



TO: The Honorable Mayor and Members of the Denton City Council:
The Honorable Mayor Chris Watts
The Honorable Council Member Gerard Hudspeth
The Honorable Council Member Keely G. Briggs
The Honorable Council Member Kathleen Wazny
The Honorable Council Member John Ryan
The Honorable Council Member Dalton Gregory
The Honorable Council Member Sara Bagheri

FROM: Robin A. Ramsay, Denton Municipal Judge

SUBJECT: Denton Municipal Court – Freedom and Protections Initiative:
Indigency, Inability to Pay and Alternatives to Monetary Fines and
Costs

DATE: June 13th, 2017

**DENTON MUNICIPAL COURT
FREEDOM AND PROTECTIONS INITIATIVE:
Indigency, Inability to Pay and Alternatives to
Payment of Monetary Fines and Costs**

While class “c” misdemeanor offenses in the State of Texas are generally punished by assessment of a monetary fine and payment of court costs, the Denton Municipal Court recognizes that the assessment of fines and court costs can create unduly burdensome hardships on those defendants who are facing financial obstacles or who are economically disadvantaged. The Denton Municipal Court acknowledges that by imposing fines and costs on defendants who cannot reasonably pay, and by arresting or confining those who do not pay the fine when due because they are unable to do so, is of no benefit to our community, does not serve to protect our city or make it a safer place to live, is contrary to current law and is unjust and unconstitutional.

The Court believes that fairness and justice demand that unpaid fine collection must be based upon the assumption that (1) a defendant need not be entirely poor or indigent to be unfairly impacted by the imposition of a fine; (2) that a defendant’s claim to be unable to immediately pay a fine in full should be taken as true unless good cause has been shown to the contrary; (3) that all defendants should have access to the judge of the court to request additional time to pay, and (4) that a defendant should be afforded an opportunity to appear to explain their personal circumstances without impediment.

The Court therefore would request the members of the City Council review and advise the Municipal Court so as to adopt the following guiding principles applicable to case disposition and process related to assessed and unpaid fines and costs:

**PROPOSED COURT’S PROMULGATED STANDING ORDERS REGARDING
INDIGENCY, INABILITY TO PAY AND ALTERNATIVES TO PAYMENT OF FINES**

PAYMENT COMPLIANCE AND EXTENSIONS DOCKET

1. Effective July 3rd, 2017, the Court will re-instate its former Indigency Dockets and Processes, and incorporate required components of the O.C.A. Collection Improvement Program.
2. All defendant’s entering a plea of “No Contest” or “Guilty” will enter their plea on the same Plea form regardless of their ability to pay, and a judgement will be entered accordingly.
3. Upon indicating that they are unable to pay the fine and costs in full on the date of their plea and judgement (assessment date) the Defendant will be instructed to complete an “Application for (30 Day) Standard Payment Plan” and provide “contact information” in compliance with mandatory collections program requirements. (DMC FORM 14-01)
4. Upon verification of the requested information, the Court Clerk shall set the defendant to appear before the Court on a “Payment Compliance and Extension Docket” occurring AFTER the expiration of thirty (30) days from the date of plea. (Five or Six Weeks) (DMC FORM 14-02)
5. If the defendant cannot or will not provide the Court with verifiable information as requested, the Court Clerk shall set the defendant to appear before the Court on a “Payment Compliance and Extension Docket” occurring within fourteen (14) days from the date of plea. (Two weeks) [DMC FORM 14-02]
6. In either event, the Defendant should be informed by the Clerk that the remaining balance due must be paid on or before the day their case has been set, or if they are unable to pay in full by that date, the defendant must appear IN PERSON BEFORE THE COURT to request (1) an additional thirty (30) day extension to pay, (2) request a longer payment plan in installments over a number of months, (3) the opportunity to perform community service or satisfy the fine through some other alternative means, or (4) present information to the Court regarding the defendant’s particular financial circumstances that might justify a complete waiver of the fine and costs due by the Court.
7. Any defendant indicating that they are unable to pay the fine assessed immediately, and who have provided the Court with verifiable “contact information” SHALL BE GRANTED ADDITIONAL TIME TO PAY and no defendant shall be required to

“qualify” or “be subject to interview” if the defendant indicates that they are willing and able to make payment if given additional time.

