

**Ferguson Municipal Court
Policy and Procedure Manual**

FMC Policy 3.0: Payment of Fines and Fees; Ability to Pay Determinations; Community Service; Other Alternative Sentences

Date issued:

PURPOSE: This policy governs how the fines and fees owed for various offenses will be assessed. It provides the various ways that Defendants can pay the fines and fees they owe to the City of Ferguson when they plead guilty or are found guilty of a Municipal Code violation. Finally, this policy outlines how the Judge will determine eligibility for alternative payment options, including: reduction of the amount of fines/fees owed based on indigency; payment plans, paying fines/fees owed in installments; and paying fines/fees owed through community service hours.

PROCEDURES:

A. How fines and fees are calculated

1. The Ferguson Municipal Court will use a modified version of the St. Louis County Municipal Court Regional Uniform Fine Schedule. This Schedule lists several Municipal Code violations and an associated standard, pre-set amount of fines and fees for each violation listed. The Uniform Fine Schedule used by the Ferguson Municipal Court includes the same offenses and associated fines and fees as the St. Louis County Regional Fine Schedule, but the names of the offenses have been changed to reflect the names of the corresponding Ferguson Municipal Code provisions. Additionally, the Ferguson Municipal Court Uniform Fine Schedule includes several offenses and associated pre-set fines in addition to those included in the Regional schedule.
 - a. All offenses listed on the Ferguson Municipal Court's Uniform Fine Schedule will be assessed a fine as noted on the Schedule.
 - b. All offenses listed on the Schedule will also be assessed a court fee for each offense, as noted on the Schedule under "Court Costs," in addition to the designated fine for the offense.
 - c. For all offenses listed on the Schedule, the Defendant may enter a plea of guilty without appearing in court, and pay the associated fines and fees.
2. For offenses not listed on the Ferguson Municipal Court's Uniform Fine Schedule:
 - a. The Defendant must appear in Court on the date listed on the arrest notification, citation, or summons, or if a continuance is granted, on the new court date, to enter a plea of guilty or not guilty. The Defendant may request a continuance in accordance with Ferguson Municipal Court Policy 2.0, *Process for Requesting a Continuance*.
 - b. After a plea of guilty, or if the Defendant pleads not guilty and is found guilty after trial, the Municipal Court Judge will consider the nature of the offense and facts surrounding the offense in determining the appropriate punishment, including the amount of any fine imposed.

- c. The Municipal Court Judge will not increase a fine or court fees because the Defendant exercises their right to a trial.
- d. The court fees imposed for all offenses not listed on the Uniform Fine Schedule are the same as those listed on the Uniform Fine Schedule under "Court Costs."

B. Ability to Pay Determinations

1. The Municipal Court Judge will announce at the start of each court session that all Defendants who will owe fines/fees have a right to have an Ability to Pay Determination conducted prior to the Court assessing the final amount of fines/fees to determine whether the Defendant has the ability to pay the amount owed, and if not, to have the amount owed reduced according to the financial resources of the Defendant.
 - a. The Municipal Court Judge will instruct Defendants seeking an Ability to Pay Determination to fill out a Statement of Financial Condition at the start of court.
 - b. The Court Clerk will have blank copies of these affidavits available for all Defendants who wish to submit an affidavit for the Municipal Court Judge's consideration.
2. Additionally, the Municipal Court Judge will affirmatively ask each defendant if they would like an Ability to Pay Determination conducted prior to imposing any fine in a given case.
 - a. If a Defendant requests an Ability to Pay Determination and has not yet completed a Statement of Financial Condition, the Defendant will be given time to do so before fines are imposed.
 - b. The Court Clerk will have blank copies of these affidavits available for all Defendants who wish to submit an affidavit for the Municipal Court Judge's consideration.
3. The Municipal Court Judge will determine indigency based on the criteria listed in Missouri State Supreme Court Model Local Rule 69.01, entered December 14, 2016, which are incorporated here as follows:
 - a. A person is presumed indigent if the person:
 - i. Is in the custody of the Children's Division or the Division of Youth Services; or
 - ii. Both of the following:
 - (A) Has unencumbered assets totaling under \$5,000, and
 - (B) Has total household monthly income below 125% of Federal Poverty Guidelines (which are updated annually and incorporated herein by reference).
4. If the Defendant is found to be indigent based on the information contained in the affidavit, the Municipal Court Judge will waive all court fees and will reduce the fine owed according to the following criteria:
 - a. If the Defendant has no income, or their expenses/debt owed exceed their monthly income, and the Defendant is charged with an offense listed on the Uniform Fine Schedule, the Municipal Court Judge will reduce the fine owed

to 10% of the normal fine amount listed on the Schedule for that offense. Social Security or disability benefits will not be considered as income.

