

CIVIL TRAFFIC HEARING INFORMATION

The following contains some basic information about the civil traffic hearing that you have requested be held in your case. Please read this **BEFORE** going to court.

1. What is a Civil Traffic Hearing?

Under Arizona law, if a person denies the allegations filed in a traffic ticket he or she received, the court must set the matter for "hearing", which is a proceeding of relative formality in which witnesses are heard; evidence is presented by both sides, and which terminates in a final order.

2. What are the issues involved in a civil traffic hearing?

The questions to be determined in any given hearing will vary depending on the specific allegation of violation contained in the complaint. It may, therefore be helpful to note the exact "section" number of the "ARS" or "CC" that is referred to and alleged to have been committed in the complaint. This section number, together with the written description, can then be used to refer to the specific section of Title 28 of the Arizona Revised Statutes or Tempe City Code that is the specific law that is alleged as having been broken. (The Arizona Revised Statutes can be found in most public libraries and the Tempe City Code can be found specifically in the Tempe Public Library) Remember that a civil traffic hearing is only about whether this alleged traffic law was broken.

3. What issues will not be considered in a civil traffic hearing?

Only those issues that pertain to the specific traffic law alleged to have been violated will be considered. Examples of issues that will not be considered include:

- Who should pay who for damages stemming from an accident that took place, ie: who was at "fault" in the accident.
- The "rudeness" of the police officer who issued the traffic ticket;
- Whether a particular violation was done intentionally or by simple oversight;
- Whether the defendant has the money to pay a potential fine that could be imposed;
- Whether anyone was injured or otherwise put at risk by the defendant's conduct.

4. Who decides the issues and outcome of a civil traffic hearing?

Arizona law provides that the judicial hearing officer will "hear and dispose of civil traffic cases... and the judgment of the hearing officer constitutes the judgment of the court". No right to a jury trial exists in traffic court.

5. How will the judicial hearing officer decide the issues and outcome of the case?

A civil traffic case is decided by applying the standard of proof provided by law that is commonly referred to as "preponderance of the evidence". If the state, as the plaintiff, shows that the preponderance of the evidence (in other words, the greater weight of all the evidence) demonstrates it is more likely than not that a violation was committed, the state wins. If the evidence does not demonstrate this, the defendant wins.

6. What kind of evidence can be presented to the court?

Any evidence may be offered, including witness testimony, prior witness statements or sworn testimony, diagrams, exhibits, photographs, or any other type of evidence. The only requirements are that it must be "relevant and material and have some probative value to a fact at issue". To determine whether these requirements are fulfilled, a defendant must ask himself what

the "facts at issue" will be in the hearing and then decide whether a given piece of evidence is relevant and proves something important about those facts.

7. How does the hearing commence?

First, the court is called to order. This means all conversation must cease, hats are removed and full attention and respect is paid to the court. The court "calls" a given case and the main state's witnesses and the defendant come forward and sit at the tables provided. The judicial hearing officer reads aloud the complaint, identifies evidence and witnesses, and asks if the defendant is ready to proceed. If so, the proceedings begin.

8. What is the order in which testimony and evidence is presented to the court?

The order of proceedings in the hearing is as follows:

- Testimony of state's witnesses;
- Testimony of defense witnesses;
- Testimony of state's rebuttal witness, if any;
- Surrebuttal testimony by defense witnesses, if need.

Also, the court will allow the defendant a chance to ask any questions of any witnesses regarding what they have presented in their testimony. During this opportunity, however, the defendant will not be allowed to argue with or contradict the witness, or otherwise make any affirmative statements about his or her case: The defendant will be given a chance to make such statements only during the time set aside for him or her to do so.

9. Is any other kind of evidence, other than testimony, admissible during the hearing?

In rendering a judgment, the court will consider any evidence submitted by either side, so long as it is relevant and material. Examples of other types of evidence include:

- diagrams;
- photographs;
- physical exhibits;
- written witness statements, signed and sworn to under oath.

10. How does the hearing conclude?

After each side has had an opportunity to fully present their respective cases, the hearing officer will announce a "close the evidentiary portion of the proceedings." This means that the time to present each side's case has come to an end and the hearing officer will no longer consider any further statements, argument, or any other presentation by either side. When the court closes the time for receipt of the evidence, it is time for a judgment to be rendered and the hearing to end.

11. If a defendant is found "Responsible" for the violations alleged in the complaint, and a fine is imposed for this, when must the fine be paid?

Any fine that is imposed is due and payable at the time the judgment is entered. Therefore a defendant must pay such a fine before the close of business the day that the hearing was held and the judgment was entered.

12. If the court should rule in favor of the State by finding the defendant "Responsible", does the defendant have any right to appeal?

The defendant has a right to appeal the judgment of the court to a Superior Court judge. This right to appeal consists only of a right to review the record to determine if any error of law took place in the proceedings. The right to

appeal does not give the defendant the right to another hearing, a right to reargue facts of the case, or the right to delay payment of any fine or sanction imposed. The appellate right is merely a right of review of the previous proceedings to determine whether there has been any misinterpretation or misapplication of the law of the case.