

TEXAS LAWS FOR MUNICIPAL COURT APPEALS

Texas Code of Criminal Procedure

Art. 27.14. PLEA OF GUILTY OR NOLO CONTENDERE IN MISDEMEANOR. (a) A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

(c) In a misdemeanor case for which the maximum possible punishment is by fine only, payment of a fine or an amount accepted by the court constitutes a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant and constitutes a waiver of a jury trial in writing.

Art. 45.037. MOTION FOR NEW TRIAL. A motion for a new trial must be made within one day after the rendition of judgment and sentence, and not afterward.

Art. 45.038. NEW TRIAL GRANTED. (a) Not later than the 10th day after the date that the judgment is entered, a justice or judge may, for good cause shown, grant the defendant a new trial, whenever the justice or judge considers that justice has not been done the defendant in the trial of the case.

(b) If a motion for a new trial is not granted before the 11th day after the date that the judgment is entered, the motion shall be considered denied.

Art. 45.041. JUDGMENT. (a) The judgment and sentence, in case of conviction in a criminal action before a justice of the peace or municipal court judge, shall be that the defendant pay the amount of the fine and costs to the state.

(b) The justice or judge may direct the defendant:

(1) to pay:

(A) the entire fine and costs when sentence is pronounced;

(B) the entire fine and costs at some later date; or

(C) a specified portion of the fine and costs at designated intervals;

(2) if applicable, to make restitution to any victim of the offense; and

(3) to satisfy any other sanction authorized by law.

(b-1) Restitution made under Subsection (b)(2) may not exceed \$5,000 for an offense under Section 32.41, Penal Code.

(c) The justice or judge shall credit the defendant for time served in jail as provided by Article 42.03. The credit shall be applied to the amount of the fine and costs at the rate provided by Article 45.048.

(d) All judgments, sentences, and final orders of the justice or judge shall be rendered in open court.

Art. 45.042. APPEAL. (a) Appeals from a justice or municipal court, including appeals from final judgments in bond forfeiture proceedings, shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the proper court.

(b) Unless the appeal is taken from a municipal court of record and the appeal is based on error reflected in the record, the trial shall be de novo.

(c) In an appeal from the judgment and sentence of a justice or municipal court, if the defendant is in custody, the defendant is to be committed to jail unless the defendant gives bail.

Art. 45.0425. APPEAL BOND. (a) If the court from whose judgment and sentence the appeal is taken is in session, the court must approve the bail. The amount of a bail bond may not be less than two times the amount of the fine and costs adjudged against the defendant, payable to the State of Texas. The bail may not in any case be for a sum less than \$50. If the appeal bond otherwise meets the requirements of this code, the court without requiring a court appearance by the defendant shall approve the appeal

bond in the amount the court under Article 27.14(b) notified the defendant would be approved.

(b) An appeal bond shall recite that in the cause the defendant was convicted and has appealed and be conditioned that the defendant shall make the defendant's personal appearance before the court to which the appeal is taken instanter, if the court is in session, or, if the court is not in session, at its next regular term, stating the time and place of that session, and there remain from day to day and term to term, and answer in the cause in the court.

Art. 45.0426. FILING BOND PERFECTS APPEAL. (a) When the appeal bond has been filed with the justice or judge who tried the case not later than the 10th day after the date the judgment was entered, the appeal in such case shall be held to be perfected.

(b) If an appeal bond is not timely filed, the appellate court does not have jurisdiction over the case and shall remand the case to the justice or municipal court for execution of the sentence.

(c) An appeal may not be dismissed because the defendant failed to give notice of appeal in open court. An appeal by the defendant or the state may not be dismissed on account of any defect in the transcript.

Art. 45.043. EFFECT OF APPEAL. When a defendant files the appeal bond required by law with the justice or municipal court, all further proceedings in the case in the justice or municipal court shall cease.

