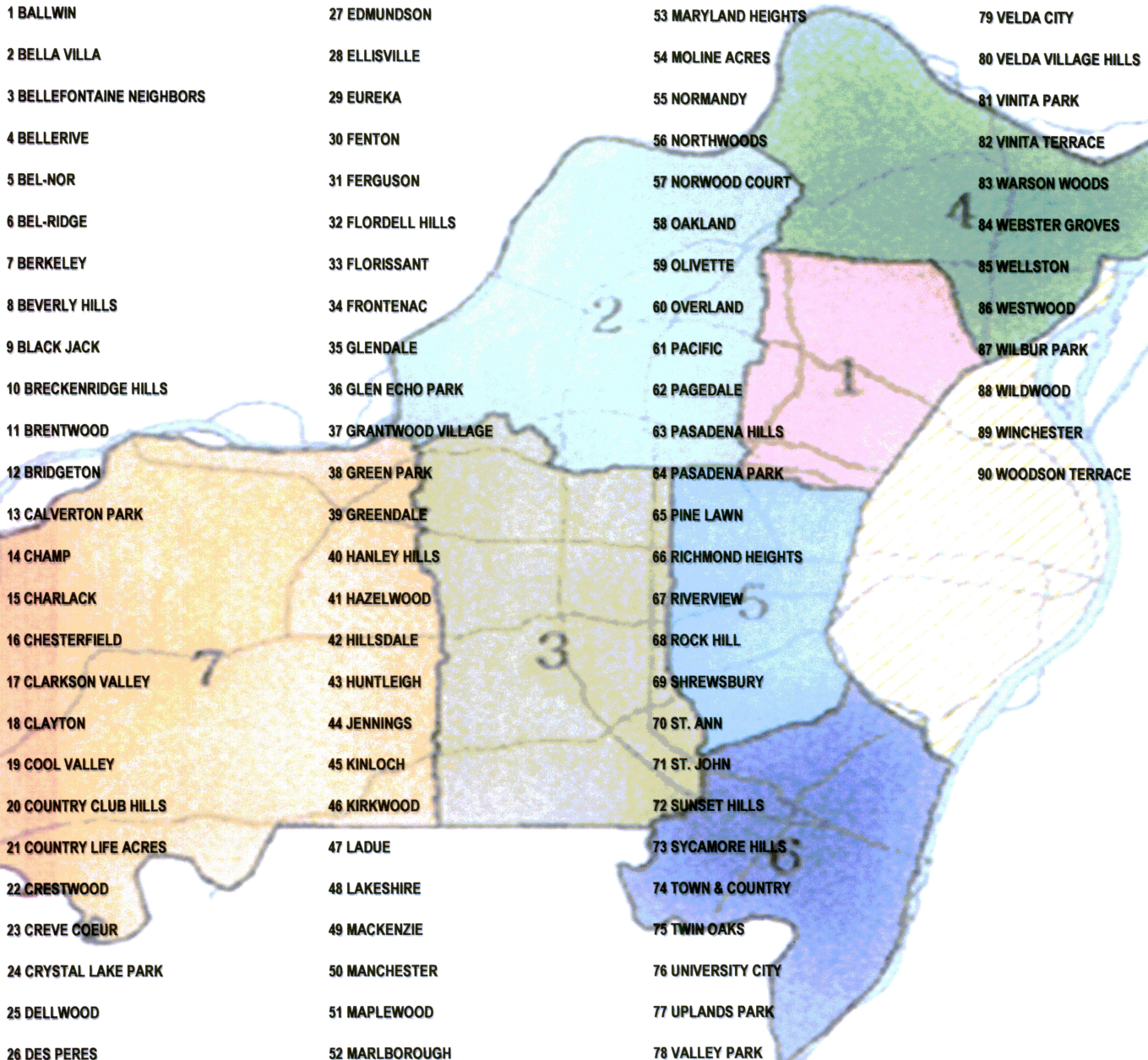


ST. LOUIS COUNTY MUNICIPAL COURT HANDBOOK

MUNICIPALITIES



| | | | |
|---------------------------|----------------------|---------------------|------------------------|
| 1 BALLWIN | 27 EDMUNDSON | 53 MARYLAND HEIGHTS | 79 VELDA CITY |
| 2 BELLA VILLA | 28 ELLISVILLE | 54 MOLINE ACRES | 80 VELDA VILLAGE HILLS |
| 3 BELLEFONTAINE NEIGHBORS | 29 EUREKA | 55 NORMANDY | 81 VINITA PARK |
| 4 BELLERIVE | 30 FENTON | 56 NORTHWOODS | 82 VINITA TERRACE |
| 5 BEL-NOR | 31 FERGUSON | 57 NORWOOD COURT | 83 WARSON WOODS |
| 6 BEL-RIDGE | 32 FLORELL HILLS | 58 OAKLAND | 84 WEBSTER GROVES |
| 7 BERKELEY | 33 FLORISSANT | 59 OLIVETTE | 85 WELLSTON |
| 8 BEVERLY HILLS | 34 FRONTENAC | 60 OVERLAND | 86 WESTWOOD |
| 9 BLACK JACK | 35 GLENDALE | 61 PACIFIC | 87 WILBUR PARK |
| 10 BRECKENRIDGE HILLS | 36 GLEN ECHO PARK | 62 PAGEDALE | 88 WILDWOOD |
| 11 BRENTWOOD | 37 GRANTWOOD VILLAGE | 63 PASADENA HILLS | 89 WINCHESTER |
| 12 BRIDGETON | 38 GREEN PARK | 64 PASADENA PARK | 90 WOODSON TERRACE |
| 13 CALVERTON PARK | 39 GREENDALE | 65 PINE LAWN | |
| 14 CHAMP | 40 HANLEY HILLS | 66 RICHMOND HEIGHTS | |
| 15 CHARLACK | 41 HAZELWOOD | 67 RIVERVIEW | |
| 16 CHESTERFIELD | 42 HILLSDALE | 68 ROCK HILL | |
| 17 CLARKSON VALLEY | 43 HUNTLEIGH | 69 SHREWSBURY | |
| 18 CLAYTON | 44 JENNINGS | 70 ST. ANN | |
| 19 COOL VALLEY | 45 KINLOCH | 71 ST. JOHN | |
| 20 COUNTRY CLUB HILLS | 46 KIRKWOOD | 72 SUNSET HILLS | |
| 21 COUNTRY LIFE ACRES | 47 LADUE | 73 SYCAMORE HILLS | |
| 22 CRESTWOOD | 48 LAKESHIRE | 74 TOWN & COUNTRY | |
| 23 CREVE COEUR | 49 MACKENZIE | 75 TWIN OAKS | |
| 24 CRYSTAL LAKE PARK | 50 MANCHESTER | 76 UNIVERSITY CITY | |
| 25 DELLWOOD | 51 MAPLEWOOD | 77 UPLANDS PARK | |
| 26 DES PERES | 52 MARLBOROUGH | 78 VALLEY PARK | |

INTRODUCTION

On September 20, 2016 the Supreme Court of Missouri adopted a new subdivision 37.04 of Rule 37 entitled “Supervision of Courts Hearing Ordinance Violations.” Effective July 1, 2017. This new rule adopts “Minimum Operating Standards for Missouri Courts: Municipal Divisions”. In order to assist the Municipal Divisions in St. Louis County in complying with this Rule, as the Presiding Judge of the 21st Judicial Circuit, I appointed a committee of Judges and municipal division experts, including Municipal Division Judges, Prosecutors and Court and Prosecutor Administrative Clerks, to prepare this handbook to ensure that the municipal divisions in St. Louis County can fully comply with Rule 37.04 and continue to provide fair and efficient justice to those municipalities that have chosen to have a municipal division.

This handbook is meant to assist Municipal Divisions in implementing and following the requirements of the Minimum Operating Standards as well as to make suggestions on how to handle various matters. The section on FAQ’s was prepared in response to the multiple questions we have fielded in our initial implementing stages.

This handbook is a result of many hours of hard work by the members of the committee. They are Judge Robert Heggie, Judge Joseph Walsh, Judge Judy Draper, Judge Michael Jamison, Judge Renee Hardin-Tammons, Municipal Judges Michael Gunn, Kevin Kelly, William Buchholz, John Newsham, Frank Vatterott, Court Administrator Paul Fox, Municipal Prosecutors Ed Sluys, Donnel Smith, Prosecutor Clerk Marianne Warren, Municipal Court Administrator Tami Trulove and Supreme Court Monitor Courtney Whiteside. I am thankful for their continued service to the cause of justice and hope this handbook will further assist municipal divisions in serving the people of St. Louis County.

Douglas R. Beach
Presiding Judge St. Louis County
September 2017

TABLE OF CONTENTS

CHAPTER 1: Local Court Rule 69

CHAPTER 2: Rule 37.04, Appendix A- Minimum Operating Standards & Recommended Procedures

CHAPTER 3: Rule 37.04, Appendix B- Code of Conduct for Municipal Division Personnel

CHAPTER 4: Rule 37.04, Appendix C- Notice of Defendant's Rights in the Municipal Division

CHAPTER 5: Rule 37.04, Appendix D- Municipal Division Bench Card

CHAPTER 6: Presiding Judge (PJ) Protocols

CHAPTER 7: Court Operating Order #4

CHAPTER 8: Recommended Practices under Local Court Rule 69

CHAPTER 9: FAQ by Clerks, Court Administrators, and Judges

CHAPTER 10: Court Procedures Matrix

CHAPTER 11: Rule 37 Comparison Chart

CHAPTER 12: Forms

Chapter 1

Local Court Rule 69

RULE 69 MUNICIPAL DIVISION

ST LOUIS COUNTY CIRCUIT COURT OPERATIONS OF MUNICIPAL DIVISIONS

BACKGROUND

The Missouri Supreme Court Committee on Practices and Procedures in Municipal Divisions recommended establishment of “Protocols for Presiding Judges and supervising Judges of Municipal Divisions.” On December 29, 2016, the Supreme Court published said Protocols. Among the recommended Protocols is the adoption of a local Circuit Court Rule governing the operations of that circuit’s Municipal Divisions. The Local Court Rule is to “conform to all requirements of the law.” The Local Court Rule “shall specify how the Circuit’s Municipal Divisions shall comply with the “Minimum Operating Standards” in Appendix A of Rule 37.04, published in September 20, 2016.

Additionally pursuant to 479.172 RSMo, Municipal Divisions shall adopt a written policy outlining the requirements and procedures to report disposition information on all intoxication related traffic offenses to the Office of State Courts Administrator’s Office and Missouri State Highway Patrol. To comply with this requirement a copy shall be on file with the Office of the State Courts Administrator’s Office and the Missouri State Highway Patrol and if any revisions are made to this order, they shall also be forwarded to OSCA and MSHP. To accomplish this requirement and other requirements the Municipal Divisions have enacted in various forms and iterations Municipal Court Operating Order #1 initially approved in 2010, and Operating Orders #2 and #3. The attached Operating Order #4 (which is incorporated herein and made a part hereof and Marked Attachment #1) compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Municipal Courts: Municipal Divisions (“MOS”). This Order #4 shall supersede any previous Municipal Court Orders delineated or identified as Court Operating Orders #1, #2 or #3 which are now rescinded.

