

1 **VIOLATIONS BUREAU**

2 IN THE MUNICIPAL COURT FOR THE CITY OF ASHLAND

3 COUNTY OF JACKSON, STATE OF OREGON

4
5 In the Matter of: Establishing of a)
6 Traffic Court Violations Bureau)
Pursuant to ORS 153.800.)

Violations Bureau Order
(ORS 153.800)
February 10, 2020

7
8 The Court having determined that the efficient disposition of its responsibilities and the
9 convenience of citizens charged with violations so requires,

10
11 **IT IS HEREBY ORDERED AS FOLLOWS:**

12 **I.**

13 **Violations Bureau Established**

14 The Court hereby establishes a Traffic Court Violations Bureau (“Bureau”) subject to the
15 control and supervision of this Court, which shall operate as provided in this order and ORS
16 153.800.

17 **II.**

18 **Designation of Bureau Clerks**

19 The Ashland Municipal Court Lead Clerk is hereby designated as the Violations Clerk. The
20 Violations Clerk may designate one or more members of the court staff as Deputy Clerks for
21 the Bureau. As used herein, the term “Clerk” means the Violations Clerk and Deputy Violations
22 Clerks of the Violations Bureau.
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III.

Authority of Clerks

A Clerk may accept written appearances; requests or waivers of trial; pleas of no contest; payments of fines, bails, and assessments for all violations that are subject to the authority of the Clerk. These enumerated powers are not the exclusive powers of a Clerk; a Clerk has all powers necessary or convenient to conduct the business of the Violation Bureau consistent with the terms and purpose of this order.

IV.

Subject Matter Jurisdiction of the Bureau

Subject to the terms provided herein, a Clerk may exercise authority over any violation, except the following which shall be referred to the Judge:

1. all citations issued to persons under 18 years of age, except skate board helmet offense;
2. a minor in possession of alcohol or marijuana;
3. the sale of tobacco to minor;
4. marijuana use in public;
5. a misdemeanor treated as a violation;
6. an Ashland Municipal Code violation in which a reduction is requested;
7. a violation which occurred in the Enhanced Law Enforcement Area (ELEA);
8. when the Clerk has a significant doubt regarding;
 - a. the accuracy or sufficiency of a violation citation;
 - b. the validity of a defendant's driver's license, proof of insurance or other relevant documentation; or
 - c. the application of the provisions of this order to a particular situation.
9. when the Clerk determines there is a previous conviction for operating a motor vehicle while using mobile electronic device resulting in a higher penalty (ORS 811.507).

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V.

Personal Jurisdiction of the Bureau

All persons alleged to have committed a violation within the jurisdiction of the Bureau may appear before the Bureau, regardless of the number of previous offenses the person may have committed.

VI.

Payment of Fines and Fees

All amounts of penalties paid to the Violations Bureau shall be accounted for and receipted by the Clerk in the same manner as other payments on money judgments received by the court. A defendant charged with any offense in the Ashland Municipal Court Violations Bureau may pay a fine or fee by cash, check, money order, MasterCard or Visa. Payments may be made in person, over the telephone, over the Internet, or by mail; except payment over the internet may not be made on cases in suspension, collection or those enrolled in the traffic school program. In a particular instance, the Clerk may refuse to accept one or more form or manner of payment if, in the Clerk's exercise of sound judgment, there is good cause to do so.

VII.

Bureau Procedures; Basic Options

A defendant who appears in person for arraignment on a violation that is subject to the authority of a Violations Clerk shall have the following three options regarding how to proceed on the violation. The Clerk shall inform the defendant of these options.

- 1. Plead Not Guilty and Request a Hearing.** The defendant shall sign the appropriate forms documenting the plea of not guilty and the request for a trial. The form shall require the defendant to provide a current address and phone number. If a defendant requesting a trial does not sign the paperwork or does not provide a reliable way to contact them, no trial

1 will be set. The Clerk shall send a trial date notice to the defendant by mail (or email or
2 facsimile upon written request) if the defendant is not present;

