



Your Guide to

MUNICIPAL COURT



A NEW JERSEY STATE BAR FOUNDATION PUBLICATION

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The local court in your community is referred to as the municipal court. Of the approximately seven million cases filed in New Jersey's courts each year, about six million are filed in municipal court. Each municipal court has a locally appointed judge, prosecutor and public defender.

New Jersey municipal courts have jurisdiction (authority) to hear cases occurring within the boundaries of its municipality. Municipal courts are referred to as courts of "limited jurisdiction" because they only have jurisdiction to hear certain cases. Those cases include traffic tickets (speeding, driving with a suspended driver's license, DWI), minor criminal-type cases, called disorderly persons offenses, (possession of a small amount of marijuana, simple assault, trespassing, issuing a bad check), municipal ordinance violations (building code violations, dog barking), as well as boating and fish and game violations.

More serious crimes, such as murder or the distribution of drugs, are heard in the County Superior Court. A municipal court violation is sometimes referred to as a "quasi-criminal" offense. While municipal court violations are technically not felonies or crimes, a defendant is entitled to many of the same protections afforded to a defendant charged with a serious crime. While a municipal court charge may appear minor, the penalties arising from a conviction can be significant, including up to six-months in jail (the maximum allowed under New Jersey law), fines, New Jersey Motor Vehicle Commission points and license suspension.

Your Guide to Municipal Court highlights your rights when appearing in municipal court, as well as court procedures and terminology. This pamphlet is made possible by funding from the IOLTA Fund of the Bar of New Jersey. It is issued as a public education service and does not constitute legal advice. Only an attorney can provide legal advice after being made aware of your specific situation. The New Jersey State Bar Foundation gives special thanks to Gregory M. Marootian, Esq., a certified municipal court lawyer, for his contribution to this pamphlet.

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Charges and Penalties: You have a right to be informed of the charges against you, which should be contained in the complaint (ticket). You also have a right to know the range of consequences (penalties) you face.

Postponement: You have the right to a reasonable postponement for “good cause.” An example of good cause would be to consult with a lawyer or to prepare a defense.

Attorney: You have a right to be represented by an attorney or to represent yourself.

Public Defender: You have a right to be represented by a court-appointed attorney (the “public defender”) but only if the charge against you carries the possibility of a jail term, loss of driving privileges or penalties in excess of \$750 AND you qualify financially. The judge will assess your eligibility for a public defender by reviewing your income, assets and expenses, which you have to list on a court-provided form. If you are deemed eligible, the court may assess an application fee up to \$200. The municipal court judge may waive this fee (in whole or in part) if the fee represents an unreasonable burden. You also have the right to pay the application fee in monthly installments, which cannot exceed four months.

Remaining Silent and the Presumption of Innocence: You have a right to remain silent, known as the right against self-incrimination. This means that no one can ask you to provide testimony, a statement, a “defense” or even answer questions at sentencing (if you are convicted). You have the right, but not an obligation, to testify at trial. If you do not testify, the court may not hold your silence against you.

You are entitled to the constitutional presumption of innocence. The prosecutor (sometimes referred to as “the State”) has the burden to prove the charge(s) against you beyond a reasonable doubt and this burden never shifts. You never have an obligation to prove your innocence.

There is an exception to the right to remain silent and presumption of innocence—a parking ticket. If you are charged with a parking offense, neither the prosecutor nor issuing police officer must appear (unless ordered by the court). If a parking offense is

sufficiently detailed, identifies the vehicle involved and the vehicle was registered to you on the date of the charged offense, you have the burden to establish a defense (*i.e.* why you should be found not guilty).

Guilty Plea: You may plead guilty. You should always consult with a lawyer before entering a guilty plea so that you understand the full spectrum of direct and indirect consequences of a plea. By entering a guilty plea, you are waiving important constitutional rights such as the right to force the State to prove the case against you, the right to remain silent and the right to confront the witnesses against you.

In New Jersey, the court cannot accept a guilty plea unless a defendant admits to committing the offense. This is known as a “factual basis,” a legal term meaning that a defendant must admit to committing the facts constituting the offense. The judge will question you in order to elicit this factual basis. The judge also must be satisfied that you are pleading guilty knowingly and voluntarily (with knowledge of the charge, the consequences, and your right to a trial and to a lawyer if you are not represented).

