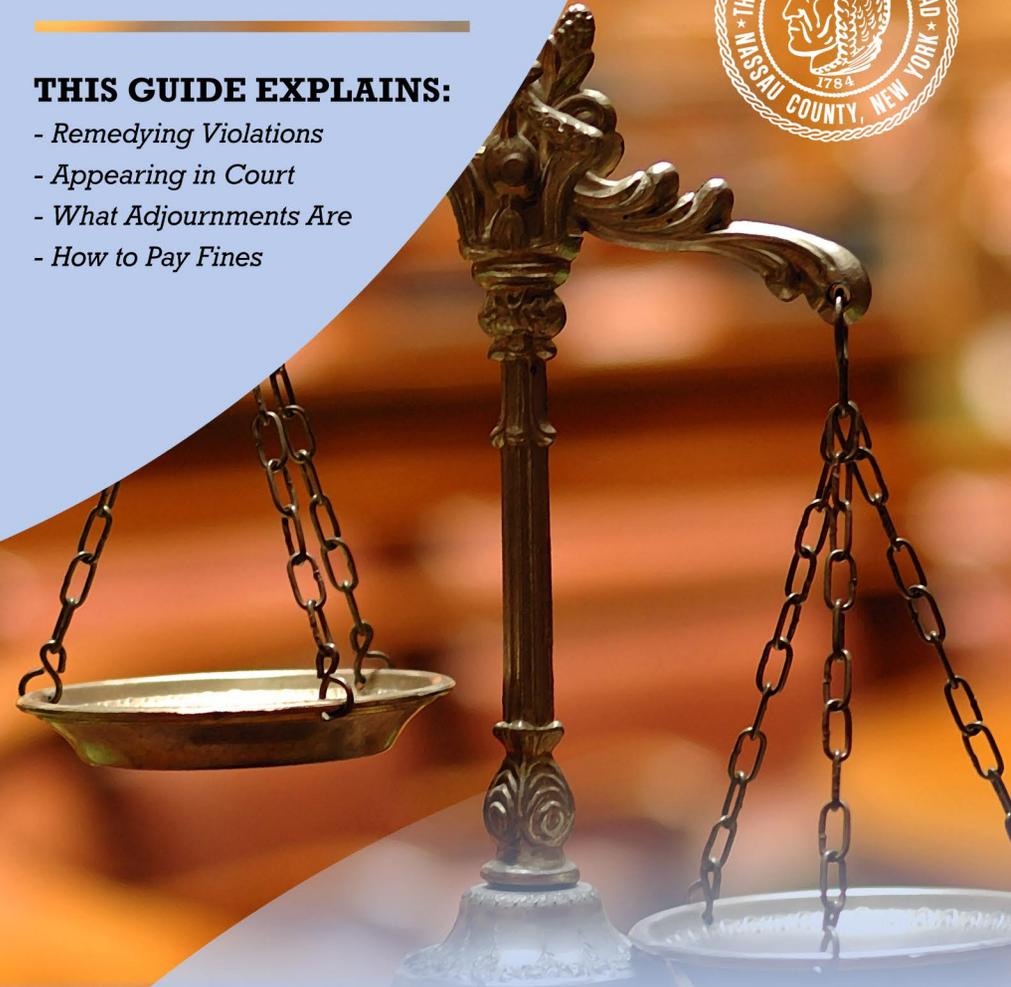


TOWN OF NORTH HEMPSTEAD
OFFICE OF THE TOWN ATTORNEY
Elizabeth D. Botwin, Town Attorney



THIS GUIDE EXPLAINS:

- *Remedying Violations*
- *Appearing in Court*
- *What Adjournments Are*
- *How to Pay Fines*



THIRD DISTRICT COURT:

A Defendant's Guide to the Court Process



North Hempstead Town Hall
220 Plandome Road
Manhasset, NY 11030
(516) 869-6311

TOWN OF NORTH HEMPSTEAD
OFFICE OF THE TOWN ATTORNEY

This booklet will assist you in navigating the court process and help you reach compliance with the Town Code.