3 **2. Plead No Contest and Pay a Fine.** The Clerk shall (1) view the defendant's driving
4 record and determine the number of moving violations the defendant has been convicted of
5 within the two years before the date of the alleged offense and (2) inquire whether the
6 defendant has participated in a traffic diversion program within the past two years before the
7 date of the alleged offense, in order to determine if the defendant is eligible for the Court's,
8 Seat Belt, Bicycle, Traffic School or DWS Diversion Program (see X, XI, XII, XIII herein)
9 and offer the defendant the appropriate Diversion Program option. If defendant is not
10 eligible for the Court's Diversion Program, the defendant shall pay the presumptive fine
11 amount. If the defendant consents to the violation being processed by the Violations Bureau,
12 the Clerk shall accept the defendant's plea of no contest, enter the conviction and impose the
13 presumptive fine. The Clerk shall then accept payment in full of the fine or have the
14 defendant enter into an installment agreement;

15 **3. See the Judge in Open Court.** The defendant shall be directed to the courtroom to
16 wait for the case to be called. The matter will then be handled by the Judge.
17 If a defendant seeks to plead no contest to a violation, but does not consent to the
18 authority or determination of the Violations Clerk, the defendant shall only have the options
19 of pleading not guilty or seeing the Judge. The Clerk shall inform the defendant of these two
20 options. The matter shall proceed pursuant to the defendant's choice.

21 If a defendant does not choose how to proceed on a violation under a Clerk's authority, the
22 Clerk shall direct the defendant to the courtroom to wait for the Judge to call the case.
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VIII.

Receipt of Presumptive Fine Amount; No Offered Mitigation

Upon receipt of the fine amount set on the citation with no accompanying plea or with a plea of no contest without any accompanying explanation of circumstances, the Clerk shall enter a conviction on defendant's DMV record.

IX.

Receipt of Presumptive Fine; Offered Mitigation

Upon receipt of the presumptive fine amount set on the citation with an enclosed letter of explanation from the defendant, the Clerk shall forward the letter of explanation to the Judge for consideration. A letter of explanation may be sent to the court and/or Clerk by regular mail, e-mail or facsimile.

X.

Seat Belt Diversion

Upon a citation for failure or improper use of a safety belt that (1) does not involve an accident, (2) the defendant has no prior conviction for violation of ORS Section 811.210 within the last two years, or (3) has not participated in a diversion program for a safety belt offense within the last two years, and (4) the defendant holds a valid non-commercial driver's license, the Clerk may offer to divert the safety belt violation. The diversion shall be in lieu of further prosecution on the safety belt violation. If the defendant pays the diversion fee, watches the court seatbelt video, and receives no further seatbelt convictions within 90 days from the date of arraignment, the Clerk shall dismiss the violation. If the defendant does not successfully complete the agreement, a conviction will be placed on the defendant's DMV record and the presumptive fine amount must be paid within 30 days of diversion being revoked or the Clerk shall request DMV to suspend defendant's driver's license.

1 **XI.**

2 **Bicycle Diversion**

3 Upon a citation for a Class B, C or D bicycle related moving traffic violation, if the
4 defendant within the last two years (1) has had no prior bicycle related violation convictions, or (2)
5 has not participated in a program for a bicycle related offense, the Clerk may offer to divert one
6 pending bicycle traffic violation. The diversion shall be in lieu of further prosecution on the bicycle
7 violation . To participate, the defendant must enter a plea of no contest to the diverted offense.
8 Within 90 days of the entry of plea and at his or her own expense, the defendant must 1) attend a
9 traffic school course or school designated by the court and 2) pay a non-refundable court fee of
10 \$25.00. No extensions are allowed. If the defendant does not successfully complete the above
11 described program, the presumptive fine will be imposed and must be paid within 30 days of failure
12 of the bicycle program. Additional fees and charges of up to \$250.00 can be imposed and the
13 balance will be turned over to a collection agency. If the defendant successfully completes the
14 requirements of the traffic school agreement, the Clerk shall dismiss the diverted offense.

