

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI  
TWENTY THIRD JUDICIAL CIRCUIT**

**MUNICIPAL DIVISION – HERCULANEUM**

**Court Order re R.S.Mo. §479.360.1 Effective Date – September 1, 2016**

(1) Defendants in custody pursuant to an initial arrest warrant issued by the Herculaneum Municipal court shall have the opportunity to be heard by the judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight hours on minor traffic violations and not later than seventy-two hours on other violations and, if not given that opportunity, are released. Upon release the Defendant may be issued a summons by the Herculaneum Police Department to appear in Court on the next regular Court date and time;

(2) Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest;

(3) Defendants shall not be detained in order to coerce payment of fines and costs unless found to be in contempt after strict compliance by the court with the due process procedures mandated by Missouri supreme court rule 37.65 or its successor rule;

(4) The Herculaneum Municipal Court has established procedures to allow indigent defendants to present evidence of their financial condition and takes such evidence into account if determining fines and costs and establishing related payment requirements;

(5) The municipal court shall only assess fines and costs as authorized by law;

(6) No additional charge shall be issued for the failure to appear for a minor traffic violation;

(7) The municipal court conducts proceedings in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties, and attorneys. Pursuant to fire code for the City of Herculaneum the Municipal Court room can seat 56 persons including court personal;

(8) The municipal court shall make use of alternative payment plans;

(9) The municipal court makes use of community service alternatives for which no associated costs are charged to the defendant. Such community service shall not be performed for the City of Herculaneum; and

(10) The municipal court has adopted an electronic payment system or payment by mail for the payment of minor traffic violations.

Dated: September 1, 2016.

So Ordered:

  
R. Scott Harness  
Judge

Cc Pending Judge – 23<sup>rd</sup> Judicial Circuit  
Missouri State Auditor  
Herculaneum Police Department

D. Overcrowding in Violation of the Fire Code.

In the event of large attendance, bailiffs, police officers and other Court personnel shall count the persons present in the Courtroom and shall limit access so as not to be in violation of the Fire Code. The number of persons who may be present in the Courtroom without violation of the Fire Code is fifty-six (56).

When it appears to the Court during any single Court session, that there will be more persons attempting to enter the Courtroom than are permitted under the Fire Code, then appropriate sections of the Court's plan as described in Article VII shall apply.

E. Children.

Unless present in Court as a defendant in a traffic case, persons under the age of seventeen (17) shall be accompanied by an adult. When a child becomes noisy or will not remain seated, the parents of that child will be asked to remove said child or children. The bailiff or police officer shall record the name of the defendant associated with the child, and ask that the defendant and children remain in the hallway or outside the Courtroom until their name is called on the docket. At such time as the defendant's name is called, the bailiff shall summon the family, including children, who may then enter the Courtroom for purposes of arraignment or other business with the Court.

The Court may exclude children if the nature of a matter being heard may be, in the Court's discretion, inappropriate to children.

The following language is permitted to be inserted on the Court website and, when appropriate, on Court correspondence, and on Court signage:

"It is strongly encouraged that children are not brought into the Courtroom. If children must be in the Courtroom, they must be well-behaved, quite, and must not disturb Court."

III. FACILITIES.

During trial sessions, the Courtroom shall be divided into a trial area and a spectator area. The trial area shall be separated from the spectator area by a railing, or a space if there be no railing. There shall be dedicated chairs for the prosecutor, for the defendant and for testifying witnesses.

IV. CLOSING OF THE COURTROOM.

Other than closure to those persons as set forth in Sections II.A. – II.E., if the Judge, prosecutor or defense counsel desires to close the Courtroom during any particular motion or trial, the Court will conduct a brief hearing on whether to enter an order to close the proceedings. Guidelines for such closure shall be as follows:

A. The proponent of closure must present a showing of a compelling interest for such closure and where that need is based upon a right other than accused right to a fair trial, the proponent must show a "serious and imminent threat" to that right.

B. Anyone present in the Courtroom when the closure motion is made, must be given an opportunity to object to the closure.

C. The proposed method for curtaining open access shall be in the least restrictive means available for protecting the threatened's interest.

D. This Court will weigh the compelling interest of the proponent of closure and the public.

E. The order shall be no broader in its application or duration than necessary to serve its purpose.

V. RETENTION OF RIGHTS.

The Judge retains the right to post and enforce additional rules of conduct in order to maintain the integrity and decorum of the Courtroom.

VI. OTHER RULES.

A. Court personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of the Dress Code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Court personnel shall have the right to ask persons entering the Courtroom if they are a defendant or visitor, but only for purposes of directing where to sit, or to mark a name off the docket. Court personnel shall have the right to check purses, camera bags, and similar items.

B. The Court's website and general correspondence shall not state that certain persons are prevented from attending any session of Court, except there may be reference to discouragement of children in Court, and that those not in compliance with the Court Dress Code will not be admitted.

C. The Court administrator shall encourage those persons whose case is over to exit the Courtroom rapidly, but not require them to so exit.

These General Orders shall be effective as above stated on the 1<sup>st</sup> day of September, 2016, and are subject to amended orders as circumstances dictate.

So Ordered:



R. Scott Harness  
Municipal Judge

Date: September 1, 2016