8. At the Defendant’s appearance before the Judge at the defendant’s scheduled “Payment Compliance and Extension Docket” (PCE) date, the Judge SHALL GRANT:
 - a. An additional THIRTY (30) DAYS to pay the balance due and order the defendant to pay the entire amount due or, if not paid prior to the date of their scheduled PCE docket date, reappear before the judge at a subsequent “Payment Compliance and Extension Docket”;
 - b. A longer incremental payment plan allowing the defendant to pay the balance due over time in monthly installments and ordering the Defendant to either pay each incremental payment on or before a future Payment Compliance and Extensions Docket date or reappear before the Judge to explain why they could not honor the order and to request additional time to pay;
 - c. Consider any statements from the defendant asserting that they are indigent or that they will be unable to pay in the future, and order the defendant to reappear before the Judge at a “Special Financial Circumstances” (SFC) Docket scheduled at 10:30 a.m. on a Monday within the thirty to forty-five days after their initial appearance. If the Judge schedules the defendant for a “Special Financial Circumstances”, the Judge will order the defendant to schedule and attend an interview with the Denton Municipal Court Collections Office to provide information or documents that might help the Court determine whether or not the defendant is indigent or unable to pay, and if so, whether or not the defendant should be allowed to satisfy the fine by performing community service or the Court should waive the fine and costs entirely. All such documents and the recommendation of the Collections office will be presented for the Court’s consideration on the date and at the time the defendant reappears before the Judge at their scheduled “Special Financial Circumstances” docket.
9. As to any Defendant who may appear before the Court at their docketed “Payment Compliance and Extension Docket” (PCE) date but who claims to be (a) unable to pay the fine and costs assessed at the time of their appearance, and (b) indicates that, even if given time or allowed to pay the fine and costs over an extended period of time will still be unable to pay without significant or undue hardship on them or their family, the Judge of the Court SHALL consider the defendant’s claim to be true, assume the defendant is claiming to be “indigent” as defined by law and:
 - a. Set the defendant on the Court’s “Special Financial Circumstances” (SFC) Docket scheduled at 10:30 a.m. on a Monday within the thirty to forty-five days after their initial appearance;
 - b. Instruct the defendant that they must contact the Court’s Collection Office representatives to schedule a “Collections Interview” at which the defendant will be expected to attend and complete and that the defendant will be required to provide Collections Office staff with relevant documents or information regarding their claim of inability to pay; and,
 - c. Prior to leaving the Courtroom, the defendant will be set for and required to acknowledge their next setting to appear at a “Special Financial Circumstances”

(SFC) Docket within the next thirty to forty-five days, as well as their obligation to participate in an interview with the Court's Collection Office staff.

COMMUNITY SERVICE, SATISFACTION OF FINE BY ALTERNATIVE MEANS, WAIVER OF FINE AND COSTS, AND PROCESSES FOR VERIFICATION.

1. For the Purpose of this section, a defendant is presumed to be "*indigent*" or "*unable to pay*" if the person is:
 - a. required to attend school full time under Section 25.085, Education Code;
 - b. is a member of a household with a total annual income that is below 125 percent of the applicable income level established by the federal poverty guidelines; or,
 - c. receives assistance from:
 - i. the financial assistance program established under Chapter 31, Human Resources Code;
 - ii. the medical assistance program under Chapter 32, Human Resources Code;
 - iii. the supplemental nutrition assistance program established under Chapter 33, Human Resources Code;
 - iv. the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786; or
 - v. the child health plan program under Chapter 62, Health and Safety Code.
2. For the Purpose of this section, "community service" means work or activities performed under the direction and supervision of:
 - a. a governmental entity; or,
 - b. a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community; or,
 - c. a religious organization that is open to all members of the general public without discrimination or bias toward members of any other faith and which performs services of benefit to the general community as a whole; or,
 - d. by attending a tutoring program, work and job skills training program, preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, or similar activity.
3. It shall be the policy of this Court to allow and encourage any defendant who claims to be, and provides verifiable information or proof of indigency or their inability to pay, to satisfy all or part of any or all monetary fines or court costs by performing community service.
4. All claims or information provided by a defendant in support of their claim of indigency or inability to pay shall be verified by the Court's Collection office staff. Collections Office Staff may request any reasonable and relevant documentation in support of the defendant's claim of indigency or inability pay, including, but not limited to:
 - a. Proof of Residency
 - b. lease agreement or mortgage current payments;
 - c. proof of current or last employment;
 - d. current pay stubs with Employers' addresses and phone numbers;
 - e. proof of identity (Driver's License, I. D. Card, or Birth Certificate);
 - f. at least two References (names and current phone numbers);
 - g. proof of any other benefits or government assistance or sources of income; and,

