

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 1	§	TOWN OF FLOWER MOUND
	§	
ADOPTION OF ORDERS	§	DENTON COUNTY, TEXAS

ADOPTION OF JUDICIAL ORDERS

It is the responsibility of the Presiding Judge to ensure that the Town of Flower Mound Municipal Court of Record Number 1 operates under Judicial Orders which are in conformity with federal, state, and local law. In that regard, the Court hereby promulgates the following Judicial Orders.

The Judicial Orders shall be consecutively numbered. For example, this Order is enumerated as "No.1". Once amended, an Order shall be given an alphabetical extension. For example, if this Order is amended, it will be re-numbered as "No. 1(a)". The effective date of the amendment shall be noted within the revised Order.

The Judicial Orders may be altered, amended, deleted or otherwise changed by the Presiding Judge to conform to any changes in the law or policy of the Court.

The operation of the Court shall be governed by these Orders.

The following Orders are signed and made effective this 1st day of September, 2017.



Jeffrey C. Tasker
Presiding Judge

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 2	§	TOWN OF FLOWER MOUND
	§	
COURT ROOM DECORUM	§	DENTON COUNTY, TEXAS

RULES OF COURT ROOM DECORUM

I. ENABLING JUDICIAL ORDER

Under the inherent power and duty of all Texas courts as codified in §21.001 of the Texas Government Code, the following Rules of Court Room Decorum shall apply and govern all proceedings before the Town of Flower Mound Municipal Court Number 1 in Denton County, Texas.

II. FORMAL OPENING

Each daily session of the Court shall be brought by announcement of the Bailiff, Clerk, or other officer of the Court requiring all to rise as the Judge takes the bench.

III. CONDUCT REQUIRED OF ALL COURT ATTENDEES

- A. No smoking or use of tobacco products.
- B. No reading of newspapers or magazines.
- C. No propping of feet or sitting on tables, benches, or railings.
- D. No loud noises or talking.
- E. No gum chewing.
- F. No food or beverages (the Judge may permit water).
- G. No gestures, facial expressions, or sounds intended to indicating approval or disapproval of any court room business.
- H. No leaning on the platform attached to the Judge's bench.
- I. No inappropriate attire. The Court may establish a dress code in this regard.

IV. CONDUCT REQUIRED OF COUNSEL AND PRO SE DEFENDANTS

- A. Attorneys shall observe the letter and spirit of all canons of ethics, including those concerning improper ex parte communications with the Judge and with those dealing with discussion of cases with representatives of the media.
- B. Attorneys shall advise their clients and witnesses of these Rules.
- C. Pro se defendants shall conform their behavior to all provisions applicable to attorneys.

- D. Counsel and pro se defendants shall be dressed appropriately while in attendance of the Court.
- E. All parties shall be prompt in arriving for Court and in attending to Court business.
- F. Once a party is appearing before the Court, he or she shall not leave the courtroom without permission from the Judge.
- G. The State shall be seated at the counsel table nearer to the jury box.
- H. All remarks of counsel and pro se defendants shall be addressed to the Court in a formal manner.
- I. The Court and parties shall address each other and members of the court staff, jury, and witnesses without familiarity. The use of first names shall be avoided.
- J. All objections, arguments, and other comments shall be directed to the Judge or, if appropriate, the jury, and not to opposing counsel.
- K. Objections shall be in proper legal form. Argument will not be entertained upon an objection except with invitation from the Judge.
- L. When addressing the Judge, counsel and pro se defendants shall rise and remain standing at their positions at counsel table.
- M. Counsel and pro se defendants shall remain seated at the counsel tables at all times except:
 - 1. when the Judge enters and leaves the courtroom;
 - 2. when addressing the Judge or Jury;
 - 3. whenever it may be proper to handle documents, exhibits, or other evidence (and then only after seeking permission from the Judge);
 - 4. when making an objection to the opposing party.
- N. Counsel and pro se defendants shall not approach the bench, the witness stand, the illustration board, or otherwise remove themselves from counsel table except with permission from the Judge.
- O. Counsel and pro se defendants shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.
- P. The Court may enforce these Rules by appropriate action or sanctions.
- Q. The Court may amend these Rules or adopt additional Rules.
- R. The Town of Flower Mound's prosecutors who are licensed to carry concealed handguns and intend to do so in the courtroom shall report this intention to the Bailiff prior to entering the courtroom with a handgun. The Bailiff shall then immediately pass this information on to the judge presiding over that day's proceedings.

