HOW TO APPEAL A DECISION OF A MUNICIPAL COURT

WHO SHOULD USE THIS PACKET?

If you have been found guilty and have been sentenced by a Municipal Court judge and you want to appeal, then this packet will show you how. Some reasons to file an appeal are:

- you believe the facts do not support the judge's decision; or
- you believe the judge's decision does not follow the law.

IMPORTANT POINTS TO REMEMBER:

1. The Municipal Court must **receive** your Notice of Municipal Court Appeal form within 20 days (including weekends and holidays) from the date you were found guilty (see Steps 1 and 3).

2. There is a **$75 filing fee plus a transcript fee** which you must pay in advance. Both of these fees are non-refundable (see Steps 2 and 6).

3. If you were represented by a court appointed attorney in your Municipal Court proceeding, please consult with that person prior to filing your appeal. The assigned counsel can help you file your appeal.

Date: 2/01

NOTE: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the forms will be available at the county courthouse, your local Municipal Court or on the Judiciary's Internet site (www.judiciary.state.nj.us). However, you are ultimately responsible for the content of your appeal.

THINGS TO THINK ABOUT BEFORE YOU REPRESENT YOURSELF IN COURT

DECIDE WHETHER TO GET A LAWYER

The court system is often complicated and confusing. As a result, you may wish to consult with a lawyer before deciding whether to represent yourself in court. If you cannot afford a lawyer or do not know how to go about finding a lawyer, you can:

- Call the New Jersey Attorney Referral Office in your county; or
- Ask any of the State or County Bar Associations for the names of lawyers who may be able to represent you at a reduced price.

NOTE: If you believe you qualify for a court-appointed lawyer, ask the court staff at either the Municipal or Superior Court for more information. The court staff can give you the forms needed to apply for a court-appointed lawyer.

WHAT YOU SHOULD EXPECT IF YOU REPRESENT YOURSELF

While you have the right to represent yourself in court, you should not expect any special treatment, help, or attention from the court. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

We can explain and answer questions about how the court works.
We can tell you what the requirements are to have your case considered by the court.
We can give you some information from your case file.
We can provide you with samples of court forms that are available.
We can provide you with guidance on how to fill out forms.
We can usually answer questions about court deadlines.

We cannot give you legal advice. Only your lawyer can give you legal advice.
We cannot tell you whether or not you should bring your case to court.
We cannot give you an opinion about what will happen if you bring your case to court.
We cannot recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
We cannot talk to the judge for you about what will happen in your case.
We cannot let you talk to the judge outside of court.
We cannot change an order issued by a judge.

COURT RULES ABOUT MUNICIPAL COURT APPEALS

You can get additional information on how to file a Municipal Court appeal by looking up Rule 3:23 in the *Rules Governing the Courts of the State of New Jersey*. Although this packet will walk you through the appeal process, you should consider reading this rule if you decide to file your own Municipal Court appeal. A copy of the rule book is available at the State Library in Trenton, law libraries, and at many of the county and municipal public libraries located throughout the State.

CHECKLIST

Please feel free to use this Checklist as you complete each of the six steps discussed in the following section. Please pay close attention to the time frames indicated in each Step.

__ Complete FORM A (*Notice of Municipal Court Appeal*) – See STEP 1.
__ Complete FORM B (*Transcript Request – Municipal Court*) – See STEP 2.
__ Contact the Municipal Court to determine what the estimated cost of the Transcript will be – See STEP 2.
__ After completing FORM B (*Transcript Request – Municipal Court*), take it to the Municipal Court to order the correct number of transcripts. Please remember to bring/enclose a check to pay for the transcript – See STEP 2.
__ Mail or deliver FORM A (*Notice of Municipal Court Appeal*) to the Municipal Court – See STEP 3.
__ Mail or deliver a copy of FORM A (*Notice of Municipal Court Appeal*) to the Prosecuting Attorney(s) – See STEP 4.
__ Complete FORM C (*Certification of Timely Filing*) – See STEP 5.
__ Mail or deliver a copy of FORM A and the completed FORM C, along with the $75 filing fee, to the Criminal Division Manager at the Superior Court – See STEP 6.

6 STEPS FOR FILING YOUR APPEAL

STEP 1: Fill out FORM A (*Notice of Municipal Court Appeal*)

STEP 2: Fill out FORM B (*Transcript Request - Municipal Court*)

As part of the appeal process, you must order an original and a copy of the written record, also called a *transcript*, of your Municipal Court hearing. To order these transcripts, you must fill out FORM B (*Transcript Request-Municipal Court*) and mail or deliver it to the Municipal Court where your hearing took place.

