

## **Filing a Motion for Relief from Failure to Appear Judgment on a Violation In the Municipal Court for the City of Milwaukie**

Under Oregon law, the court may enter judgment against a person who does not appear on a citation for a violation. ORS 153.102. Judgments entered under ORS 153.102 are termed “**default**” judgments and the financial obligation imposed on the judgment is the presumptive fine amount plus any court fees. The judgment is owed to the City of Milwaukie.

Failure to pay the judgment will result in referral of the judgment to a private agency for collection.

**Oregon law allows you to request that the default judgment be set aside. Pursuant to ORS 153.105, this request must be made within one year from the date of entry of the judgment. You must establish that your failure to appear was due to “mistake, inadvertence, surprise or excusable neglect” in order for the court to set aside the judgment. For a judge to consider whether relief should be granted you need to accomplish the following steps using the motion and affidavit supplied to you with these instructions.**

- 1) You must file the motion requesting relief from the judgment and the motion must be supported by a sworn statement, an affidavit. The sworn statement must set out the reasons why you are entitled to relief from the judgment. When signing the sworn statement, you declare, to the best of your knowledge and belief, that the statement is true and can be used as evidence in court. The sworn statement is subject to penalty for perjury.
- 2) Complete the top portion of the Motion for Relief from Default Judgment and Order. Fill in all the blanks: citation number(s), your name, day, month, year and your signature.
- 3) Complete the Declaration in Support of the Motion for Relief from Default Judgment. Fill in your name and the citation number(s). Provide your sworn statement related to the specific citation(s) and any proof or documents you wish the court to consider.
- 4) Deposit with the court the full amount of the financial obligation which remains outstanding on the judgment. Payment may be made by check, money order, credit card or cash. [Note: cash payments must be made at the courthouse and not by mail.]
- 5) File the original motion and declaration, together with the required deposit of the remaining financial obligation, with the court, either by mail or by personally appearing:
  - The Milwaukie Municipal Court is located at: 10722 SE Main Street, Milwaukie, OR 97222

A judge will consider the motion. The judge may allow or deny the motion without a hearing, or may require a hearing. If the court requires a hearing you will be notified and must appear at the hearing to provide further information to the court in support of the motion.

The Court may deny the motion and leave the judgment in full force and effect.

Allow 15 days after filing the motion and declaration before inquiring with the Court regarding the judge’s decision on your motion.

The Milwaukie Municipal Court telephone number is: (503) 786-7543.

**IN THE MUNICIPAL COURT FOR THE CITY OF MILWAUKIE**  
**10722 SE Main Street**  
**Milwaukie, OR 97222**  
**503-786-7543**

|                   |   |                               |
|-------------------|---|-------------------------------|
| City of Milwaukie | ) | Citation No. _____            |
|                   | ) |                               |
| vs.               | ) |                               |
|                   | ) | <b>MOTION FOR RELIEF FROM</b> |
| _____             | ) | <b>DEFAULT JUDGMENT</b>       |
| Defendant.        | ) |                               |

Defendant moves this court for an order granting relief from a default judgment in the above entitled case. The motion is supported by the attached declaration which sets forth the defendant's grounds for relief from the judgment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_  
Defendant's Signature

Points and Authorities:  
 ORS 153.102 (entry of default judgments)  
 ORS 153.105 (relief from default judgment)

\_\_\_\_\_  
Defendant's Name – Please Print

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Phone Number.

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City of Milwaukie

)

Citation No. \_\_\_\_\_

)

vs.

)

)

**DECLARATION IN SUPPORT OF  
MOTION FOR RELIEF FROM  
DEFAULT JUDGMENT**

)

)

Defendant.

)

I, \_\_\_\_\_, depose and say that I am the  
defendant in the above traffic violation. Pursuant to ORS 153.080, this declaration represents my  
sworn testimony concerning the above traffic violation:

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I hereby declare that the above statement is true to the best of my knowledge and belief, and that I  
understand it is made for use as evidence in court and subject to penalty for perjury.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name