V. BAILIFFS

- A. The Bailiff shall be present at all times when Court is in session unless excused by the Judge. No duty shall be assigned to the Bailiff without prior approval of the Judge.
- B. The Bailiff shall enforce all Rules and carry out all other duties assigned by the Judge.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 3	§	TOWN OF FLOWER MOUND
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COMPLAINTS	§	DENTON COUNTY, TEXAS

§45.018 Texas Code of Criminal Procedure

A complaint is a sworn allegation charging the accused with the commission of the offense.

A defendant is entitled to at least one day's notice of a complaint filed against them before any proceeding commences in the prosecution of that complaint.

A defendant must make a written request no later than 14 days prior to the trial date; otherwise it is presumed defendant has waived their right to such notice.

The requirements of a complaint are set forth in Article 45.019 of the Texas Code of Criminal Procedure.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 4	§	TOWN OF FLOWER MOUND
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SERVICE OF PROCESS	§	DENTON COUNTY, TEXAS

Service of process shall be conducted as provided by Article 45.202 of the Texas Code of Criminal Procedure.

Summons shall be served by a peace officer or marshal.

Summons may be served anywhere in the county(ies) in which the Town of Flower Mound is situated.

Requests for summons must be in writing in the form provided by the Court or a substantially similar form. Subpoena requests must be submitted to the court clerks at least 14 days prior to trial.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 5	§	TOWN OF FLOWER MOUND
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JURY TRIALS	§	DENTON COUNTY, TEXAS

Jury Trial Procedures §30.00013 of the Texas Government Code

Ordinances, rules and procedures concerning a trial by jury, including the summoning of jurors, shall substantially conform to Chapter 45 of the Texas Code of Criminal Procedure.

Specifically, this Court shall conduct jury trials in accordance with Articles 45.027 through 45.036 of the Texas Code of Criminal Procedure.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 6	§	TOWN OF FLOWER MOUND
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PLEADINGS/MOTIONS	§	DENTON COUNTY, TEXAS

All pleadings and motions must be in writing unless otherwise permitted by these Judicial Orders.

All pleadings and motions must be served on the opposing party contemporaneously with them being filed with the court clerk.

For cases set for trial, all pleadings and motions (other than State's Motions to Amend the Complaint) must be filed at least seven (7) days prior to the trial date. Amendments may be allowed with leave of court. Failure to file pleadings and motions timely will be deemed a waiver of the issue(s) raised in such pleading or motion. The Court recognizes that Motions to Suppress may be carried with trial by raising objection to the admission of allegedly illegally obtained evidence or by requesting a jury instruction under §38.23 CCP.

The movant shall provide a form Order along with all Motions filed wherein the Court can indicate whether the Motion is GRANTED or DENIED.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 7	§	TOWN OF FLOWER MOUND
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PROCEDURE + EVIDENCE	§	DENTON COUNTY, TEXAS

Procedure §45.002 Code of Criminal Procedure

Criminal proceedings in this Court shall follow the procedures set forth in Chapter 45 of the Texas Code of Criminal Procedure.

If Chapter 45 CCP does not provide a rule of procedure applicable to a given situation, the Judge shall apply the other general provisions of the Texas Code of Criminal Procedure.

Evidence §45.011 Code of Criminal Procedure

The rules of evidence that govern the trials of criminal actions in district court apply to a proceeding in this Court.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 8	§	TOWN OF FLOWER MOUND
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APPEARANCES	§	DENTON COUNTY, TEXAS

By Attorney §45.020 Code of Criminal Procedure (CCP)

A defendant has the right to appear by counsel. If a defendant has retained counsel on a particular case, that attorney remains as the attorney of record for the defendant on that case until the Judge permits the withdrawal of the attorney or until the case is disposed of by a dismissal or plea and resulting judgment, deferred adjudication or defensive driving. If the case is disposed of by a trial, the attorney remains the attorney of record until the time for appeal has been exhausted.

If an attorney-of-record requests another attorney to appear for him or her at any setting, the attorney-of-record must put this fact in writing. The written consent must be presented to the court prior to or contemporaneously with the appearance of the substituting attorney. It is not necessary that the written consent be typed or formal.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 9	§	TOWN OF FLOWER MOUND
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CONTINUANCES	§	DENTON COUNTY, TEXAS

EXCEPT IN THE EVENT A CASE IS SET FOR TRIAL, the State's or a defendant's first request for continuance (either pro se or by counsel) shall be granted and processed by the clerks without written approval by the Judge so long as the request is received by the clerks no later than the date and time of the court appearance. Any additional requests for continuances must be filed at least seven days prior to the hearing sought to be continued and forwarded to the Judge for a ruling.