Texas Government Code

Sec. 30.00014. APPEAL. (a) A defendant has the right of appeal from a judgment or conviction in a municipal court of record. The state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. The county criminal courts or county criminal courts of appeal in the county in which the municipality is located or the municipal courts of appeal have jurisdiction of appeals from a municipal court of record. If there is no county criminal court, county criminal court of appeal, or municipal court of appeal, the county courts at law have jurisdiction of an appeal.

(b) The appellate court shall determine each appeal from a municipal court of record conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record prepared from the proceedings leading to the conviction or appeal. An appeal from the municipal court of record may not be by trial de novo.

(c) To perfect an appeal, the appellant must file a written motion for new trial with the municipal clerk not later than the 10th day after the date on which judgment is rendered. The motion must set forth the points of error of which the appellant complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court not later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed 90 days from the original filing deadline.

(e) If the defendant is in custody, the appeal is perfected when the notice of appeal is given as provided by Article 44.13, Code of Criminal Procedure.

(f) A municipality shall by ordinance establish a fee for the preparation of the clerk's record in the amount of \$25. The preparation fee does not include the fee for an actual transcription of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

(g) The defendant shall pay the fee for the preparation of the clerk's record and the fee for an actual transcription of the proceedings.

Sec. 30.00015. APPEAL BOND. (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.

(b) The appeal bond must be in the amount of \$100 or double the amount of the fines and costs adjudged against the defendant, whichever is greater.

(c) The bond must:

(1) state that the defendant was convicted in the case and has appealed; and

(2) be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken.

Sec. 30.00016. RECORD ON APPEAL. The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 30.00017. CLERK'S RECORD. The clerk's record must substantially conform to the provisions relating to the preparation of a clerk's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 30.00018. BILLS OF EXCEPTION. Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 30.00019. REPORTER'S RECORD. (a) A reporter's record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

(b) The appellant shall pay for the reporter's record.

Sec. 30.00020. TRANSFER OF RECORD. (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file with the municipal clerk:

(1) the reporter's record;

(2) a written description of material to be included in the clerk's record in addition to the required material; and

(3) any material to be included in the clerk's record that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly send the record to the appellate court clerk for filing. The appellate court clerk shall notify the defendant and the prosecuting attorney that the record has been filed.

Sec. 30.00021. BRIEF ON APPEAL. (a) An appellant's brief on appeal from a municipal court of record must present points of error in the manner required by law for a brief on appeal to the court of appeals.

(b) The appellant must file the brief with the appellate court clerk not later than the 15th day after the date on which the clerk's record and reporter's record are filed with that clerk. The appellant or the appellant's attorney must certify that the brief has been properly mailed to the appellee.

(c) The appellee must file the appellee's brief with the appellate court clerk not later than the 15th day after the date on which the appellant's brief is filed.

(d) Each party, on filing the party's brief with the appellate court clerk, shall deliver a copy of the brief to the opposing party and to the municipal judge.

(e) The record and the briefs on appeal shall be limited as far as possible to the questions relied on for reversal.

Sec. 30.00022. NEW TRIAL. The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.

Sec. 30.00023. COURT RULES. (a) Except as modified by this subchapter, the Code of Criminal Procedure and the Texas Rules of Appellate Procedure govern the trial of cases before the municipal courts of record. The courts may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the courts that are not inconsistent with law.

(b) The appellate courts may make and enforce all rules of practice and procedure that are not inconsistent with law and that are necessary to expedite the dispatch of appeals from the municipal courts of record.

Sec. 30.00024. DISPOSITION ON APPEAL. (a) According to the law and the nature of the case, the appellate court may:

- (1) affirm the judgment of the municipal court of record;
- (2) reverse and remand for a new trial;
- (3) reverse and dismiss the case; or
- (4) reform and correct the judgment.

(b) Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the clerk's record or reporter's record, the appellate court shall presume that:

- (1) venue was proven in the trial court;
- (2) the jury, if any, was properly impaneled and sworn;

(3) the defendant was arraigned and pleaded to the complaint; and

(4) the municipal judge certified the charge before it was read to the jury.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall set forth the reasons for its decision. The appellate court clerk shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.

(d) The appellate court may determine the rules for oral argument. The parties may submit the case on the record and briefs without oral argument.

