

IN THE CIRCUIT COURT OF TANEY COUNTY, MISSOURI
38th JUDICIAL CIRCUIT

MUNICIPAL DIVISION – THE CITY OF BRANSON

MUNICIPAL COURT OPERATING ORDER 2015-1

Effective Date: December 30, 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 all persons who have dealings with the court 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.

The court ratifies and reaffirms all prior orders made by this court presently in force and effective. To the extent there is any conflict between the provisions of this Order and the provisions of any prior Order(s), the terms of this Order shall be deemed controlling and shall supersede any conflicting Order(s).

II. GENERAL COURT PROCEDURES

A. Open Access.

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. Fax and Electronic Memoranda.

1. This Court shall be always open for purposes of receiving faxes, entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.

2. Requests for warrant recall may be submitted by fax.

C. Opening of Court Doors.

Court personnel shall make every effort to open the doors to the Courtroom at 10 minutes prior to the commencement of the Court's docket, unless a different order of the Court shall specify otherwise.

D. Access to Court Files.

Any Defendant or a Defendant's 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.

E. Rights in Court.

This Court shall make good faith efforts to inform Defendants of their general rights in writing. "Your Rights in Municipal Court" shall be placed in the Court Room and shall be made available to all Defendants in the Courtroom and shall be prominently displayed in the courtroom. The Court shall also provide an audio recording informing Defendants of their general rights in municipal court which shall be played prior to the beginning each docket.

F. Official Notices.

The Court Administrator shall publish the a document which shall read essentially the same as the document "Your Rights in Municipal Court" on the City of Branson, Missouri website, Municipal Court link, and to the extent available, shall cooperate with the police department to include the essentially the same information on mobile tickets, or on the information handout to be given to Defendants at the time they receive a citation.

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 inform the City of Branson of the need to 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, 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. The Court will make every effort to accommodate any person(s) expressing needs, auxiliary aids or services to interpret for a person who is deaf or hard of hearing upon reasonable notice of such expressed need(s) to the Court.

III. ORDERS CONCERNING DEFENDANT'S RIGHTS

A. Continuances.

Defendants may telephone or have his or her attorney 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; such continuance may be granted by the Court Administrator. 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. Any request for a continuance after the first appearance shall be in the sole discretion of the Court.

B. Payment Plans.

This court shall utilize an electronic payment system or payment by mail for the payment of all violations where a fine is assessed, including minor traffic violations except when a payment plan is utilized. 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. The payment method allowed under payment plans will be set by the court as to each particular payment plan.

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. No Confinement for a Minor Traffic Violation

No defendant shall be confined for a minor traffic violation.

E. Public Defender.

The Court shall advise that no public defender is available for appointment. Should the Defendant thereafter request appointed counsel, a hearing as to indigency may be conducted by the court at a later time. If the person shall thereafter be deemed indigent by the court based upon the standards as may be provided by the Missouri Supreme Court and/or the Presiding Judge, then the City shall secure the services of counsel or the prosecutor may review the matter to see if waiver of jail time is appropriate or if the case should be transferred to the County for filing therein.

F. Warrants.

1. The Court shall make every reasonable effort to advise the person(s)/agency(s) holding any Defendant(s) pursuant to an initial arrest warrant, that such Defendant(s) 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 or any other violations. If the defendant is not given the opportunity to be heard by a judge, he or she should be released.

2. The Court shall make every reasonable effort to advise the police department and/or any other agency(s) of the requirement that any Defendant shall be released from custody within twenty-four hours of arrest if no warrant is obtained.

IV. VIOLATION BUREAU

This Court hereby ratifies and adopts the Uniform Violation Bureau Schedule as previously ordered, approved and set by this court, a copy of which Schedule is attached. This Court reserves the right to alter the amounts reflected on the Schedule and to set other fines within 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.

The Court orders the following:

1. No failure to appear charge shall be issued for a minor traffic violation.
2. Failure to appear suspensions may be issued according to law.
3. Defendants who fail to appear on a payment docket shall be sent the notices required by law and Supreme Court Rule prior to the issuance of a warrant, and the docket shall so reflect.

B. Community Service.

This Court utilizes community service as a sentencing option. Also, this Court may order 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. Unless otherwise ordered by the court, all community service shall be performed at the City of Branson Recycling Center on such terms as the court deems just and appropriate.

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 (48) hours on minor traffic violations and not later than seventy-two (72) 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 (24) hours of arrest if no warrant is obtained.

3. In no event shall Defendants 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 or alternative sentence.
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; and
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 30 day of DECEMBER, 2015, and are subject to amended orders as circumstances dictate and require.

So Ordered:

Date: 12-30-15


Municipal Judge

cc: Court Administrator
Prosecuting Attorney
City Attorney