In the event that a case is set for trial, any motion for continuance must be received by the clerk's office not later than seven (7) days prior to the date of trial in order to be considered for approval. If such motion is not received timely, it is DENIED by operation of this Judicial Order unless an express Order is made otherwise. This Order does not expressly GRANT a timely-filed motion for continuance. Such a motion must be forwarded to the Judge for a ruling.

All requests for continuances must be in writing, must state the name of the Defendant and the cause number for each case sought to be continued. Faxed copies are acceptable.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 10	§	
	§	TOWN OF FLOWER MOUND
OVER-PAYMENTS	§	
PARTIAL PAYMENTS and	§	
INSUFFICIENT FUND CHECKS	§	DENTON COUNTY, TEXAS

OVER-PAYMENTS

Over-payments shall be accepted so long as the amount paid is within the amount of the fine, court costs, and warrant fees that are allowed by law. If the payment exceeds that which is allowed by law, any amount over the window fine plus court costs and warrant fees, if applicable, shall be refunded.

PARTIAL PAYMENTS

Any payment received which falls short of the window fine and warrant fee shall be forwarded to the Judge for consideration.

The Court may

1. accept the payment as “payment in full” and reduce the judgment amount; or
2. request that the court clerks send notice to the defendant that he must pay the remaining balance within thirty (30) days of the receipt of the partial payment.

INSUFFICIENT FUND CHECKS

If presented to pay a judgment, the case may be processed for capias warrant.

If presented for deferred disposition or defensive driving fees, a show cause shall be set. At the show cause hearing, the Judge may allow the defendant to make payment by cash (including any NSF fee) in order to “reinstate” their deferred disposition or defensive driving order.

If presented as part of a dismissal, the clerks may send a written demand for the payment of the dismissal fee along with any NSF fee.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 11	§	TOWN OF FLOWER MOUND
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FTA's and VWPTA's	§	DENTON COUNTY, TEXAS

Failure to Appear §38.10 of the Penal Code

(a) A person lawfully released from custody, with or without bail, on condition that he subsequently appear commits an offense if he intentionally or knowingly fails to appear in accordance with the terms of his release.

(b) It is a defense to prosecution under this section that the appearance was incident to community supervision, parole, or an intermittent sentence.

(c) It is a defense to prosecution under this section that the actor had a reasonable excuse for his failure to appear in accordance with the terms of his release.

Violating Written Promise to Appear §543.009 of the Transportation Code

Applies to offenses under the Transportation Code.

Occurs when a defendant fails to appear after promising to do so by signing her citation.

A defendant may be found to have committed this offense regardless of the disposition of the charge on which the person was arrested.

Fine Schedule for FTA's and VWPTA's

<u>DAYS LATE</u>	<u>FINE and COST AMOUNT</u>
0-7 days late	\$125.00
8-14 days late	\$175.00
15+ days late	\$294.00

The above schedule does not apply if the FTA or VWPTA has gone into warrant, in which case the Defendant's only option at the window is to post bond or pay the full fine, court costs, and warrant fees.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 12	§	
	§	TOWN OF FLOWER MOUND
COMMUNITY SERVICE, EXTENSIONS, PAYMENT PLANS AND INDIGENCY	§	
	§	DENTON COUNTY, TEXAS

Community Service in Satisfaction of Fine or Costs
§45.049 Code of Criminal Procedure

Applies to Defendant who has failed to pay assessed fine and/or court costs OR a defendant who is found by the Court to have insufficient resources or income to pay the same.

Judge shall specify the number of community service hours Defendant is to perform to satisfy obligation.

Defendant may decide to pay fine and/or court costs instead of performing community service.

The community service must be done for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and general well-being of the community.

The Defendant must secure their own community service hours. The Judge or court staff shall not assign a Defendant to perform work at any particular community service provider.

Defendant may not be ordered to perform more than 16 hours of community service per week unless the Judge determines that additional hours would not cause a hardship on the Defendant or his dependents.

A defendant shall receive at least Twelve Dollars and Fifty Cents (\$12.50) credit per community service hour performed toward satisfaction of defendant's fine and court costs; however, such credit may not exceed the total fine and costs owed by defendant. If a defendant wishes to combine his/her judgment by a combination of community service and payment, that defendant must obtain the Court's approval.