Court Operating Order #4 is intended to apply, as is appropriate to do so, to all Court personnel, officers of the Court, attorneys, litigants, including without limitation the judge, court administrator, clerk of court, prosecuting attorney, prosecuting attorney’s clerk, bailiff and security personnel.

Appendix B of Rule 37.04, entitled “Code of Conduct for Municipal Division Personnel,” was published on November 1, 2016, by the Supreme Court. The Code applies to all “full-time, part-time, and temporary court system employees in municipal divisions.”

For purposes of clarity, this Rule organizes the “Minimum Operating Standards” into five separate parts.

PURPOSE OF RULE

This Rule is intended to organize, and supplement the “Minimum Operating Standards” and “Code of Conduct for Municipal Division Personnel.” If there are conflicts between this Rule and the “Minimum Operating Standards” or the “Code of Conduct for Municipal Division Personnel,” the Minimum Standards and the Code of Conduct shall prevail. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules and Missouri statutes, as amended, which may differ than the provisions of this Rule.

REPEAL OF CURRENT LOCAL RULE 69

By adoption of this Rule 69 the Court En Banc repeals existing Rule 69 also related to Municipal Divisions.

RULE 69.01 OPERATIONS OF MUNICIPAL DIVISIONS

PART I. COURTROOM, CLERK’S OFFICE, RECORDS, SEPARATION OF POWERS

A. Courtroom – Physical Requirements.

1. All courtrooms shall be suitable and meet due process requirements for all court attendees. Section 479.060.1.
2. All courtrooms shall be open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys, unless the court orders otherwise in a particular circumstance for good cause shown.
3. The court facility’s exterior and interior signage, design, functionality and other factors shall convey an appearance to the public that it is a separate and independent branch of government.
4. The violation bureau schedule of fines and costs shall be prominently posted at the place where fines are to be paid. Rule 37.49(d).
5. The courtroom facility shall be sufficient for the purpose of a courtroom. The facility chosen for court shall take into consideration the safety and comfort of the public, parties, and lawyers. The facility chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.

6. Members of the public and the news media have access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other relevant law.

B. Clerk's Office – General.

1. The court division shall have a functional clerk's office that organizes and preserves the judicial records of the court in a prudent and organized manner and in compliance with applicable laws and Supreme Court rules.

2. The court shall have a municipal clerk available at least 30 hours per week during regular business hours and court sessions to whom the person can pay fines and from whom the person can obtain information about charges, payments and court operations, pursuant to Missouri Supreme Court Rule 37.04 Minimum Operating Standard #8. The clerk should be available in person during these hours in an office open and accessible to the public and may perform other functions for the municipality that do not constitute an actual or apparent conflict with the impartial performance of judicial duties. In the event the court does not have sufficient staff to have a clerk available for all of the 30 hours in person, the clerk may instead be made available for up to 15 of the 30 hours to provide information about charges, payments and court operations through live communication by telephone, email, or other means of electronic communication.

C. Open Records, Recordkeeping. Each municipal court shall:

1. Maintain complete and accurate records of court proceedings, including warrants outstanding, bonds posted, case files and dispositions.

2. Ensure proper disposition of all cases is documented on the court dockets or backer sheets and that all court dockets or backer sheets are signed by the municipal judge, if required by law.

3. Ensure that information signed by the prosecuting attorney is filed for each ordinance violation to be prosecuted. In addition, the court shall ensure that the prosecuting attorney signs all tickets and reviews and approves all amended and dismissed tickets. Rule 37.49(d).

4. Document proper disposition of cases in manual and electronic records and ensure that sufficient documentation is maintained to support all case actions.

5. Maintain procedures to generate monthly reports of court activity. The court shall submit these reports timely to OSCA and to the city in accordance with state law, COR 4.28 and 4.29, and section 479.080.3, RSMo.

6. Maintain regular computer data backup procedures and ensure such data is stored in a secure off-site location and also test its recovery on a regular, predefined basis.

7. Ensure unique user identifications and passwords are required for each employee. Ensure passwords are confidential and periodically changed. Ensure user access is periodically reviewed and unnecessary access, including that of terminated users, is timely removed. Review user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities.

8. Segregate accounting duties to the extent possible. If not possible to segregate duties, the court shall ensure that documented periodic independent or supervisory reviews of court records are performed.

9. Maintain accurate records to account for all payments received and deposited, that receipts are posted accurately and timely, and that the method for payment is indicated on all receipts. All checks and money orders are endorsed immediately upon receipt. If manual receipts are in use, the court shall ensure that manual receipt slips are timely entered in the computerized system and the numerical sequence of manual receipt slips is accounted for properly. The court shall ensure that voided transactions are properly documented and approved.

10. Perform reconciliation of the composition of receipts to the composition of deposits, and deposit all monies intact and timely.

11. Perform monthly bank reconciliations, resolve reconciling items, and make appropriate, documented adjustments to accounting records timely.

12. Prepare monthly lists of liabilities and reconcile the lists to the bank account and/or city fund balance, and promptly investigate and resolve differences. The court shall establish procedures to review the status of liabilities to determine the appropriate disposition of funds held.

13. Develop procedures to ensure the monthly distributions are properly calculated and disbursed timely.

14. Establish procedures to routinely generate and review the accrued costs list for accuracy and properly follow up on all amounts due.

15. Obtain signed payment plans from all defendants granted such plans. Ensure that payment plans are incorporated in the case management system in accordance with court operating rules where applicable.

16. Notify the circuit clerk of its court's existence. Section 479.030.1.

17. Provide sufficient nonjudicial personnel to ensure proper functioning of the court. Section 479.060.1.

18. Ensure all fines and costs collected shall be paid into the municipality's treasury at least monthly. Section 479.080.1.

19. Provide a monthly list of cases with required detail within 10 days of the end of each month to the municipality. Section 479.080.1.

20. Adopt a written policy for reporting intoxication-related traffic offenses to the central repository and provide same to OSCA and the highway patrol. Section 479.172.1 and 479.172.2. Court Operating Rule #4 shall suffice for this purpose.

21. Provide a semiannual disposition report of intoxication-related traffic offenses to the circuit court *en banc*. Section 479.172.3.

22. Maintain adequate documentation to support all adjustment transactions and ensure an independent review and approval of these transactions is performed and documented.

23. Maintain a change fund at an established amount and periodically count and reconcile the monies on hand to the authorized balance.

24. Maintain bond coverage for all personnel with access to municipal division monies.

25. Ensure all bond receipts are recorded and deposited timely and intact.

26. Develop procedures and maintain records to identify applicable violations and the associated fines and court cost revenues for purposes of the revenue calculations required by Section 479.359 RSMo et seq., and provide this information to the city.

D. Separation of Powers. Each court shall comply with the following requirements:

1. Administrators and clerks of court and other nonjudicial personnel, when performing court-related functions, shall work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

2. Clerks of court and other nonjudicial personnel shall not perform any functions that could constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties.

3. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

4. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the court to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

PART II. GENERAL COURTROOM PROCEDURES

A. Rights of Defendants. Each court shall comply with the following requirements:

1. Establish standardized procedures to assure that defendants are given advice of rights pursuant to Rules 37.47, 37.48, 37.50, and 37.58.

2. Provide a “Notice of Rights,” in a form approved by or substantially similar to that approved by the Supreme Court, to all defendants. This notice of rights shall be displayed prominently wherever the clerk of the court transacts business with the public and in the facility where court proceedings are held. This notice of rights shall be made available as a handout for those appearing before the court and is displayed on each public information website operated by the court or on behalf of the court.

3. Ensure announcements by the judge intended for the benefit of all present are made in such a manner to that they can be heard throughout the courtroom or are communicated adequately in other ways. Such announcements shall also be communicated to those waiting outside the courtroom or otherwise made available to them when they come into the courtroom.

4. Utilize a written “Waiver of Counsel” substantially in the form of Form 37.C. Rule 37.58(d).

B. Other General Rules. Each court shall comply with the following requirements:

1. Ensure reasonable steps are taken so that, where applicable, the Violation Bureau schedule of fines and costs is provided to an accused at the same time as a violation notice. Rule 37.33(b).

2. Ensure any violation bureau established by the court processes only those violations authorized by Rule 37.49(c).

3. Ensure no additional charges shall be issued for failure to appear for a minor traffic offense.

PART III. ARRAIGNMENT, PLEAS, FINANCIAL CONDITION INQUIRIES, INDIGENCY, PAYMENT PLAN, ON-LINE

A. Fines, Costs, Surcharges, Indigency. Each court shall comply with the following requirements:

1. Fines and costs assessed on “minor traffic violations”, as defined in Section 479.353(1)(a), shall not exceed \$225.00.
2. Fines and costs assessed on “municipal ordinance violations” as defined at Section 479.350(4) shall not exceed the mandatory maximum schedule of section 479.353(1)(b).
3. Fines assessed on other ordinance violations shall not exceed the maximum amount authorized by state law and the city code.
4. Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute shall be assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.
5. “Dismissal on Payment of Costs” [DPC] shall not be permitted. Section 479.353(5), RSMo; COR 21.01(c).
6. Court costs shall not be assessed against indigent defendants. Section 479.353 (4)(5).
7. No fee shall be assessed to the defendant for the use of community service, in compliance with the requirements of Section 479.360.1, RSMo.

B. Defendant’s Rights to Present Evidence of Inability to Pay. Each court shall comply with the following requirements:

1. Procedures shall be established for the judge to inquire of defendants and allow them to present evidence about their financial condition to assess their ability to pay and establishing payment requirements. The court shall ensure the indigency form provided by the Missouri Supreme Court is used in the determination of indigency. See Missouri Supreme Court Model Local Rule 69.01, Statement of Financial Condition attached.
2. Ensure procedures are in place whereby defendants may pay fines and costs within a specified period of time or make installment payments. Rule 37.65(a)(1)(2).

C. Alternative Payment, Community Service, Probation, Payment Plans. Each court shall comply with the following requirements:

1. Alternative payment plans shall be available for utilization. Rule 37.65(a)(1)(2).

2. The granting of probation shall not be conditioned upon the payment of anything other than authorized fees. Probation shall not be denied because of the inability of the defendant to pay authorized probation fees and surcharges.

3. Any probation fees assessed shall be in compliance with Sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per month. The court shall advise offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

D. Payment On-Line. Each court shall comply with the following requirements:

Ensure procedures exist to allow payments online. The court shall make available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

OR

Actively pursue court automation to achieve compliance with allowing payments online and making available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

E. Trial De Novo, Jury Trial, Change of Judge. Each court shall comply with the following requirements:

1. The judge shall follow rules cutting off or limiting his or her authority to act in a case once a motion to disqualify, motion for jury trial, or motion for trial *de novo* is filed.