NOTE: You will have to pay for the transcript in advance. This non-refundable fee depends on the length of your trial. Before you send or deliver the *Transcript Request-Municipal Court* form to the court, please call the court to get from them 1) the estimated cost of the transcript and 2) who the check should be written to. If you cannot afford to pay for the transcript, ask court staff at either the Municipal or Superior Court how you can apply to have the transcript produced at court expense.

One of the two transcripts you are required to order is for the Prosecutor and the other is for the Criminal Division Manager at the Superior Court (see STEPS 4 and 6). If you want a transcript for yourself, you should order a third copy when you place your original transcript order.

STEP 3: Mail or deliver FORM A (*Notice of Municipal Court Appeal*) to the Municipal Court

In order to let the Municipal Court Administrator of the Municipal Court in which you were originally found guilty know that you are filing an appeal, you must mail or deliver FORM A (*Notice of Municipal Court Appeal*) to that court. The Municipal Court must receive this form **no later than 20 calendar days (this includes weekends & holidays)** after the date you were found guilty. **If the Municipal Court does not RECEIVE the appeal form by the 20 day deadline, your appeal will not be heard.**

NOTE: Before you deliver or mail the original of FORM A to the Municipal Court, please make some extra copies. The information contained in STEPS 4 and 6 will let you know how many copies you will need. These additional copies are needed to help you complete the filing of your appeal.

If you mail FORM A instead of delivering it in person, you should send it certified mail, return receipt requested. Your post office can tell you how to do this.

STEP 4: Mail or deliver a copy of FORM A to the Prosecutor

You must send a copy of FORM A to the Prosecutor **no later than 5 days** after you mailed or delivered the original copy of FORM A to the Municipal Court. If you mail the form, instead of delivering it in person, you should send it certified mail, return receipt requested.

In almost all cases the prosecuting attorney is the County Prosecutor. However, in some cases the prosecuting attorney may be a different person. To determine if the prosecuting attorney for your case may be someone other than the County Prosecutor, please refer to the sheet at the end of this packet labeled *Determining the Prosecuting Attorney*.

STEP 5: Fill out FORM C (*Certification of Timely Filing*)

Fill out FORM C (*Certification of Timely Filing*) and attach it to a copy of FORM A. FORM C is your certification telling the court that you mailed the necessary papers on time and to the correct places.

STEP 6: Mail or deliver a copy of FORM A and the original of FORM C to the Criminal Division Manager at the Superior Court

You must send a copy of FORM A and the original of FORM C (*Certification of Timely Filing*) to the Criminal Division Manager at the Superior Court. The Superior Court must **receive** these forms **no later than 5 days** after the original copy of FORM A (*Notice of Municipal Court Appeal*) was received by the Municipal Court. If you mail the forms, you should send them in one envelope certified mail, return receipt requested.

The copy of FORM A and the original of FORM C should be mailed or delivered to the Criminal Division Manager at the County Courthouse in the county where the original Municipal Court case was heard. This address can be found in the *Directory of Superior Court Clerk's Offices-Law Division* contained in this packet. If you are not sure which county you should file your appeal in, ask someone at the Municipal Court for assistance.

NOTE: A filing fee of $75 is required to file your Notice of Appeal with the Criminal Division Manager. Make the check or money order payable to the *State of New Jersey–Judiciary*. However, if you cannot afford to pay for filing the appeal, ask the court staff at either the Municipal or Superior Court how to apply for the waiver of the filing fee.

Form A

STATE OF NEW JERSEY
NOTICE OF MUNICIPAL COURT APPEAL

v. (Title of Action)

Superior Court of

MunicipalCourt Ticket or Complaint #. (refer to ticket or complaint):

Your Name:

Your Address:

Lawyer's Name (If applicable):

Lawyer's Address (if appl):

Contact Phone #: ( ) -

Lawyer's # (if appl):( ) -

If you were represented by a lawyer, was he/she appointed by the court? Yes or No (check one)

I, (your name) , am appealing to the Superior Court from a conviction entered in the Municipal Court on (date) . On that date, I was convicted of the following offense(s):

The Municipal Court Judge found me guilty and ordered the following:

- Fine (Specify Amount):
- Restitution (Specify Type): Amount:
- Jail Sentence (Length of Sentence):
- Community Service (Describe):
- Probation(Length):
- Driver License Suspension (Length of Suspension):
- Other Penalty (Please Specify):

In connection with this outcome:

__ No Fine was Assessed, or
A Fine was Assessed and:
__ has been paid
__ has not been paid
__ has been stayed pending appeal

In connection with this outcome:

__ No Jail Term was Imposed, or
A Jail Term was Imposed:
__ however, I am not in jail
__ I am in jail confined at the following facility:

A Sound Recording was made in the above matter at the time of the trial, as required by Rule 7:8-8.

