

Town of Delavan Municipal Court Procedure



Edward F. Thompson
Municipal Court Judge

Diane Severt
Clerk of Court
courtclerk@townofdelavan.com

Municipal Court Office, Town Hall
5621 Town Hall Rd
Delavan, WI 53115
262-728-5563

Initial Appearance

This may be your first visit to this Court, and it is our desire that you be fully advised of your rights and the Court's procedure. The initial appearance session of the Court is primarily for the purpose of taking your plea to the alleged violation of the law.

1. When your name is called, come forward promptly to a position 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 the right to request a continuance, which can be used to consult with your attorney.

Entering a Plea

1. If you enter a plea of **GUILTY**, you are admitting that you committed the offense and if the arrest report contains the necessary elements, you will be found guilty and a penalty will be imposed.
2. If you enter a plea of **NO CONTEST**, you are neither pleading guilty nor not guilty, but merely want to have the matter resolved and pay the penalty. The effect of this plea is that you be found guilty, but you will not be admitting your civil liability for use in other litigations, which should be expected where personal injury or property damage is involved.
3. If you are convicted-you will be given an opportunity, if you wish, to make a statement before the Court examines your conviction record and sets the penalties.
4. Should you need time to pay the penalty-if you cannot pay in full today-the Court may grant you a reasonable time to pay. If you fail to pay, the Court will set an alternative penalty of imprisonment in jail; or, suspend your driving privileges (license).
5. If you enter a plea of **NOT GUILTY**, you deny committing the offense. The matter will be adjourned to a later court date for a Pre-Trial or a Court Trial.

Pre-Trials

If you plead **NOT GUILTY**, you may request that a Pre-Trial be conducted at a later Court 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, your personal appearance is mandatory. You may call the Town Prosecutor prior to your court date in lieu of your appearance. The Judge does not participate in the Pre-Trial hearings, nor does he 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 enter a Default Judgment against you or issue a warrant for your immediate arrest.

Jury Trials

Only if you have been charged with the offense of Operating 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 in the Municipal Court.

Trial

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 under oath.

The prosecution will produce its witnesses to testify 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 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.

Time To Pay

If you are unable to pay a judgment due to poverty, when the forfeiture is due, you must request to be placed on an installment plan, or a stay.

Relief from Judgment

Either party has the right to appeal a municipal court decision to the Walworth County Circuit Court or may have a new trial in the Circuit Court. A plea of no contest or guilty or a default judgment may not be appealed.

If you do decide to appeal, you must do so by filing a written Notice of Appeal with the Municipal Court within twenty (20) days of the date of your conviction, judgment or decision and at the same time provide written notice to the Town Prosecutor. If there is no request for a new trial, the appeal is based upon a review of the transcript of the proceedings.

At the same time, you must remit appellate fees payable to "Clerk of Courts, Walworth County". 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 6-person jury trial in the Circuit Court.

You may have a right to file a motion to re-open a judgment within six (6) months of the judgment only for good cause and upon payment of the reopening fee. Motions to re-open are heard on trial court dates, when the Town Prosecutor is present.

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 (privileges) for up to ONE (1) year, or until the forfeiture is paid; or refer your debt to the Department of Revenue for collection action. If you cannot pay the forfeiture due to poverty, you may request a hearing for a poverty determination.

Suspension or Revocation of Driver's Licenses

If your driving privileges are suspended or revoked for any reason, you must pay a fee and reinstate your driving privileges at the Department of Transportation.

Probationary Licenses

If you hold a probationary license, the demerit points double for 2nd and subsequent driving convictions.

Occupational Licenses

You may be eligible to file a petition with the Department of Transportation for an occupational license. Petitions are available from the Department of Transportation, not the court.

General Rules

The Court has jurisdiction over traffic and non-traffic ordinance violations in the Town of Delavan. The Municipal Court is an independent branch of local government. The fundamental purpose of the court is to ensure the timely and efficient delivery and administration of justice. The reason that we have traffic laws and non-traffic ordinances is for public health, welfare and safety. Regardless of how you intend to plead or the final disposition of your case, resolve now to become a better driver-citizen.

The Judge and the Clerk of Court are not allowed to give legal advice. If you desire an attorney, you must retain one at your own expense. An attorney can explain your rights and assist you. We urge you to retain your own attorney. The information in the brochure does not constitute legal advice.

Inform the Court, in writing, if you change your address, or if the address on your ticket is not your mailing address.

This is a Court of Law. We request that people remove their hats and turn off cell phones. Please be quiet and remove loud children or crying babies. Please respect the rights of others - in the courtroom, in your neighborhood and on the roads.

BY THE COURT:
Edward Thompson
Municipal Judge

To pay your Town of Delavan citation by credit card

(A service fee is charged for the transaction)



Open the camera
on your phone



Aim it at the
Flowcode



Tap the banner
that appears