Sec. 30.00025. CERTIFICATE OF APPELLATE

PROCEEDINGS. (a) When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the municipal clerk. The municipal clerk shall file the certificate with the papers in the case and note the certificate on the case docket.

(b) If the municipal court of record judgment is affirmed, to enforce the judgment the court may:

- (1) forfeit the bond of the defendant;
- (2) issue a writ of capias for the defendant;
- (3) issue an execution against the defendant's property;
- (4) order a refund for the defendant's costs; or
- (5) conduct an indigency hearing at the court's discretion.

Sec. 30.00026. EFFECT OF ORDER OF NEW TRIAL. If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the municipal court of record.

WRIT OF PROCEDENDO: JOINT APPLICATION

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE COUNTY COURT OF

VS.

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_____ COUNTY, TEXAS

AGREED APPLICATION FOR WRIT OF PROCEDENDO

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the undersigned Defendant and the State of Texas in applying for a Writ of Procedendo.

This application stems from the appeal of a conviction in the Municipal Court of _____, Docket No. _____. Pursuant to a judgment in said cause, dated _____, 20____, the Defendant was convicted of the offense of _____ and ordered to pay fine and costs in the amount of \$ _____. Thereafter, the Defendant appealed to this Honorable Court.

The Defendant now requests to abate and dismiss said appeal.

The State has no objection to dismissing the appeal and requests with the Defendant that the above styled and numbered cause be dismissed and remanded to the Municipal Court of _____, _____ County, Texas, for the entry of a final judgment.

Wherefore, the undersigned parties now pray that this Application for a Writ of Procedendo be granted.

Respectfully submitted,

Defendant Pro Se

Prosecuting Attorney

Defense Counsel

ORDER

On this the ____ day of _____, 20____, the Court considered and granted the Application for the Writ of Procedendo. **IT IS HEREBY ORDERED** that the appeal in the above styled and numbered cause be abated, dismissed, and remanded to the Municipal Court of _____, _____ County, Texas, as a final judgment.

SIGNED this ____ day of _____, 20____.

CASH APPEAL BOND

CAUSE NUMBER: _____

STATE OF TEXAS
VS.

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IN THE MUNICIPAL COURT
CITY OF _____
_____ COUNTY, TEXAS

Whereas, on the ____ day of _____, 20 __, in the above styled and numbered cause, a judgment was rendered and entered against the said Defendant, _____, convicting (him)(her) of a fineable misdemeanor offense, to wit:

_____ upon complaint filed in said Municipal Court, that the State of Texas does have and recover from the said Defendant the sum of \$ _____ fine and all costs of said prosecution from which judgment the Defendant has appealed to the County Court at Law No. ____ of _____ County, Texas.

I am hereby depositing with the Municipal Court the sum of \$ _____ in cash in lieu of sureties, of which sum I am held and bound to the State of Texas to insure my personal appearance before the County Court of _____, County, Texas at the Courthouse of said county instanter as well as before any court to which the same may be transferred and for any and all subsequent proceedings that may be had relative to the said charge in the course of criminal actions based on said charge, and there to remain from day to day and term to term of said courts, until discharged by due course of law, then and there to answer said accusation against me, until this obligation shall become void, otherwise to remain in full force and effect.

Now, if the conditions stated above are violated, the sum of the bond shall be forfeited unto the State of Texas for the benefit of _____ County, Texas, and, in addition, I will pay all necessary and reasonable expenses and fees that are incurred by any peace officer in re-arresting me. However, if I fulfill all the terms of this bond, this obligation shall become void and the amount deposited herein shall be refunded to me, otherwise to remain in full force and effect

Date

Defendant's Signature

Telephone

Address

Defense Attorney (if any)

The sum of _____ dollars (\$ _____) was deposited with the Court by (cash)(money order)(cashier's check) and bond filed on the ____ day of _____, 20 __.

- Not approved; bond presented on _____, 20 __,
 - is past time allowed by statute. (Art. 45.0426(b), C.C.P.)
 - is incorrect amount.