15 **XII.**

16 **Traffic School Diversion**

17 Upon a citation for a Class B, C or D moving traffic violation that (1) does not involve an
18 accident, and (2) if for the two years prior to date of issuance of the citation the defendant has had
19 no vehicle-related diversion (distracted driving and seatbelt convictions excluded), and (3) has had
20 no conviction for a traffic crime or a moving traffic violation, and (4) the defendant holds a valid
21 non-commercial driver's license, the Clerk may offer to divert one pending moving traffic violation.
22 Provided, however, that the Clerk may not offer any defendant diversion of the following offenses:

- 23 • Class A Violations, except defendants charged with DWS (ORS 811.175) for the first time
24 (see XIII herein);
25 • Open Container of Alcohol (ORS 811.170);

- 1 • Driving Uninsured (ORS 806.010);
- 2 • Failure to Obey Police Officer (ORS 811.535);
- 3 • Failure to perform duties of a witness to an accident (ORS 811.715);
- 4 • Failure to yield to emergency vehicle (ORS 811.145).
- 5 • Operating Motor Vehicle while Using Mobile Electronic Device (ORS 811.507)

6 If the defendant chooses to participate in the traffic school diversion, the defendant must
7 enter a plea of no contest to the diverted offense. Within 90 days of the date of entry of plea, and at
8 his or her own expense, the defendant must (1) attend a traffic safety course or school as designated
9 by the court, and (2) pay the appropriate non-refundable traffic school agreement fee. No extensions
10 are allowed.

11 The Diversion Fee is the same as the presumptive fine except for first time DWS citations
12 (see XIII herein).

13 There is no traffic school required for Seat Belt or DWS diversions.

14 If the defendant successfully completes the requirements of the traffic school agreement, the
15 Clerk shall dismiss the diverted offense. If the defendant does not successfully complete the
16 agreement, a conviction will be placed on the defendant's DMV record and the presumptive fine
17 amount must be paid within 30 days of diversion being revoked or the Clerk shall request DMV to
18 suspend defendant's driver's license.

19 XIII.

20 **Driving While Suspended- Violation Diversion**

21 If after reviewing a defendant's driving record and questioning the defendant, the Clerk
22 determines that the DWS citation is the defendant's first such citation, the Clerk may offer to divert
23 the violation. The diversion will be in lieu of further prosecution on the DWS violation, provided
24 the defendant pays the diversion fee of \$300.00, obtains a valid license and shows proof thereof with
25 90 days of the date of arraignment. If the defendant successfully completes the requirements of the

1 DWS diversion agreement, the Clerk shall dismiss the diverted offense. If the defendant does not
2 successfully complete the agreement, a conviction will be placed on the defendant's DMV record
3 and the presumptive fine amount of \$440.00 must be paid within 30 days of diversion being revoked
4 or the Clerk shall request DMV to suspend defendant's driver's license.

5 **XIV.**

6 **All other Class A Traffic Violations.**

7 Upon citation of any Class A violations (Except first violation for DWS), if the defendant
8 pleads no contest, the conviction shall be placed on the defendant's DMV record. The presumptive
9 fine will be imposed (see XVIII (1) herein).

10 **XV.**

11 **Authority to Dismiss Certain Citations**

12 A Clerk shall dismiss the following citations under the following circumstances:

13 **1. No liability insurance.** Upon citation for no liability insurance (ORS 806.010), the
14 Clerk shall dismiss the citation if the defendant provides the Clerk via paper, email or fax, a
15 valid insurance card indicating insurance coverage for the date of the citation. If the Clerk is
16 not satisfied with the proof offered, the Clerk may require the defendant to provide a letter
17 signed by an authorized insurance producer or insurance company official, on insurance
18 producer or insurance company letterhead that verifies the defendant actually had valid
19 insurance coverage at the date and time of the alleged violation.

20 **2. Failure to carry proof of liability insurance.** Upon citation for failure to carry
21 proof of liability insurance (ORS 806.012), the Clerk shall dismiss the citation if the
22 defendant shows the Clerk a valid insurance card indicating insurance coverage for the date
23 of the citation. If the Clerk is not satisfied with the proof offered, the Clerk may require the
24 defendant to provide a letter signed by an authorized insurance producer or insurance
25 company official, on insurance producer or insurance company letterhead, that verifies the

1 defendant actually had valid insurance coverage at the date and time of the alleged violation
2 and upon payment of a \$25.00 compliance fee.

3 **3. Operation of a vehicle without proper fenders or mudguards.** Upon citation for
4 operation of a vehicle without proper fenders or mudguards (ORS 815.185), the Clerk shall
5 dismiss the citation if the defendant shows proof in the form of a police officer's written
6 verification that the offending fenders or mudguards have been installed, repaired or replaced
7 and now comply with applicable law and upon payment of a \$25.00 compliance fee.