- b. If the Defendant's income exceeds their expenses/debt, but the Defendant is still indigent, based on the criteria outlined above from Missouri State Supreme Court Model Local Rule 69.01, or is charged with an offense not listed on the Uniform Fine Schedule, the Municipal Court Judge will reduce the fine by at least 50% of the normal fine amount owed.
 - c. The Judge may elect to reduce the fine by greater than 50%, if the Judge determines that special circumstances exist meriting such a reduction, such as:
 - i. The Defendant has a high number of dependents,
 - ii. The Defendant has significant medical expenses for the Defendant or the Defendant's dependents,
 - iii. The Defendant's monthly income exceeds their monthly expenses by less than 10%, or
 - iv. Any other special condition that, in the judgment of the Municipal Court Judge, merits a more significant reduction in the amount of fines owed.
5. The Municipal Court Judge will also conduct an Ability to Pay Determination using the procedures and criteria listed above upon any increase in the fine or related court fees associated with an offense, and upon a Defendant's request for such a determination at any point in the Defendant's case, including after they have begun a payment plan.
6. The Municipal Court Judge will not assign any extra fines or fees to Defendants because they have requested an Ability to Pay Determination at any point in their case.

C. Payment Options

1. Methods of payment accepted

- a. The Municipal Court Clerk will accept payment for any offense listed on the Ferguson Municipal Court Uniform Fine Schedule in advance of the court date listed on the citation, without the Defendant appearing in Court.
 - i. Defendants may submit their payment for the fine and fee associated with the offense listed on the citation by:
 1. Mailing a money order or cashier's check to the Clerk's Office;
 2. Appearing in-person at the Clerk's Office and paying via money order, cash, credit card, or cashier's check;
 3. Submitting payment online, via credit card, at www.trafficpayment.com; or
 4. Calling Trafficpayment.com at 1-800-444-1187, and paying via credit card.
 - ii. The Court Clerk will not accept payment by personal check.

- b. For offenses not listed on the Ferguson Municipal Court Uniform Fine Schedule, once the Defendant has appeared in court, plead or been found guilty, and assessed a fine by the Municipal Court Judge, the Defendant may also pay the assessed fine/fee using one of the payment methods identified above.
- c. The Ferguson Municipal Court will accept partial payments and will not refuse partial payments towards fines/fees owed on any offense.

2. Payment Plans

- a. If, after all appropriate reductions made pursuant to Section B.4 above, a Defendant is unable to pay the fine owed, the Defendant can appear on their scheduled court date to request a payment plan for the amount owed.
- b. If a Defendant requests to be placed on a payment plan, the Municipal Court Judge will:
 - i. Ask the Defendant how much the Defendant thinks they will be able to pay each month towards the fine(s)/fee(s) owed;
 - ii. If necessary, ask the Defendant about their income, expenses, any other fines or fees owed to other courts; and
 - iii. Determine an appropriate monthly installment for the Defendant to pay towards the fine(s)/fee(s) owed.
- c. Once a payment plan is established, the Municipal Court Judge will instruct the Defendant to visit the Clerk's Window at the Municipal Court to sign a payment agreement that dictates the terms of the payment plan. The Court Clerk will give the Defendant a copy of the agreement and place a copy in the Defendant's court file.
- d. If the Defendant is unable to make the agreed monthly payment on the date due, the Defendant must notify the Court Clerk in person at the Court window, or via phone, e-mail or fax. The Defendant can either appear before the Judge at the next Monday evening scheduled court docket to discuss the payment plan, or submit a Request for Extension of Payment Obligation Form in person, via fax or e-mail. Information about the court docket schedule is available to defendants at www.fergusoncity.com/calendar.aspx?CID=19.
 - i. If the Defendant submits a Request for Extension of Payment Obligation Form, the Defendant must submit an explanation and any related documentation demonstrating why the Defendant is unable to meet their payment obligation that month.
 1. The Municipal Court Judge will evaluate all Request for Extension of Payment Obligation Forms and supporting documentation and grant the request upon a showing of good cause.
 2. The Municipal Court Judge will decide all Requests for Extension of Payment Obligation within one business day of receipt.
 3. If the Municipal Court Judge grants the request, the Court Clerk will inform the Defendant by phone and also in writing by

letter or e-mail of the extension granted and when the payment obligation is now due.