Most Frequently Asked Questions

- Q. I bought the property with the alleged violations. Why am I responsible?**
- A. As the owner or person in control of the property, you are legally responsible for correcting all violations that exist on the property.
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- Q. I already paid fees at the Building Department. Do I still have to pay a fine in court?**
- A. Yes. Fines are payable to the court and serve a different purpose than fees.
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- Q. How do I notify the Town about other properties in my area that have violations?**
- A. Call 311 to report any violations or call (516) 869-6311 if you are calling from outside the Town.

INJUNCTION

An order issued by the court directing a person to do or refrain from certain action.

JUDGMENT

Final decision of a court, resolving the matter in dispute.

MISDEMEANOR

A lesser level of crime punishable by a term of incarceration of one year or less.

OFFENSE

Conduct for which a sentence to a term of imprisonment or to a fine is provided by any law, statute, or rule governing conduct.

PLEA

A criminal defendant's response to the charges, i.e. guilty, not guilty or not guilty by reason of insanity.

POWER OF ATTORNEY

Authorization for one person to act as the agent of another.

PRELIMINARY HEARING

A pretrial hearing conducted by a judge to determine if an individual should be held to answer for criminal charges.

PROSECUTOR

A district attorney, attorney general, their assistants or any other public official who represents the people in a criminal action.

PRO SE

Appearing on one's own behalf without an attorney.

STATUTE

A formal rule of law enacted by a governmental body.

VACATE

To set aside a previous action.

Brief Glossary of Common Legal Terms

Source: New York State Unified Court System

<http://www.nycourts.gov/courthelp/TermsGlossary.html>

ADJOURNMENT

To temporarily postpone or reschedule the proceedings of a case until a future time.

ADJUDICATION

A judgment or decree.

APPEARANCE

When a defendant submits to the jurisdiction of the court.

ARRAIGNMENT

Formal proceeding where a defendant appears in court and is apprized of the allegations against him or her.

ASSIGNED COUNSEL

An attorney assigned by the court to represent a defendant without charge.

BENCH WARRANT

An order issued by the court for the arrest of a defendant who has failed to appear in court as directed.

CRIME

An offense which is enumerated in any law governing conduct as a misdemeanor or a felony. (Note: infractions and violations are not crimes.)

DEFENDANT

1) Civil case - the party being sued; (2) Criminal case - the party accused of committing the offense charged.

DISMISSAL

An order by the court ending an action for a specified reason. A dismissal permits a party to institute the same action again.

DISPOSITON

The settlement of a case by any available means.

Q. Can I get the charges resolved without going to court?

A. No, you must appear at the court personally unless you are instructed otherwise by the court.

Q. If I plead guilty to a violation will it go on my permanent record? What about a misdemeanor?

A. A “violation” is not considered a crime. If you plead guilty to a violation, it does not mean that you have been convicted of a crime. A “misdemeanor” is a crime and it will be recorded with the court.

Q. What happens if the appearance ticket has an error on it?

A. The appearance ticket does not form the basis for the prosecution. A separate document known as the accusatory instrument gets filed with the court and is provided to you upon arraignment. This document sets forth the provisions of law which you have been alleged to violate and the factual basis for such allegations. It replaces and perfects the appearance ticket.

Q. Where are the Building Department, Town Clerk and the Highway Department located?

A. **-Building Department:** 210 Plandome Road, Manhasset

-Building Department Intake/Permit Division: 176 Plandome Road, Manhasset (in the rear of the building)

-Town Clerk: 200 Plandome Road, Manhasset

-Highway Department: 285 Denton Avenue, New Hyde Park

General Information

Q. Where is the courthouse located?

A. Nassau County District Court, Third District
99 Main Street, Hempstead, New York 11550

Q. What time do I need to appear?

A. You must appear in court between 9 and 9:30 A.M. Arrive early to find parking (you may want to bring quarters for the parking meters).

