

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
21ST JUDICIAL CIRCUIT**

**MUNICIPAL DIVISION – THE CITY OF KIRKWOOD
MUNICIPAL COURT OPERATING ORDER #3**

Effective Date: August 28, 2015

GENERAL ORDERS

I. PURPOSE

The purpose of these general orders is to reaffirm the Court’s commitment to adhering to all statutory provisions, including Senate Bill 5 (effective August 28, 2015) and the mandates of the United States and Missouri constitutions. The Court shall provide open access to all with clearly defined procedures designed to afford defendants, the City, County, witnesses with the transparency, equal treatment and protections mandated by law.

The following orders are effective as of the above date. The Court reserves the right to modify the following orders, from time to time, as circumstances dictate.

II. GENERAL COURT PROCEDURES

A. Open Access.

The Court hereby ratifies Court Operating Order #2. Court proceedings shall be conducted in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties and attorneys.

B. Opening of Court Doors.

Court personnel shall open the doors to the Courtroom at least one hour prior to the commencement of the Court’s docket, unless a different order of the Court shall specify otherwise.

C. Access to Court Files.

Attorneys of record shall have access to the Court’s files during regular business hours of the Court. Requests to view files not on the docket must be made prior to the start of the docket. Court administrators shall not be required to pull files not on the docket during court docket unless there is sufficient time to do so.

D. Rights in Court.

This Court shall inform Defendants of their general rights in writing. “**Your Rights in Court**” shall be placed on the Court’s website, and shall be prominently displayed in the courtroom.

F. **Official Notices.**

The Court Administrator shall publish the notice below set forth on the Court's website, and to the extent available, shall cooperate with the police department to include the same on mobile tickets, or on cards to be given to defendants.

The notice shall read essentially as follows:

MESSAGE FROM KIRKWOOD MUNICIPAL COURT

You have been summoned to come to court on the date shown on your ticket.

You may plead not guilty by coming to court and a trial date will be set.

You may plead guilty by mail or by coming to the [City] Court to pay your fine.

If you plead guilty, you will be given a new date to pay if you can't pay the day of court.

If you want to plead guilty, but you don't have the funds to pay your ticket, you still must come to court. You will not be arrested for not having money to pay.

If you are indigent, you may be required to complete documentation to be determined by the court as evidence of your financial status and as an aid to the court in assessing fines, costs and setting of a payment plan.

If you do not come to court when summoned to do so, you are subject to a warrant being issued for your arrest.

G. **Fines and Costs.**

This Court shall abide by the limits for fines set by law. This Court shall not charge any fine, court cost, surcharge, or fee, not authorized by law. Fines and court costs for a minor traffic violation or an amended charge from a minor traffic offense shall not exceed \$300.00 inclusive of court costs. No court costs shall be assessed on minor traffic violations if the case is dismissed. Court costs can be assessed in minor traffic violation cases unless the court finds that the defendant is indigent according to the standards determined by the presiding judge of the circuit.

H. **Access required by ADA.**

Pursuant to the American with Disabilities Act and sections 476.750 through 476.766 RSMo, this court shall provide, based on expressed needs, auxiliary aids or services to interpret any proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding.

III. **ORDERS CONCERNING DEFENDANT'S RIGHTS**

A. **Continuances.**

Defendants may telephone or have his or her attorney to communicate to the Court prior to the first court setting, his or her request for a continuance. Such continuance shall generally be granted, unless the judge has required a personal appearance. A defendant may request such a continuance, so long as the defendant provides sufficient information to the Court Administrator regarding the identity of the defendant. If a defendant appears at the first court session after receiving a summons or ticket, he or she shall have the right to request one additional continuance in order to obtain counsel or for any other reason, or for no reason at all. Any request for a continuance after the first appearance shall be in the sole discretion of the Court.

B. **Payment Plans.**

This Court will allow indigent defendants to present evidence of their financial condition and shall take such evidence into account when assessing fines, costs and setting a payment plan. This court shall utilize an electronic payment system or payment by mail for the payment of minor traffic violations.

