

FILED

Dec 01, 2022, 10:45 am

MUNICIPAL COURT
CITY OF HENDERSON
SYR CLERK

1 IN THE MUNICIPAL COURT OF THE CITY OF HENDERSON
2 IN THE COUNTY OF CLARK, STATE OF NEVADA
3
4 **IN THE ADMINISTRATIVE MATTER**
5 **OF THE ADOPTION OF COURT RULES**
6 **FOR THE HENDERSON MUNICIPAL COURT**
7 **REGARDING TRAFFIC CITATIONS**

ADMINISTRATIVE ORDER 22-01

8 **WHEREAS**, Assembly Bill 116 of the 2021 (81st) Legislative Session established
9 civil penalties for certain traffic and related violations; and,
10

11 **WHEREAS**, Assembly Bill 116 maintained the designation of certain traffic and
12 related offenses as misdemeanors; and,

13 **WHEREAS**, Assembly Bill 116 requires municipal courts in the State of Nevada to
14 adopt rules governing the practice and procedure for civil infractions before January 1,
15 2023, accordingly,
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17 **IT IS HEREBY ORDERED** that the attached local rules of practice for the
18 Henderson Municipal Court are adopted and shall become effective on January 1, 2023.
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20 **Entered this 1st day of December, 2022.**

21 DocuSigned by:
22 *Rodney Burr* 12/01/2022 | 9:39 AM PST
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24 **RODNEY T. BURR**
25 Chief Judge, Henderson Municipal Court

26 Copy: Judge Alicia Albritton
27 Judge Jeremy Cooley
28 Court Administrator Melissa Bender
Sr. Assistant City Attorney Marc Schifalacqua
Police Chief Thedrick Andres

Reference: AB116 (2021 Session); NRS 484A.703 – 484A.705



LOCAL RULES OF PRACTICE FOR THE HENDERSON MUNICIPAL COURT

Effective January 1, 2023

PART 1. ORGANIZATION OF THE COURT AND ADMINISTRATION

Rule 1.1. Title. These rules may be known and cited as Henderson Municipal Court Rules, or abbreviated HMCR.

Rule 1.2. Application of rules. Except as otherwise provided by specific statute or ordinance, these rules govern the procedure and administration of the Henderson Municipal Court of the State of Nevada and all actions or proceedings relating to traffic matters cognizable therein.

Rule 1.3. Effect of rule and subdivision headings. Rule and subdivision headings set forth in these rules shall not in any manner affect the scope, meaning, or intent of any of the provisions of these rules.

Rule 1.4. Non-judicial days. Except as otherwise provided in these rules, if any day on which an act required to be done by any of these rules falls on a Friday, Saturday, Sunday, or declared state holiday, the act may be performed on the next succeeding judicial day.

Rule 1.5. Use and construction of the rules.

1. Whenever the judge who will preside over the case, upon motion of a party or upon the judge's own motion, determines that a case should not follow regular procedures according to these rules, the judge may make such orders as deemed advisable for all subsequent proceedings.
2. These rules shall be liberally construed to secure the proper and efficient administration of the business and affairs of the Court and to promote and facilitate the administration of justice by the Court.

PART 2. TRAFFIC CITATIONS – CIVIL INFRACTIONS AND TRAFFIC MISDEMEANORS

Rule 2.1. Categories of traffic citations. There are two categories of traffic citations: civil infractions and traffic misdemeanors. Within these two categories there are violations alleging only document/equipment violations (i.e., traffic citations in which the charges relate to insurance, driver licensing, vehicle registration, handicap parking, and certain correctable equipment violations for non-commercial vehicles).

1. Civil infractions include:

- (a) All citations in which the violation is punishable as a civil infraction under Nevada Revised Statutes (NRS); and
- (b) All cases in which the prosecuting attorney has elected to treat a violation of a provision of chapters 483 to 484E, inclusive, 486 or 490 of NRS as a civil infraction pursuant to NRS 484A.7049.

2. Traffic misdemeanors include:

- (a) All citations in which the violation is punishable as a misdemeanor under Nevada Revised Statutes (NRS) or the Henderson Municipal Code (HMC); and
- (b) All citations in which a civil infraction is committed while the person is under the influence of alcohol or a controlled substance and the person is instead being charged with a misdemeanor pursuant to NRS 484A.705.