Q. How long will I be in court?

A. Please plan to spend most of the morning in the courthouse even though you may get out earlier.

Q. What is proper courthouse behavior/etiquette?

A. Dress appropriately. Turn off cell phones in the courtroom. Do not talk in the courtroom while court is in session. No chewing gum or candy. Always address the judge as "Your Honor." Do not interrupt. Be respectful and courteous, not just to the judge, but to everyone, whether they are the court officers, Town officials, lawyers, or other people present in the courthouse.

Q. Is there court security?

A. Yes. Upon entering the building, there will be uniformed court officers and metal detectors. Do not bring illegal and/or unauthorized items/objects with you. Visitors to the court are required to pass through a metal detector and all briefcases, backpacks, purses, etc. will be searched. Surveillance cameras are mounted at various locations around the courthouse.

Q. Where is the courtroom located?

A. The courtroom is on the first floor in Room 155 of the District Court building.

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Q. Will the court give me time to pay? Can I work out a payment plan with the court?

A. The court will rarely allow time to pay. No, you cannot work out a payment plan.

Q. What happens if I do not pay my fine?

A. The court will issue a cashier's warrant.

Emergency Situations

Q. If I cannot attend on my court date, what should I do?

A. Absent emergency situations, you must appear in court. Failure to appear may result in the issuance of an arrest warrant.

Please note that the judge has the ultimate discretion in granting adjournments and may issue an arrest warrant despite an emergency situation. Emergency situations include severe illness, a death in the family or an unscheduled medical procedure; however, vacations, routine doctor visits, work or other appointments do not qualify as emergencies. If nobody can appear, a doctor's note or funeral director's note addressed to the court may be provided.



Fines

Q. Will there be a fine? How much will it be?

- A. Most cases will involve the payment of fines. All fine ranges are statutory and set by the Town Code. In instances where a defendant is in compliance, or substantially in compliance, the Town Attorney's office will make an offer as to the disposition of the case. The disposition may involve a plea bargain where a fine is negotiated; however, the Town Attorney's office adheres to a fine policy to allow for equal treatment.

Q. Do I have to wait until I am in full compliance before I can resolve my case?

- A. It depends on the nature of the violation.

In most cases, substantial compliance is demonstrated by providing the prosecutor with proof that permit applications have been filed with the appropriate Town department, which, if issued, would satisfy all of the violations alleged.

Under certain limited circumstances, once substantial compliance is obtained, the Town prosecutor may offer a plea bargain that includes an agreement to bring the property into full compliance by a specified date.

Q. When and to whom are fines payable?

- A. Fines are payable in full on the date of disposition (the day you plead guilty and the court imposes a fine). Individual defendants are given until 4:00 P.M. to pay the criminal cashier at the District Court. Corporate defendants must tender payment immediately following disposition.

Q. What forms of payment does the court accept?

- A. As methods of payment, the court will ONLY accept: cash, Visa or MasterCard, certified bank checks, attorney's checks, money orders and corporate checks (from corporate defendants). Acceptable checks should be made payable to the "Clerk of the Court." **Personal checks are NOT accepted.**

Q. What should I do upon arrival?

- A. Locate the courtroom and find your name and calendar number on the calendar posted outside the courtroom.

Q. Will I have the opportunity to talk to someone from the Town about my case?

- A. Yes. You will have an opportunity to conference with a prosecuting attorney from the Town of North Hempstead. Third District Court cases are conferenced in Room 197. Form a line outside this room before going into the courtroom.

Q. What are my rights in court?

- A. You have the right to appear, the right to plead not guilty, and the right to a trial.

Q. Can my case be called first?

- A. The court will call attorneys first and then go in calendar order.

Q. What should I do if I need the assistance of an interpreter?

- A. The court will provide an interpreter upon request.