Appearance Extensions

A defendant may request one 30 day extension at the clerk's window prior to entering a plea. This extension shall have no effect on their options for disposing of the violation.

Payment Extensions

When a fine is imposed against a defendant, the defendant shall be ordered to pay such fine within 30 days of the date the judgment is signed. At any time on or before the due date of the fine, a defendant may personally appear at the payment window of the municipal court during normal business hours to request and automatically obtain one thirty (30)-day extension for payment of the judgment. Any additional extensions of time shall require the defendant to file a written request for such extension setting forth good cause. Such request will be forwarded to the judge for approval.

A one-time, \$25 extension fee will be added to each case for which a defendant has not paid his/her total fine and costs within 30 days of the date of the judgment.

Payment Plan

A defendant may request a payment plan to pay a judgment (conviction) at any time his or her case is not in warrant. An initial payment of at least \$75 must be made to initiate a payment agreement. Payments of no less than \$75 per month must be paid thereafter. If a defendant has more than one case, he must pay at least \$75 towards each judgment for which he seeks a payment agreement. If a Defendant cannot comply with these terms at the window, she may request a court date to request more lenient terms or to establish indigency.

Indigency §43.091 Code of Criminal Procedure

The Judge may waive payment of a fine or cost imposed on a defendant if court determines.

1. The defendant is indigent; and
2. Any alternative method of discharging the fine or cost (e.g., community service) would impose an undue hardship on the defendant.

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JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
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No: 13	§	TOWN OF FLOWER MOUND
	§	
DISMISSALS	§	DENTON COUNTY, TEXAS

I. EFFECT OF WARRANT ON DISMISSAL ELIGIBILITY

If the Defendant is otherwise eligible for a dismissal “at the window” as provided by this Standing Motion and Order but the case is in warrant, the clerks are hereby authorized, via this Standing Order, to pull/clear the warrant and process that case for dismissal.

II. TYPES OF DISMISSALS

“No Insurance” cases §601.193 Transportation Code

*Defendant must produce one of the forms of proof of financial responsibility set forth in §601.053 of the Transportation Code (reprinted below for convenience).

*Document must be verified.

*If verified, Court shall dismiss the charge without the collection of any administrative fee.

Other than “no insurance” cases wherein the Defendant is attempting to prove the affirmative defense set forth below, “no insurance” cases may be processed for dismissal at the window by virtue of this Standing Motion and Order.

Evidence of Financial Responsibility § 601.053 Transportation Code

(a) As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting:

- (1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;
- (2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance under Section 601.081 and issued by a liability insurer for the motor vehicle;
- (3) an insurance binder that confirms the operator is in compliance with this chapter;
- (4) a surety bond certificate issued under Section 601.121;
- (5) a certificate of a deposit with the comptroller covering the vehicle issued under Section 601.122;
- (6) a copy of a certificate of a deposit with the appropriate county judge covering the vehicle issued under Section 601.123; or
- (7) a certificate of self-insurance covering the vehicle issued under Section 601.124 or a photocopy of the certificate.

Defense: Possession of Motor Vehicle for Maintenance or Repair §601.194 Transportation Code

It is a defense to a “no insurance” charge that the motor vehicle operated by the defendant:

1. was in the possession of the defendant for the sole purpose of maintenance or repair;
and
2. was not owned in whole or in part by the defendant.

If the defendant can provide sufficient proof *in open court* of the above affirmative defense, the case shall be dismissed without the collection of any administrative fee.

“Driving without license in Possession” cases §521.025 Transportation Code

A defendant has an affirmative defense to this charge if the defendant produces in court a driver’s license:

1. issued to that person;
2. appropriate for the type of vehicle operated; and
3. valid at the time of the issuance of the citation.

If a defendant can provide sufficient proof of the above affirmative defense, the case shall be dismissed with collection of \$10 administrative fee. If the defendant is seeking such a dismissal at the window by virtue of this Standing Motion and Order, he must make a written request for that dismissal thereby submitting to the Court his eligibility for dismissal.

