

**725 ILCS 5/103-6**

**Formerly cited as IL ST CH 38 ¶ 103-6  
5/103-6. Waiver of jury trial**

**§ 103-6. Waiver of jury trial.**

**Every person accused of an offense shall have the right to a trial by jury unless (i) understandingly waived by defendant in open court or (ii) the offense is an ordinance violation punishable by fine only and the defendant either fails to file a demand for a trial by jury at the time of entering his or her plea of not guilty or fails to pay to the clerk of the circuit court at the time of entering his or her plea of not guilty any jury fee required to be paid to the clerk.**

\*\*\*\*\*

SUPREME COURT RULES 570 -579 address municipal ordinance violations, and some of the cases cited in committee comments refer to traffic offenses. However, the amendment to Rule 570 excludes traffic offenses, so the validity of the cited cases requires scrutiny.

## **RULE 570**

**Effective: September 18, 2023**

**Rules 570 through 579 are applicable** to the prosecution, through the judicial system, of violations of ordinances passed pursuant to section 5-1113 of the Counties Code (55 ILCS 5/5-1113), section 1-2-1 of the Illinois Municipal Code (65 ILCS 5/1-2-1), and section 11-1301 of the Illinois Vehicle Code (625 ILCS 5/11-1301) or home rule authority for which the penalty does not include the possibility of a jail term. These rules shall not apply to administrative adjudications.

**These rules shall not apply to traffic or conservation offenses as defined in Rule 501.**

## **OLD RULE 570.**

**This is the OLD Rule 570. Notice it doesn't state that 570 through 579 "shall not apply to traffic or conservation offenses.**

Rules 570 through 579 are applicable to the prosecution, through the judicial system, of violations of ordinances passed pursuant to section 5-1113 of the Counties Code (55 ILCS 5/5-1113), section 1-2-1 of the Illinois Municipal Code (65 ILCS 5/1-2-1), and section 11-1301 of the Illinois Vehicle Code (625 ILCS 5/11-1301) or home rule authority for which the penalty does not include the possibility of a jail term. These rules shall not apply to administrative adjudications.

IL R S CT Rule 570

# RULE 501

The last line of Rule 570 states that it does not apply to traffic offenses as defined in Rule 501. **The 501 offenses are:**

(f) Traffic Offense.

(1) Any case which charges a violation of any statute, ordinance or regulation relating to the operation or use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle. Traffic cases are classified as follows:

(i) “Major Traffic Offense” means a traffic offense under the Toll Highway Act (605 ILCS 10/1 et seq.), Illinois Vehicle Code (625 ILCS 5/1-100 et seq.), or a similar provision of a local ordinance other than a petty offense or business offense that is punishable by a term of imprisonment of less than one year.

(ii) “Minor Traffic Offense” means a petty offense or business offense under the Toll Highway Act (605 ILCS 10/1 et seq.), Child Passenger Protection Act (625 ILCS 25/1 et seq.), Illinois Vehicle Code (625 ILCS 5/1-100 et seq.), or a similar provision of a local ordinance.

(2) A traffic offense does not include a case in which a ticket was served by “tie-on,” “hang-on,” or “appended” methods and cases charging violations of:

(i) Article I of chapter 4 of the Illinois Vehicle Code, as amended (anti-theft laws) (625 ILCS 5/4-100 et seq.);

(ii) Any charge punishable upon conviction by imprisonment in the penitentiary;

(iii) “Jay-walking” ordinances of any unit of local government;

# RULE 571

Rule 571. Code of Civil Procedure to Apply

Except as specifically stated herein or in existing statutes, the Code of Civil Procedure shall apply in **all ordinance prosecutions** to which these rules apply.

## **COMMITTEE COMMENT**

(December 7, 2011)

This rule builds on the holdings of both *City of Danville vs. Hartshorn*, 53 Ill. 2d 399 (1973) and *Village of Park Forest v. Walker*, 64 Ill. 2d 286 (1976), in which the Supreme Court held that the **Civil Practice Act applied to ordinance violations where the penalty is a fine only. Persons charged with violating municipal ordinances have a right to trial by jury if a written jury demand along with the jury fee is filed and paid at the time of first appearance under provisions of section 2-1105 of the Code of Civil Procedure.** But under Supreme Court Rule 201(h), discovery in ordinance prosecution cases where the penalty is a fine only, is allowed only by leave of court. Before and after the Hartshorn decision, courts have struggled to decide what portions of the Code of Civil Procedure apply to ordinance violation prosecutions. It is the intent of Rule 571 to clarify that the Code of Civil Procedure applies to all ordinance violation proceedings under Rules 570 through 579, except as otherwise provided by Supreme Court Rules such as Rule 201(h).

NOTE: **Village of Park Forest v. Walker was a Driving Under the Influence trial.**

*Village of Park Forest v. Walker* - - **A plaintiff desirous of a trial by jury must file a demand therefor with the clerk at the time the action is commenced. A defendant desirous of a trial by jury must file a demand therefor not later than the filing of his or her answer. Otherwise, the party waives a jury. If an action is filed seeking equitable relief and the court thereafter determines that one or more of the parties is or are entitled to a trial by jury, the plaintiff, within 3 days from the entry of such order by the court, or the defendant, within 6 days from the entry of such order by the court, may file his or her demand for trial by jury with the clerk of the court. If the plaintiff files a jury demand and thereafter waives a jury, any defendant and, in the case of multiple defendants, if the defendant who filed a jury demand thereafter waives a jury, any other defendant shall be granted a jury trial upon demand therefor made promptly after being advised of the waiver and upon payment of the proper fees, if any, to the clerk.**

## RULE 577

### Rule 577. Jury Trial

Either party shall have the right to trial by a jury. The prosecuting entity shall make its jury demand at the time the action is commenced. **The defendant shall make his or her jury demand and pay the jury demand fee at the time of entering his or her appearance, plea, answer to the charge, or other responsive pleading.** Failure to pay the required jury fee to the clerk of the circuit court at the time of entering his or her initial appearance, or by a date ordered by the court, shall constitute a forfeiture of the right to a jury trial.

Because ordinance offenses do not provide for penalties in excess of \$50,000, any jury request shall result in the matter being tried by a jury of six members.

Credits

Adopted Dec. 7, 2011, eff. immediately.

IL R S CT Rule 577