Approved on this ____ day of _____, 20 __.

Judge, Municipal Court
City of _____

Filed this the ____ day of _____, 20 __.
County, Texas

SURETY APPEAL BOND (Page 1 of 2)

CAUSE NUMBER: _____

STATE OF TEXAS VS. _____	§ § §	IN THE MUNICIPAL COURT CITY OF _____ _____ COUNTY, TEXAS
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Whereas, on the ____ day of _____, 20____, in the above entitled and numbered cause, in said Municipal Court, a judgment was rendered and entered against the Defendant, _____, convicting (him)(her) of the misdemeanor offense of _____ upon complaint filed in said Municipal Court, that the State of Texas does have and recover of the said Defendant the sum of _____ dollars (\$_____) in fine and all costs of said prosecution, from which said judgment said Defendant has appealed to the County Court at Law No. ____ of _____ County, Texas.

Now, therefore, we, the said _____ as Principal, and _____ and _____ as Sureties, are held and firmly bound unto the State of Texas in the penal sum of _____ dollars (\$_____).

And in addition thereto, we are bound for the payment of all fees and expenses that may be incurred by peace officers in re-arresting Principal in the event the conditions of this bond are violated. For the payment of which sum, or sums, well and truly to be made, we do bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents.

Conditioned that the above Principal shall well and truly make (his)(her) appearance before the County Court at Law, _____ County, Texas instanter as well as before any court to which the same may be transferred and for any and all subsequent proceedings that may be had relative to said charge in the course of criminal actions based on said charge, and there to remain from day to day and term to term of said courts, until discharged by due course of law, then and there to answer said accusation against (him)(her), until this obligation shall become void, otherwise to remain in full force and effect.

Witness our hands this the ____ day of _____, 20____.

Principal

Mailing Address

Telephone Number

Surety

Mailing Address

Telephone Number

Surety

Mailing Address

Telephone Number

SURETY APPEAL BOND (Page 2 of 2)

THE STATE OF TEXAS
COUNTY OF _____

We, the undersigned, do swear that we are worth, in our own right, at least the sum set opposite our respective names after deducting from our property all that which is exempt by the Constitution and laws of the State from forced sale and after the payment of all our debts of every description, whether individual or security debts, and after satisfying all encumbrances upon our property, which are known to us; that we reside in the County of _____, and have property in this State, liable to execution, worth the said sum or more:

The said _____ the sum of _____ dollars or more

The said _____ the sum of _____ dollars or more

The said _____ the sum of _____ dollars or more

The said _____ the sum of _____ dollars or more

The said _____ the sum of _____ dollars or more

The said _____ the sum of _____ dollars or more

Signatures of Sureties:

Sworn to and subscribed before me this ____ day of _____, 20__.

(Judge) (Clerk) (Sheriff)

- Not approved; bond presented on _____, 20__,
 - is past time allowed by statute. (Art. 45.0426(b), C.C.P.)
 - is incorrect amount.

Approved on this the ____ day of _____, 20__.

Filed this the ____ day of _____, 20__.

Judge, Municipal Court
City of _____
_____ County, Texas

PERSONAL APPEAL BOND

CAUSE NUMBER: _____

STATE OF TEXAS
VS.

§
§
§

IN THE MUNICIPAL COURT
CITY OF _____
_____ COUNTY, TEXAS

Whereas, on the _____ day of _____, 20____, in the above entitled and numbered cause, in said Municipal Court, a judgment was rendered and entered against me, the Defendant, convicting me of the offense of _____ upon complaint filed in said Municipal Court: That the State of Texas does have and recover from me the sum of _____ dollars (\$ _____) in fine and all costs of said prosecution, from which said judgment I have appealed to the County Court at Law No. _____ of _____ County, Texas.

Now, therefore, I am held and firmly bound unto the State of Texas by and through the City of _____ in the penal sum of _____ dollars (\$ _____) for the payment of said sum, well and truly to be made, and in addition all necessary and reasonable fees and expenses that may be incurred by peace officers in re-arresting me in the event the conditions of this bond are violated, I do bind myself, my heirs, executors, and administrators, jointly and severally.