Rule 2.2. Resolution of traffic citations for juvenile offenders.

1. A juvenile offender is a person who was age 16 or 17 years old at the time they received a civil infraction citation and/or misdemeanor traffic citation.
2. All juvenile offenders must appear before a judge with a parent or legal guardian on the date and time indicated on the traffic citation, or as ordered by the Court.
3. Attorneys representing a juvenile offender must appear with the juvenile offender and their parent or legal guardian on the date and time indicated on the traffic citation, or as ordered by the Court.

Rule 2.3. Resolution of traffic citations by attorneys. Except as otherwise provided in Rule 2.2, attorneys are eligible to resolve civil infractions and traffic misdemeanors on behalf of a client via the traffic negotiation process.

1. The traffic negotiation process must be completed on or before 90 calendar days after the date the traffic citation was issued. No extensions will be granted.
2. Failure to complete the traffic negotiation process for a civil infraction on or before the 90-day date will be treated as if the person took no action to respond to the civil infraction citation in the manner specified by

NRS 484A.704. In such cases, the Court will enter an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assessing the civil penalty, administrative assessments, and any fees prescribed for the civil infraction. Additionally, the original violation conviction will be reported to the Nevada Department of Motor Vehicles if applicable.

3. Failure to complete the traffic negotiation process for a traffic misdemeanor on or before the 90-day date will result in the Court setting the matter for trial.
4. Counsel must have the requisite consent of their client to accept/deny responsibility (civil infractions) or enter a plea (traffic misdemeanors) on behalf of their client.
5. For traffic misdemeanor violations, counsel must ensure that their client was fully aware of the applicable constitutional rights when the client gave consent (NRS 178.388(3)). Without such consent, counsel must ensure their client's presence on the date and time indicated on the traffic misdemeanor citation, or as ordered by the Court.

Rule 2.4. Resolution of civil infractions. Each civil infraction citation contains a "response date" that is 90 calendar days from the date the citation is issued. A citation amendment will be sent to the person if necessary to correct any information on the citation. A person must resolve the citation by exercising one of the options below. No court hearings will be set before a judge except as outlined in subsection 2.

1. **Accept Responsibility:** A person who does not contest the determination that the person has committed the civil infraction(s) set forth in the citation must indicate their intent and pay the civil penalty, administrative assessments, and any fees in full on or before the 90-day response date by paying online, paying in person, mailing in payment with response, or by using the Court's Traffic Online Resolution portal. (See Rule 2.7 for demerit point reduction options.)
2. **Contest the Citation:** A person who wishes to contest the determination that the person has committed the civil infraction(s) set forth in the citation must request a hearing in person on or before the 90-day response date and must post a bond in the amount of the civil penalty, administrative assessments, and any fees prescribed for the civil infraction (NRS 484A.7041).
 - (a) Cases in which a violation is being contested will be randomly assigned to a department to conduct the hearing.
 - (b) Acceptable forms of bond include cash, cashier's checks, money orders, and surety bonds. Credit/debit cards of any type and personal checks will not be accepted.
 - (c) An indigent person may apply for a waiver of the bond requirement by completing an application at the Customer Service windows and providing supporting documentation. Applications and

supporting documentation must be submitted to the Court at least 10 calendar days prior to the response date.

- (d) Notice of the hearing date will be provided to the person at the time the bond is posted with the Court or upon approval of a bond waiver. No further notice will be provided.
- (e) Failure to complete both the request for a hearing and post the required bond (or obtain bond waiver) on or before the 90-day response date will be treated as if the person took no action to respond to the civil infraction citation in the manner specified by NRS 484A.704. In such cases, the Court will enter an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assessing the civil penalty, administrative assessments, and any fees prescribed for the civil infraction. Additionally, the original violation conviction will be reported to the Nevada Department of Motor Vehicles if applicable.
- (f) Failure to appear at the hearing to contest a civil infraction will result in the Court entering an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assessing the civil penalty, administrative assessments, and any fees prescribed for the civil infraction. Additionally, the original violation conviction will be reported to the Nevada Department of Motor Vehicles if applicable. A person who fails to appear at the hearing may not appeal the order (NRS 484A.704).
- (g) Pleadings presented for filing after the 90-day response date will not be accepted.