C. **No Detention or Arrest Due to Inability to Pay.**

No defendant shall be arrested or detained for any length of time solely on the basis of his or her inability to pay fines and/or costs unless such nonpayment violates a term of probation. This court can report any delinquent payment in excess of twenty-five dollars (\$25.00) to the director of the Department of Revenue and request that the department seek a setoff of an income tax refund of the defendant.

D. **Confinement for a Minor Traffic Violation In Certain Circumstances.**

No defendant shall be confined for a minor traffic violation unless the violation involves alcohol, controlled substance, endangering the health or welfare of others, or eluding or giving false information to a police officer;

E. **Public Defender and Special Advisor Program**

1. **Public Defender.**

The Court shall, in conjunction with the City's finance department, divert \$1.00 from the basic court costs, for a public defender program, to be managed in accordance with §479.260 RSMo. In accordance with such program, the Court shall designate one or more public defenders who shall be assigned cases in which the prosecutor has represented to the Court, or the Court has determined, may result in incarceration upon conviction. The Court shall set reasonable fees for such public defender services as per City ordinance.

2. **Special Advisor.**

This Court shall, to the extent permitted by law or Supreme Court Order, permit voluntary special advisor attorneys, who have completed required training, to assist defendants who need or request general advice regarding the matter pending before the municipal court. This Court shall develop rules regarding the Legal Advisor Program consistent with orders of the Presiding Judge.

F. **Warrants.**

1. Defendants confined on an initial arrest warrant issued by a municipal court have the right to be heard by a judge, in person, by telephone, or video conference as soon as practicable, but no later than forty-eight hours on minor traffic violations and not later than forty-eight hours on other violations. If the defendant is not given the opportunity to be heard by a judge, he or she must be released.

2. Defendants shall be released from custody within twenty-four hours of arrest if no warrant is obtained.

IV. **VIOLATION BUREAU**

This Court hereby adopts the Uniform Violation Bureau Schedule as approved by the Presiding Judge of the Circuit Court, a copy of which Schedule is attached. This Court reserves the right to set other fines in the Violation Bureau which are not part of the uniform schedule.

V. **SPECIAL ORDERS – FAILURE TO APPEAR AND ALTERNATIVE COMMUNITY SERVICE**

A. **Failure to Appear.**

This Court's failure to appear ordinance will remain in effect. Notwithstanding, the Court orders the following:

1. No Failure to appear charge shall be issued for a minor traffic violation.
2. Failure to appear suspensions shall be issued only on moving traffic violations that are not minor traffic offenses, and shall not be issued on non-moving traffic violations.
3. Defendants who fail to appear on a payment docket must be sent an order to show cause along with notice of a new court date prior to the issuance of a warrant, and the docket shall so reflect.

B. **Alternative Community Service.**

This Court utilizes alternative community service alternatives as a sentencing option. Also, this Court may order alternative community service as a condition of probation or in lieu of a fine or imprisonment or both as authorized by state and/or local ordinance. A list of agencies offering alternative community service is attached hereto.

C. **Judicial Certification (SAC9).**

This Court shall sign and file a certification with the state auditor of its substantial compliance with the following requirements as mandated by Senate Bill 5:

1. Defendants confined on an initial arrest warrant issued by a municipal court have the right to be heard by a judge, in person, by telephone, or video conference as soon as practicable, but no later than forty-eight hours on minor traffic violations and not later than seventy-two hours on other violations. If the defendant is not given the opportunity to be heard by a judge, he or she must be released.
2. Defendants must be released within twenty-four hours of arrest if no warrant is obtained.
3. Defendants shall not be detained to coerce payment of fines and costs.
4. The Court will allow indigent defendants to present evidence of their financial condition and shall take such evidence into account when assessing fines, costs and setting a payment plan.
5. The Court will only assess fines and costs authorized by law.
6. The Court will not issue a failure to appear charge for a minor traffic violation.
7. Court proceedings shall be conducted in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties and attorneys.
8. Alternative payment plans and community service alternatives are used.
9. The Court utilizes an electronic payment system or payment by mail for the payment of minor traffic violations.

These General Orders shall be effective as above stated on the 28th day of August, 2015, and are subject to amended orders as circumstances dictate.

So Ordered:

Date: 8/28/15

Stephen O'Brien
Kirkwood Municipal Judge