I swear that I will appear before the County Court at Law No. _____ of _____ County, Texas, instanter or upon notice by the Court, or pay to the Court the principal sum of \$ _____, plus all necessary and reasonable expenses incurred in any arrest for failure to appear.

Now, if I shall well and truly make said appearance before the said Court as well as before any court to which the same may be transferred, and there remain from day to day and term to term of said Court, until discharged by due course of law, then and there to answer said accusation against me, and further shall well and truly make my personal appearance in any and all subsequent proceedings that may be had relative to said charge in the course of the criminal action based on said charge, this obligation shall become void, otherwise to remain in full force and effect.

Address: _____
Home Telephone: _____
Place of Employment: _____
Work Telephone: _____
Date of Birth: _____

Defendant's Signature

Name, Address, and Telephone of Nearest Relative:

Height: _____ Weight: _____

Color Hair: _____ Eyes: _____

Sworn to and subscribed before me, this _____ day of _____, 20____.

Approved and filed this _____ day of _____, 20____.

(Judge)(Court Clerk), Municipal Court
City of _____
_____ County, Texas

CERTIFIED TRANSCRIPT OF PROCEEDINGS (COURT OF NON-RECORD)

CAUSE NUMBER: _____

STATE OF TEXAS
VS.

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IN THE MUNICIPAL COURT
CITY OF _____
_____ COUNTY, TEXAS

On the ____ day of _____, 20 ____, the above styled and numbered criminal case was tried in the said Court, before a Judge, _____, and the Defendant, _____, was convicted of the offense of _____

_____ and adjudged to pay a fine of _____ dollars (\$_____) and all costs of prosecution, from which judgment said Defendant has appealed to the County Court (or County Court at Law No. __) of _____ County, Texas.

The following are the proceedings had in said criminal case, to wit:

- _____ 1. Citation filed on: _____
- _____ 2. Complaint filed on: _____
- _____ 3. Magistrate's Warning Certificate
- _____ 4. Appearance Bond filed on: _____
- _____ 5. Copy of letter notifying Defendant of trial setting
- _____ 6. State's Application for Subpoena
- _____ 7. Defendant's Application for Subpoena
- _____ 8. Writ Summoning Venire
- _____ 9. Jury Waiver
- _____ 10. Venire
- _____ 11. Jury
- _____ 12. Verdict
- _____ 13. Certified copy of Judgment of Conviction
- _____ 14. Notice of Appeal and Order on Bond
- _____ 15. Appeal Bond filed on: _____

CERTIFICATE

THE STATE OF TEXAS
COUNTY OF _____

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I, _____ (Municipal Judge)(Court Clerk), City of _____, in said county, hereby certify that the above and foregoing proceedings and documents are a complete and correct transcript of all the proceedings had before said Court in the cause of the State of Texas vs. _____, Cause Number _____.

Witness my signature this the ____ day of _____, 20 ____.

(Judge)(Court Clerk), Municipal Court
City of _____
_____ County, Texas

CHECKLIST FOR RECORD ON APPEAL (COURT OF RECORD) (See generally Arts. 33.07 and 44.18, C.C.P.)***RECORD OF APPEAL*****1. Upon written request of either party, the clerk shall prepare a certified record that includes copies of:**

- the complaint;
- material docket entries made by the Court;
- the jury charge and the verdict in a jury trial;
- the judgment;
- the motion for a new trial;
- the notice of appeal;
- written motions and pleas;
- written orders of the Court; and
- any bills of exception filed with the Court.

2. The reporter's record may include:

- any portions of the proceedings, if either party requests them;
- bills of exception;
- a statement of facts, which may be in the form of:
 - a partial transcription and the agreed statement of facts of the case;
 - a brief statement of the facts of the case proven at trial as agreed to by the parties, if testimony at trial was not recorded; or
 - a transcript of all or part of the proceedings shown by the notes to have occurred before, during, or after the trial, if requested by the Defendant.