- 3. No Response: Failure to respond to a civil infraction citation will result in the Court entering an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assessing the civil penalty, administrative assessments, and any fees prescribed for the civil infraction. Additionally, the original violation conviction will be reported to the Nevada Department of Motor Vehicles if applicable.

Rule 2.5. Resolution of traffic misdemeanors. Each traffic misdemeanor citation contains an arraignment date and time approximately 90 calendar days from the date the citation is issued. A citation amendment will be sent to the person if necessary to correct any information on the citation. A traffic misdemeanor citation shall be resolved as follows:

- 1. All traffic misdemeanor citations will be randomly assigned to a department for arraignment.
- 2. Except as otherwise provided in subsection 4, a person shall appear for arraignment before a judge on the date and time indicated on the citation (or as ordered by the Court) in the assigned department.
- 3. A person may request a one-time, two-week continuance on their traffic misdemeanor arraignment.
- 4. For violations with a non-mandatory court appearance, the person may waive their right to appear before a judge and resolve the citation by entering a plea and paying the fine, administrative assessments, and any

fees prescribed for the violation(s) on or before the date indicated on the citation (or as ordered by the Court). Plea entry and payment may be completed online, in person at the Customer Service windows, via U.S. mail, or via the Court's Traffic Online Resolution portal.

5. Cases in which a person enters a plea of not guilty to a traffic misdemeanor violation will be set for trial in the assigned department.
6. Failure to appear for arraignment on the date and time indicated on the citation, failure to appear for trial, or failure to resolve a citation in accordance with subsection 4 above may result in the issuance of a bench warrant.

Rule 2.6. Resolution of document/equipment violations. Document/equipment violations include both civil infractions and traffic misdemeanors. A person cited for a document/equipment violation who does not wish to show evidence of correction/repair shall resolve their citation as noted above under the applicable section.

1. Evidence of correction/repair deemed acceptable by the Court must be presented on or before the appearance/response date indicated on the citation (or as ordered by the Court) and must be presented at the time of plea entry (traffic misdemeanors) or acceptance of responsibility (civil infractions).
2. Persons issued a civil infraction citation or traffic misdemeanor citation for document violations and/or equipment violations on non-commercial vehicles may enter a plea/accept responsibility and present evidence of correction/repair in person at the Customer Service windows, via U.S. mail, or via the Court's Traffic Online Resolution portal.
3. Persons cited for misdemeanor document/equipment violations may elect to appear before a judge on the date and time indicated on their citation (or as ordered by the Court) to enter a plea and present evidence of correction/repair.
4. Persons cited for equipment violations for a commercial vehicle must appear before a judge on the date and time indicated on the citation (or as ordered by the Court) to enter a plea and present evidence of correction/repair.
5. Document/equipment violations are eligible for dismissal as follows:
 - (a) Insurance - violations of NRS 485.187 if the person presents evidence to the Court on or before the appearance date that the insurance required by NRS 485.185 was in effect at the time demand was made for it;
 - (b) Driver Licensing - violations of licensing requirements of NRS Chapter 483 if the person presents evidence to the Court on or before the appearance/response date that the person was the holder of a valid driver's license at the time demand was made for it;

- (c) Vehicle Registration - violations of vehicle registration requirements of NRS Chapter 482 if the person presents evidence to the Court on or before the appearance date that the motor vehicle registration was in effect at the time demand was made for it or in which the registration was obtained or reinstated within 7 calendar days of the citation issuance date;
 - (d) Handicap Parking - violations of NRS 484B.467 restricting parking in spaces designated for persons who are handicapped if the person presents evidence to the Court on or before the appearance date that the driver was eligible to park in such space as set forth in NRS 484B.187(5);
 - (e) Equipment Violations - certain correctable equipment violations of NRS 484A-484E if the person presents evidence to the Court on or before the appearance/response date that the violation has been repaired or otherwise remedied. Any evidence presented must be deemed acceptable by the Court and may vary depending on the type of violation.
6. Except as otherwise provided in subsection 5(c), document violations in which the person presents evidence to the Court on or before the appearance date that the violation was corrected after the citation date may be eligible for a reduced penalty/fine and amendment.
 7. Civil infractions for document/equipment violations in which a violation is being contested will be randomly assigned to a department to conduct the hearing.
 8. Traffic misdemeanors for document/equipment violations in which a person enters a plea of not guilty will be set for trial in the assigned department.
 9. Failure to appear for arraignment or otherwise resolve the traffic misdemeanor citation for document/equipment violations in accordance with Rule 2.5 by the date and time indicated on the citation (or as ordered by the Court) may result in the issuance of a bench warrant.
 10. Failure to respond to a civil infraction citation for document/equipment violations by the 90-day response date will result in the Court entering an order pursuant to NRS 484A.7043 finding that the person committed the civil infraction and assessing the civil penalty, administrative assessments, and any fees prescribed for the civil infraction. Additionally, the original violation conviction will be reported to the Nevada Department of Motor Vehicles if applicable.