- h. any information on assets such as bank statements, credit card information, automobiles, household bills, or other debts.
- 5. Court Collections Staff may review any documents provided by the defendant and make reasonable inquiry related to their authenticity, but will not retain copies of any such documents.
- 6. After conducting an interview with any defendant who claims to be indigent or unable to pay the fine and costs as ordered by the Court, Collections Office staff shall prepare a recommendation to approve or disapprove the defendant's claim, along with the amount of proposed payment or monthly payments, intervals and length of plan, or a recommendation that the defendant is indigent, that community service would be an undue hardship on the defendant or their family and all remaining fines and costs should be waived in their entirety.
- 7. Upon a Defendant's reappearance before the Court at a docketed "Special Financial Circumstances" (SFC) Docket, the Judge may:
 - a. Find the defendant is not indigent or unable to pay and order the defendant to pay the remaining fine and costs in full or in incremental payments by entering a standard payment order; or,
 - b. Find that the defendant is indigent and order that the fine and costs may be satisfied by the defendant in full or partially by performing community service.
- 8. The judge may not order a defendant to perform more than 16 hours of community service per week unless the judge determines that requiring the defendant to perform additional hours does not impose an undue hardship on the defendant or the defendant's family.

PROCESS SUBSEQUENT TO NON-APPEARANCE BY THE DEFENDANT, SHOW CAUSE HEARING, NOTICES AND CONDITIONS PRECEDENT TO ISSUANCE OF WARRANT

- 1. For the purposes of this section regarding NON-APPEARANCE BY THE DEFENDANT, "Default" occurs when person who has been issued and signed a written promise to appear, or citation, or who has been lawfully served with judicial summons, and that defendant fails to appear pursuant to their written promise to appear before the Court at a docket indicated on a citation or as ordered by the Court for a specific date and time.
- 2. **Effective July 3rd, 2017, the Court herein establishes and creates a "NON-APPEARANCE SHOW CAUSE (NASC) DOCKET. The "NON-APPEARANCE SHOW CAUSE (NASC) DOCKET" shall be calendared and held in the main courtroom of the Denton Municipal Court on the Second (2nd) and Fourth (4th) Wednesdays of each month at 9:30 a.m.**
- 3. Effective July 3rd, 2017, any defendant who has NOT entered a plea in writing with the Court (either in open Court, by mail, or received by the Court Clerk), but has failed to appear pursuant to citation or summons, shall be ORDERED TO APPEAR and notified of their obligation to appear before the Court at 9:30 a.m. on the Court's first "Non-Appearance Show Cause" (NASC) Docket occurring more than fourteen (14) days after the

date of the defendant's appearance or default, but less than thirty (30) days following the date notice is sent to the defendant's last known mailing address.

4. No warrant shall be issued unless all notice and warnings as required by T.C.C.P. Art. 45.014 have been provided to the defendant at their last known address as reflected on the citation, summons or last written correspondence provided by the defendant. The Court Clerk shall send, by regular mail, a copy of an Order and Notice to Appear signed by a Judge, notifying the defendant to appear at a "Non- Appearance Show Cause" (NASC) Docket at 9:30 a.m. on the first Wednesday occurring more than fourteen (14) days after the date of the defendant's non-appearance or default, but not more than thirty (30) days following the date notice is sent.
5. The Order and Notice to Appear shall provide the defendant with (a) the date, time and place where the defendant is ordered to appear before the judge, (b) the name and address of the court with jurisdiction in the case, (c) information regarding alternatives to full payment of any fine or costs should the defendant be unable to pay, and (d) an explanation of the consequences if the defendant fails to appear as ordered.
6. Upon contacting the Court in writing, any defendant who receives notice of their obligation to appear at a "Non- Appearance Show Cause (NASC) Docket" may request, and shall be granted, an alternative date and time to appear at a "Non- Appearance Show Cause (NASC) Docket." The Court Clerk's Office is authorized to re-set any defendant making such a request once without specific court order once. Any subsequent written requests to postpone a defendant's setting on a "Non- Appearance Show Cause (NASC) Docket" shall be submitted to the Judge for individual consideration and approval.

