

## **PROCEDURES FOR APPLICATIONS TO SET ASIDE CONVICTIONS**

### **To make an application to set aside a conviction under section 38 of the Provincial *Offences Procedure Act***

1. AFTER you have read and considered sections 33, 35 and 38 from the Provincial Offences Procedure Act, you must complete and **sign** the form. Digital signatures are not permitted.
2. You must complete a **separate application** form for tickets with different conviction dates and different court locations.
3. Send your application by email, mail or fax to the [court office](#) where the conviction was entered on your ticket.
4. You must include an email address and phone number where you can be reached.
5. A Justice of the Peace (JP) or Provincial Court Judge (PCJ) will review your application.
6. A court clerk will contact you by email with the decision from the JP/ PCJ.

### **IMPORTANT INFORMATION WHEN MAKING AN APPLICATION TO SET ASIDE A TRAFFIC CONVICTION:**

7. You must tell the truth, the whole truth and nothing but the truth. Your statement including, if applicable, any supporting documentation is deemed to be under oath.
8. Dates are essential. You must apply to have the conviction set aside within **30 days** of the conviction coming to your attention. Provide clear evidence about what day you found out about the conviction, whether it be due to notice in the mail, a visit to Alberta registries or some other reason.
9. You should provide ALL relevant information. For example:
  - If you did not receive the original ticket by mail, include any relevant information such as a recent move and the date you changed your address with Alberta Registries, such as a copy of the new registration showing the “issue date” on the document.
  - If you were sick and couldn’t attend or contact the court, provide information such as type of illness, medical or hospital visits, and dates.
  - If you were a victim of identity theft, provide a detailed explanation such as how you found out about the identify theft and your additional steps to clear your record, including your police witness statement showing your police file number.
10. **NOTE:** Your written submission will be considered your appearance before a JP/PCJ.
11. For more information on the Provincial Offences Procedures Act in relation to Applications to Set Aside Convictions please refer to: **Sections 33, 35, 38 POPA** (<https://www.qp.alberta.ca/documents/Acts/P34.pdf>)



The Provincial Court of Alberta

Application to Set Aside a Conviction

Provincial Offences Procedure Act Section 38

I, \_\_\_\_\_ Name in Full Date of Birth yyyy-mm-dd

of \_\_\_\_\_ Address in Full Postal Code

\_\_\_\_\_ Email address Telephone number

Fill in \_\_\_\_\_ Court Location Driver's Licence No. Violation Ticket No.

STATE:

The date I found out that I was convicted in absence was on \_\_\_\_\_ Date yyyy-mm-dd

I found out about the conviction by:

EXPLAIN:

I did not respond or dispute the ticket because: (attach additional sheet if required)

See #9 ON INSTRUCTION SHEET

If my conviction is set aside, I enter (CHECK ONE BOX ONLY):

A not guilty plea, understanding the late penalty will be cancelled, and

I request the Court to set a date for trial and send my Notice of Trial to:

\_\_\_\_\_ Full Address (if different than above)

or

A guilty plea:

I will pay the fine without the late penalty within 30 days.

or

I have completed the "Appendix to the Application to Set Aside" and understand I waive my right to appear before a JP/PCJ and am requesting:

To have the fine reduced; or

To be granted more than 30 days to pay the fine; or

Both

Note: Whether you appear before a justice or apply in writing you must be prepared to provide valid reasons to support your application for a fine reduction or more time to pay. If applying for a fine reduction, reasons such as a negative interaction with the peace officer, a belief that reductions should be automatic, or personal financial hardships are not valid reasons in law.

I certify the above statements are true and I acknowledged they are deemed to have been made under oath.

Dated at \_\_\_\_\_, \_\_\_\_\_ on \_\_\_\_\_ City/Town Province Date yyyy-mm-dd

Signature of Defendant or Defendant's agent (DIGITAL SIGNATURE NOT ALLOWED)

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**FOR COURT USE ONLY:**

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**COURT DECISION**

Under Section 38 of the *Provincial Offences Procedure Act* I order that:

**The conviction stands.**

**The conviction be set aside**, a not guilty plea entered, **and** a trial date set (date to be set by court office).

**The conviction be set aside**, the defendant's guilty plea accepted to the original amount on the ticket and 30 days' time to pay granted until: \_\_\_\_\_.

**The conviction be set aside**, the defendant's guilty plea accepted based on the written submissions reviewed and a fine of \$ \_\_\_\_\_ is imposed with time to pay granted until: \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Justice of the Peace / Provincial Court Judge

**Reset**

**Save**

**Print**

## APPENDIX TO THE APPLICATION TO SET ASIDE

This page will be reviewed by the Justice **ONLY** if they approve your application to set aside your conviction.

If your application to set aside is denied, your fine and any late penalty will not be reduced and your time to pay will not be extended.

Use this page **ONLY** if you want to apply in writing to a justice to be granted more than 30 days to pay the fine, are disputing the amount of the fine, or both.

This written submission will be considered as your appearance before a JP/PCJ.

- The information you provide using this page must be accurate and truthful. It will be what the justice refers to in order to make their decision, so include the information that supports your application and provide enough detail to assist the justice make an informed decision.
- If you are applying to be granted more than 30 days to pay the fine, be specific about how much time you are requesting and provide details to support the amount of time requested.
- If you are applying to have the fine reduced, you must provide a valid reason in law. Reasons such as a negative interaction with the peace officer, a belief that reductions should be automatic, or personal financial hardships are not valid reasons in law. If paying the fine will be a financial hardship, you may apply to be granted more than 30 days to pay the fine.

**MY APPLICATION IS (PLEASE CHECK ONE):**

- DISPUTE THE FINE AMOUNT
- TO BE GRANTED MORE THAN 30 DAYS TO PAY THE FINE
- BOTH - MORE THAN 30 DAYS TO PAY AND A FINE REDUCTION

**THE REASONS FOR MY APPLICATION ARE:**

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