8 **4. Failure to carry registration card.** Upon citation for failure to carry registration card
9 (ORS 803.505), the Clerk shall dismiss the citation if the defendant shows the Clerk a valid
10 registration card or a valid trip permit issued by Oregon DMV and upon payment of a \$25.00
11 compliance fee.

12 **5. Skateboard Helmet.** Upon a citation for no skateboard helmet (AMC 11.04.030) the
13 Clerk shall dismiss the citation upon proof of ownership of a helmet and payment of \$25.00
14 fee.

15 XVI.

16 Failure to Appear; Suspension of Driver's License

17 On traffic violation matters, if a defendant fails to appear within seven days of the appearance
18 date on the citation, or thereafter fails to appear at any scheduled court proceeding on the citation,
19 the Clerk shall take the appropriate steps to cause the Department of Motor Vehicles to suspend the
20 defendant's driving privileges for failure to appear.

21 The Clerk may lift any license suspension imposed because of a failure to appear on a
22 citation and proceed as previously set forth herein. Once a violations bureau Clerk has suspended a
23 defendant's license for FTA, the defendant is no longer eligible for any of the court diversion
24 programs.

1 a. \$265.00 unless the violation occurred in a highway work zone, a school zone, or a
2 safety corridor;

3 b. \$525.00 if in a highway work zone, a school zone, or a safety corridor.

4 **3. For a Class C violation:**

5 a. \$165.00 unless the violation occurred in a highway work zone, a school zone, or a
6 safety corridor;

7 b. \$325.00 if in a highway work zone, a school zone, or a safety corridor.

8 **4. For a Class D violation:**

9 a. \$115.00 unless the violation occurred in a highway work zone, a school zone, or a
10 safety corridor;

11 b. \$225.00 if in a highway work zone, a school zone, or a safety corridor.

12 **XIX.**

13 **Failure to Appear; Entry of Judgment**

14 On all violation matters, upon the failure of a defendant to make a first appearance within
15 seven days of the appearance date on the violation citation, the Clerk shall, unless otherwise required
16 by law, enter a default judgment against the defendant as provided by ORS 153.102(1).

17 On all violation matters, upon the failure of a defendant to appear at the date, time and place
18 set for any trial or other appearance on a violation citation after a first appearance, the Clerk shall,
19 unless otherwise required by law, enter a judgment against the defendant as provided by ORS
20 153.102(2).

21 Any judgment or default judgment entered pursuant to this section shall impose a sentence to
22 pay a fine as follows:

23 1. For citations issued to an individual, trust or business other than a corporation for a
24 Violation, the amount of the fine shall be:

25 \$440.00 for Class A violation;

1 \$265.00 for Class B violation;

2 \$165.00 for Class C violation; and

3 \$115.00 for Class D violation.

- 4 2. For citations issued to a Corporation for a violation, including parking violations that are
5 defined and made punishable under Oregon law as set out at ORS 811.550 – 811.637, the
6 amount of the fine shall be:

7 \$4,000.00 for class A violation;

8 \$2,000.00 for class B violation;

9 \$1,000.00 for class C violation; and

10 \$500.00 for class D violation.

11 For purposes of this section, the Clerk shall determine whether a defendant is a corporation
12 based on the name of the defendant as alleged in the charging citation or complaint.

13 Reference to “Corporation,” “Corp.,” “Incorporated,” or “inc.” is sufficient evidence for the
14 Clerk to conclude that the defendant is a corporation. A reference to “Company,” “Co.,”
15 “Limited Liability Company,” or “LLC” is insufficient evidence for the Clerk to conclude a
16 defendant is a corporation.

17 **XX.**

18 **Effective Date of Order; Affect on Prior Orders**

19 This order shall take effect; shall supersede all prior Violation Bureau Orders of this court
20 where applicable; and shall remain in effect indefinitely until amended, superseded or vacated by
21 this court.

22
23 Dated this 10th day of February 2020.

24 Pamela B. Turner
25 Pamela Burkholder Turner, Presiding Judge
Ashland Municipal Court