COMMON DEFENSES TO PROSECUTION

Updated to Reflect Changes from the 84th Legislature

Offense	Statute	Defense	Amount of Fee
Failure to have driver's license in possession while operating a motor vehicle (Failure to display)	Section 521.025, Transportation Code	Defendant must produce in court a driver's license issued to that person appropriate for the type of vehicle operated and valid at the time of the arrest	Optional \$10 fee
Failure to have commercial driver's license in possession while operating a commercial motor vehicle	Section 522.011, Transportation Code	Defendant must produce in court a commercial driver's license issued to that person appropriate for the class of vehicle being driven and valid at the time of the offense	None
Failure to secure child in a child passenger safety seat system	Section 545.412, Transportation Code Defense in: Section 545.4121, Transportation Code	Defendant must provide the court with satisfactory evidence that, at the time of the offense: Defendant was not arrested or cited for any other offense, the vehicle was not involved in a crash, and the defendant did not possess a child passenger safety seat in the vehicle; and Subsequent to the offense, the defendant obtained an appropriate child passenger safety seat for each child required to be secured in a child passenger safety seat system	None
Failure to maintain financial responsibility	Section 601.193 or Section 601.194, Transportation Code	Two defenses available: • Defendant must provide the court satisfactory evidence of valid proof of financial responsibility under Section 601.053(a) that was valid and in effect at the time of the arrest OR • Defendant possessed the vehicle for the sole purpose or maintenance or repair and did not own the vehicle	None
Failure to display valid motor vehicle inspection certificate <i>*Repealed as of 3/1/15, but still applies to citations issued before that date.</i>	Section 548.602, Transportation Code	Defendant must show that an inspection certificate for the vehicle was in effect at the time of the arrest	None



C. Compliance dismissals

**These “compliance dismissal” cases are eligible for dismissal at the court window based on

Offense	Statute	Mandatory or Discretionary Dismissal	Length of Time to Comply	Required Conditions	Amount of Fee
Expired vehicle registration	Section 502.407(b), Transportation Code	Court may dismiss	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect; and Show proof of payment of late registration fee to county assessor-collector	Fee optional Not to exceed \$20 (**Window Dismissal**)
Operate vehicle without valid registration insignia properly displayed	Section 502.473(a), Transportation Code	Court may dismiss	Before defendant's first court appearance	Defendant must: Remedy the defect; or Show that vehicle was issued a registration insignia that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed	Fee required Not to exceed \$10 (Court Date)
Attaching or displaying on a vehicle a registration insignia that is assigned for a period other than in effect	Section 502.475(c), Transportation Code	Court may dismiss	Before defendant's first court appearance	Defendant must remedy the defect	Fee required Not to exceed \$10 (**Window Dismissal**)
Operate vehicle without two valid license plates	Section 504.943(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must remedy the defect	Fee required Not to exceed \$10 (Court Date)
Attaching or displaying on a vehicle a license plate that is assigned for a period other than in effect, or has a blurring, reflective, coating, covering, or protective matter or attached illuminated device, sticker, decal, or emblem that obscures, impairs, or interferes with the plate's readability	Section 504.945(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must: Remedy the defect, and Show that vehicle was issued a plate that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed	Fee required Not to exceed \$10 (Court Date)
Expired driver's license	Section 521.026(a), Transportation Code	Court may dismiss	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect	Fee optional Not to exceed \$20 (**Window Dismissal**)
Fail to report change of address or name on driver's license	Section 521.054(d), Transportation Code	Court may dismiss	20 working days after the date of the offense	Defendant must remedy the defect	Fee required Not to exceed \$20 Court may waive in interest of justice (**Window Dismissal**)
Violate driver's license restriction or endorsement	Section 521.221(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must show that: Driver's license restriction or endorsement was imposed because of a physical condition that was surgically or otherwise medically corrected before the date of the offense, or in error and that is established by the defendant; and DPS removes the restriction or endorsement before the defendant's first court appearance	Fee required Not to exceed \$10 (Court Date)
Operate vehicle with defective required equipment (or in unsafe condition)	Section 547.004(c), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must remedy the defect Does not apply if the offense involves a commercial motor vehicle	Fee required Not to exceed \$10 (Court Date)
Expired Inspection *Repealed as of 3/1/15	Section 548.605, Transportation Code	Court shall dismiss if expired not more than 60 days Court may dismiss if expired more than 60 days	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect	Fee required Not to exceed \$20 (Less than 60 Window More than 60 Court)
Expired disabled parking placard	Section 681.013, Transportation Code	Court shall dismiss if expired not more than 60 days Court may dismiss if expired more than 60 days	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect	Fee required Not to exceed \$20 (Court Date)
Operate vessel with expired certificate of number	Section 31.127(f), Parks & Wildlife Code	Court may dismiss	10 working days after the date of the offense	Defendant must remedy the defect Certificate cannot be expired more than 60 days	Fee required Not to exceed \$10 (Court Date)

this Standing Motion and Order.