2. All notices of application for trial de novo shall be filed in writing with the municipal division within ten (10) days after the date of judgment. If no application for trial de novo is filed with the municipal division within ten (10) days of the judgment, the right for trial de novo shall be deemed waived and the municipal division shall execute the judgment and sentence.

3. If a defendant files an application for trial *de novo*, the fee for trial *de novo* shall be \$30.00 and shall be deposited with the municipal division. When an application for trial de novo is made without the deposit of the trial de novo fee, the defendant shall also complete and file a Statement of Financial Condition in the form provided by the Missouri Supreme Court under Model Local Rule 69.01 and the Statement of Financial Condition shall become part of the file certified to the circuit court. The judge assigned to hear the trial de novo shall be bound by the procedures established in Rule 69.01, Part III, A., B. and C.

4. When a trial *de novo* request has been filed, the court shall certify the file to the circuit court within 15 days. The court shall ensure that when a case record is certified to the circuit court upon filing of a request for trial *de novo*, all funds received in connection with the case, any bonds, and the record, shall be transferred within 15 days.

5. If the defendant requests a jury trial, the cause shall be transferred to the circuit court. [see applicable procedure regarding request for jury trial at Rule 69.03, below]

6. Once a case has been certified or transferred to circuit court, the court shall not act on that case unless and until the case is remanded to that court.

7. Upon successful change of judge requests and recusals, the procedural requirements of Rule 37.53(d) and Section 479.230, RSMo shall be followed.

8. While hearing a trial *de novo*, the Court shall be bound by Part III A, B and C as set out above.

PART IV. DEFENDANTS IN CUSTODY, BONDS, WARRANTS and SENTENCING

A. Defendants in Custody. Each court shall comply with the following requirements:

1. Procedures shall exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.

2. The court shall make reasonable efforts to communicate to local law enforcement the 24-hour rule: “Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest.” Section 544.170.1, RSMo.

3. Confinement may, after compliance with Rule 37.65, be utilized if the defendant is found in contempt of court for nonpayment of fines and costs.

4. There shall be a duty judge available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay.

B. Bond Schedules. The municipal division shall ensure bond schedules be utilized only for persons arrested without a warrant and held no longer than 24 hours pursuant to sections 479.360.1(2) and 544.170.1, RSMo. Rule 37.17.

C. Warrants.

1. Warrants shall be issued only upon a finding that reasonable grounds exist to believe that the defendant will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).

2. All warrants shall be signed only by judges unless the exception of a specific warrant ordered by a judge to be signed by a clerk is applicable. Rule 37.45(b)(6).

3. When a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge shall recall and cancel any outstanding warrants in that case as soon as practicable.

4. The recall and cancellation of outstanding warrants shall be communicated to law enforcement by the clerk without delay.

5. Due process procedures of Rule 37.65 shall be strictly followed before confining defendants for failure to pay fines and costs. Section 479.353(3).

D. Sentencing. No person shall be sentenced to confinement on “minor traffic violations” or “municipal ordinance violations” with the exception of violations: involving alcohol or controlled substances; endangering the health or welfare of others; or involving eluding or giving false information to a law enforcement officer. Section 479.353(2).

PART V. JUDGES’ QUALIFICATIONS, REGULATIONS and DUTIES

A. Qualifications.

1. All judge(s) serving in a court municipality - full-time, part-time, substitute, and provisional - shall be selected pursuant to municipality’s ordinance or charter before serving. Section 479.020.1.

2. A judge may serve as a judge in no more than five municipalities. Section 479.020.9.

3. A judge shall not have attained age of 75 years. Section 479.020.7.

4. All lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:

- a. Orientation course completed within 12 months after beginning service. Rule 18.05(d).
- b. Five hours of judicial CLE completed annually. Rule 18.05(a).
- c. Two hours of judicial ethics CLE completed annually. Rule 18.05(b).
- d. CLE compliance form is submitted to the circuit court presiding judge.
- e. If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- f. Instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

B. Duties of Judge, Generally.

1. The court shall have a mechanism in place to check for judicial conflicts prohibited by Rule 37.53(b)(2), so the judge recuses himself/herself in all instances when required to do so pursuant to this rule.

2. If holding administrative hearings, the court shall be authorized by law to do so. Section 479.011.1.

C. Compliance with Minimum Standards. By January 1 and July 1 of each year, each judge of a court shall certify to the presiding judge of his/her compliance with Minimum Operating Standards by completing the following form:

Municipal Division _____

Municipal Judge _____

Any Substitute or Provisional Judges _____

Address Where Municipal Division is Held _____

Dates and Times Where Municipal Division is Held _____

Municipal Division Telephone Number _____

Judge Contact Number _____

Judge Email _____

Court Clerk Email _____

I, _____, certify that this municipality complies with the following minimum operating standards together with all other minimum operating standards as approved by the Supreme Court of Missouri:

- Judge has received instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.
- A written policy for reporting intoxication-related traffic offenses to the central repository has been adopted and provided to OSCA and the highway patrol. Section 479.172.1 and 2.

- A copy of this written policy for reporting intoxication-related offenses to the central repository has been provided to the presiding circuit judge.
- Warrants are signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. Rule 37.45.
- Judge complies with Rule 37.47: Initial Proceedings before the Judge, including:
- Arraignment as soon as practicable if defendant has not satisfied conditions for release,
- Judge shall inform the defendant of the:
 - Ordinance violation charged,
 - Right to retain counsel,
 - Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,
 - Right to remain silent,
 - Fact that anything that the defendant says may be used against him or her.
- Judge complies with Rule 37.48: Arraignment:
 - Arraignment shall be conducted in open court.
 - Judge reads the information to the defendant or states the substance of the charge.
 - Municipal division calls upon the Defendant to plead there to.
- Defendant shall be afforded a reasonable time to examine the charge before defendant is called upon to plead.
- Judge complies with Rule 37.50: Right to Counsel:
 - If conviction for an ordinance violation could result in confinement, the judge advises the defendant of the right to counsel and willingness of the judge to appoint counsel to represent the defendant.
 - Upon a showing of indigency, judge appoints counsel to represent the defendant.
 - Judge allows the defendant to proceed without counsel if the judge finds that the defendant has knowingly, voluntarily, and intelligently waived the right to counsel.
 - If it appears during the proceedings that because of the gravity of the ordinance violation charged and other circumstances that failure to appoint counsel may result in injustice, the judge then appoints counsel. Judge gives said counsel reasonable time to prepare.
- Choose one of the following:
 - The court allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets. The municipal division website is

OR

- The municipal division is actively pursuing court automation for compliance with payments online and making free, online access to information about pending cases, outstanding warrants, and schedule municipal division dockets is scheduled to be in place by _____ (estimated date).
- Courtroom facility is sufficient for the purpose of a courtroom.
- Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
- The facility chosen for the municipal division takes into consideration the safety and comfort of the public, parties, and lawyers.
- The facilities chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.
- Following applicable law, the judge relinquishes jurisdiction over a case when a motion to disqualify, motion for jury trial, or motion for trial de novo is filed.
- When a case is transferred to circuit court, the transfer occurs within 15 days.
- Judge has certified substantial compliance with section 479.360.1(1 to 10), RSMo, and provided signed certification to the governing body in compliance with the state auditor's rules and procedures. Section 479.360.1 and 2. Additionally, the judge complies with the following provisions of section 479.360.1:
 - Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.
 - The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.
 - Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.
 - The municipal division inquires of defendants and allows them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.
 - The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
 - Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).
 - Community service is utilized with no fee assessed to the defendant.
 - For minor traffic violations, procedures exist for electronic payment or payment by mail.
- Court provides to the municipality adequate information for the municipality to

determine excessive revenue calculations to the state auditor.

- If judge is a lawyer, complete Section A. If judge is non-lawyer, complete Section B.

Section A

If judge is a lawyer, the lawyer has completed each of the following:

- MJEC orientation course within 12 months after beginning service. Rule 18.05(d).
- Five hours of judicial CLE annually. Rule 18.05(a).
- Two hours of judicial ethics CLE annually. Rule 18.05(b).
- CLE compliance form is submitted to the circuit court presiding judge.
- If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

Section B

If judge is a non-lawyer judge, the judge has completed each of the following:

- Course of instruction administered by the MJEC within six months after selection. Rule 18.04; section 479.020, RSMo.
 - Five hours of judicial CLE annually. Rule 18.05(a).
 - Two hours of judicial ethics CLE annually. Rule 18.05(b).
 - CLE compliance form is submitted to the circuit court presiding judge.
 - If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- Judge has read the Supreme Court's "Minimum Operating Standards for Missouri Courts: Municipal Divisions" and substantially complies with the remaining Minimum operating standards.
 - Judge has attached to this certification the following:
 - Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court en banc,
 - Substantial compliance certification with section 479.360.1(1 to 10),
 - CLE compliance forms.

I hereby certify that my municipal division has complied with all of the above minimum operating standards terms.

Date

Signature

RULE 69.02 REGISTRATION OF MUNICIPAL JUDGES

Each Municipal Judge shall, within thirty (30) days of his appointment or election to office, register with the Director of Judicial Administration of the Circuit Court, setting forth his full name, address, telephone number, term of office and name of the municipality.

RULE 69.03 JURY TRIALS - MUNICIPAL DIVISION

(1) Where authorized by law, the defendant may demand trial by jury.

(2) All demands for trial by jury shall be in writing, and shall be filed with the municipal division in accordance with Missouri Supreme Court Rule.

(3) Within fifteen (15) days after a demand for trial by jury is granted, the Municipal Judge shall cause all original papers filed in the case, including any bail or appearance bonds, and any cash or other property given as security upon any such bond, to be filed with the Clerk of the Circuit Court.

(4) Upon receipt of the original papers by the Clerk of the Circuit Court, the Clerk shall open a file and assign the case a uniform number.

(5) In any case, the Circuit Court may assess costs and fees as provided by law against the defendant, including but not limited to jury fees, clerk fees, service fees, and witness fees.

(6) The costs, fees, and any fine assessed may be collected in any action allowed by law, and shall be paid into the registry of the Circuit Court. After collection, the Clerk of the Circuit Court shall disburse the monies collected to the municipal division and other recipients according to applicable statutes.

RULE 69.04 DISQUALIFICATION OF JUDGE

(1) A Municipal Judge that is disqualified, pursuant to Missouri Supreme Court Rule 37.53 shall within ten (10) days after his or her disqualification inform the Presiding Judge of the disqualification.

(2) The Presiding Judge shall thereupon transfer another Municipal Judge to hear the case upon which the original Judge was disqualified and said transferred Judge shall have the authority to hear and determine the case.

(3) In a municipality that has appointed a provisional judge to hear and determine cases in those situations when the sitting municipal judge is unable to hear and determine a case, the provisional judge shall be immediately assigned to hear and determine the case from which the

sitting municipal judge has been disqualified. The Municipal Judge is excused from informing the Presiding Judge of his or her disqualification when the appointed provisional judge is assigned to a case upon disqualification of the sitting judge.

