

# **Your Day in Court**

*Basic Trial Procedures for Defendants Representing Themselves at Trial to the Court*

## **Introduction**

This document is intended to give a general overview of trial procedures for people who represent themselves in a trial to the Court in the Fraser/Winter Park Municipal Court. It is not intended to provide rules of evidence, or law, or to address all situations that may arise during trial. It is intended to assist in the orderly presentation and disposition of trial matters to the Court.

**THESE GUIDELINES ARE NOT, AND ARE NOT MEANT TO BE, LEGAL ADVICE.** If you have legal questions you must contact a Colorado licensed attorney.

**THESE GUIDELINES DO NOT APPLY TO JURY TRIALS.**

Defendants representing themselves are bound by the same Rules of Evidence and Procedure as attorneys. The Judge will tell you the steps in the trial; but the judge cannot act as your attorney.

You may obtain a copy of the code section under which you are charged, from the Town of Fraser or the Town of Winter Park web page.

For a fee you may obtain a copy of any Police Report pertaining to your case from Fraser/Winter Park Police Department located at the Winter Park Station Bldg., 79050 Main Street, PO Box 211, Winter Park, CO 80482.

## **Witnesses**

It is your responsibility to subpoena your witnesses to insure their attendance at trial. The Municipal Court will issue subpoenas upon request. There may be a fee charged. It is your responsibility to have the subpoena served upon the witness in accordance with the law.

## **Exhibits**

Please bring the original and 2 copies of your exhibits to your trial. Each of your exhibits should be marked prior to trial with a different exhibit letter and your citation number, such as:

*Defendant's Exhibit A-, Case- FWP000000*

## **Trial to the Court**

Whenever the judge enters or leaves the courtroom, stand up. Hats should be removed and cell phones should be turned off in the Courtroom. NO talking is allowed except for necessary court business while court is in session. You will take your place at the Defendant's table and the Prosecuting Attorney or Officer will take his/her place at the Prosecution table. The case will be called by the Judge and the trial will begin.

## **Opening Statements**

Each party, the Prosecutor (first) and the Defendant (second) will be given the opportunity, but is not required, to make an Opening Statement. You may also reserve this for later in the trial. The Opening Statement is a brief statement to inform the Judge what the case is about. It is restricted to the evidence that will be presented during the trial. It is not evidence to be used by the Court in making a decision.

### **Town Prosecutor's Case**

The "Prosecutor" can either be a Police Officer if the case is a Traffic Infraction or the Town Attorney if the case is a Traffic Offense or Criminal case. In a Traffic Offense or Criminal case the Prosecutor will call his or her witnesses which may include more than one Officer. He or she will question the witnesses concerning any knowledge they may have of the facts in the case. After the Prosecutor finishes questioning a particular witness, you have the right to cross-examine the witness. After cross-examination, the Prosecutor will have the opportunity to conduct a redirect examination. The Judge may also ask questions of all witnesses.

In a Traffic Infraction case, the Police Officer will represent the Town. Town witnesses will testify in narrative form, but are subject to cross examination by the Defendant. When the Prosecutor finishes calling all his or her witnesses, the Town will rest its case. *The Town must prove its case beyond a reasonable doubt.*

### **Defendant's Case**

If you have reserved your Opening Statement, you will have an opportunity to make an Opening Statement at the beginning of your case. A Defendant may present witnesses, including him/her self. A Defendant may choose not to present evidence, but is still allowed to make a closing argument but that argument must only comment upon the evidence the Prosecutor presented-not to present new facts not received during the trial.

The Town Attorney may cross examine any defense witness called in a Traffic Offense or Criminal matter. The Judge may also ask questions of all the witnesses.

Testimony should be restricted to the facts and charge before the Court. Typically, testimony as to what someone else said and written statements are not admissible as evidence unless the person who made the statement is present for cross-examination. Prior driving habits and prior driving records are not admissible as evidence at a trial-but may be considered during sentencing. Once all of your witnesses have testified you will rest your case.

### **Rebuttal**

After the Defendant's case, the Prosecution will be allowed to introduce any evidence which rebuts the evidence presented by the Defendant.

## **Closing Arguments**

Each side will be given an opportunity, but is not required, to make a Closing Argument. The Prosecution goes first, and then the Defendant, and finally the Prosecution may make a rebuttal argument.

A Closing Argument is each side's summary of the facts presented to the Court as viewed by them and argument as to the significance of the evidence presented during the trial. **Closing Arguments are not received by the Court as evidence.** The burden never shifts from the Prosecutor who is required to prove the case beyond a reasonable doubt.

## **Conclusion of the Trial**

When all of the evidence is completed and Closing Arguments, have been made, the Judge will render his/her decision.

If a not guilty verdict is rendered the matter is concluded and the Defendant is free to leave. No court costs will be imposed.

If a guilty verdict is rendered, the Judge will then decide on a sentence. Before announcing the sentence, the Defendant will be given the opportunity to tell the Court about favorable matters that should be considered while deciding on the sentence.

You have the right to appeal if you disagree with the verdict.