For purposes of this Order, "first court appearance" means the appearance date that is defined on the actual citation.

AGREED TO:

Taylor, Olson, Adkins, Sralla & Elam, L.L.P.

By: 
Bryn Meredith (Aug 25, 2017)
Bryn Meredith
Bar # 24013158

SO ORDERED:

Effective this 1st day of September, 2017


Jeffrey C. Tasker (Aug 25, 2017)
Jeffrey C. Tasker, Presiding Judge

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JUDICIAL ORDER § **MUNICIPAL COURT NO. 1**
§
No: 14 § **TOWN OF FLOWER MOUND**
§
DEFERRED DISPOSITIONS § **DENTON COUNTY, TEXAS**

“REGULAR DEFERRED” §45.051 Code of Criminal Procedure

Ineligibility

A person who (1) holds a commercial driver’s license or (2) held a commercial driver’s license when the offense was committed is NOT eligible for deferred disposition for a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation.

A person who has received a citation for an offense which occurred in a construction zone with workers present is NOT eligible for deferred disposition.

Alcoholic Beverage Code Offenses

A person under 21 years of age is not entitled to be granted Deferred Disposition for a charge of public intoxication by minor, minor in possession of alcohol, consumption of alcohol by a minor, minor driving under the influence of alcohol, minor purchasing alcohol, minor attempting to purchase alcohol, and/or misrepresentation of age by minor if he/she has been convicted or placed on Deferred Disposition for such a charge within the last two years. The relevant dates for computing the two year period are the date of the first offense and the date of the second offense. If the first charge resulted in an acquittal at trial, the defendant is eligible for deferred disposition on the second charge.

Procedure:

Defendant enters a plea of “no contest” or “guilty”.

Defendant shall post bond which shall include special expense fee, court costs and collection fees if applicable. The Court shall consider the defendant’s possible indigent status when assessing such a fee.

The deferred period may not exceed 180 days.

A defendant is not eligible if they are on deferred disposition probation for any other Class “C” matter in any jurisdiction or has been granted deferred disposition probation in this Court during the year previous to defendant’s current request for deferred. The

prosecutor, with the Court's approval, or the Judge may waive one or both of these restrictions.

During the deferral period, the Judge may order the Defendant to:

- (1) post a bond in the amount of the fine assessed to secure payment of the fine;
- (2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;
- (3) submit to professional counseling;
- (4) submit to diagnostic testing for alcohol or a controlled substance or drug;
- (5) submit to a psychosocial assessment;
- (6) participate in an alcohol or drug abuse treatment or education program, such as:
 - (A) a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code; or
 - (B) an alcohol awareness program described by Section 106.115, Alcoholic Beverage Code;
- (7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs;
- (8) complete a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;
- (9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and
- (10) comply with any other reasonable condition.

Deferred Disposition for Defendant's Under Age 25:

Applies to "moving violations";

Drivers under age 25 at time of offense;

Must complete and provide proof of Driver's Safety Course within the first 90 days of the deferral period;

Drivers with a provisional license shall be required to be examined by the Department of Public Safety as required by Section 521.161 (b) (2), Transportation Code; a defendant is not exempt from the examination regardless of whether the defendant was examined previously;

Defendant examined as required by Subsection (b-1) (3) must pay a \$10 examination fee; The fee collected under Subsection (b-2) must be deposited to the credit of a special account in the general revenue fund and may be used only by the Department of Public Safety for the administration of Chapter 521, Transportation Code.

Successful Completion:

At the end of the deferral period, if the Defendant presents satisfactory evidence that he/she has complied with the requirements imposed, the Judge shall dismiss the case.

If a case is dismissed by deferred, there is no final conviction and the complaint may not be used against the Defendant for any reason.

Records relating to a complaint dismissed by deferred may be expunged pursuant to §55.01 CCP.

Unsuccessful Completion:

At the end of the deferral period, at a show cause hearing scheduled by the court, if the Defendant does not present satisfactory evidence that he has complied with the requirements imposed, the Court has the option to:

1. Find that the defendant “substantially complied” with the terms of the deferred disposition and dismiss the case;
2. Allow the defendant an extension of time to complete the terms of the deferred disposition; or
3. Impose the fine assessed or impose a lesser fine. A final conviction will be entered against the defendant in this event.

Deferred “At the Window”

If a Defendant does not wish to come to Court to speak to the Prosecutor or Judge about their case, they may request deferred “at the window”.