RULE 69.05 AGREEMENT TO SHARE MUNICIPAL COURTROOM

(1) Municipal Divisions may hold hearings of Municipal Court violations outside the boundaries of the municipality and inside the boundaries of another municipality within St. Louis County if the municipalities enter into a written cooperative agreement regarding the operations of the courtroom to be utilized.

(2) Any municipality that enters into an agreement to hold Court outside its municipal boundaries shall file a copy of the agreement with the Director of Judicial Administration. The agreement shall include the name of the Municipal Judge who is assigned to hear cases of the municipality.

(3) Municipalities that do not share a common boundary may not hold Court outside municipal boundaries without the approval of the Presiding Judge

RULE 69.06 INCORPORATION OF OPERATING RULE #4

The attached Operating Order #4 (which is incorporated herein and made a part hereof and Marked Attachment #1) which is effective with the adoption of these Rules by the Court en banc, compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Municipal Courts: Municipal Divisions (“MOS”). This template marked Attachment 1 shall be adopted by every Municipal Division as Court Operating Order #4 shall supersede any previous Municipal Court Orders delineated or identified as Court Operating Orders #1, #2 or #3 which are now rescinded.

Attachment #1

NOTE: This Order is intended as a template for courts to use in implementing a local municipal division operating rule and local court rules. It contains informational notes within the body of the order which should be deleted before signing the final order. Other sections may contain several options where those that do not apply should be deleted, and/or blanks which must be filled in before signing the final Order.

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
_____ JUDICIAL CIRCUIT

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL DIVISION OPERATING ORDER #4

Including Eight Local Court Rule provisions

Superseding Court Operating Orders #1, #2 and #3

Effective Date – _____, 2017

Background and Purpose of Division Operating Order #4
and Eight Applicable Local Court Rules

A. This Division Operating Order #4 compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Missouri Courts: Municipal Divisions (“**MOS**”). This Order shall supersede Court Operating Orders #1, #2 and #3, which are hereby rescinded. The term “Municipal Division” shall be referred to herein as “Division.”

B. This Order is intended to include in one consolidated Division Order, such relevant statutes, rules and standards, to provide for and achieve procedural fairness, order and convenience for those who appear before this Division. This Order is intended to apply, , to all Court personnel, officers of the Court, attorneys, and litigants, including without limitation the Judge, Court Administrator, Clerk of Court, Prosecuting Attorney, Prosecuting Attorney’s Clerk, Bailiff, and security personnel.

C. This Order is not intended to supersede, supplant, or alter any Missouri Supreme Court Rule, including the MOS, or any local circuit court rule adopted which governs the operations of a municipal division and reporting obligation, as provided in the “Protocols for Presiding Circuit Court Judges Supervising Municipal Court Judges” adopted by the Supreme Court in November, 2016. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules, Missouri statutes, and local circuit court rules, which may differ than the provisions of this Order.

D. This Order also includes in Part I, Section B, several local circuit court rules, which are not technically “operating orders” or “operating rules.” The term “Court Administrator” as used in Part I, Section B, and elsewhere, also applies to those Divisions which utilize the term “Court Clerk.” The Term “Division Clerk” shall also be considered synonymous, when that term is used in place of “Court Administrator” or “Court Clerk.” The same is true for “Deputy Court Administrators,” “Deputy Division Clerks, or “Deputy Court Clerks,” which are the same position.

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. **General Administrative Procedures.**

1. **General Duties of Court Administrator.** Court Administrator shall ensure that the Court regularly communicates with the Circuit Clerk and the Presiding Judge on all relevant matters, including the Division's existence. The Court Administrator shall comply with the standards set forth in "Open Records and other Recordkeeping Matters" contained in the MOS, following MOS #10. Such standards shall include maintenance of complete and accurate records of all Division proceedings, including warrants outstanding, bonds posted, case files and dispositions. All documentation "backer sheets" shall be signed by the Judge. The Court Administrator shall ensure that Division's computer data is backed-up, stored in secure offsite locations, and that passwords are kept confidential and periodically changed. Courts using the statewide case management system shall follow any published security guidelines.

2. **Case Numbering and Case Indexing.** Case index records shall be maintained on all municipal cases. Judgment index records shall be maintained on all municipal judgments. Case indexes shall be maintained for each case filed, including traffic or non-traffic violations. The index shall include the full name of the defendant, case number, date the case was filed with the court, and the case disposition. Confidential cases shall be accessible only by authorized personnel.

Cases filed by the prosecutor shall be assigned a unique number by the Division. The numbering system shall be that used by the Office of State Court Administrator ("**OSCA**") or that computer software vendor approved by the State Judicial Records Committee. All forms used by the Division shall be numbered sequentially and accounted for, including tickets, summons, complaints, receipt slips, bond forms, and payment agreements. (*Source: §§483.065, 483.075, and 483.082 RSMo; Supreme Court Operating Rule ("**COR**") 4.04.; payment agreement source State Auditor recommendation, Municipal Clerk Manual ("**Clerk Manual**") Section 1.1c.*)

3. Violation Bureau Schedule – Posting and Availability to Accused. The Judge shall, from time to time, appoint a Court Administrator to be the Violation Bureau Clerk. This shall be by a separate order. The Violation Bureau Schedule shall list and process only those violations authorized by Supreme Court Rule 37.49(c). It shall be prominently displayed at the place where fines are to be paid. The Court Administrator shall periodically communicate with the police department to ensure, where applicable, the schedule of fines and costs payable through the Violation Bureau is provided to an accused at the same time as a violation notice. *(Source: Supreme Court Rules (“SCR”) 37.49 and 37.33(b).)*
4. Budget. The Court Administrator shall communicate regularly with the Judge and the City Finance Department (“**City**”) regarding any budget issues involving the Division. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. The Court Administrator shall work with the City to identify associated fines and costs revenues for the purpose of the revenue calculations required by law. *(Source: Mo. Constitution, Article II; §479.359 RSMo; COR 13.)*
5. Advising Litigants of Their Rights in Court. The Court Administrator shall take necessary steps to ensure that defendants are given advice of rights pursuant to the SCR and MOS #9, including a “Notice of Rights in Municipal Division” form as approved by the Supreme Court. *(Source: SCR 37.47, 37.48, 37.50, and 37.58; MOS #9.)*
6. Compliance with Certifications and Reports to Auditors – Highway Patrol. The Court Administrator shall communicate with Missouri State Highway Patrol (“**MSHP**”), OSCA, and the Regional Justice Information System (“**REJIS**”) to be compliant with their policies and management agreements regarding information, including terminal operations. The Court Administrator shall communicate with the Judge and with the City to facilitate compliance with requirements of other agencies with respect to the information systems provided to the Division.

B. Applicable Local Circuit Court Rules.

NOTE: The following eight provisions are not “operating orders,” but in the nature of local court rules, are included here for convenience.

1. Court Administrator. The Court Administrator (or, as known in some Divisions, the “Court Clerk” or “Division Clerk”), shall be the chief administrator of the Division. The Court Administrator and all Deputy Clerks, shall be responsible for the orders contained in Parts I, II and III, except when such orders are applicable only to the Judge, to the Prosecuting Attorney, to the Prosecuting Attorney’s Clerk, or to other personnel other than the Court Administrator. The Court Administrator shall, when applicable, cooperate with the City to assist the Court Administrator to effectuate applicable provisions of this Order. To the extent not prohibited by the MOS, or other relevant law or rule, the Court Administrator shall cooperate with the Prosecuting Attorney’s Clerk, the police department, and the City.
2. Minor Traffic Violations – Special Rule. The Court Administrator shall clearly mark the jacket or outside of case files which fall under the current definition of “Minor Traffic Violations” so that the Division may readily recognize such cases when handling the file. The Court Administrator shall communicate with the Division, and with the Prosecuting Attorney’s Clerk and Prosecuting Attorney, so that all court personnel are aware of the limitations with respect to fines, costs, and other conditions imposed upon the Division by legislation. *(Source: §§479.353 and 479.360 RSMo.)*
3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. *(Source: §§479.350(4) and 479.353(1)(b) RSMo.)*

4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney's Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator's Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator's office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in Section 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program ("**SATOP**"), or the defendant found not guilty) that contain confidential information. The Court Administrator, on behalf of the Judge, shall request the city provide adequate and secure file cabinets for the retention of confidential records and closed files. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. *(Source: §§566.226, 610.105 and 610.120 RSMo; Section 5.1 of Clerk Manual.)*

- b. Confidentiality of SATOP Programs. If the Division orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential. *(Source: 42 CFR Part 2, 42 U.S.C. 290 dd-3.)*
- 7. Record Retention and Destruction. The Court Administrator shall retain all Division records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow COR 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with COR 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. *(Source: COR 8; Section 5.2 of Clerk Manual.)*
- 8. Conflicts. In order to comply with the requirements of MOS #5, the Judge, in cooperation with the Court Administrator shall, as far as practicable, manage a conflict plan enacted by the Judge, in order to ensure there are no judicial conflicts as prohibited by SCR. The Judge shall recuse himself/herself in all instances when required to do so. Further, the Division, Court Administrator, and other non-judicial personnel shall not perform any functions which constitute an actual or apparent conflict of interest with the impartial performance of their duties. *(Source: SCR 37.53(b)(2); MOS #5 and #7.)*

C. **Reporting Requirements of the Municipal Division.**

- 1. Reporting to the City. Unless substituted with the report required under COR 4.28, within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk copies of the dockets of all cases heard during the preceding month by the Division and those cases in which there was an application for a trial de novo. If a record is closed under Chapter 610, RSMo., the Court Administrator

shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. The Court Administrator may, pursuant to the authority in COR 4.29, substitute submission of the dockets to the City Clerk with the report required to be sent to OSCA under COR 4.28. *(Source: §§479.080.1 and 479.080.3 RSMo, COR 4.28 and 4.29; Section 1.4 of Clerk Manual.)*

2. Reporting to the Department of Revenue.

- (a) Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while driving a commercial motor vehicle, including commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("**DOR**"). The Court Administrator shall abide by the "Case Processing Procedures" found in Chapter 3 of the then current Clerk Manual published by OSCA. The Court Administrator shall ensure that the disposition is received by the DOR within seven (7) days of the disposition. If defendant requests a *trial de novo* within the ten (10) day period after judgment against defendant, then the DOR shall not receive the disposition. *(Source: §§302.225.1 and 577.051 RSMo; Section 1.4 of Clerk Manual.)*

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into the automated case management system approved for statewide use by the State

Judicial Records Committee, so that OSCA can automatically extract required reporting information to electronically provide to the DOR. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem logs.

[2. Divisions Using an Automated Case Management System Approved for Local Use and Approved for Electronic Reporting to the Department of Revenue]

The Court Administrator shall insure the accuracy of data entered into the automated case management system and ensure required reporting information is transmitted electronically in a format approved by the DOR.