Q. Are the charges against me crimes?

- A. Most Town Code violations are classified as "violations," which are not classified as crimes. However, some provisions of the Town Code and New York State Code may be classified as misdemeanors, which are crimes.

Individual Defendants

Q. Do I need to appear personally in court?

- A. Yes. Individuals must appear in court at the designated time on each court date.

Q. Can I have a friend or relative appear on my behalf or represent me in court?

A. No. The individual who is named on the appearance ticket is the defendant in the action and that person must appear in court. Friends and family members may visit court with you for moral support.

Q. I hired an attorney. Do I still need to appear in court?

A. Yes. Even if you hire an attorney you are still required to appear personally because you are named as the defendant.

Q. What happens if I fail to appear in court?

A. **IMPORTANT:** The court may issue an arrest warrant for individuals who fail to appear in court. Please note: with an active warrant, you are subject to arrest 24 hours a day. You can be arrested at the courthouse.

Q. I have an outstanding arrest warrant, what should I do?

A. **IMPORTANT:** Unless the court instructs otherwise, you **must** personally appear in the Warrant Vacate Part of the District Court building, first floor, and ask for the matter placed on the warrant vacate calendar and appear before the judge to request that the open warrant be vacated. All decisions about vacating an open warrant or about jail are decided by the judge.

Corporate Defendants

Q. Do corporations need an attorney to represent them?

A. Yes. New York State Criminal Procedure Law requires corporations to be represented by an attorney at all stages of the court proceeding. This law is applicable even if you are an officer, director or principal of the corporation.

Q. What happens if I appear without an attorney?

A. The court will advise you that the corporation needs an attorney to represent it. You must obtain counsel.

Q. What happens if I want to enter a guilty plea?

A. If you decide to plead guilty, then you may explain to the judge the circumstances of why you are guilty. However, you cannot plead guilty and explain to the judge why you are not guilty. After a guilty plea is entered, the judge will impose a sentence.

Q. Can I plead guilty even if I (or my property) am/is not in full compliance?

A. You can always plead guilty, however, the Town will not enter into a plea bargain and offer reduced fines if the person or property is not in compliance (or at least substantially in compliance).

Q. Can I plead guilty by mail?

A. No. You must appear in court on the specified date.

Trial

Q. Do I have to have a trial?

A. No. If you choose to work towards compliance or take the plea offered by the Town Attorney's office, the case can be resolved without a trial.

Q. What do I do if I want to go to trial?

A. You have the right to a trial. If you want to go to trial, you should appear in court on the return date, speak to the prosecuting attorney from the Town and advise them that you want to proceed to trial. The judge will select a new date for the trial. You must appear on the trial date and be ready to proceed to trial.

Q. Do I need to call witnesses at my trial?

A. You do not need to call witnesses as you are not required to present a defense. However, if you proceed to trial and intend to have witnesses testify on your behalf, you must ensure that they appear on the date and at the time designated. If you think your witness(es) will not appear on their own, you may subpoena them.

What Does the Town Require of Me?

- Q. What does full compliance mean?**
- A. Full compliance means that you have completely remedied any and all violations on the property, in a manner consistent with the Town Code or New York State code. This is often done by removing the violation or obtaining permits or licenses to legalize the violation.
- Q. Why does the Town require full compliance?**
- A. The Town requires full compliance to ensure that the health, safety and welfare of Town residents and the community at-large are preserved and protected.
- Q. Will I have to come back to court? How many times?**
- A. It depends. The sooner you or your property is in full compliance, the fewer number of court appearances you will have to make.

Arraignment/Entering a Plea

- Q. Do I have to go before the judge? What happens when I see the judge?**
- A. Yes. All official action involving the court matter is done in the presence of the judge, including arraignments, adjournments, dispositions, hearings and trials.
- Q. What is an arraignment?**
- A. The defendant's first appearance in court will normally be the arraignment. At the arraignment, the defendant is informed of the charges, a plea of "not guilty" will usually be entered and the court will address the issue of bail, as well as other applicable rights. For most violations, the defendant will be released on their own recognizance.