The following procedures and policies apply to deferred “at the window”:

Defendant is eligible for deferred disposition if:

Defendant enters a plea of “no contest”;

Posts a bond which shall include special expense fee, court costs and collection fees if applicable;

Does not possess a commercial driver’s license at the time of the offense;

Has not participated in any deferred disposition program during the past one year (calculated from date of previous dismissal to the date of current citation) in this Court;

Not currently participating in a deferred disposition in any other Court; and

Violation was not in a construction/work zone with workers present.

Defendant is not eligible for deferred disposition for the following moving violations: Speeding in excess of 25 miles over the speed limit, traffic-related offenses involving a school bus, or cases in which an accident occurred.

It shall be a further condition of the deferred order that, during the first 90 days of the deferral period, the defendant shall not receive a citation for a moving offense. If defendant is 24 years of age or younger they will be required to complete a driver's safety course as a condition of the deferred.

Defendant may request deferred disposition for only one moving violation.

All other requests for deferred shall be made in open court.

EFFECT OF WARRANT OR FTA OR VWPTA ON "DEFERRED AT WINDOW"

If the Defendant is otherwise eligible for deferred disposition at the window as provided above but has an open warrant or an FTA or VWPTA, their options in obtaining deferred disposition on the underlying charge are as follows:

FTA or VWPTA

1. Clear the FTA or VWPTA by paying that charge (along with any warrant fee) in full per the fee schedule adopted set forth in these orders; or
2. Posting bond (if applicable) on the FTA or VWPTA and setting that case for a hearing before the Judge.

If either of the above conditions are fulfilled, the clerks shall process the underlying case for deferred disposition.

WARRANT ON UNDERLYING CASE

The deferred fee is increased to the maximum allowable fine or increased by \$50, whichever is less.

Upon collecting the full amount of the increased deferred fees, the clerk may pull the warrant for purposes of having the judge clear the same.

"No Insurance" cases

Deferred disposition requests for "no insurance" cases shall be made to the Judge in open court; will be granted only after careful consideration and scrutiny; and will not be granted unless the Defendant has paid all restitution to the victim, if any. It shall be a further condition to any "no insurance" deferred order that the Defendant maintain insurance during the deferral period.

"TEEN COURT DEFERRED" §45.052 Code of Criminal Procedure

Defendant must be under the age of 18 or enrolled full time in a secondary school program leading toward a high school diploma.

Deferred period may not exceed 180 days.

Defendant pleads “no contest” or “guilty” in open court with parent, guardian or managing conservator.

Defendant makes an oral or written request to attend Teen Court.

Defendant must not have successfully completed a teen court program in the two years preceding the date of the alleged offense for which the Defendant is now requesting to attend Teen Court.

Fee is \$20 (\$10 as court costs and \$10 to program). Fee is non-refundable. Fee may be waived at discretion of Judge.

Defendant must complete teen court not later than 90th day after he/she is ordered to attend the program or the last day of the deferral period, whichever is earlier.

Judge shall dismiss the charge if the Defendant presents satisfactory evidence of successful completion of the program.

A charge dismissed by Teen Court may not be part of a Defendant’s criminal record or driving record; however, if charge was for a traffic offense, the Court shall report to the Department of Public Safety that the Defendant successfully completed Teen Court and the date of completion for inclusion in the Defendant’s driving record.

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER § **MUNICIPAL COURT NO. 1**
§
No: 15 § **TOWN OF FLOWER MOUND**
§
DEFENSIVE DRIVING § **DENTON COUNTY, TEXAS**

§45.0511 Code of Criminal Procedure

Not applicable to commercial motor vehicle cases.

Not applicable to “Accident Involving Damage to Vehicle” and “Duty to Give Information and Render Aid” cases (Transportation Code [TC] §550.022 and §550.023).

Not applicable to:

Passing a school bus TC §545.066;
Reckless driving TC §545.401;
Fleeing or attempting to allude police officer; or
Speeding 25 miles per hour or more over speed limit or a speed of 95 miles per hour or more.

The Court may dismiss only one charge for each completion of a course.

Defendant shall successfully complete a driving safety course or motorcycle operator training court, as appropriate, approved by the Texas Education Agency.

Defendant may not have taken such a course for the dismissal of a ticket within the preceding 12 months from the offense date. Defendant must file with the court an affidavit to this effect.

Defendant must enter a plea of “no contest” or “guilty”.

Defendant must make an oral or written request for driving safety course.

