

ARTICLE 35: TRAFFIC AND ORDINANCES

35.01 APPLICABILITY

The provisions of Article 35 shall apply to all matters assigned to the Traffic Division, whether based upon an alleged violation of the Criminal Code, the Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*), or on a municipal ordinance, unless and until the case is transferred to another division. The provisions of Article 35 shall, to the extent practicable, be so construed and applied to be consistent with the provisions of Article 30 and Article 36.

35.02 JURY DEMANDS

(a) Upon a jury demand being made in the Traffic Court Division, the judge shall transfer the case, using the pink Transfer and Reassignment Order, AD 194 – Code 4550 “Special Transfer from Traffic Division for Jury Trial,” at 9:00 a.m. on a date not less than fourteen (14) days, but no more than thirty (30) days later, whenever practicable for the setting of a jury trial date, per Administrative Order.

(b) No pleas or bench trials will be heard in the Misdemeanor Division on these cases. Where there is a subsequent waiver of a jury demand, all pleas or bench trials on a jury demand case transferred from the Traffic Division must be returned and heard in the Traffic Division court before the judge from whom the case was transferred.

(c) A jury demand shall not operate as a demand for speedy trial, for purposes of Section 103-5 of the Code of Criminal Procedure (725 ILCS 5/103-5); any demand for a speedy trial must be made specifically, in accordance with Rule 30.06.

(d) Should a case in which a jury demand is made be of a type which requires the payment of a jury fee, said fee must be paid prior to or contemporaneously with said jury demand. Failure to pay said jury fee (unless same is waived by the proper presentation of a petition to proceed as an indigent) shall render ineffective the jury demand.

(e) Any case prosecuted entirely, or in part, by a municipal prosecutor shall be transferred, upon request, into the appropriate DUI Courtroom on a day when that municipal prosecutor regularly appears.

35.03 (RESERVED)

35.04 PARKING TICKETS

(a) Arrest warrants for parking violators will not be issued unless the authority requesting said arrest warrant has:

(1) Notified the alleged violator by U.S. mail of the violation and the amount of money that will be accepted by U.S. mail or in person to satisfy the violation; and

(2) Received no reply or payment from the violator pursuant to the notice above; and

(3) Served upon the alleged violator a summons to appear in court on a specific date and time by any method provided by Supreme Court Rule 105(b)(1) and (2) (not chaptered in ILCS) [Chapter 110A, Section 105(b)(1) and (2)];

and the alleged violator has failed to appear on the specified date and time.

(b) A pre-judgment warrant issued shall indicate a \$50.00 cash bond and shall specify court date and time. A post-judgment warrant may indicate a bond in the full amount of the post-judgment. If the warrant issued is for three (3) or more parking tickets, the bond may be in excess of \$50.00 but never to exceed \$500.00.

(c) If upon arrest the alleged violator cannot post the cash bond, the alleged violator shall be allowed to execute an individual bond in the full amount stated on the warrant.

35.05 APPOINTMENT OF PUBLIC DEFENDER

Whenever, in an appropriate case, it appears to the judge that, based upon request of the defendant or upon the Court's own inquiry, a defendant is indigent and desires counsel, the Court shall follow the procedures detailed in Section 35.02, and shall note upon the court file that the case is transferred to the Misdemeanor Division for appointment of a public defender and jury trial.

35.06 TRIAL OR HEARING DATES IN TRAFFIC DIVISION

(a) Before a trial date is set in a Traffic Division court for a CM case, or cases companion to a CM case, the Court shall determine whether the case will be a jury or bench trial.

(b) All hearing or trial dates set in Traffic Division courts, including those set for hearing under paragraph (e), shall be on the arresting officer's assigned court dates as designated on that officer's department's traffic court data sheets. The arresting officer in a traffic or ordinance case shall appear ready for trial on the first court date set, as provided in

Supreme Court Rule 504.

(c) Except as provided in paragraph (d), the trial provisions of Supreme Court Rule 505 shall be inapplicable in the Circuit Court for the 18th Judicial Circuit, inasmuch as the ticket-writing agencies in DuPage County were exempted from the requirements of Supreme Court Rule 505 by unanimous vote of the Conference of Chief Circuit Judges on November 18, 1977.

(d) Paragraphs (b) and (c) shall not apply to cases in which the arresting officer was a trooper of the Department of State Police, unless the defendant has complied with Supreme Court Rule 505.

(e) *Setting trial or hearing dates in the Traffic Division.*

(1) Electronic citations immediately issue a court date, denoted on the printed ticket. When a hand-written citation is issued, the police officer shall **not** issue a court date at the time of arrest. At the time of arrest, the officer shall affix to the defendant's copy of the ticket a preprinted sticker and indicate thereon whether the defendant may pay a fine by mail or must appear in court. For hand-written citations, the officer will advise the defendant that the defendant will receive a notice from the Clerk of Court advising the defendant of the officer's court date. For electronic citations, the officer will advise the defendant no court date notice will be sent, since the court date is printed on the citation. The Clerk of Court shall supply sufficient quantities of the aforesaid preprinted stickers to each police department. If the officer indicates on the ticket that the defendant may pay a fine by mail, the police officer shall also inform the defendant that the defendant has fifteen (15) days in which to pay the statutory penalty, either by mail or in person. This shall be accomplished by providing the defendant with an envelope with complete instructions imprinted. If the defendant fails to satisfy the ticket within the prescribed period, it shall be assumed that the defendant wishes to appear in court and for hand-written citations, the next available court date for the particular shall be assigned by the Clerk from the predetermined schedule. A given number of cases shall be scheduled for each session, and when that session is full, the next session date will be used, and so on. When these are scheduled, notice shall be sent to the defendant and the officer of the date, time, and location of the trial so that the trial can proceed on the assigned date.

(2) Serious traffic violations, those which require an appearance under Supreme Court Rule 551, shall be handled in the same manner described above (35.06(e)(1)), except the defendant shall not be given the option to pay. For hand-written citations,

the arraignment date shall be assigned by the Clerk immediately upon receipt, and notices sent.

35.07 CONTINUANCES

A request for a continuance may be requested by the defendant either in person at the Clerk's Office or by letter directed to the Clerk's Office for a case scheduled in traffic court if the following conditions are met:

- (a) The matter is scheduled for its first court date;
- (b) If in person, the request is made at least four (4) court days before the matter is set for hearing;
- (c) If the request is by mail, it must be received by the Clerk's Office at least four (4) court days before the hearing date; and
- (d) If made by an attorney, the attorney's appearance is tendered at the time of the request.

35.08 VACATING JUDGMENTS IN THE TRAFFIC DIVISION

When vacating an earlier judgment in the Traffic Division, the Traffic Division judge shall state the legal basis in a written order.

35.09 SPECIAL MOTIONS

Special motions, which shall include, but are not limited to, emergency motions, motions to transfer cases, special settings for plea of guilty, may be brought before the Presiding Judge of the Division upon proper notice or agreement of the parties, except that an inter-division transfer for the purpose of proffering a plea agreement and the disposition of all cases shall be brought before the Presiding Judge pursuant to Rule 30.03(d).