



## City of Austin Municipal Court

*Address:* 700 E. 7<sup>th</sup> St., Austin, TX 78701

*Mail:* P.O. Box 2135, Austin, TX 78768

*Phone:* (512) 974-4800; *Fax:* (512) 974-4882

*Email:* [court@austintexas.gov](mailto:court@austintexas.gov); *Internet:* [www.austintexas.gov/court](http://www.austintexas.gov/court)



# A Citizen's Guide to Appeal

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The City of Austin Municipal Court is a court of record. An appeal of a decision by an Austin Municipal Court judge or jury on a criminal case must be based on an error made by the Court and preserved in the record of your case. There are certain procedures you must follow to protect and perfect your right of appeal. The statutes governing this Court's criminal appeals may be found in the Texas Government Code Sec. 30.0014-30.0027 and the Texas Rules of Appellate Procedure. THE FOLLOWING INFORMATION IS PROVIDED TO YOU AS A GUIDE AND DOES NOT INCLUDE ALL THE APPELLATE RULES. You must follow the law, or hire an attorney, to make certain that you do not lose your ability to appeal.

### **I was found guilty in Municipal Court and I want to appeal.**

#### **How do I do that?**

If you are found guilty in Municipal Court and you want to appeal your case, you must complete a minimum of two steps **after filing a motion for new trial** and having that motion denied:

1. File an appeal bond with the Municipal Court Clerk within 10 days of being denied a new trial.

(See Texas Government Code Sec. 30.00147)

#### **When must the appeal bond be filed?**

A motion for new trial is necessary to appeal your case.

The appeal bond must be filed no later than 10 days after a motion for new trial is denied.

An appeal bond form can be obtained from the Municipal Court Clerk's office or on line at:

[http://www.austintexas.gov/sites/default/files/files/Municipal\\_Court/Cash\\_Appeal\\_Bond.pdf](http://www.austintexas.gov/sites/default/files/files/Municipal_Court/Cash_Appeal_Bond.pdf)

#### **What are the requirements of an Appeal Bond?**

The appeal bond must be at least \$100.00 or double the amount of the fine and costs assessed in your case, whichever is greater. It must state that the defendant was convicted in the case and has appealed, and be conditioned on the defendant's appearance in the County Court of Appeals as directed by the Court.

Revised Date: 12/31/2019

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## What is a reporter's record?

A reporter's record (formerly called a statement of facts) is the court reporter's preservation of the proceedings at the trial before the municipal Court.

The Austin Municipal Court uses recording equipment to record trial proceedings. If you want to get the record transcribed, you must make arrangements through the Municipal Court Clerk's office to obtain the recording disk to give to a certified court reporter to transcribe.

You have the responsibility of having the reporter's record transcribed by a firm certified by the Texas Judicial Branch Certification Committee, and filing it with the municipal court not later than the 60<sup>th</sup> day after the notice of appeal is filed. You must make your own arrangements to secure the services of a certified court reporter and to pay for the preparation of the reporter's record.

A list of certified firms can be found here: <http://www.txcourts.gov/jbcc/court-reporters-certification/>

## Do I need a reporter's record?

The appellate court has held on numerous occasions that it cannot address questions relating to the factual or legal sufficiency of the evidence or as to the admissibility of the evidence or other court rulings without a reporter's record. If those are the types of errors you are raising on appeal, it is essential that you have a reporter's record that shows what evidence was actually introduced so the appellate court can provide you with a meaningful appeal. The reporter's record must be filed no later than 60 days after the date on which the notice of appeal is filed.



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### **If I get a reporter's record do I win my case?**

No, not necessarily. Even with a reporter's record, the appellate court must review the evidence that was submitted to the trial judge, and determine whether the trial court's decision is supported by factual and legal evidence.

### **What is a brief?**

You are required to file a brief with the Appellate Court Clerk. Your brief should set out the reasons you think the trial court was in error in its decision, and cite any legal authorities which support your position. Although there are specific requirements for the contents of a brief, the appellate court accepts briefs in letter form. Be sure that the brief is legible, preferably typewritten, and submitted in English or an English translation.

### **When is the brief due?**

Your brief is due no later than 15 days after the filing of the clerk's record, and the brief should be filed with the appellate court. It is advisable to file your brief as soon as possible after you have appealed your case so that your appeal will not be dismissed for want of prosecution.

