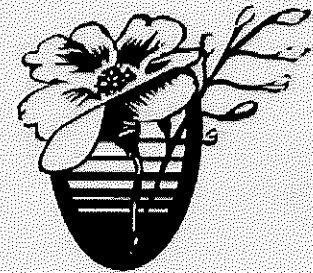
PAYMENT METHODS

To pay in person, contact the Court for office hours. If you deposit the amount by mail, please enclose a copy of your citation, along with check, cashier's check or money order made payable to: Rosendale Municipal Court. To pay by credit, debit or E-check, go to www.villageofrosendale.com and click on the Municipal Court tab and click on the Point & Pay link.

Remember:
Your driver's license
is a *privilege*,
not a right.

Rosendale Municipal Court

Trial Procedure



Mark Simon
Municipal Judge

Court office is located at:

211 N. Grant Street
P.O. Box 284
Rosendale, WI 54974

Phone: 920-872-2441

e-mail: municourt@villageofrosendale.com