4. If the Municipal Court Judge denies the request, the Court Clerk will inform the Defendant by phone and also in writing by letter or e-mail that the Defendant is obligated to make their payment due.
 5. If the Defendant does not make the payment due, the Municipal Court will send the Defendant a Notice to Appear in court on a scheduled date to address the non-payment with the Municipal Court Judge. If the Defendant does not appear in court or otherwise pay the amount due, the Municipal Court may issue an arrest warrant to secure the Defendant's appearance in Court.
- ii. If the Defendant appears in court to discuss the payment plan, the Defendant may request an extension of time to pay the amount owed that month; request to serve community service hours in lieu of paying the remainder of the fines/fees owed; or request a reduction in the amount of fines/fees owed.
1. The Municipal Court Judge will grant any of the above requests upon a showing of good cause.
 2. The Court Clerk will document any modifications made to the payment plan and instruct the Defendant to sign another payment agreement stipulating the new terms. The Court Clerk will give the Defendant a copy of the new agreement and place a copy in the Defendant's court file.
- e. Defendants may make their monthly payments under an agreed-upon payment plan using the same payment methods listed in Section C.1.a.i of this Policy.

3. Community service

- a. If a Defendant wishes to complete community service in lieu of paying the fines/fees owed, they must appear in court on the scheduled date to request a community service plan.
- b. The Municipal Court Judge will grant all requests to perform community service in lieu of fines/fees owed, regardless of ability to pay.
- c. Once a request is granted, the Municipal Court Judge and the Court Clerk will establish a community service plan for the Defendant.
 - i. The Court Clerk will provide the Defendant with a list of approved community service organizations through which the Defendant may satisfy their community service obligations.
 1. The Defendant will be required to contact the community service organization(s) that they are interested in working with to discuss performing their community service hours with that organization(s).

2. The Defendant does not need to notify the Court of the organization(s) with which the Defendant will work prior to completing the community service.
 3. If the Defendant wishes to work with an organization that is not on the list provided by the Court, the Defendant may request approval of the organization from the Municipal Court Judge.
- ii. The Municipal Court Judge will base the number of community service hours to be performed on the fines/fees owed (after all appropriate reductions have been made pursuant to Section B.4, above). The Judge will assign one hour of community service for every ten dollars owed in fines/fees.
 - iii. The Court Clerk will provide the Defendant with a Community Service Time Sheet indicating the number of hours of community service to be completed. The Defendant must have the community service agency complete the section of the form entitled "To be completed by the Agency/Organization" and sign the form to verify the hours completed.
 - iv. The form will also include a court date for approximately sixty days later. The Defendant shall either submit the signed form to the Court before or on that date, demonstrating that they have satisfied the required number of community service hours, or appear in court on the date noted to request an extension of time to complete the hours.
 1. If the Defendant completes their community service obligation and submits the Community Service Time Sheet to the Court Clerk in advance of the scheduled court date, the Defendant will not need to appear in court. The completed Community Service Time Sheet must be submitted at least two business days prior to their scheduled court date to allow the Court time to verify the hours and the provider's signature.
 2. The Court Clerk will call the community service provider listed on the form to verify the hours and the provider's signature. Once verified, the Court Clerk will note in the Court's records that the fines and fees associated with the offense have been satisfied.
 3. If the Court Clerk is unable to verify the hours and/or the provider's signature, the Defendant must appear on their scheduled court date or pay their fines and fees.
 4. The Defendant will be notified whether or not the Court Clerk is able to verify the hours and/or the provider's signature, either in person or by phone and by written communication, either by mail or email.

4. Failure to Resolve a Case Through Payment or Community Service

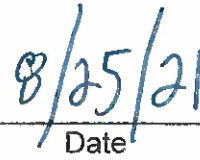
- a. If a Defendant fails to resolve their case through payment or community service, the Municipal Court will take the steps outlined in Ferguson Municipal Court Policy 4.0, *Issuance and Clearance of Warrants*.
- b. The Ferguson Municipal Court will not impose additional financial penalties on a Defendant for failure to resolve their case through payment or

community service. However, such failure may result in suspension of driving privileges in accordance with state law requirements. See Ferguson Municipal Court Policy 5.0, *License Suspensions and Reinstatement*.

Attachments: Uniform Fine Schedule
Statement of Financial Condition
Community Service Time Sheet
List of Community Service Organizations
Request for Extension of Payment Obligation
Sample Payment Agreement



William Goldstein
Ferguson Municipal Judge



Date