- Q. What happens if no attorney appears to represent the corporation?**

- A. The court has the authority to impose judgment against corporate defendants who fail to appear in court. The maximum fine may be imposed.



Legal Representation

- Q. Do I need to have a lawyer or can I represent myself?**

- A. If you are an individual: you may choose to have a lawyer represent you. If you do not want a lawyer to represent you, you can choose to represent yourself. This is ultimately a question that you alone must answer. You have a constitutional right to have an attorney represent you in a criminal matter. However, you are not entitled to an attorney at government expense for most Town Code violations. Although you are not required to have an attorney, it is not recommended that you proceed to trial without the aid of counsel.

- Q. How do I get an attorney?**

- A. If you wish to be represented by an attorney, you should contact and hire a private attorney prior to your appearance date. If the underlying charges are violations, you are not eligible for representation by a public defender.

- Q. Will the Town or the court recommend a lawyer to me?**

- A. The Town and court cannot make recommendations, however, the Nassau County Bar Association offers a lawyer referral service (contact them at (516) 747-4832) and the Court Information Center located at 100 Supreme Court Drive in Mineola (first floor in room 152) is available to provide free general information about court procedures (call (516) 493-3200).

Failure to Appear

Q. What if I missed my court date?

- A. **IMPORTANT:** Call the court immediately at (516) 493-4200. You may have been given a new court date or a warrant may have been issued for your arrest.
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Before Your Court Date

Q. I was just issued an appearance ticket for alleged violations of the Town Code, what do I do?

- A. Ask the inspector what needs to be done to gain compliance with the Town Code. In many instances, violations may be removed or legalized by obtaining the missing permits, certificates, variances or licenses from the appropriate Town department.
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Q. Before I appear in court for the first time, what should I do in preparation?

- A. Depending on the nature of the violation, you may have as many as 12 weeks before your first court appearance. Use this time wisely and take action! Obtain application forms from the appropriate Town department. Take steps to fill out the applications and have it/them submitted to the Town. You may need to hire a licensed design professional such as an architect, engineer or surveyor to assist you with the application and filing process.
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Q. What if I removed the violation(s) before the first court appearance?

- A. If you removed all of the underlying violations, you should contact the inspector who issued you the appearance ticket to schedule a re-inspection of the property.
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Q. What should I bring with me to court?

- A. If you submitted an application, bring a copy of the paid receipt. If you were unable to submit the application because your hired design professional is still working on the submission, bring a letter from the professional indicating that they have been retained by you to assist with the application. If you had a re-inspection, bring a copy of the inspection report.

Q. What do I do after the case is conferenced?

- A. After conferencing, you will wait in the courtroom for your case to be called. You must be in the courtroom when the clerk calls your case. When your case is called, you must acknowledge your presence by stating that you are "here." This should be done in a loud clear voice. Failure to answer properly may result in your case being called later in the day.
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Adjournments

Q. What do I do if I need more time to bring the property into compliance or obtain a permit or license?

- A. If you have taken significant steps to remedy a violation or have shown a willingness to comply with the Town Code, the Town Attorney's office may consent to postpone the matter to give you time to reach compliance.
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Q. Who grants an adjournment?

- A. Adjournments are granted at the discretion of the judge.
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Q. What is the longest adjournment the court will grant me?

- A. It depends on the nature of the underlying violation(s). The length of an adjournment will be established by the court and generally ranges from as little as one (1) week to the maximum allowance of approximately eight (8) weeks.
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Q. How many adjournments can I request?

- A. There is no minimum or maximum amount of adjournments that can be requested, but adjournments are limited and not freely granted absent good cause.
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Q. Can I get a continuance or adjournment over the phone?

- A. No, you must come to court on the date and at the time specified on your appearance ticket or as otherwise provided for by the Town or by the court.
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Q. What if I do not have my permits, do I still need to appear in court?

- A. Yes.