[3. Divisions Not Using an Automated Case Management System or Using an Automated System Not Approved for Electronic Submission to Department of Revenue]

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a completed "Record of Conviction" form referenced in SCR form 37.B – *Record of Conviction*. (Source: SCR 37.B.)

- (b) Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund ("**CVC**") surcharge to be assessed on all non-moving and moving traffic violations and all other non-traffic municipal ordinance violations, unless the case has been dismissed, or costs have been waived due to the Division finding the defendant indigent. The Court Administrator shall forthwith cause the CVC charge to be reported to the DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and 5% (\$.37 of each fee) to the general fund of the City in accordance with IV.C, infra. (Source: §§488.5339 and 595.045.6 RSMo.)

The Court Administrator shall be familiar with and abide by those provisions set forth in Sections 4.2 and 4.3 of the then current Clerk Manual.

- (c) Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant's driving privileges under the Abuse and Lose law, the Court Administrator shall, within ten (10) days of the order, send any Missouri license surrendered to the Division, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Section 3.8 of the then current Clerk Manual. *(Source: §§577.500 through 577.505 RSMo.)*

- (d) Failure to Appear or Pay – License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant's failure to dispose of a moving traffic violation, that the Division will order the DOR to suspend that defendant's license in thirty (30) days, if the charges are not disposed of or fully paid. This provision shall not apply to Minor Traffic Violations as defined in Section 479.353 RSMo (2015). For such violations for which a notice may be sent to defendants, such notification shall not be sent until a summons has been mailed to the defendant and defendant thereafter shall fail to appear. On non-Minor Traffic Violation cases that apply, the Court Administrator shall send the Failure to Appear or Pay Traffic Violation (F.A.C.T.) form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant, without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. *(Source: §§302.341 and 427.353 RSMo; Section 3.5 of Clerk Manual.)*

- (e) Withholding Renewal of License. In the event a defendant shall fail to appear when ordered, and without being first granted a continuance, and appropriate summons to follow the failure to appear, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the “Lieu of Bail” form provided by the DOR, except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, supra. When the case is disposed of, the Court Administrator shall report the disposition as on any other traffic case. *(Source: §544.045.4 RSMo; Section 3.5 of Clerk Manual.)*

- (f) Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to the DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact (NVRC) Form provided by the DOR, to the Compact Administrator at the DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. *(Source: §544.046 RSMo; Sections 3.5 and 3.6 of Clerk Manual.)*

- (g) Driver Improvement Programs. In the event that the Judge has ordered a non-CDL holder defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the moving traffic violation has been amended to a non-moving violation by the Prosecuting Attorney. *(Source: §302.302 RSMo; Section 3.7 of Clerk Manual.)*

- (h) Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device (“IID”), the Court Administrator shall forthwith send the Order to install the IID to the DOR properly executed, containing the

requirements for the period of the use of the IID. (Source: §§577.600 through 577.614 RSMo; Section 3.2 of Clerk Manual.)

3. Reporting to OSCA.

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information as provided by COR 4.28. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system and filing and disposition exception reports. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use]

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of COR Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the

previous month's Division activity. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[3. Divisions Not Using an Automated Case Management System]

The Court Administrator shall complete and deliver the "Municipal Division Summary Reporting" form to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. This data shall be delivered by e-mail or fax to OSCA on the then current form provided by OSCA. The Court Administrator shall complete the form in accordance with the instructions submitted from time-to-time by OSCA, and as contained in the then current Clerk Manual. A copy of the OSCA form shall be submitted to the Judge each month. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

4. Reporting to the MSHP (Criminal History Reporting including Intoxication–Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the MSHP any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations deemed to be "comparable ordinance violations" as defined by Section 43.503 RSMo and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Division that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the MSHP a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central

repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Sections 1.4 and 3.3 of the then current Clerk Manual. (Source: §§479.172, 43.503 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

Dispositions that must be reported to the MSHP are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information and forward it to the MSHP. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem log reports. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the MSHP the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card,

which contains an Offense Cycle Number (OCN), pursuant to Section 43.506 RSMo. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

The Court Administrator shall provide any information received by the Division Administrator to the Judge, so that the Judge shall comply with the statutory requirement to receive “adequate instruction on the laws related to intoxication-related traffic offenses.” (Source: §479.172.1 RSMo.)

5. Reporting Intoxication-Related Traffic Offenses to Circuit Court en Banc

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in that Division. The Division shall submit said report to the Circuit Court en Banc. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court en Banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day period to submit the report following the end of the reporting period as there is for the report to the Circuit Court en Banc. (Source: §479.172.3 RSMo; MOS; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall run the Report.net reports

described in Chapter 1 of the then current Clerk Manual and complete the “Municipal Division Summary Reporting Form.” The Court Administrator shall send the “Municipal Division Summary Reporting Form” along with a cover letter to the Presiding Circuit Judge to meet the semi-annual reporting requirement to the Circuit Court en Banc.

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the “Municipal Division Summary Reporting Form” that is submitted monthly to OSCA to meet the semi-annual reporting requirement to the Circuit Court en Banc. The Court Administrator shall make copies of each month’s report for the required reporting period and send along with a cover letter to the Presiding Circuit Judge.

6. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Order to the MSHP and OSCA at the addresses shown below. If any revisions are made to this Order, the Court Administrator shall provide a revised copy to the MSHP and OSCA. *(Source: §479.172 RSMo; Section 1.4 of Clerk Manual.)*

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator

Attention: Court Services Division, DWI Reporting Policy

P.O. Box 104480

2112 Industrial Drive

Jefferson City, Missouri 65110

Fax: 573-522-5961

Missouri State Highway Patrol

Criminal Justice Information Services Division

P.O. Box 9500

Jefferson City, Missouri 65102

Email: mshpcjis@mshp.dps.mo.gov

7. Reporting to the Presiding Circuit Judge. The Court Administrator shall meet with the Judge to review the “Minimum Operating Standards Form” to be submitted semi-annually to the Presiding Circuit Judge, to ensure compliance with the items to be certified in such Form. *(Source: MOS #10.)*
8. Reporting to State Auditor. The Court Administrator shall meet and confer with the Judge to ensure that the City shall timely file with the State Auditor, together with the City’s report due under Section 105.145 RSMo, the City’s certification of its substantial compliance signed by the Judge with the Division procedures set forth in Section 79.360.1(1)(10) RSMo. The Court Administrator and the Judge shall meet periodically to review the provisions of Section 479.360(1) in order to ensure compliance with the State Auditor requirements.
9. Reporting to Judge. The Court Administrator shall assemble the reports submitted to DOR, the MSHP, OSCA, the Presiding Circuit Judge, and the State Auditor, and maintain same in a file for periodic review by the Judge, so that the Judge is aware that all reporting requirements have been complied with for the previous period.
10. Reporting to the Department of Insurance. The Court Administrator shall report all unsatisfied judgments against bail bond agents and sureties, and subsequent satisfactions of those judgments, to the Department of Insurance. The Court

Administrator shall utilize those procedures set forth in the Clerk Manual. (Source: § 374.763 RSMo; Section 2.3 of Clerk Manual.)

D. **Fines, Division Costs, Surcharges and Fidelity Bonds.**

1. **General Rules.**

- (a) The Court Administrator shall utilize his/her best efforts so that on each case adjudicated by the Judge, the Judge's appropriate fines are assessed and general Division costs are assessed only in the amounts set forth by statute or ordinance. These shall include CVC surcharges, police officer standard and training commission ("**POST**") surcharges, law enforcement training fine ("**LETF**") surcharges, recoupment, and other legal surcharges as set forth by law and city ordinance. Those fines and costs that shall be collected shall be remitted timely to the City, and to the DOR respectively, in accordance with this Order. (Source: MOS #4.)
- (b) The Court Administrator shall use the OSCA Cost Card on municipal division costs as a reference. Dismissal upon payment of costs shall not be permitted. Division costs shall not be assessed against indigent defendants, as per law. (Source: §479.353(4)(5) RSMo; MOS #4.)
- (c) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. (Source: §479.360.1 RSMo; MOS #2 and #4.)
- (d) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall

have other forms as available from OSCA to comply with requirements by law. (Source: §479.360.1 RSMo; Rule 37.65; MOS #2.)

2. Overpayment. The Court Administrator is not required to refund any overpayment of court costs of \$5.00 or less. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00.

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions with no written agreement from the county commission or council that the city may retain funds.]

The Court Administrator shall pay such overpaid funds to the county on a regular basis when there is an overpayment of \$5.00 or less.

[2. Divisions with a written agreement from the board or council that the city may retain the funds]

The Court Administrator shall pay the overpaid funds to the city on a regular basis in the event that there is an overpayment of \$5.00 or less and a written agreement exists with the county that allows the city to retain the overpayments.

(Source: Court Cost: City Ordinance; CVC: §§488.5339. and 595.045 RSMo; POST: §488.5336 RSMo; LETF: §488.5336 RSMo.; Overpayments/ Underpayments: §488.014 RSMo.)

3. Receipts for Payment of Fines, Division Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate

copy of the receipt in the receipt book or maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual receipts shall be issued and the payment shall be accounted for immediately following the restoration of the automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. *(Source: COR 4.53 and Section 4.5 of Clerk Manual.)*

4. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. *(Source: MOS #6.)*
5. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. *(Source: §479.359 RSMo.)*
 - (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or

other city personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. *(Source: COR 21; Section 4.5 of Clerk Manual; MOS "Open Records and Other Recordkeeping Matters" and "Financial and Bookkeeping" provisions.)*

6. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. *(Source: Section 4.5 of Clerk Manual; MOS "Financial and Bookkeeping" provisions.)*

E. **Surety Bonds and Confinement**.

1. Bond Qualifications. The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. *(Source: SCR 37.29 and §374.710 RSMo.)*

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

2. Cash Bond Schedule. Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:

- (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
- (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the “24 hour Rule,” as described in Section 544.170.1 RSMo, relating to the right to review of conditions for release when no “conditions for release” have been imposed.
- (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

(Source: §§479.360.1, 479.360.2, 544.170.1 RSMo; SCR 37.1, 37.20 and 37.65; MOS #1.)

- 3. Unclaimed Bond Funds and other Funds. The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer’s Office Unclaimed Property Division, all funds unclaimed for three (3) years and cash bonds unclaimed for one (1) year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact the person and return the funds. Said report shall be sent to the State Treasurer’s Office by November 1st of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. *(Source: §§447.532, 447.539. and 447.595 RSMo; Section 4.4 of Clerk Manual.)*

F. **Warrants.**

1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. *(Source: SCR 37.45.)*

2. The Court Administrator shall work with the Judge to create procedures to ensure that the recall and cancellation of all outstanding warrants is communicated to the police department by the Court Administrator without delay. The Court Administrator shall coordinate with the police department and the Judge to make sure there is a duty judge available at all times to rule promptly upon warrants, bails, conditions, and pretrial release, and other matters. *(Source: Chapter 2 of Clerk Manual; MOS #1.)*

G. **Administrative Search Warrants.** The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the Judge in the records of this Division. *(Source: Chapter 542 RSMo; Section 2.11 of Clerk Manual.)*

[NOTE: Section G is only applicable for Divisions that have city ordinances allowing the issuance of administrative search warrants.]

