

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

Municipal courts are authorized by the Missouri Constitution and are part of the circuit courts. They are open to the public. 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 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 an attorney
 - Right to release pending hearing
 - 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 access court records
 - 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.

- 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.
- 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.

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 an Attorney

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. 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. If your case involves the possibility of a jail sentence, upon plea or conviction, then you have the right to a court appointed attorney, free of charge. 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. Please let the judge know if you want a court appointed attorney so she can direct you to the proper paperwork.

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 shouldn't plea.

Plea of Not Guilty

A plea of not guilty means that you deny guilt and that the City must prove its charge against you. Your case will be set 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. You will receive no other notice with regard to your trial date.

If you plead not guilty, you will need to decide whether to employ an attorney to represent you 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

Under Missouri law, you can be brought to trial only after a formal complaint has been filed. The complaint is the document, which alleges what you are supposed to have done, and that your action was unlawful.

- You have the right to inspect the complaint before trial, and have it read to you at trial.
- You have the right to have your case tried before a jury. A request for a jury trial should be made by 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 for a new trial date with a jury. If you desire to do this, the Judge shall forthwith certify your case to the Circuit Court to be heard on the record in accordance with the procedures applicable before Circuit Judges.

- You are entitled to hear all the testimony introduced against you.
- You have the right to cross-examine any witness who testifies against you.
- You have the right to testify on your own behalf. You also have a constitutional right not to testify. If you choose not to testify, your refusal cannot and will not be used against you in determining your guilt or innocence. However, if you choose to testify, the prosecutor will have the right to cross-examine you.
- You may call witnesses to testify on your behalf.
- You also have the right to have the court issue subpoenas for witnesses to ensure their appearance at trial. It is best to request subpoenas at least 2 weeks prior to your trial date.

Presenting the Case

As in all criminal trials, the City will present its case first by calling witnesses to testify against you. Witnesses are given an oath to testify. The city's witnesses explain their version of what happened.

After each prosecution witness has finished testifying, you will have the right to cross-examine him or her. Your examination **MUST BE IN THE FORM OF QUESTIONS**. This is not a time to make a statement, and you must not argue with the witness. You will have an opportunity to make a statement later in the trial.

After the prosecution has presented its case, you may present your case. You have the right to call any witness who knows anything about the incident. The city prosecutor may question your witnesses.

You may also testify in your own behalf, but cannot be compelled to do so. If you do testify you can be cross examined by the city prosecutor.

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.

Right to Appeal

If you are found guilty by the Judge and you are not satisfied with the judgment (verdict) of this court, you have the right to appeal the verdict to the 32nd Judicial Circuit Court. **ONLY CASES IN WHICH A PLEA OF NOT GUILTY WAS ENTERED MAY BE APPEALED.** The clerk will assist you with paperwork for an appeal if requested. Your case will then be transferred to the Circuit Court. You will be notified of a new court date, and your case(s) will be heard again by another Judge in its entirety. You must file this appeal within ten (10) days of the judgment. The time frame for appeal cannot be extended for any reason. You can appeal even if you are not able to pay the filing fee. The clerk can assist you with information on the appeal process. If the judgment is not appealed within ten days, it becomes final, and you must pay the fines and costs assessed by this court.

Fines

The amount of fine assessed by the Court is affected by the facts and circumstances of the case. Mitigating circumstances may lower the fine. However, aggravating circumstances may increase the fine. In no case may the fine exceed \$500.00. All cases in which there is a plea of guilty or a finding of guilty require the payment of court costs. Court costs in the City of Cape Girardeau Municipal Court are \$31.50, as of December 2016.

If you are assessed fines and costs and you cannot pay in full then you may request a pay agreement with the court. If you cannot pay fines and costs, you may request to proceed as an indigent person and request community service in lieu of fines and costs. Please let the judge know your financial ability to comply with a judgment so the court can give you the proper paperwork to proceed. You may be able to pay your fines by mail, online, or in person instead of appearing in court. You may talk to the clerk or go on line at www.cityofcape.org/court to get information on how you can pay fees and fines.

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. 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.

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>.