Docket # _____
(Superior Court Use Only)

Form B

TRANSCRIPT REQUEST-MUNICIPAL COURT

Name of Municipal Court:

Title of Action: v.

Name of Municipal Court Judge:

Name of County:

Date(s) of Hearing(s):

COMPLETE THIS SECTION ONLY IF YOU ARE FILING AN APPEAL OF A MUNICIPAL COURT JUDGMENT

To file a Municipal Court appeal you must order and pay in advance for a minimum of two (2) copies of your court case transcript. The Municipal Court Administrator will file the original copy of the transcript with the Criminal Division Manager at the Superior Court and a certified copy with the Prosecuting Attorney. You may also order one or more copies of the transcript for yourself if you choose, at an additional charge.

Number of transcripts requested:

___1___ Copy for the Criminal Division Manager at the Superior Court (**required**)

_____ Copy or copies for the Prosecuting Attorney or Attorneys (a minimum of one is **required)**

_____ Additional copies (**optional**)

_____**Total Copies Ordered**

Your name: Address:

Telephone #: ( ) -

I agree to pay for the preparation and all copies ordered of the transcript.

_____ _____

(Your Signature) (Date)

(Type or Print your name)

New Jersey Court Rule 3:23-8(a) requires that when an appeal is filed, the original transcript must be filed with the Criminal Division Manager at the Superior Court and a certified copy with the Prosecuting Attorney.

Note: Before you send or deliver the *Transcript Request-Municipal Court* form to the court, please call the court to get from them 1) the estimated cost of the transcript and 2) who the check should be written to.

Amount of Deposit: $_____
(Court Use Only)

Form C

CERTIFICATION OF TIMELY FILING

I certify that a copy of the Notice of Municipal Court Appeal form (FORM A) has been mailed or delivered to the Municipal Court Administrator of the Municipal Court, and also to the Prosecuting Attorney(s), within the deadlines specified by the Rules of Court. In addition, I certify that I have contacted the Municipal Court Administrator of the Municipal Court stated above, before filing my Notice of Municipal Court Appeal, and I have ordered an original and a copy of the transcript of my proceedings. Additionally, if required, I have paid the transcript deposit specified by the Municipal Court Administrator to have the transcript produced.

I certify that the foregoing statements made by me are true. I am aware that if any of these statements made by me are not true, I am subject to punishment.

_____ _____

(Your Signature) Appellant (Date)

(Type or print your name)

List the name(s) and address(es) of the Prosecuting Attorney(s) who has been provided with a copy of Form A (*Notice of Municipal Court Appeal).*

(a) Name:
Address:

(b) Name:
Address:

(c) Name:
Address:

Determining the Prosecuting Attorney

Determining the Prosecuting Attorney- In order for you to file a copy of FORM A (*Municipal Court Appeal*) with the Prosecuting Attorney, you must first determine who the Prosecuting Attorney for your case will be when it gets to the Superior Court. It may be an attorney representing the Municipality where your matter was heard, the County Prosecutor or even an attorney from the office of the State Attorney General. Who the Prosecuting Attorney will be is determined by the nature of the case on which you are appealing. For example:

a) If one or more of the charges on which you were found guilty and are appealing is a municipal ordinance violation, a copy of FORM A (*Notice of Municipal Court Appeal*) must be mailed or delivered to the Municipal Attorney for the town where the Municipal Court is located. Staff at the town's main administrative building can provide you with the name and address of the Municipal Attorney.

b) If your appeal is based on a claim that a State law, statute, rule, regulation or an order by the executive branch of government is unconstitutional, then a copy of FORM A (*Notice of Municipal Court Appeal*) must be mailed or delivered to the Office of the Attorney General, at the following address:

Office of the Attorney General
R. J. Hughes Justice Complex
25 Market Street, P.O. Box 080
Trenton, NJ 08625

c) For all other matters, a copy of FORM A (*Notice of Municipal Court Appeal*) must be mailed or delivered to the County Prosecutor. This includes most traffic offenses and driving while intoxicated (DWI) violations.

Please be aware that your case may require you to send a copy of FORM A (*Notice of Municipal Court Appeal*) to more than one Prosecuting Attorney. For example, if one of the charges is a municipal ordinance violation and another a speeding offense, then you will need to send a copy of FORM A to both the Municipal Attorney and the County Prosecutor. The Municipal Prosecutor, the local police department or Municipal Court staff can provide you with information on whether a particular charge is a municipal ordinance violation or a State law violation.

Finally, if you are still unsure who the Prosecuting Attorney in your case will be, you may want to consider sending a copy of FORM A (*Notice of Municipal Court Appeal*) to the County Prosecutor, the Municipal Attorney and the State Attorney General.