H. **Accounting Procedures.** The Court Administrator shall to the fullest extent possible, abide by those accounting procedures as are mandated by law, and in particular as are set forth in Chapter 4 of the then current edition of the Clerk Manual. *(Source: §§479.080, 479.350, 479.353, 479.359, 483.075, and 483.082 RSMo; Chapter 610 RSMo; SCR 37; MOS "Financial and Bookkeeping" provisions; COR 4, 8 and 21.)*

In particular, the Court Administrator shall work with the Judge and the City, to ensure that the “Financing and Bookkeeping” provisions of MOS are abided by as far as can be practicably accomplished.

- I. **Marriage Records.** If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Court Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least ____ days [*NOTE: Number of days should be entered by local court based on local need*] before a scheduled wedding to ensure adequate review of such license.

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (*Source: §§451.110 through 451.130 RSMo, COR 14*)

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

A. General Rule.

1. **Division Shall be Open to the Public.** The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (*Source: §479.360.1 RSMo; MOS #8.*)

2. Opening of Division Doors. Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division's docket, unless a different order of the Division shall specify otherwise.
3. No Refusal of Entry. Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division 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. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

B. **Exceptions and Limitations to the Above General Rules Regarding Open Division.** The Division recognizes and shall abide by the provisions of Sections 476.170, 479.060, 479.360 and 479.060 RSMo and MOS #8, requiring that the courtroom be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The following are limited exceptions to this General Rule, as set forth in Paragraphs 1 through 5 below:

1. Disruptive Persons. If any person attending a Division session shall become disruptive in any manner, including, but not limited to, talking in anything other than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Division personnel, that person shall be first cautioned by Division personnel, and if the offensive conduct is not immediately corrected, removed from the courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.

2. Persons under the Clear Influence of Alcohol or Drugs. If any person attending a court session shall appear to Division personnel to be clearly under the influence of alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the courtroom.
3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.
4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division 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 _____.

When it appears to the Division during any single Division session, that there will be more persons attempting to enter the courtroom than are permitted under the Fire Code, then the Division shall take such appropriate action as would be consistent with all legal and constitutional requirements.

5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:

- (a) When a child becomes noisy or will not remain seated, the parents or guardians 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 Division.
- (b) The Division may exclude children if the nature of a matter being heard may be, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 RSMo; MOS #8.)

C. **Closing of the Courtroom.** Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defendant, desires to close the courtroom during any particular motion or trial, the Judge shall will conduct a brief hearing on whether to enter an order to close the proceedings and shall be guided by the following Sections:

1. The proponent of closure must present a showing of a compelling interest for such closure. The Judge shall balance the public's right of access with the interest identified by the proponent of closure and shall determine whether the interest identified by the proponent is such that closure of the courtroom is essential to preserve the interest under the circumstances.
2. Anyone present in the courtroom when the closure motion is made, shall be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the interest identified by the proponent of closure.

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

See: State ex rel Pulitzer, Inc. v. Autrey, 19 S.W.3d 710 (Mo. App. E.D. 2000) and State v. Salazar, 414 S.W.3d 606 (Mo. App. 2013)

- D. **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, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

- A. **Fax and Electronic Memoranda.**

1. This Division shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.
2. Requests for warrant recall may be submitted by fax.

- B. **Access to Division Files.** Members of the public, news media and attorneys of record shall have access to open Division records. There shall be an exception that requests to review files not on the docket must be made prior to the start of Division docket proceedings. The Court Administrator shall not be required to pull files not on the docket during Division sessions unless there is sufficient time to do so. (*Source: Chapter 610 RSMo; COR 2 and 4; MOS #8.*)

- C. **Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to interpret any proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (*Source: §§476.750-476.766 RSMo.*)

SO ORDERED:

DATE _____

Judge, City of _____



SUPREME COURT OF MISSOURI

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

Phone Number: _____ (Is it OK to text you at this number? Yes / No)

1) If you plead guilty or are found guilty, can you pay your finds and costs today? Yes / No

If you answered "No", why not? _____

If you answered "No" to Question #1, or if you want to the court to consider your financial situation, please answer the following questions and provide the following information:

2) Are you currently in the custody of the Children's Division or DYS? Yes / No

3) Have you spent a night in jail during the past year because you were unable to post a bond?

Yes / No If "Yes," how much was your bond? \$_____

4) Are you receiving public assistance? Yes / No If "Yes," please tell us what type of public assistance you are receiving (for example, food stamps, TANF, Medicaid, housing assistance, other types of public assistance): _____

5) Please list the following income from the **previous month** for your **entire household**:

Take home pay for the month including overtime and bonuses: _____

Social security income (including social security disability): _____

Worker's compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

7) Do you have cash, bank accounts, or any other assets, including vehicles or real estate free of debt, that totals more than \$5,000? Yes / No If "Yes," what type?

If you are facing the possibility of jail time and cannot afford to hire a lawyer, you are entitled to have a lawyer appointed by the court to represent you.

Do you want a lawyer to represent you in this case? Yes / No

Can you afford to hire a lawyer to represent you in this case? Yes / No

Are you asking the court to give you some more time to hire a lawyer? Yes / No

Are you asking the court to appoint a lawyer for you today? Yes / No

The above information is true and correct to the best of my knowledge under penalty of law.

Applicant

[The above form is for the Judge's use and does not replace the Legal Aid Application.]

(b) A person is presumed indigent if the person:

(1) Is in the custody of the Children's Division or the Division of Youth Services; or

(2)(A) Has unencumbered assets total under \$5,000, and

(B) Has total household monthly income below 125% of Federal Poverty Guidelines, which currently are:

1 household person: \$1,238

2 household persons: \$1,669

3 household persons: \$2,100

4 household persons: \$2,531

5 household persons: \$2,963

6 household persons: \$3,394

7 household persons: \$3,826

8 household persons: \$4,259

[Add \$433 for

Chapter 2

Rule 37.04, Appendix A – Minimum Operating Standards & Recommended Procedures

[Home](#)

[Supreme Court](#)

[Court of Appeals](#)

[Circuit Courts](#)

[Courts Administrator](#)

[Contact Us](#)

Order dated September 20, 2016, re: Rule 37.04 Supervision of Courts Hearing Ordinance Violations and Minimum Operating Standards for Missouri Courts: Municipal Divisions



SUPREME COURT OF MISSOURI

en banc

September 20, 2016

In re:

- (1) Repeal of subdivision 37.04, entitled "Supervision of Courts Hearing Ordinance Violations," of Rule 37, entitled "Statutory and Ordinance Violations and Violation Bureaus," and in lieu thereof adoption of a new subdivision 37.04, entitled "Supervision of Courts Hearing Ordinance Violations."
- (2) Adoption of "Minimum Operating Standards for Missouri Courts: Municipal Divisions" as Appendix A to subdivision 37.04, entitled "Supervision of Courts Hearing Ordinance Violations," of Rule 37, entitled "Statutory and Ordinance Violations and Violation Bureaus."

ORDER

1. It is ordered that effective July 1, 2017, subdivision 37.04 of Rule 37 be and the same is hereby repealed and a new subdivision 37.04 adopted in lieu thereof to read as follows:

37.04 SUPERVISION OF COURTS HEARING ORDINANCE VIOLATIONS

The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of all divisions of the circuit court hearing and determining ordinance violations within the circuit. Municipal divisions shall operate in substantial compliance with the minimum operating standards set out in Appendix A of this Rule 37.04. The judges of all such divisions shall be subject to the rules of the circuit court that are not inconsistent with this Rule 37.

2. It is ordered that Appendix A to subdivision 37.04 is hereby adopted to read as follows:

Appendix A

Minimum Operating Standards for Missouri Courts: Municipal Divisions

Minimum Operating Standard # 1: Municipal divisions shall ensure that when individuals must be held in jail in the interests of justice, this is done strictly in accordance with the principles of due process of law.

☐ The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

o Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.

o The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.

o Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.

o No additional charge is issued for failure to appear for a minor traffic violation.

☐ The municipal division has a duty judge available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay.

☐ Bond schedules are utilized **only** for persons arrested without a warrant and held no longer than 24 hours pursuant to sections 479.360.1(2) and 544.170.1, RSMo; Rule 37.17.

☐ Warrants are issued **only** upon a finding that reasonable grounds exist to believe that the defendant will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).

☐ Warrants are signed **only** by judges unless the exception of a **specific** warrant ordered by a judge to be signed by a clerk is applicable. Rule 37.45(b)(6).

☐ The municipal division has procedures in place to ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge recalls and cancels any outstanding warrants in that case as soon as practicable.

☐ The municipal division has procedures in place to ensure that the recall and cancellation of outstanding warrants is communicated to law enforcement by the clerk without delay.

☐ No person is sentenced to confinement on "minor traffic violations" or "municipal ordinance violations" with the exception of violations: involving alcohol or controlled substances; endangering the health or welfare of others; or involving eluding or giving false information to a law enforcement officer. Section 479.353(2).

☐ Due process procedures of Rule 37.65 are strictly followed before confining defendants for failure to pay fines and costs. Section 479.353(3).

Minimum Operating Standard # 2: Municipal divisions shall inquire of defendants and allow them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.

☐ The Municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

o Procedures exist to inquire of defendants and allow them to present evidence about their financial condition in assessing their ability to pay and establishing payment requirements.

o Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).

o Community service is utilized with no fee assessed to the defendant.

☐ Stay of execution procedures exist for defendants to pay fines and costs within a specified period of time or to make installment payments. Rule 37.65(a)(1)(2).

☐ If probation fees are assessed, the municipal division does so in compliance with sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per month. The municipal division advises offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

Minimum Operating Standard # 3: Municipal divisions shall not condition an indigent defendant's access to a judicial hearing or the granting of probation upon the payment of fines or fees.

☐ If a defendant files an application for trial *de novo*, the payment of the statutory trial *de novo* fee shall be waived if the defendant qualifies as indigent.

☐ If the defendant requests a jury trial, the cause shall be transferred to the circuit court without prepayment of fees.

☐ The municipal division does not make the granting of probation conditional upon the payment of anything other than authorized fees or deny probation because of the inability of the defendant to pay authorized probation fees and surcharges.

Minimum Operating Standard # 4: Municipal divisions shall neither assess nor collect unauthorized fines, costs, or surcharges.

☐ Fines and costs assessed on minor traffic violations do not exceed \$225.00. Section 479.353(1) (a).

