

UNDERAGE POSSESSION OF ALCOHOL/MARIJUANA

(10/19/2016)

If you are charged with underage possession of alcohol or marijuana in violation of the Code of the City of Fort Collins (UPA/UPM, or sometimes referred to as “MIP” violations), you must appear (**with an ID**) in Fort Collins Municipal Court to address your case. The arraignment date will be listed on your citation and the time will be 1:00 PM. Please appear at 12:45 PM so that you can complete the necessary paperwork ahead of time.

Requests for continuances:

If you are unable to attend on the arraignment date listed on your citation (or unable to pay costs/fees that may be assessed at that time), you may request one continuance. Typically, your case will be rescheduled to the next UPA/UPM arraignment date; usually 2-3 weeks in the future. In order to make this request, you must appear in the Municipal Court Clerks’ office during our regular business hours. Such requests cannot be made by telephone unless there is a documented medical emergency.

What if I want to contest the charge(s)?

If you believe you are not guilty of the charge(s), you must still appear in Court for arraignment unless an attorney enters an appearance on your behalf prior to that date. At the arraignment, you will have two options:

- Option one: Request a pre-trial conference with a prosecutor (typically held that same afternoon) to explain why you believe you are not guilty of the charge(s). If there is no disposition reached, you can then set your case for trial; or
- Option two: Plead “not guilty” and set your case for trial without first meeting with a prosecutor.

What if I want to consult with an attorney about my case?

You are always entitled to consult with and/or hire a private attorney to represent you. If you are a Colorado State University (CSU) student, you may be able to consult with an attorney at Student Legal Services.

What is the likely outcome of my case if I do not contest the charge(s)?

When you come to Court, you will find out what plea agreement offer (if any) will be made in your case. The outcome of your UPA/UPM charge(s) will depend on the circumstances in your case, including whether you have had a previous criminal violation. *[NOTE: If you are a CSU student, you may have additional consequences imposed by the Office of Student Conduct.]*

First Violations:

- If you have no prior criminal history, then you will likely be offered a disposition called a Deferred Judgment and Sentence.

- You may be required to plead “guilty” as part of that disposition.
- You will need to pay court costs/fees on your arraignment day.
- You will be required to pay for and attend alcohol/drug abuse classes or treatment.
- You may be required to perform useful public service.
- If you comply with all terms of your deferred sentence, your case will be dismissed.

Are similar violations from other courts or states counted as a previous violation?

It is up to the Prosecutor to decide which records to check when searching for prior cases.

How much money should I expect to pay and when?

If there is a disposition reached in your case on your arraignment date, the amount of money you will be required to pay the Court at that time will depend on your individual circumstances. The list below indicates the typical court costs/fees for UPA/UPM violations:

- First violation-standard offer: \$120.00 (deferral cost, court cost, active condition fee); \$400 fine if convicted
- Second or subsequent violation - varies

For first or second violations, the amount due must be paid on your arraignment date. If you do not have payment that day, you will not be able to accept the disposition and will instead have to come back for another court date. *[NOTE: These costs do not include the cost of whatever alcohol/drug class is ordered.]*

Sealing the record of your UPA/UPM case:

Pursuant to Sections 17-167 and 17-191 of the City Code, upon dismissal of a case after a completion of a deferred judgment or diversion or any other action resulting in dismissal of the case or upon completion of the court-ordered substance abuse education and payment of any fine for a first conviction of those sections, the Municipal Court shall immediately order the case sealed and provide to the defendant and the prosecutor a copy of the order sealing the case for distribution by the appropriate party to all law enforcement agencies.

CSU Students:

If you are a **CSU student**, this incident will also be addressed through the University’s student conduct process. If you have not already been contacted by Conflict Resolution and Student Conduct, please contact them as soon as possible at 970-491-7165.

Underage Possession of Marijuana:

Marijuana-related cases that result in a conviction may affect your eligibility for Federal Student Financial Aid. For more information, please consult with a private attorney or review the online information at <https://studentaid.ed.gov>.

Information for attorneys with local clients:

Typical Fort Collins Municipal Court attorney entry procedures will not be implemented when an attorney enters his/her appearance in a UPA/UPM case. Instead, you must appear with your client on their scheduled arraignment date. If you have a conflict with the scheduled court date, contact the court and your client's case will be rescheduled for another UPA/UPM arraignment date and time in the near future.

When you and your client arrive, please hand your entry of appearance to the bailiff who will attach your entry to the case file. If you want to know ahead of time if a plea offer applies to your client, contact the City Attorney's office not more than two business days before your client's scheduled date.

If your client decides not to accept the plea agreement offered at arraignment, you may then set the case for either an attorney pre-trial conference (typically held that same afternoon) or trial (on a later date).

Information for attorneys with out-of-state/area clients:

If your client lives more than 45 miles from Fort Collins, the court may waive the appearance of your client for arraignment. Instead, an attorney pre-trial conference will be arranged. If your client wishes to accept a disposition offer, the Court will reschedule the case for a future UPA/UPM arraignment date. On or before that date, you must submit to the Court the signed disposition form along with payment of all associated costs/fees.

Information regarding taking the assessment before your assigned court date:

The City Attorney's Office is requesting that you complete an assessment at least one week before your assigned court date. The assessment can be found on the Court's webpage, under the court information link (see UPA/UPM Assessment). The assessment will be emailed directly to the City Attorney's Office upon completion.

<https://www.surveygizmo.com/s3/2918391/UPAUPM-Assessment>