There is no plea known as “guilty with an explanation.” If you plead guilty, the court must determine the sentence. If the court accepts your guilty plea, you have the right to make a statement to the court or present any information that you think may affect the court’s sentence. This may include, for example, your (good) driving history and job or family situation.

Not Guilty Plea: If you plead not guilty, you have the right to a trial. You also have a right to review the evidence against you (called “discovery”). The prosecutor has the burden to prove the charge(s) against you beyond a reasonable doubt. You (or your lawyer) may call or subpoena witnesses on your behalf and while you have no obligation to testify, you may testify or make a statement if you choose to do so.

Plea Bargaining: A “plea bargain” or “plea agreement” is a negotiated agreement between a prosecutor and a defendant whereby the defendant is permitted to plead guilty to a reduced charge and/or one or more charges are dismissed. A plea agreement may also involve a sentencing recommendation by a prosecutor. The court has the authority to reject the plea agreement. If you do plead guilty and the sentence exceeds the recommendation, you have the right to withdraw your plea.

The New Jersey Supreme Court permits plea bargaining in most cases except drunk driving and certain drug-related offenses. You (or your lawyer) may speak with the municipal court prosecutor for purposes of negotiating a plea bargain. This may benefit you by reducing or eliminating points, fines and/or jail.

New Jersey Motor Vehicle Commission (NJ MVC) Consequences: A municipal court does not impose “points” or surcharges—the NJ MVC does. In addition to court-imposed penalties for traffic offenses, the NJ MVC may impose its own penalties, including the assessment of points, and surcharges. In addition, the NJ MVC has the authority to

revoke your license for the accumulation of points. The court is linked to the MVC via computer. Therefore, all traffic ticket guilty findings are reported to the MVC upon entry. If you have a driver's license in a state other than New Jersey, the NJ MVC will report traffic ticket convictions to your home state, which may impact your driving privileges there as well.

Appeals: If you are not satisfied with the court's decision or sentence, you have a right to appeal to the County Superior Court. You have 20 days (a very strict time limit) to file an appeal. A Superior Court judge will hear the municipal court appeal. Municipal court appeals are based solely on the testimony and evidence cited in municipal court; you may not present new evidence or testimony on appeal. You must obtain a verbatim record of the municipal court proceedings, called a transcript. Any evidence introduced during the proceedings will be transmitted to the Superior Court. This evidence and the transcript will form the "record" upon which the appeal will be based. An appeal packet is available in the court office.

Immigration and Deportation Consequences: If you are not a United States citizen and plead guilty to or are convicted of certain offenses heard in the municipal court, including some motor vehicle offenses, it may result in your being deported or prevent you from being re-admitted to the United States if you leave voluntarily. It could also prevent you from ever becoming a naturalized American citizen. You have a right to seek advice from an attorney about the effect a guilty plea will have on your immigration status.

Interpreter: You are entitled to an interpreter (provided by the court) for the proceedings. An interpreter is presumed necessary for any person with limited proficiency in English.

Disability Accommodations: If you suffer from a disability, you have a right to a reasonable accommodation to allow you access to the court and to participate in the proceedings.



Legality of Traffic Stops: The United States and New Jersey Constitutions protect citizens against unreasonable searches and seizures—protections that extend to police stops of motor vehicles. To be lawful, a stop must be based on a “reasonable suspicion,” based on specific articulated facts (not a mere hunch) that an offense has been or is being committed or that something might be wrong with the vehicle or its driver.

Credentials: You must, upon an officer’s request, show your credentials (license, registration and insurance card).

Search: You do not have to agree (consent) to a search of your car. The police must have “probable cause” (a reasonable and good faith basis) to believe that a search will turn up evidence of criminality.

Sobriety Tests: You are not required to perform field-sobriety tests. However, your refusal can be considered as evidence that you are guilty of driving while intoxicated (DWI).

