

Municipal Court Procedures

Initial Appearance

Since most people are concerned about appearing in Court, the following rules and procedures are provided so that you may be fully advised of your rights and how the Court functions. The Court has jurisdiction of traffic and non-traffic ordinances in the municipalities of Sheboygan and Kohler. You have a right to be represented by an attorney, or you may go ahead without one. If you want an attorney, you must retain one at your own expense. The Initial Appearance session of the Court is primarily for the purpose of taking your plea to the alleged violation of the law.

Entering a Plea

At the initial appearance you may enter one of the following pleas:

Guilty – which is an admission of the charges against you. If the court accepts this plea, you will be found guilty of the charges as they appear on the citation and a penalty will be imposed.

No Contest – which means you are neither admitting nor denying the charges against you, but merely want to have the matter resolved and pay the penalty. The court will then find you guilty, but you will not be admitting your civil liability for use in other litigation, which may occur where personal injury or property damage is involved.

Not Guilty – which is a denial of the charges against you. The matter will be adjourned to a later court date for either a Pre-trial or a Court Trial.

Court Procedure

1. When your name is called, come forward promptly to the defendant's desk in front of the Bench, facing the judge.
2. The Court will inform you of the exact charge against you; the range of possible penalties including points that may be imposed in traffic cases; and will request that you enter a plea of not guilty, guilty, or no contest.
3. If this is your initial, scheduled appearance date, you have a right to request a continuance, which continuance can be used to consult with an attorney.
4. Those pleading **GUILTY** or **NO CONTEST** will be allowed an opportunity to make a brief statement. The Court will then review the police report, consider the seriousness of the present charge and any past record, and then render judgment accordingly.
5. Upon a finding of Guilty, a forfeiture plus costs may be imposed. Forfeitures are payable immediately; however, the Court may defer payment for a reasonable time. If you fail to pay, the Court may set an alternative penalty of imprisonment in jail; suspend your driver's license (privileges), intercept your income tax refund, or refer your debt to collection.
6. Those pleading **NOT GUILTY** may request a Pre-Trial date to meet with the Prosecutor. A date will be given for Pre-Trial or Trial, a signature bond may be required, and you will be released.

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 90 days; or may order a suspension of your driver's license (privileges) for a maximum of one (1) year, or until the forfeiture is paid. The Court may send you notice requiring your appearance at a Good Cause Hearing. Please inform the Court if you change your address.

Pre-Trials

If you plead **NOT GUILTY**, a Pre-Trial hearing may be conducted at a later date so that you can discuss possible settlement with the Prosecutor. You are not required to have a Pre-Trial, but if you request a Pre-Trial you and/or your attorney's appearance at the Pre-Trial is mandatory. The Judge does not participate in the Pre-Trial hearing, nor does the judge have to accept any negotiated or amended charge.

Failure to Appear

If you fail to appear at your scheduled Pre-Trial, or the Court Trial, the Court will either issue a warrant for your immediate arrest or enter a Default Judgment against you.

Traffic Violations

If you are found guilty of a traffic offense, in addition to any penalty made by the Court, the State Department of Transportation (Wisconsin) may assess demerit points against your driving record, which may result in the suspension or revocation of your driver's license. The assessment of 12 demerit points in one year shall result in the loss of your license. Any person holding a probationary license will be assessed double the demerit points for the second and all subsequent violations. Juveniles cited for traffic offenses are subject to the same procedures and penalties as adults.

Juveniles

This Court has jurisdiction over persons between the ages of 12 and 17 years of age charged with non-traffic ordinance violations. Juveniles have the same rights as adults with respect to pleas. They have a right to a private (closed) hearing, but may waive this right. A money judgment may be entered against a juvenile found guilty. They may also be ordered to make restitution or to work off their fine by doing community service. Failure to pay a forfeiture or comply with the order of court may result in sanctions not limited to suspension of a driver's license for up to 2 years. If the offense is alcohol or drug related, the driver's license of the defendant may be suspended regardless of payment.

Jury Trial

Only if you have been charged with the offense of Operation of a Motor Vehicle While Under the Influence of an Intoxicant are you entitled to a jury trial on a plea of not guilty. You must file a written request for a 6-person jury trial within ten (10) days of your initial appearance; post the jury fee; and post your bond. Failure to comply with the above will result in a trial to this Court.

Trials

All trials, except non-traffic juvenile cases, are public trials. You have the right to retain your own attorney, and to subpoena witnesses. You are presumed innocent and will be convicted only if evidence is clear, convincing, and satisfactory that you committed the violation with which you have been charged. All witnesses must testify in person, and under oath.

The prosecution will produce its witnesses to testify as to the facts and circumstances surrounding your alleged violation. You or your lawyer will be permitted to cross-examine each witness that testifies.

When the prosecution has completed its case, you and your witnesses will be given the opportunity to testify, and you will be subject to cross-examination by the prosecutor.

The Rules of Civil Procedure and evidence will be followed.

After all the evidence has been presented, the prosecution and the defense will be given an opportunity to summarize, by brief argument, their respective cases to the Court. Thereafter, the Court will decide, based upon the testimony, the evidence, and the law, whether to find you guilty or not guilty.

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. If necessary, you may have up to 60 days to pay the forfeiture and costs.

Appeals

The prosecution and the defense have the right to appeal the decision of the Court. All appeals must be filed within 20 days after a guilty finding is made and are referred to the Sheboygan County Circuit Court. Appeal forms outlining procedures and rights will be provided at the conclusion of trials.

Conduct

This is a Court of Law and the rules for proper decorum, procedure, and evidence will be followed. Please remain quiet while the Court is in session and give others the courtesy to be heard and present their case. Persons who fail to conduct themselves in an orderly manner may be cited for contempt.

These rules and procedures are provided to help you understand how this Court functions. If you have any questions regarding procedures or rules, please ask them when your case is called.

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 desire to make our roads safer places to drive, and our community a better place to live and work. Thank you.

BY THE COURT:

Honorable Natasha L. Torry
Municipal Judge