

# Virginia Beach Circuit Court Guidelines for Fines and Costs in Criminal and Traffic Cases

**Date of Revision: May 28, 2021**

## **1.0 Initial payment plan if the defendant is unable to pay in full at sentencing.**

- a. The court shall order the defendant to pay in deferred payments. Code § 19.2-354(A). No down payment shall be required. The payment of costs shall not be a condition of probation or suspension of sentence.
- b. The initial deferred due date for payment shall be as follows:
  - a. In cases in which no active time is imposed – 6 months from the sentencing date.
  - b. In cases in which active time is imposed – 6 months from the length of the active time imposed. A defendant sentenced to a community corrections alternative program shall be considered a 1-year active sentence.
  - c. In cases in which a deferred finding is entered pursuant the first offender statute – 1 year or probationary return date.

## **2.0 Subsequent extensions if unable to pay in full by deferred due date:**

- a. If the deferred due date for payment has not expired, or the due date has expired but the delinquent account has not yet been sent to Collections, clerk may extend the due date upon the defendant making a minimum payment to demonstrate commitment to paying the fine and costs pursuant to Code § 19.2-354.1(E). For each \$25 increment paid, the due date may be extended by one month (i.e. 1 month-\$25; 2 months-\$50; 3 months-\$75).
- b. A defendant may request a waiver or reduction of the down payment. The defendant shall be required to file a petition upon a Court provided form to determine the financial condition of the defendant. The form for a waiver or reduction of the down payment is posted on this Court's criminal page website.
- c. During the Period of Judicial Emergency ordered by the Supreme Court of Virginia, the clerk is authorized to extend a due date falling within such period by an additional 6 months.

## **3.0 If the unpaid fines and costs are delinquent and have been sent to a collection agency, the following shall apply:**

- a. The attorney for the Commonwealth has entered into a contract for the collection of unpaid fines and costs with the City Treasurer pursuant to § 19.2-349. Such contract provides that each account shall be transferred to the City Treasurer until the account is collected in full.
- b. The defendant may enter into an installment payment agreement with the City Treasurer in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full. The City Treasurer may require a down payment pursuant to § 19.2-354.1 (E). Any required down payment shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. The City Treasurer is authorized to approve a lesser down payment based on the financial condition of the defendant. In assessing the defendant's ability to pay, the City Treasurer may require the defendant to provide a written financial statement setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine the defendant's financial resources and obligations pursuant to § 19.2-354.1 (D).

#### **4.0 Community service option to discharge all or part of the fine and costs pursuant to § 19.2-354 subsection C:**

- a. The Court may approve the discharge of all or part of the fine or costs by the performance of community service work before or after imprisonment by submitting a court provided application form. For community service work performed before or after imprisonment, only the portion of community service work completed after Court approval shall be credited to the obligation.
- b. The Court may approve the discharge of all or part of the fine or costs for community service work performed on or after July 1, 2020 during imprisonment in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 provided the defendant submits a certification by the superintendent, warden, or other official in charge of a correctional facility that such work during imprisonment was performed in accordance with the provisions of one of the aforesaid enumerated sections. The rate at which credits are earned shall be based on the Virginia basic minimum rate per hour (currently \$7.25) less DOC pay rate received by inmate. The Court has developed a form to carry out this program.
- c. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment., § 19.2-354
- d. An agency that accepts a defendant to perform community service must agree to provide proper documentation required to the court.
- e. A defendant ordered to perform a specific number of community service hours as a condition of a court-ordered sentence shall not be able to apply those hours to fines and costs.
- f. If the defendant has more than one account, the defendant may only apply to discharge the fine and costs in one account at a time. After such fine and costs have been discharged the defendant may then apply for another account.

#### **5.0 Interest on Fines and Costs**

- a. Interest shall accrue on past due/delinquent fines and costs pursuant to Code § 19.2-353.5. Pursuant to § 19.2-353.5, the court has the statutory authority to waive or stop the accrual of interest (i) during a period of incarceration or (ii) during any period in which a fine, costs, or both a fine and costs are being paid in deferred or installment payments pursuant to an order of the court.
- b. To apply for waiver of interest owed during a period of incarceration, the defendant must submit to the clerk FORM DC-366A (Request for Waiver of Interest on Fines and Costs) and FORM DC-366 (Certification of Incarceration Period) certified by the superintendent, warden, or other official in charge of a correctional facility. In addition, the clerk is authorized to accept written confirmation from a probation officer of this Court. The DC-366A and DC-366 are posted on this Court's criminal page website.
- c. To apply for a waiver to stop the accrual of interest if fines and cost have been referred to collections and the defendant has entered into a new or subsequent payment plan with the City Treasurer, the defendant must file with the clerk a written request, along with a copy of the payment plan entered into with the City Treasurer, for the court to enter an order to cease or stop the accrual of interest during the period the fine and costs are being paid in accordance with new or subsequent payment plan.