- ☐ Fines and costs assessed on "municipal ordinance violations" as defined at section 479.350(4) meet the mandatory maximum schedule of section 479.353(1)(b).
- ☐ Fines assessed on other ordinance violations do not exceed the maximum amount authorized by state law and the city code.
- ☐ Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute are assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.
- ☐ DPC (Dismissal on Payment of Costs) is not permitted. Section 479.353(5), RSMo; COR 21.01(c).
- ☐ Court costs are not assessed against indigent defendants. Section 479.353 (4)(5).
- ☐ The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:
 - o Community service is utilized with no fee assessed to the defendant.

Minimum Operating Standard # 5: All municipal judges shall be lawfully selected, lawfully authorized to act in specific cases, and adequately prepared for their duties through appropriate training and continuing education.

- ☐ All judge(s) serving in a municipality—full-time, part-time, substitute, and provisional—are selected pursuant to municipality's ordinance or charter before serving. Section 479.020.1.
- ☐ The municipal division has a mechanism in place to check for judicial conflicts prohibited by Rule 37.53(b)(2), and the judge recuses in all instances when required to do so pursuant to this rule.
- ☐ Upon successful change of judge requests and recusals, the procedural requirements of Rule 37.53(d) and section 479.230, RSMo are followed.
- ☐ Following applicable law, the judge follows rules cutting off or limiting their authority to act in a case once a motion to disqualify, motion for jury trial, or motion for trial *de novo* is filed.
- ☐ When a trial *de novo* request has been filed, the municipal division certifies the file to circuit court within 15 days.
- ☐ Lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:
 - o Orientation course completed within 12 months after beginning service. Rule 18.05 (d)
 - o Five hours of judicial CLE completed annually. Rule 18.05(a).
 - o Two hours of judicial ethics CLE completed annually. Rule 18.05(b).
 - o CLE compliance form is submitted to the circuit court presiding judge.

- o If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

☐ Non-lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:

- o Course of instruction administered by the MJEC completed within 6 months after selection. Rule 18.04; section 479.020, RSMo.

- o 15 hours of judicial CLE completed annually with the exception of the first reporting year as described at Rule 18.05(d). Rule 18.05 (a).

- o Two hours of judicial ethics CLE completed annually. Rule 18.05(b).

- o CLE compliance form is submitted to the circuit court presiding judge.

- o If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

Minimum Operating Standard # 6: Municipal divisions shall be operated in a manner reasonably convenient to the public and in facilities sufficient to the purpose.

☐ Courtrooms are suitable and meet due process requirements for all court attendees. Section 479.060.1.

☐ The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

- o The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.

- o For minor traffic violations, procedures exist for electronic payment or payment by mail.

☐ The municipal division allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets.

OR

The municipal division is actively pursuing court automation to achieve compliance with allowing payments online and making available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets.

Minimum Operating Standard # 7: Municipal divisions shall be operated in a manner that upholds the constitutional principles of separation of powers and the integrity of the judiciary as a separate and independent branch of government.

☐ Clerks of court and other nonjudicial personnel do not perform any functions that constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties. Work performed on behalf of law enforcement or the prosecuting attorney is one example of an actual or apparent conflict of interest.

☐ Clerks of court and other nonjudicial personnel, when performing court-related functions, work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

☐ Judges, clerks of court, and other nonjudicial personnel are not subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

☐ Judges, clerks of court, and other nonjudicial personnel are not subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the municipal division to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

☐ Municipal division facility's exterior and interior signage, design, functionality, and other factors convey an appearance to the public that it is a separate and independent branch of government.

Minimum Operating Standard # 8: Municipal divisions shall be operated in accordance with the constitutional principles and legal requirements of open courts and open records.

☐ The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

o The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.

☐ The municipal division maintains a clerk's office that is open and accessible to the public at least thirty hours per week during regular business hours for the purpose of paying fines and providing information.

☐ Proceedings in the municipal division are open to the public of all ages unless the municipal division orders otherwise in a particular circumstance for good cause shown.

☐ Courtroom facility is sufficient for the purpose of a courtroom. Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys. The facility chosen for court takes into consideration the safety and comfort of the public, parties,

and lawyers. The facilities chosen uphold the integrity and independence of the judiciary as a separate branch of government.

☐ The municipal division allows members of the public and the news media access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other relevant law.

Minimum Operating Standard # 9: Municipal divisions shall advise litigants of their rights in court.

☐ Standardized procedures exist to assure that defendants are given advice of rights pursuant to Rules 37.47, 37.48, 37.50, and 37.58.

☐ The municipal division provides a "Notice of Rights in Municipal Division," in a form approved by or substantially similar to that approved by the Supreme Court, to all defendants. This notice of rights is displayed prominently wherever the municipal clerk transacts business with the public and in the facility where proceedings in the municipal division are held. This notice of rights in municipal division is made available as a handout for those appearing before the municipal division and is displayed on each public information website operated by the municipal division or on behalf of the municipal division.

☐ Announcements by the judge that are intended for the benefit of all present can be heard throughout the courtroom or are communicated adequately in other ways. Such announcements are also communicated to those waiting outside the courtroom or otherwise made available to them when they come into the courtroom.

Minimum Operating Standard # 10: Municipal divisions shall be well-managed and accountable to the law, with appropriate oversight of municipal division operations provided by the circuit court presiding judge of the judicial circuit.

☐ By January 1st and July 1st of each year every municipal judge, substitute or provisional judge certifies to the presiding circuit judge compliance with the minimum operating standards by completing the "Minimum Operating Standards Form" and submitting it to the presiding circuit judge.

☐ The municipal division has a functional clerk's office that organizes and preserves the judicial records of the municipal division in a prudent and organized manner and in compliance with applicable laws and supreme court rules.

☐ The municipal division has a functional clerk's office that handles bookkeeping and money handling obligations of the municipal division in a prudent and organized manner and in compliance with the current recommendations of the Office of State Courts Administrator and the Missouri state auditor.

☐ Judge has certified substantial compliance with section 479.360.1(1 to 10), RSMo, and provided signed certification to the governing body in compliance with the state auditor's rules and procedures. Section 479.360.1 and .2. Additionally, the judge complies with the following provisions of section 479.360.1, RSMo:

o Procedures exist to prevent defendants from being held longer than 48 hours on minor-traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.

o The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.

o Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.

o The municipal division inquires of defendants and allows them to present information about their financial condition when assessing the defendants' ability to pay and establishing payment requirements for monies due.

o The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.

o Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).

o Community service is utilized with no fee assessed to the defendant.

o For minor traffic violations, procedures exist for electronic payment or payment by mail.

o No additional charge is issued for failure to appear for a minor traffic violation.

Municipal Divisions should also be familiar with and comply with the provisions set forth below:

Chapter 479, RSMo

☐ If holding administrative hearings, the municipal division is authorized to do so. Section 479.011.1.

☐ Judge serves as a judge in no more than five municipalities. Section 479.020.9.

☐ Judge is under the age of 75 years. Section 479.020.7.

☐ Municipality has notified circuit clerk of the municipal division's existence. Section 479.030.1.

☐ Nonjudicial personnel have been provided to ensure proper functioning of the municipal division. Section 479.060.1.

☐ Fines and costs collected are paid into the municipality's treasury at least monthly. Section 479.080.1

☐ A monthly list of cases with required detail is provided within 10 days of the end of each month to the municipality. Section 479.080.1

☐ Judge has received instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

☐ A written policy for reporting intoxication-related traffic offenses to the central repository has been **adopted** and **provided** to OSCA and the highway patrol. Section 479.172.1 and 2.

☐ Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court *en banc*. Section 479.172.3.

Supreme Court Rule 37

☐ Informations are signed by the prosecutor. Rule 37.35(a).

☐ The violation bureau schedule of fines and costs is prominently posted at the place where fines are to be paid. Rule 37.49(d).

☐ The municipal division has taken reasonable steps to ensure that, where applicable, the schedule of fines and costs is provided to an accused at the same time as a violation notice. Rule 37.33(b).

☐ If a violation bureau has been adopted, it processes only those violations authorized by Rule 37.49(c).

☐ The municipal division utilizes a written "Waiver of Counsel" substantially in the form of Form 37.C. Rule 37.58(d).

Open Records and Other Recordkeeping Matters (article I, § 14, Constitution of Missouri; Court Operating Rules 2, 4 and 8; sections 483.065, 483.075, 483.082, RSMo)

☐ The municipal division maintains complete and accurate records of municipal division proceedings, including warrants outstanding, bonds posted, case files and dispositions.

☐ The municipal division ensures that the proper disposition of all cases is documented on the municipal division dockets or backer sheets and that all municipal division dockets or backer sheets are signed by the municipal judge, if required by law.

☐ The municipal division ensures that an information signed by the prosecuting attorney is filed for each ordinance violation to be prosecuted. In addition, the municipal division ensures that the prosecuting attorney signs all tickets and reviews and approves all amended and dismissed tickets.

☐ The municipal division ensures that the proper disposition of cases is documented in manual and electronic records and sufficient documentation is maintained to support all case actions.

- ☐ The municipal division ensures that warrants are signed by a municipal judge or by the court clerk/administrator only when directed by the municipal judge for a specific warrant and ensures that warrants are issued timely.
- ☐ The municipal division has established procedures to generate monthly reports of municipal division activity, and the municipal division submits these reports timely to OSCA and to the city in accordance with state law, COR 4.28 and 4.29, and section 479.080.3, RSMo.
- ☐ The municipal division regularly backs up computer data and ensures it is stored in a secure off-site location and its recovery is tested on a regular, predefined basis.
- ☐ The municipal division requires unique user identifications and passwords for each employee and passwords that are confidential and periodically changed. The municipal division ensures that user access is periodically reviewed and unnecessary access, including that of terminated users, is removed timely as well as reviews user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities.

Financial and Bookkeeping (section 483.075.1, RSMo)

- ☐ The municipal division segregates accounting duties to the extent possible. If it is not possible to segregate duties, the municipal division ensures that documented periodic independent or supervisory reviews of municipal division records are performed.
- ☐ The municipal division ensures that accurate records are maintained to account for all payments received and deposited, receipts are posted accurately and timely, and the method for payment is indicated on all receipts. Checks and money orders are endorsed immediately upon receipt. Additionally, if manual receipts are in use, the municipal division ensures that manual receipt slips are timely entered in the computerized system and the numerical sequence of manual receipt slips is accounted for properly. In addition, the municipal division ensures that voided transactions are properly documented and approved.
- ☐ The municipal division reconciles the composition of receipts to the composition of deposits, and deposits all monies intact and timely.
- ☐ The municipal division performs monthly bank reconciliations, resolves reconciling items, and makes appropriate, documented adjustments to accounting records timely.
- ☐ The municipal division prepares monthly lists of liabilities and reconciles the lists to the bank account and/or city fund balance, promptly investigates and resolves differences, and has established procedures to review the status of liabilities to determine the appropriate disposition of funds held.
- ☐ The municipal division has developed procedures to ensure the monthly distributions are properly calculated and disbursed timely.
- ☐ The municipal division has established procedures to routinely generate and review the accrued costs list for accuracy and properly follows up on all amounts due.