CHECKLIST FOR APPEALS NON-RECORD MUNICIPAL COURTS

- All defendants have a right to appeal their convictions. Art. 44.02, C.C.P.
- Defendant is not required to go to trial in order to appeal.
- Judgment is entered (conviction). Art. 45.041, C.C.P.
 - Defendant can plead guilty or nolo contendere and appeal.
 - If defendant does not complete a driving safety course or the terms of deferred disposition, after the court enters final judgment, the defendant may still appeal.
- Defendant gives notice of appeal (but is not required to do so). Art. 45.0426(c), C.C.P.
- Defendant appeared at trial or in open court – 10 days from date of judgment to file appeal bond. Arts. 44.16 and 45.0426(a), C.C.P.
 - Mailbox Rule – If defendant mails the bond on or before the due date and the court receives it within 10 working days from the due date, the bond is properly filed. (Keep envelope) Art. 45.013, C.C.P.
 - If the appeal bond is not timely, the municipal court must still send it to the appellate court.
- Defendant appears by mail or in person at the clerk's window – court must either personally deliver notice of the amount of fine and appeal bond or notify the defendant by certified mail, return receipt requested. Defendant has up to 31 days from the date of receiving the notice to file an appeal bond. Art. 27.14(b), C.C.P.
 - If appeal bond is not timely filed, the municipal court must still send it to the appellate court.
- Appeal appearance bond must be at least two times the amount of the fine and court costs, but in no case less than \$50. Art. 45.0425(a), C.C.P.
- Bond may be cash or surety (court cannot require cash); judge may grant a personal appeal bond. Arts 17.38, 44.20, C.C.P.
 - Conditions of the appeal bond – Must recite that the defendant has been convicted and appealed and will make a personal appearance before the court to which the appeal is taken instanter, if the court is in session, or, if the court is not in session, at its next regular term, stating the time and place of that session, and there remain from day to day and term to term, and answer in the appealed case before the appellate court. Art. 45.0425(b), C.C.P.
- When court receives bond, clerk should date stamp day received.
 - Bond filed with court perfects appeal. Art. 45.0426(a), C.C.P.

- Give bond to judge to make a determination if the surety is sufficient. Art. 44.04(e), C.C.P. If appeal bond otherwise meets the requirements of the Code of Criminal Procedure, the court must approve the bond. Art. 45.0425, C.C.P.
- Clerk makes copies of all original papers in the case file.
- Clerk sends the case with all original papers and the bond with a certified transcript to the appellate court (usually county court). Art. 44.18, C.C.P.
- Case is tried de novo (new trial) in county court. Arts. 44.17 and 45.042(b), C.C.P.
- If defendant is convicted in appellate court, appellate court collects fine and deposits it in the county treasury.
- Withdrawal of appeal
 - Defendant may not withdraw appeal from a non-record municipal court.
- If bond filed after deadline, the appellate court shall remand the case to the municipal court to collect judgment. (If the court receives the case back, the court should notify the defendant that the fine and costs are due in the municipal court. If the defendant fails to pay the fine and costs, the municipal court can issue a *capias pro fine* for collection of the judgment.)
- If the bond is defective in form or substance, the appellate court may allow the defendant to file a new bond. Art. 44.15, C.C.P.