Breath Testing: Under the New Jersey Implied Consent Law, you must provide police with samples of your breath. Your failure to do so is illegal—a separate violation of New Jersey law subjecting you to penalties, including mandatory loss of your license.

Blood/Urine: Unlike breath samples, you do not have to consent to providing blood or urine samples to the police. You may refuse.

Statements: You have an absolute constitutional right to remain silent, and to refuse to answer questions from the police. You must, however, provide your credentials, exit your car if/when requested, and comply (not resist) if arrested (even if you believe the arrest is unwarranted).



The judge and court staff may not provide you with legal advice. The prosecutor represents the State and likewise is not obligated to provide you with legal advice. Speaking with a municipal court lawyer is always advisable. A lawyer can review the charges, elicit relevant information from you and provide you with specific and more tailored advice.

If you hire a lawyer to contest charges, she/he will enter your not guilty plea(s), obtain necessary postponements, gather evidence (called “discovery”), obtain your driving history, assess the State’s case, advise you regarding options, negotiate a plea-bargain and if necessary prepare your case for trial.

Municipal Court Specialists: Finding a lawyer can be confusing. Only certain lawyers, designated by the New Jersey Supreme Court as “certified,” may refer to themselves as “specialists.”

Finding the right attorney is to the benefit of both you and the attorney you choose. That is why the Supreme Court of New Jersey has directed the Board on Attorney Certification to administer the attorney certification program in an effort both to protect consumers from false advertising and to raise the level of competence of attorneys in the state. This program is designed to help you make an informed decision when seeking and selecting a lawyer.

The Supreme Court of New Jersey established the Board on Attorney Certification in 1980 for the purpose of helping consumers find attorneys who have a recognized level of competence in particular fields of law. Attorneys may be designated by the New Jersey Supreme Court as “certified attorneys” if they: are able to demonstrate sufficient levels of experience, education, knowledge and skill in a specific area of law or practice; have passed a rigorous examination; and have been recognized by their peers as having sufficient skills and reputation in the designated specialty.

The Supreme Court, through recommendation by the Board, certifies attorneys in five areas: civil trial law, criminal trial law, matrimonial law, municipal court law and workers’ compensation law. An attorney must meet the following requirements to become certified:

- Has been a member in good standing of the New Jersey Bar for at least five years.
- Taken a specific number of continuing legal education courses in the three years prior to filing an application.
- Demonstrated substantial involvement in preparation of litigated matters.
- Demonstrated an unblemished reputation by submitting a list of attorneys and judges who will attest to the applicant's character and ability.
- Passed a written examination covering various aspects of practice in the designated specialty.

County Bar Association Referral Services: If you would like to hire an attorney who handles municipal court matters, you may choose one based on someone's recommendation or you may call your county bar association and ask about their lawyer referral program.

Following is a listing of county bar associations that offer lawyer referral services. Locate your county of residence and contact the appropriate service. Do not contact referral services that are outside of your local county.

Atlantic County Bar Association

1201 Bacharach Boulevard
Atlantic City, NJ 08401
609-345-3444
tamara.lamb@atcobar.org
atcobar.org
Tamara Lamb, Executive Director

Bergen County Bar Association

15 Bergen Street
Hackensack, NJ 07601
201-488-0044
bergenbar.org
Frank O'Marra Jr., Executive Director

Burlington County Bar Association

137 High Street, 3rd Floor
Mount Holly, NJ 08060
609-261-4862 or 609-261-4863
bcba@burlcobar.org
burlcobar.org
Kara E. Edens, Executive Director

Camden County Bar Association

1040 North Kings Highway, Suite 201
Cherry Hill, NJ 08034
856-482-0618
camdencountybar.org
Laurence B. Pelletier, Executive Director

Cape May County Bar Association

9 North Main Street
Cape May Courthouse, NJ 08210
609-463-0313
cmcba.ed@gmail.com
Pamela M. Kaithern, Executive Director

Cumberland County Bar Association

P.O. Box 2374
Vineland, NJ 08362
856-696-5550
ccba@ccnjbar.org
ccnjbar.org
Carol Walker, Executive Director

Essex County Bar Association

470 Martin Luther King Jr. Boulevard
Newark, NJ 07102
973-622-6204
info@essexbar.com
essexbar.com
Wendy E. Deer, Executive Director