At the time of the request, the Defendant must provide:

1. Valid Texas driver’s license or is a member of the United States military forces serving on active duty or the spouse or dependent child of such a member. (If the defendant does not have a valid Texas DL or permit and is a member of the US military serving on active duty, or the spouse or dependent child of such a member; an affidavit stating that the defendant was not taking a DSC or motorcycle safety course, as appropriate, in another state on the date the request to take the course was made and had not completed such a course within the 12 months preceding the date of the request);

2. Proof of insurance in defendant's name; and
3. Court costs plus administrative fee not more than \$10.00

Court will enter a judgment on the Defendant's plea but will defer imposition of the judgment for 90 days.

Successful Completion

Defendant takes an approved course within 90 days of request.

Defendant provides proof of course completion within 90 days of request.

Defendant provides certified copy of driving record (demonstrating Defendant's eligibility for defensive driving dismissal) within 90 days of request.

Defendant provides affidavit of eligibility within 90 days of request.

If successful completion, Court shall remove the judgment and dismiss the charge.

The above fact and date of completion of course shall be reported to the Texas Department of Public Safety for inclusion in the Defendant's driving record.

A charge dismissed under this provision may not be part of a persons driving record for any other purpose or used against him for any other purpose.

Unsuccessful Completion

Court shall notify Defendant of failure.

Court shall set a show cause hearing.

If the Defendant fails to appear, Court may impose final judgment.

If the Defendant appears, Court may, upon showing of good cause, grant the Defendant an extension to comply with requirements.

If Defendant appears and does not show good cause for an extension to comply with requirements, final judgment shall be imposed.

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 16	§	TOWN OF FLOWER MOUND
	§	
APPEAL PROCESS	§	DENTON COUNTY, TEXAS

The TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1 is a statutory court of record as defined by law. Chapter 30 of the Texas Government Code sets for the appeal process for Municipal Courts of Record. See §30.00014 of the Texas Government Code.

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 17	§	TOWN OF FLOWER MOUND
	§	
GRACE PERIOD	§	DENTON COUNTY, TEXAS

A person who has to turn in documents such as driver safety certificate, driving record, tobacco class certificate, alcohol awareness class certificate or community service proof shall be granted a three (3) business day grace period where such document shall be considered timely if submitted within the three (3) business day grace period. Additionally, such case may be processed for dismissal as in all other cases where such documents were submitted timely.

A person who must pay a deferral fee by a certain date shall be entitled to a three (3) day grace period for acceptance of such payment and it shall be deemed paid timely. Additionally, such case may be processed for dismissal as in all other cases where such documents were submitted timely.

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 18	§	TOWN OF FLOWER MOUND
	§	
DSC DEFAULT	§	DENTON COUNTY, TEXAS

Upon default in a DSC case, the balance owed reflected on the Judgment and in the documentation provided to the Defendant at the window shall be \$200. That assumes that the Defendant has paid the court costs when the defendant signed up for DSC plus the non-refundable administrative fee of up to \$10. For Clarification: A defendant signs up for DSC and pays the \$109 to the Court. If the defendant defaults and fails to successfully complete the DSC, then the amount owed shall be the full fine allowed by law on a moving violation, which is \$200. Of course, if the defendant appears at a show cause docket, the Judge has the discretion to assess a lower amount.

TOWN OF FLOWER MOUND MUNICIPAL COURT OF RECORD NO. 1
4150 Kirkpatrick LN, Flower Mound, TX 75028 phone 972/874-3370 fax 972/874-3379

JUDICIAL ORDER	§	MUNICIPAL COURT NO. 1
	§	
No: 19	§	TOWN OF FLOWER MOUND
	§	
CASH BOND AT WINDOW	§	DENTON COUNTY, TEXAS

ARREST AND CAPIAS WARRANTS

Defendant shall appear in person during court's hours of operation. Defendant may request a court date by posting a cash bond of 50% on all outstanding warrants. Court date will be assigned by court staff and warrants shall be recalled.

Or

Defendant shall enter a plea, accept judgment of conviction and pay 50% of all outstanding warrants. Remaining balance to be paid within 90 days. Warrants shall be recalled.

If defendant requests deferred (if eligible) they shall enter a plea, agree to the terms, and pay 100% of the balance. Warrant shall be recalled.

If the defendant requests driving safety course (if eligible) they shall enter a plea, agree to terms, and pay all court costs (including warrant fee). Warrant shall be recalled.

CAPIAS PRO FINE WARRANTS

Defendant shall appear in person during court's hours of operation. Defendant shall pay 50% of all outstanding warrants. Remaining balance to be paid within 90 days. Warrants shall be recalled.