Please refer to the Summary Table below for information on determining the Prosecuting Attorney(s).

SUMMARY

If you are appealing:		**You must send a notice to:**
A Municipal Ordinance violation	>>	The Municipal Attorney for the town where the Municipal Court is located
A violation of State law, (i.e., a traffic violation, assault charge or most other matters)	>>	The County Prosecutor
The Constitutionality of the law, rule, regulation, or an Executive Order	>>	The Office of the Attorney General
If you are not sure who the Prosecuting Attorney will be	>>	Ask the Municipal Prosecutor or Municipal Court staff for help

Directory of Superior Court Clerk's Offices- Law Division

A copy of FORM A (*Notice of Municipal Court Appeal*) must be sent to the Criminal Division Manager at the Superior Court in the county where you are filing your Appeal. Use this list of addresses to find the address of the appropriate Superior Court.

Atlantic County
Superior Court of N.J.
Atlantic County Criminal Division
Criminal Records Team
5909 Main Street
Mays Landing, NJ 08330
(609) 625-7000

Bergen County
Superior Court of N.J.
Bergen County Criminal Division
Bergen County Justice Center
Room 119
10 Main Street
Hackensack, NJ 07601
(201)-646-3000

Burlington County
Superior Court of N.J.
Burlington County Criminal Division
49 Rancocas Road-3rd Floor
Mt. Holly, NJ 08060
(609)-518-2565

Camden County
Superior Court of N.J.
Camden County Criminal Division
101 South Fifth Street
Hall of Justice
Camden, NJ 08103
(856)-225-7138

Cape May County
Superior Court of N.J.
Cape May County Criminal Division
DN-209B
4 Moore Road
Cape May Court House, NJ 08210
(609)-463-6600

Cumberland County
Superior Court of N.J.
Cumberland County Criminal Division
P.O. Box 757
Bridgeton, N.J. 08302
(856)-451-7152

Essex County
Superior Court of N.J.
Essex County Criminal Division
Essex County Courts Building
Criminal Records Office Rm. 100S
50 West Market Street
Newark, NJ 07102
(973)-693-5965

Gloucester County
Superior Court of N.J.
Gloucester County Criminal Division
Justice Complex, 1st Floor
Hunter & Euclid Streets
Woodbury, NJ 08096
(856)-853-3534

Hudson County
Superior Court of N.J.
Hudson County Criminal Division
Hudson County Admin. Building
Criminal Records Office, Room 104
595 Newark Avenue
Jersey City, N.J. 07306
(201)-795-6114

Hunterdon County
Superior Court of N.J.
Hunterdon County Criminal Division
Hunterdon County Justice Center
65 Park Avenue
Flemington, NJ 08822
(908)-806-4338

Mercer County
Superior Court of N.J.
Mercer County Criminal Division
Mercer County Criminal Courthouse
Records Section, 2nd Floor
209 S. Broad St.
Trenton, NJ 08650
(609)-989-6462

Middlesex County
Superior Court of N.J.
Middlesex County Criminal Division
Records/Municipal Appeals
P.O. Box 2673
New Brunswick, NJ 08903
(732)-981-3128

Monmouth County
Superior Court of N.J.
Monmouth County Criminal Division
Monmouth County Courthouse
P.O. Box 1271
Freehold, NJ 07728
(732)-431-7480

Morris County
Superior Court of N.J.
Morris County Criminal Division
Morris County Courthouse
P.O. Box 910
Morristown, NJ 07963-0910
(973)-285-6381

Ocean County
Superior Court of N.J.
Ocean County Criminal Division
Ocean County Justice Complex
Room 220
Toms River, NJ 08753
(732)-929-2009

Passaic County
Superior Court of N.J.
Passaic County Criminal Division
Passaic County Courthouse
77 Hamilton Street
Paterson, NJ 07505
(973)-247-8346

Salem County
Superior Court of N.J.
Salem County Criminal Division
2nd Floor, Court House
Market Street
Salem, NJ 08079
(856)-935-7510

Somerset County
Superior Court of N.J.
Somerset County Criminal Division
Court House-2nd Floor
20 North Bridge Street
P.O. Box 3000
Somerville, NJ 08876-1262
(908)-231-7600

Sussex County
Superior Court of N.J.
Sussex County Criminal Division
Sussex County Judicial Complex
43-47 High Street
Newton, NJ 07860
(973)-579-0696

Union County
Superior Court of N.J.
Union County Criminal Division
Union County Courthouse
Annex Building, 2nd Floor
Elizabeth, NJ 07207
(908)-659-3376

Warren County
Superior Court of N.J.
Warren County Criminal Division
P.O. Box 900
Belvidere, NJ 07823
(908)-475-6140