Gloucester County Bar Association

P.O. Box 338
Woodbury, NJ 08096
856-848-4589
baroffice@gcbanj.org
gcbanj.org
Lynn Silverstein, Executive Director

Hudson County Bar Association

583 Newark Avenue
Jersey City, NJ 07306
201-798-4708
hcbalaw.com
Lisa Burke, Executive Director

Hunterdon County Bar Association

P.O. Box 573
Annandale, NJ 08801
908-200-7822
hcba@comcast.net
huntcolaw.org
Lyn Brokaw, Executive Director

Mercer County Bar Association

1245 White Horse Mercerville Road
Suite 420
Mercerville, NJ 08619
609-585-6200
siraca@mercercbar.com
mercercbar.com
Samantha Iraca, Executive Director

Middlesex County Bar Association

87 Bayard Street
New Brunswick, NJ 08901
732-828-0053 ext. 100
admin@mcbalaw.com
mcbalaw.com
Jonathan P. Cowles, Executive Director

Monmouth Bar Association

Monmouth County Court House
Freehold, NJ 07728
732-431-5544
tmaciewicz.monmouthbar
@verizon.net
monmouthbarassociation.com
Tracy A. Settipane, Executive Director

Morris County Bar Association

245 South Street
Morristown, NJ 07960
973-267-6089
yperez@morriscountybar.com
morriscountybar.com
Nancy M. Bangiola, Executive Director

Ocean County Bar Association

P.O. Box 381
Toms River, NJ 08754
732-240-3666
karin@oceancountybar.org
oceancountybar.org
Karin Poola, Executive Director

Passaic County Bar Association

401 Grand Street, 3rd Floor
Paterson, NJ 07505
973-345-4585
passaicbar.org
Karen A. Corsi, Executive Director

Salem County Bar Association

856-935-5629
contact@salemcountybar.org
salemcountybar.org

Somerset County Bar Association

20 North Bridge Street HCH 325
Somerville, NJ 08876
908-685-2323
director@somersetbar.com
somersetbar.com
Elvia Viera, Executive Director

Sussex County Bar Association

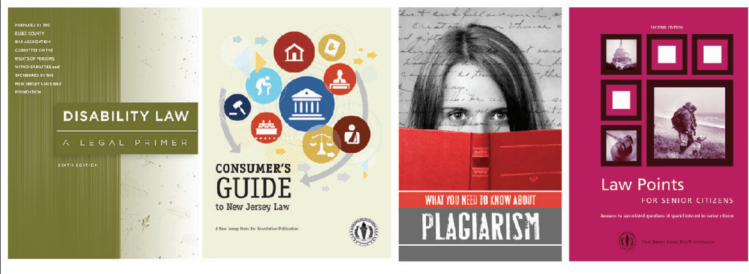
61 Spring Street, 4th Floor
Newton, NJ 07860
973-383-3900
info@SussexCtyBarAssoc.com
sussexctybarassoc.com

Union County Bar Association

2 Broad Street 1st Floor
Elizabeth, NJ 07207
908-353-4715
uclaw.com
Jeffrey M. Clar, Executive Director

Warren County Bar Association

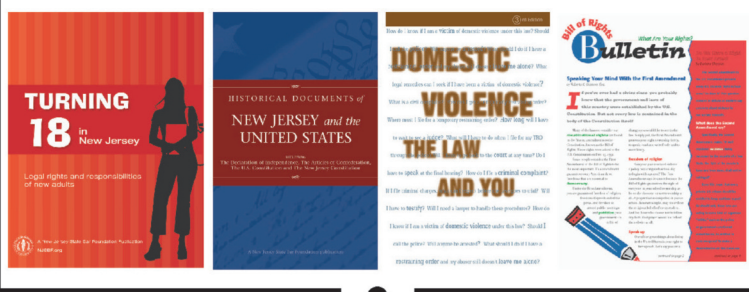
413 Second Street
Belvidere, NJ 07823
908-387-1835
info@warrencountybar.org
warrencountybar.org
Courtney Donah, Executive Director



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