Rule 2.7. Demerit point reduction for civil infractions and traffic misdemeanors. A person cited for a moving violation (civil infraction or traffic misdemeanor) that carries four (4) demerit points or less may be eligible for demerit point reduction at the discretion of the Court through an amendment to a non-moving violation as follows:

1. Demerit point reduction options are not available to persons with a Commercial Driver's License pursuant to 49 CFR Part 384.226.

2. The person is not contesting the civil infraction or traffic misdemeanor.
3. The person has paid the civil penalty/fine, administrative assessments, and any fees prescribed for the violation(s) in full on or before the 90-day response date (or as ordered by the Court).
4. In addition to the civil penalty/fine, administrative assessments, and fees prescribed for the violation(s), the person has either completed a Traffic Safety School course approved by the Nevada Department of Motor Vehicles and provided evidence of completion to the Court, or, in lieu of completing Traffic Safety School, has paid the demerit point reduction fee (NRS 484A.790).
 - (a) Level 1 Traffic Safety School to be completed if the person has not attended Traffic Safety School in the last 12 months. Level 2 Repeat Offender's Traffic Safety School to be completed if the person has already attended Traffic Safety School once before in the last 12 months.
 - (b) Evidence of completion of Traffic Safety School or payment in full of the demerit point reduction fee must be provided to the Court on or before the 90-day appearance/response date (or as ordered by the Court).
5. Failure to provide evidence of Traffic Safety School completion or failure to pay the demerit point reduction fee, as applicable, in addition to all civil penalties/fines, administrative assessments, and fees prescribed for the violation(s) by the due date will result in the original violation conviction being reported to the Nevada Department of Motor Vehicles.

Rule 2.8. Community Service via Work Program for civil infractions and traffic misdemeanors.

1. Persons assessed a civil penalty/fine, administrative assessments, and any fees are eligible to perform community service via the Work Program in lieu of payment for civil infractions and traffic misdemeanors.
2. Persons must obtain an order in court or at the Customer Service windows to complete the Work Program.

Rule 2.9. Failure to pay civil infractions. Pursuant to NRS 484A.7047, if a civil penalty, administrative assessment, or fee is not paid as ordered by the Court, the Court may:

1. Assess a collection fee to be added to the delinquent amount;
2. Issue a writ of execution to enforce the judgment;
3. Order the suspension of the driver's license of the person; and/or
4. Refer the case to collections.

Rule 2.10. Failure to pay traffic misdemeanors. Pursuant to NRS 176.064 / NRS Chapter 484A, if a fine, administrative assessment, or fee is not paid as ordered by the Court, the Court may:

1. Assess a collection fee to be added to the delinquent amount;

2. Enter a civil judgment for the total amount due, including the collection fee;
3. Issue a writ of execution to enforce the judgment;
4. Issue a warrant for failure to pay; and/or
5. Refer the case to collections.

Rule 2.11. Motions on traffic cases.

1. Motions may be filed with the Court electronically or in person at the Customer Service windows.
2. Absent extraordinary circumstances, motions on a civil infraction case may be summarily denied without a hearing under any of the following circumstances:
 - (a) The 90-day response date has passed;
 - (b) The time to appeal has passed;
 - (c) The civil penalty, administrative assessment, or any fee is delinquent;
 - (d) The case has been sent to collections; or
 - (e) The case is closed.