### **What happens if I do not file a brief?**

If you fail to file your brief as required, the appellate court may notify you that it intends to dismiss your appeal for such failure, and provide you a time limit in which to resolve that omission. Failure to do so may result in dismissal of your appeal for want of prosecution.

### **Where do I file with the Municipal Court?**

The reporter's record, if any, needs to be filed with the Austin Municipal Court. Court staff will then package all appeal documents and forward them to the County Court of Appeals. The address for the Austin Municipal Court is:

Mailing:

P.O. Box 2135

Austin, TX 78768-2135



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### Physical:

700 E. 7<sup>th</sup> Street  
Austin, TX 78701

Once your appeal is perfected, and docketed by the appellate court, a docket number will be assigned to that case and you will be notified. Please include that docket number on any further correspondence or documents filed with the appellate court. Also, please address all documents intended for the appellate court with "Attention: County Court of Appeals."

### **Can I examine the clerk's record that is sent to the appellate court?**

A draft of the clerk's record will be prepared within 20 days after the notice of appeal is filed, the appeal bond is posted, and the appellate docketing fee is paid. The record will not be prepared until 20 days after all three requirements have been satisfied. You may examine the clerk's record at the Austin Municipal Court from the 20<sup>th</sup> to 30<sup>th</sup> day following the notice of appeal. All recommended changes must be made in writing and submitted to the court no later than the 30<sup>th</sup> day following the date of the notice to appeal. If you are unable to come to the municipal court, please contact the court for options. The clerk's record is mainly composed of the history of the case which can be seen online at [www.austintexas.gov/public](http://www.austintexas.gov/public)

### **Do I have the right to be represented by an attorney?**

You do have a right to hire an attorney to represent you in all proceedings in the municipal court. However, Class C Misdemeanors, over which municipal courts have jurisdiction, are considered "fine only offenses" and you do not have an automatic right to have a court appointed attorney unless determined by a judge that it is in the interest of justice.

### **Will I be making an oral argument before the appellate court?**

You no longer have a right to present oral argument to the appellate court, but upon your request for oral argument, the appellate court, can, in its discretionary authority, grant oral argument if it believes that it would assist in the decision making process relating to the case. Otherwise, the case will be decided based on the briefs filed by the case parties and the laws applicable to the case.

### **Will the appellate court rehear the evidence in the case?**

No. Appeals from municipal courts of record are not "de novo" proceedings. The appeal is not an opportunity to retry the case before a different judge. The appellate court will not rehear the evidence presented at trial. An appeal is an opportunity to determine whether the trial judge applied the law



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properly to the evidence that was presented in your case. The appellate court will review the record of the case and decide whether or not an error in the application of the law was made.

### What kind of decisions can the appellate court render?

- Affirm trial court's decision:

*The appellate court can affirm the trial court's decision. If so, the trial court decision stands, and you must pay the fine and court costs assessed.*

- Reverse trial court's decision and remand for a new trial:

*The appellate court can reverse and remand the case and you will be afforded a new trial at the trial court level.*

- Reverse and render a decision in your favor:

*The appellate court can reverse and render a decision in your favor. The trial court then will be directed to enter a judgment of acquittal on your behalf.*

### How will I find out the decision of the appellate court?

A written decision will be issued by the appellate court. You will receive a copy in the mail.

### When does the appeal become final?

A decision of the appellate court becomes final 15 days after rendering its decision. Generally, that is the final stage of appeal, although a limited right of appeal is provided to the Third Court of Appeals if the fine assessed against you in the municipal court exceeded \$100.00 or if you are contesting the constitutionality of a statute or ordinance on which your conviction is based.

### I need someone to explain this legal stuff to me in more detail and I need help preparing my brief. Who can do that?

Many people represent themselves on their appeal. However, if after reading this guide and after reviewing the Texas Government Code Sections 30.0014-30.0027, you need more assistance, it may be advisable to seek the advice of an attorney. Please understand that the staff of the Austin Municipal Court is prohibited from recommending a specific attorney to you, or giving you legal advice.



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### What is the timetable to file an appeal?

Timetable when **NO** reporter's record was requested.

Timetable when reporter's record was requested