PROCESS SUBSEQUENT TO A DEFENDANT'S FAILURE TO SATISFY JUDGEMENT OR REAPPEAR BEFORE THE COURT AS ORDERED TO REQUEST ADDITIONAL TIME TO PAY OR ALTERNATIVE METHOD OF SATISFYING THE FINE; NOTICES AND CONDITIONS PRECEDENT TO ISSUANCE OF CAPIAS PRO FINE.

1. For the purpose of this section regarding a **DEFENDANT'S FAILURE TO SATISFY JUDGEMENT OR REAPPEAR BEFORE THE COURT AS ORDERED TO REQUEST ADDITIONAL TIME TO PAY OR ALTERNATIVE METHOD OF SATISFYING THE FINE**, "*Default*" occurs when person who has entered a plea of "Nolo Contendere" or "Guilty" or who has been found "Guilty" after trial, fails to either pay the fine and costs assessed; fails to make an incremental or partial payment on the date and in the amounts as ordered by the Court; fails to perform community service or other alternative method in an amount sufficient to satisfy the fine and costs assessed on the prior to, or re-appear as ordered before the Court to request additional time at a docketed "Payment Compliance and Extension Docket (PCE)" or "Special Financial Circumstances Docket (SFC)".
2. Effective July 3rd, 2017, any defendant who has previously appeared before the court, entered a written plea of "Nolo Contendere" or "Guilty" in open court or in writing received by the Court Clerk, a judgement of conviction has been entered, the fine and costs

assessed remain unpaid, the defendant has requested and had been granted additional time to satisfy the fine and costs assessed or reappear to request more time to pay, community service or other alternative means of satisfaction, BUT WHO HAS FAILED TO EITHER SATISFY THE FINE ASSESSED PRIOR TO, OR RE-APPEAR ON THE DATE AS ORDERED at a docketed “Payment Compliance and Extension Docket (PCE)” or “Special Financial Circumstances Docket (SFC)”, the Court Clerk or Collections Office Staff SHALL, prior to further process or request for issuance of a CAPIAS PRO FINE for the defendant’s arrest:

- (a) Telephone Contact for Past-Due Payments. Within THREE (3) DAYS of the date a defendant has failed to appear on a docketed “Payment Compliance and Extension Docket (PCE)” or “Special Financial Circumstances Docket (SFC)”, or is otherwise in “default”, a telephone call must be made to any defendant at the last known telephone number provided by the defendant. In every telephone contact for past due payment, Collections Office staff must provide the defendant with instructions about options offered by the Court or available to any defendant who is unable to make payments. This telephone contact must also include information about how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. Telephone calls may be made by an automated system, but an electronic report or manual documentation of the telephone contact must be available on request.
 - (b) Written Notice for Past-Due Payments. Within THIRTY (30) DAYS of the date a defendant has failed to appear on a docketed “Payment Compliance and Extension Docket (PCE)” or “Special Financial Circumstances Docket (SFC)”, or is otherwise in “default”, written notice must be sent to the defendant notifying them that they are in DEFAULT STATUS and subject to further action by the Court. Written notice may be made by regular or certified mail, e-mail, text message or other electronic means, but must be in a form approved by the Judge of the Court. Every written notice for past due payment must provide the defendant with instructions about what to do if the defendant is unable to make payments. The written notice must also include information about how the defendant may request a hearing for the judge to consider the defendant's ability to pay and any non-monetary compliance options available for the defendant to satisfy the judgment. Written notice may be sent by an automated system, but an electronic report or manual documentation of the written notice must be available on request. [DMC FORM 15-02 –FINAL (2nd) NOTICE OF DEFAULT]
3. **Effective July 3rd, 2017, the Court herein establishes and creates a “FINAL HEARING ON DEFAULT DOCKET (FDD)” which shall be held in the main courtroom of the Denton Municipal Court each Wednesday, at 3:00 p.m.**
4. The Court Clerk shall set a defendant on the Court’s “FINAL HEARING ON DEFAULT DOCKET (FDD)” occurring not less than two weeks, nor more than thirty (30) days after written notice of default under Subsection 2(b) has been provided to the Defendant who has: (a) failed to reappear at their original or a subsequent docketed “Payment Compliance and Extension Docket (PCE)” or “Special Financial Circumstances Docket

(SFC)”; (b) been provided with both the telephonic notice under Subsection 2(a) and the written Notice of Default as provided under Subsection 2(b) above, and who (c) THIRTY (30) DAYS OR MORE HAVE EXPIRED AFTER the date the Court has provided the defendant with the FIRST (1st) NOTICE OF DEFAULT, and the defendant remains in default.