CHECKLIST FOR APPEALS MUNICIPAL COURT OF RECORD

- All defendants have a right to appeal their convictions. Art. 44.02
- Defendant is required to go to trial and a record of the trial must be made.
- Judgment is entered (conviction). Art. 45.014, C.C.P.
- Defendant makes a written motion for a new trial not later than 10th day after date on which judgment is rendered. Sec. 30.00014(c), G.C.
 - The motion may be amended with permission of the court not later than the 20th day after the date on which the original motion is filed.
 - The court may extend the time for filing or amending not to exceed 90 days from the original filing deadline.
 - If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.
- If the motion for new trial is denied, the defendant must give notice of the appeal not later than the 10th day after the date on which the motion for new trial was overruled. Section 30.00014(d), G.C.
 - The notice of appeal may be given orally in open court, if the defendant requested a hearing on the motion for new trial.
 - If there is no hearing on the motion for new trial, the notice of appeal must be in writing and must be filed with the court not later than the 10th day after the motion for new trial is overruled. The court may extend the time period not to exceed 90 days from the original filing deadline for good cause.
- The appeal bond must be approved by the court and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. Sec. 30.00015(a), G.C.
- The appeal bond must be in the amount of \$100 or double the amount of the fines and costs adjudged against the defendant, whichever is greater. Sec. 30.00015(b), G.C.
 - Conditions of appeal bond – Must state that the defendant was convicted in the case and has appealed; and be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken. Sec. 30.00015(c), G.C.
- Defendant must pay a \$25 fee for the preparation of the clerk's record. City must establish the fee by ordinance. The clerk shall note the payment of the fee on the docket of the court. The fee will be refunded to the defendant if the case is reversed and dismissed on appeal. Secs. 30.00014(f) and 30.00017, G.C.

- Defendant must pay a fee for an actual transcription of the proceedings. Sec. 30.00014(g), G.C.
- Defendant must pay for a reporter's record. Sec. 30.00019(b), G.C.
- Record on appeal – must conform to the Texas Rules of Appellate Procedure and the Code of Criminal Procedure. Sec. 30.00016, G.C.
 - The clerk's record must conform to the provision in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure. Sec. 30.00017, G.C.
 - The bills of exception must conform to the Texas Rules of Appellate Procedure and the Code of Criminal Procedure. (Sec. 30.00018, G.C.) (A formal statement in writing of the objections or exceptions taken by a party during the trial of a cause to the decisions, rulings, or instruction of the trial judge, stating the objection, with the facts and circumstances on which it is founded, and, in order to attest its accuracy, signed by the judge.)
 - The reporter's record must conform to the Texas Rules of Appellate Procedure and the Code of Criminal Procedure. Sec. 30.00019, G.C.
- Transfer of the record – Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file the reporter's record, a written description of material to be included in the clerk's record in addition to the required material, and any material to be included in the clerk's record that is not in the custody of the clerk. Sec. 30.00020(a), G.C.
 - On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals. Sec. 30.00020(b), G.C.
 - After the judge approves the record, the clerk shall promptly send the record to the appellate court clerk for filing. Sec. 30.00020 (c), G.C. The appellate court clerk notifies the defendant and prosecutor that the record has been filed.
 - The appellate court determines appeals from the municipal court of record on the basis of errors that are set forth in the appellant's motion for new trial and presented in the transcript and statement of facts. Sec. 30.00014(b), G.C.
- Brief on appeal
 - Appellant must file a brief with the appellate court clerk not later than the 15th day after the date on which the clerk's record and reporter's record are filed with the appellate court clerk.
 - The appellee must file the appellee's brief with appellate court clerk not later than the 15th day after the date on which the appellant's brief is filed.

- Each party, on filing the party's brief with appellate court clerk, shall deliver a copy of the brief to the opposing party and to the municipal judge. Sec. 30.0021, G.C.
- Withdrawal of appeal
 - Defendant may submit a written motion to withdraw appeal.
- If bond is defective in form or substance, the appellate court may allow the defendant to file a new bond. Art. 44.15, C.C.P.
- The appellate court clerk shall mail copies of the decision to the parties and to the municipal judge as soon as the decision is rendered.
- Disposition on appeal – Appellate court may:
 - Affirm the judgment of the municipal court of record;
 - Reverse and remand for a new trial;
 - Reverse and dismiss the case; or
 - Reform and correct the judgment.
- If appellate court reverses and dismisses the case, the court must refund the \$25 fee for the preparation of the clerk's record to the defendant. Sec. 30.00014(f), G.C.
- If appellate court grants a new trial, it is as if the municipal court of record granted the new trial. The new trial is conducted by the municipal court of record. Sec. 30.00026, G.C.
- If the judgment is affirmed, the fine imposed on appeal and the costs imposed on appeal shall be collected from the defendant, and the fine of the municipal court when collected shall be paid into the municipal treasury. Art. 44.281, C.C.P.