5. THIRTY (30) DAYS OR MORE AFTER the date a defendant has been provided with the Court’s FIRST (1st) NOTICE OF DEFAULT as required under Subsection 2(b), and the defendant remains in default, the Court Clerk or Collections Office SHALL provide the defendant with a final written notice by regular or certified mail to the defendant written a FINAL (2nd) NOTICE OF DEFAULT [DMC FORM 15-01]. This Notice of Default shall be signed by the Judge, and shall Order the defendant to appear before the court on their docketed “FINAL HEARING ON DEFAULT DOCKET (FDD)” occurring not less than two weeks, nor more than thirty (30) days after written notice of default under Subsection 2(b) has been provided to the Defendant. The written notice shall also notify the defendant of the defendant's right to avoid jail time for nonpayment if the defendant is unable to pay the amount owed without undue hardship to the defendant and the defendant's dependents. An electronic report or manual documentation of the written notice must be available on request.
6. On or after Monday, July 3rd, 2017, ONLY AFTER a defendant fails to either pay the fine and costs previously assessed or reappear to request additional time to pay, community service or waiver of fine due to indigency, the Court Clerk has made or attempted telephonic contact and provided the defendant with both the First (1st) and Second (2nd) Notice of Default, the defendant either fails to present sufficient evidence as to their inability to pay or the defendant fails reappear at their docketed Final Hearing on Default, AND the defendant remains in default as to satisfaction of the fine and costs, may the case be processed or be eligible for issuance of a Capias Pro Fine for the detention of the defendant.

OPEN ACCESS COURT AND PROCESS FOR RECALLING WARRANT AND ALLOWING DEFENDANT TO APPEAR BEFORE THE COURT REGARDLESS OF CASE STATUS WITHOUT NECESSITY OF POSTING MONETARY BOND.

1. On or after Monday, July 3rd, 2017, any defendant may appear AT THE DENTON MUNICIPAL COURT, ANY OF ITS COURTROOMS, PUBLIC ACCESS AREAS OF ITS OFFICES, COURT CLERK’S OFFICES, PUBLIC ACCESS TRANSACTIONAL AREAS OR HALLWAYS OF THE DENTON MUNICIPAL COURT located at 601 East Hickory, Suite D, Denton, Texas, without fear of arrest on any matter before or on file with the Denton Municipal Court regardless of the status of that case and whether or not that case or matter is in warrant.
2. Any defendant who voluntarily makes an appearance before the warrant or capias pro fine is executed by arrest or detention, and requests that they be allowed to appear to resolve an outstanding case with the Court SHALL NOT BE DETAINED OR ARRESTED - so long as the defendant initiates contact, does so voluntarily and they have not first been detained

or arrested by the Denton Police Department or some other police agency outside the confines of the Denton Municipal Court's physical location at 601 E. Hickory, Suite D, Denton, Texas.

3. Any defendant voluntarily appearing before the Court, regardless of whether or not the case is in pre-warrant, warrant or capias pro fine status may appear at the transactional windows of the Denton Municipal Court Clerk or in open Court before the Judge and request that any warrant or capias pro fine issued for their arrest be RECALLED and held in abeyance for a period of time sufficient to allow the defendant to appear before the Court to resolve their case or make appropriate arrangements to pay the fine and costs, request alternative satisfaction or community service, or to present sufficient evidence to the Court
4. An appointed Judge of the Denton Municipal Court may, in his or her sole discretion recall any matter in warrant or capias pro fine status and allow the defendant to appear without first posting bond even if the Defendant does not physically appear before the Court first, but instead submits a written request to recall and hold any outstanding warrant or capias pro fine in abeyance and agrees to resolve the case or appear before the Judge on any regularly scheduled Arraignment Docket or Payment Compliance and Extension at 2:00 p.m. on any Monday, Tuesday, Wednesday or Thursday the Court is in operation.
5. So as to facilitate the defendant's appearance, the Court Clerk SHALL allow any defendant, regardless of case status, who provides the Court with a written promise to appear before the Court at a docketed date and time as provided herein to request that any warrant or capias pro fine be recalled and held in abeyance without bond so that they can resolve any outstanding case. [DMC FORM 15-03 - REQUEST TO APPEAR BEFORE THE COURT, RECALL WARRANT WITHOUT BOND AND HOLD WARRANT IN ABEYANCE SUBJECT TO APPEARANCE] The Court Clerk shall require that the defendant review and sign a written REQUEST TO APPEAR BEFORE THE COURT, RECALL WARRANT WITHOUT BOND AND HOLD WARRANT IN ABEYANCE SUBJECT TO APPEARANCE indicating the date and time the defendant is required to appear.
6. Upon the defendant's promise to appear before the Court, the Court Clerk SHALL (1) RECALL and remove any warrant or capias pro fine from active status, (2) NOTIFY the Denton Police Department, Warrant Officers and Dispatch of the change in status and (3) SET the defendant on any scheduled Monday, Tuesday or Thursday arraignment docket at 2:00 p.m. and provide the defendant with notice of their scheduled docket appearance date.

DETENTION, ARREST AND DETENTION PROCESSES AND RELEASE OF DEFENDANTS WITHOUT BOND UPON A PROMISE TO APPEAR

1. ON OR AFTER July 3rd, 2017, any persons who have been arrested and are in the custody of the Denton Police Department and are detained solely on Class "C" misdemeanor offenses which have been filed or will be filed with the Denton Municipal Court, SHALL BE RELEASED WITH OR WITHOUT BOND UNDER THE FOLLOWING CIRCUMSTANCES:

2. RELEASE OF PERSON ARRESTED ON-SIGHT WITHOUT WARRANT:

As to any person has been arrested on any class “c” misdemeanor offense which may be, or will be filed with the Denton Municipal Court, and for which a formal complaint has not yet been filed, and:

- (a) PRIOR OT APPEARANCE BEFORE THE MAGISTRATE. The Defendant has NOT been presented to a Judge or Magistrate for magistration, that Defendant SHALL BE RELEASED on EITHER CASH, ATTORNEY, OR SURETY BOND in the amount of:
 - (1) Three Hundred Dollars (\$300) as to any offense under the Denton Code of Ordinances or the Texas Transportation Code; or,
 - (2) Five Hundred Dollars (\$500) as to any offense under the Texas Penal Code, Education Code or Texas Health and Safety Code.
- (b) AFTER ARRIVAL OF OR APPEARANCE BEFORE THE MAGISTRATE. The Defendant has not been able to arrange for release on bond as provided above, but, a judge or magistrate for the Denton Municipal Court has reviewed the arrest and authorized release in writing, or the Defendant has appeared before the Judge, and the Defendant has a driver’s license or other form of positive identification, the Defendant MAY BE RELEASED WITHOUT POSTING BOND by completing all contact information required and signing a DEFENDANT’S WRITTEN PROMISE TO APPEAR AS A CONDITION OF RELEASE FROM CUSTODY – Attached as “15.17(b) JAIL RELEASE (Promise to Appear) – Denton On-Sight Class C.”

3. RELEASE OF PERSONS ARRESTED PURSUANT TO A CLASS “C” WARRANT ISSUED BY THE DENTON MUNICIPAL COURT:

If any person has been arrested on any class “c” misdemeanor offense to which that defendant had failed to appear pursuant to their written promise to appear, no judgement has been entered, and for which the Denton Municipal Court has issued a warrant of arrest for that Defendant, AND:

- (a) If the Defendant has NOT been presented to a Judge or Magistrate for magistration, that Defendant SHALL BE RELEASED on EITHER CASH, ATTORNEY, OR SURETY BOND in the amount as indicated on the face of the Warrant issued by the Court; or,
- (b) If the Defendant has not posted bond and appears before a Judge of the Denton Municipal Court, and voluntarily waives a trial by judge or jury and enters a written plea of “Guilty” or “No Contest” to the offense charged in the warrant, the Judge shall accept the Defendant’s written plea of “No Contest”, assess fine and costs and Order their release with a requirement that the entire fine and costs be paid immediately, and in no event later than thirty (30) days from the date of judgement, or re-appear before the court by contacting the Court Collections Office on or before the thirtieth day after the date of plea and judgement. If the Defendant wishes to enter a plea, the Judge shall advise them their right to request that the judgement be set aside in writing within ten (10) days, have the Defendant sign their plea and enter judgement – Attached as “IN CUSTODY JAIL PLEA & JUDGEMENT.”

4. RELEASE OF PERSONS ARRESTED PURSUANT TO A CAPIAS PRO FINE (CPF) ISSUED BY THE DENTON MUNICIPAL COURT:

As to any person or Defendant arrested pursuant to a Capias Pro Fine issued by the Denton Municipal court, once in the City of Denton's custody, at that person's appearance before a Judge for the City of Denton Municipal Court, the Judge SHALL inquire as to the Defendant's prior opportunities to request additional time to pay and current ability to pay at the time of arrest, and prior to committing the defendant to jail shall determine conclusively that the defendant had monetary resources and the ability to pay the fine and costs assessed, but they willfully refused to pay or reappear to request additional time to pay, that they be allowed to satisfy the fine by alternative means, community service or request that the fine be waived in its entirety.

5. After a diligent inquiry regarding the Defendant's prior opportunities to request additional time to pay the fine assessed, as well as the Defendant's current ability to pay at the time of arrest (In-Custody Indigency Hearing) the Judge SHALL, FIND (and make a written determination) that:
 - (a) THE DEFENDANT IS NOT INDIGENT AND HAS NOT PERFORMED COMMUNITY SERVICE and that they were capable of performing community service as ordered by the Court. Upon making such a finding, the Judge shall enter an Order Committing the Defendant to the custody of the Denton Chief of Police, or other appropriate confinement facility, until such time as Defendant's fine and costs have been discharged pursuant to Article 45.048(b), T.C.C.P., and shall indicate the amount of credit to be given to the defendant for each day they are confined until the fine and costs have been satisfied in full; OR,
 - (b) THE DEFENDANT IS INDIGENT, has insufficient resources or income to pay the fine and costs due, and the Defendant is entitled to discharge all fine and costs by PERFORMING COMMUNITY SERVICE as provided under Art. 45.049 of the Texas Code of Criminal Procedure. Upon finding that the Defendant is thus able to and entitled to perform community service, the Judge shall deduct from the total due appropriate credit for time in custody (not less than \$50 per day,) and ORDER the defendant to perform a set number of community service hours and to REAPPEAR before the court at a docketed Indigency Docket within thirty (30) days following their arrest and release; OR,
 - (c) THE DEFENDANT IS INDIGENT, BUT, has (a) insufficient resources or income to pay the fine and costs now due, and (b) Any obligation to discharge the fine and costs due under T.C.C.P. Art. 45.049 or as otherwise authorized under Art. 45 of the Texas Code of Criminal Procedure would "*impose an undue hardship on the Defendant.*" Upon a finding of indigency and inability to pay and that community service would impose an undue hardship, the Judge shall fully discharge all fine and costs remaining due, order the release of the defendant without cost or further obligation to pay or reappear before the court, and WAIVE all relining fine and costs due; OR,
 - (d) THERE IS INSUFFICIENT INFORMATION AVAILABLE TO THE COURT and thus, the COURT IS UNABLE TO DETERMINE WHETHER OR NOT THE DEFENDANT IS INDIGENT as a matter of law. Upon finding that the Court is unable to determine whether or not the Defendant is indigent, the Judge shall deduct from the total due appropriate credit for time in custody (not less than \$100 per day,) and ORDER the defendant to perform a set number of community service hours and to REAPPEAR before the court at a docketed Indigency Docket within thirty (30) days following their arrest and release.

6. Should the Judge be unable to conclusively determine that the defendant had sufficient financial resources available to them, and that they willfully refused to pay or reappear to request additional time to pay, that they be allowed to satisfy the fine by alternative means, community service or request that the fine be waived in its entirety, it shall be the policy of this Court, that the defendant should be given appropriate credit for their time in custody at One Hundred Dollars for each day or portion of a day, and that the DEFENDANT SHALL BE RELEASED FROM CUSTODY UPON THE DEFENDANT'S WRITTEN PROMISE TO APPEAR BEFORE THE COURT at a Court docket within THIRTY DAYS OF THE DATE OF RELEASE.

The Court herein reserves the right to review, revise, or amend this Judicial Policy Directive in accordance with the acceptable confines of judicial discretion, the interest of justice as to one or several persons or entities and in conformity with state statutes or municipal ordinances.

This Judicial Policy Directive Issued on this 8th day of June, 2017, and Effective as to all relevant Denton Municipal Court Processes on or after Monday, July 3rd, 2017.