- ☐ The municipal division obtains signed payment plans from all defendants and ensures payment plans are established in the case management system in accordance with court operating rules where applicable.
- ☐ The municipal division ensures that adequate documentation is maintained to support all adjustment transactions and ensures that an independent review and approval of these transactions is performed and documented.
- ☐ The municipal division maintains the change fund at an established amount and periodically counts and reconciles the monies on hand to the authorized balance.
- ☐ The municipal division maintains bond coverage for all personnel with access to municipal division monies.
- ☐ The municipal division ensures that all bond receipts are recorded and deposited timely and intact.
- ☐ The municipal division has developed procedures and records to identify applicable violations and the associated fines and court costs revenues for the purposes of the revenue calculations required by section 479.359, RSMo et seq, and the municipal division provides this information to the city.

Trial *de novo* Procedure

- ☐ When a case record is certified to the circuit court upon filing of a request for trial *de novo*, all funds received in connection with the case, any bonds, and the record are transferred within 15 days.
- ☐ Once a case has been certified to circuit court, the municipal division does not act on that case unless and until the case is remanded back to that municipal division.

Minimum Operating Standards Form (Submitted Semiannually to Presiding Circuit Judge)

By January 1 and July 1 of each year, every Municipal Judge, Substitute Judge, or Provisional Judge shall certify to the Presiding Circuit Judge of the County compliance with the Minimum Operating Standards by completing the following form.

Municipal Division

Municipal Judge

Any Substitute or Provisional Judges _____

Address where municipal division is held

Dates and times where municipal division is held

Municipal division Phone Number

Judge Contact Number

Judge Email

Clerk Email

I, _____, certify that this municipality complies with the following minimum operating standards together with all other minimum operating standards as approved by the Supreme Court of Missouri:

☐ Judge has received instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

☐ A written policy for reporting intoxication-related traffic offenses to the central repository has been adopted and provided to OSCA and the highway patrol. Section 479.172.1 and 2.

☐ A copy of this written policy for reporting intoxication-related offenses to the central repository has been provided to the presiding circuit judge.

☐ Warrants are signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. Rule 37.45

☐ Judge complies with Rule 37.47: Initial Proceedings before the Judge, including:

o Arraignment as soon as practicable if defendant has not satisfied conditions for release

o Judge shall inform the defendant of the:

§ Ordinance violation charged,

§ Right to retain counsel,

§ Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,

§ Right to remain silent,

§ Fact that anything that the defendant says may be used against him or her.

☐ Judge complies with Rule 37.48: Arraignment

- o Arraignment shall be conducted in open court.
- o Judge reads the information to the defendant or states the substance of the charge.
- o Municipal division calls upon the Defendant to plead there to.
- o Defendant shall be afforded a reasonable time to examine the charge before defendant is called upon to plead.

☐ Judge complies with Rule 37.50: Right to Counsel

- o If conviction for an ordinance violation could result in confinement, the judge advises the defendant of the right to counsel and willingness of the judge to appoint counsel to represent the defendant.
- o Upon a showing of indigency, judge appoints counsel to represent the defendant.
- o Judge allows the defendant to proceed without counsel if the judge finds that the defendant has knowingly, voluntarily, and intelligently waived the right to counsel.
- o If it appears during the proceedings that because of the gravity of the ordinance violation charged and other circumstances that failure to appoint counsel may result in injustice, the judge then appoints counsel. Judge gives said counsel reasonable time to prepare.

☐ Choose one of the following:

- o The municipal division allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets. The municipal division website is

OR

- o The municipal division is actively pursuing court automation for compliance with payments online and making free, online access to information about pending cases, outstanding warrants, and schedule municipal division dockets is scheduled to be in place by _____ (estimated date).

☐ Courtroom facility is sufficient for the purpose of a courtroom.

- o Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
- o The facility chosen for the municipal division takes into consideration the safety and comfort of the public, parties, and lawyers.
- o The facilities chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.

☐ Following applicable law, the judge relinquishes jurisdiction over a case when a motion to disqualify, motion for jury trial, or motion for trial de novo is filed.

☐ When a case is transferred to circuit court, the transfer occurs within 15 days.

☐ Judge has certified substantial compliance with section 479.360.1(1 to 10), RSMo, and provided signed certification to the governing body in compliance with the state auditor's rules and procedures. Section 479.360.1 and 2. Additionally, the judge complies with the following provisions of section 479.360.1:

o Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.

o The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.

o Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.

o The municipal division inquires of defendants and allows them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.

o The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.

o Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).

o Community service is utilized with no fee assessed to the defendant.

o For minor traffic violations, procedures exist for electronic payment or payment by mail.

☐ Municipal division provides to the municipality adequate information for the municipality to determine excessive revenue calculations to the state auditor.

☐ If judge is a lawyer, complete Section A. If judge is non-lawyer, complete Section B.

Section A

☐ If judge is a lawyer, the lawyer has completed each of the following:

o MJEC orientation course within 12 months after beginning service. Rule 18.05(d).

o Five hours of judicial CLE annually. Rule 18.05(a).

o Two hours of judicial ethics CLE annually. Rule 18.05(b).

o CLE compliance form is submitted to the circuit court presiding judge.

o If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

Section B

☐ If judge is a non-lawyer judge, he or she has completed each of the following:

o Course of instruction administered by the MJEC within six months after selection. Rule 18.04; section 479.020, RSMo.

o 15 hours of judicial CLE annually. Rule 18.05(a).

o Two hours of judicial ethics CLE annually. Rule 18.05(b).

o CLE compliance form is submitted to the circuit court presiding judge.

o If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

☐ Judge has read the Supreme Court's "Minimum Operating Standards for Missouri Courts: Municipal Divisions" and substantially complies with the remaining minimum operating standards.

☐ Judge has attached to this certification the following:

o Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court *en banc*,

o Substantial compliance certification with section 479.360.1(1 to 10),

o CLE compliance forms.

I hereby certify that my municipal division has complied with all of the above minimum operating standards terms.

Date, _____, Signature

2. It is ordered that notice of this order be published in the Journal of the Missouri Bar.

3. It is ordered that this order be published in the South Western Reporter.

4. The state courts administrator shall furnish a copy of this order to each circuit court presiding judge, each municipal judge, each municipal clerk, and such other persons as she may direct.

Day – to – Day

PATRICIA BRECKENRIDGE
Chief Justice

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Order dated November 1, 2016, re: Rule 37.04 Appendix A, Minimum Operating Standard 8



SUPREME COURT OF MISSOURI

en banc

November 1, 2016

In re:

Repeal of Minimum Operating Standard #8 of Appendix A, entitled "Minimum Operating Standards for Missouri Courts: Municipal Divisions," to Rule 37.04, entitled "Supervision of Courts Hearing Ordinance Violations," of Rule 37, entitled "Statutory and Ordinance Violations and Violation Bureaus," and in lieu thereof adoption of a new Minimum Operating Standard #8 of Appendix A, entitled "Minimum Operating Standards for Missouri Courts: Municipal Divisions."

ORDER

1. It is ordered that Minimum Operating Standard #8 of Appendix A to Rule 37.04 of Rule 37 be and the same is hereby repealed and a new Minimum Operating Standard #8 of Appendix A to Rule 37.04 of Rule 37 adopted in lieu thereof to read as follows:

Minimum Operating Standard # 8: Municipal divisions shall be operated in accordance with the constitutional principles and legal requirements of open courts and open records.

☐ The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

o The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.

o The municipal division has a municipal clerk available at least 30 hours per week during regular business hours and court sessions to whom the person can pay fines and from whom the person can obtain information about charges, payments and court operations. The clerk should be available in person during these hours in an office open and accessible to the public and may perform other functions for the municipality that do not constitute an actual or apparent conflict with the impartial performance of judicial duties. In the event the municipal division does not have sufficient staff to have a clerk available for all of the 30 hours in person, the clerk may instead be made available for up to 15 of the 30 hours to provide information about

charges, payments and court operations through live communication by telephone, email, or other means of electronic communication.

☐ Proceedings in the municipal division are open to the public of all ages unless the municipal division orders otherwise in a particular circumstance for good cause shown.

☐ Courtroom facility is sufficient for the purpose of a courtroom. Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys. The facility chosen for court takes into consideration the safety and comfort of the public, parties, and lawyers. The facilities chosen uphold the integrity and independence of the judiciary as a separate branch of government.

☐ The municipal division allows members of the public and the news media access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other relevant law.

2. It is ordered that notice of this order be published in the Journal of the Missouri Bar.

3. It is ordered that this order be published in the South Western Reporter.

4. The state courts administrator shall furnish a copy of this order to each circuit court presiding judge, each municipal judge, each municipal clerk, and such other persons as she may direct.

Day – to – Day

PATRICIA BRECKENRIDGE
Chief Justice

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RULE 37 PROCEDURES

Introduction

In Appendix A to Rule 37, there are several areas where a Municipal Division is required to have a procedure in place to comply with Rule 37. As follows are suggestions regarding procedures that may be of use in complying with Rule 37;

Minimum Operating Standard #1

Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge.

A written Order should be prepared by the Judge and presented to the Police Department from the Municipal Division Judge including instructions for notifying the Municipal Judge and Court Administrator/Clerk that a defendant is being held on a municipal ordinance violation

The Municipal Division and Police Department should accurately record when each defendant is taken into custody. The Police or Court personnel should contact the Judge or provisional Judge daily with a report on each in custody defendant. Any defendant that can not be seen by within the time frame allowed by statute shall be released on a Personal Recognizance bond and given a future court date to appear. See sample Note to Police Chief.

Municipal Division has procedures in place to ensure that warrants are recalled when cases are complete, dismissed or the need for a warrant no longer exists.

A written Order should be prepared by the Judge and presented to the Police Department from the Municipal Division Judge including instructions given to the court and the Police Department for recalling, cancelling, and notifying the court of a warrant execution.

Upon disposition of a case the case should be checked for any outstanding warrant. Any outstanding warrant on the case disposed shall be recalled without any undue delay. In order to recall a warrant for any other reason than disposition of the case requires a written Order from the Judge and must be forwarded to Law Enforcement. Once a warrant is recalled by Law Enforcement in the MULES or REJIS systems written confirmation should be obtained from Law Enforcement and docket on the court record. The Court Administrator/ Clerk should run a warrant report weekly to verify warrants recalled, issued, and pending. The Judge should monthly review outstanding warrants to determine if there is a need for the existing warrants to remain in effect. NO warrant recall fee may be charged in any instance.

Municipal Division has procedures in place to ensure that the recall and cancellation of warrants are completed without delay.

See above. A report of closed files within the chosen date range that includes an indicator that would inform the clerk that a warrant is pending on the case. JIS divisions will also need to run

the SIS cases closed by script report for comparison to the recalled warrant report. Semi-monthly random checks of closed files should be done to ensure that the above procedures are working correctly.

Rule 37.65 procedures should be followed before confining defendants for failure to pay fines and costs. R.S. Mo 479.353(3) requires strict compliance with Rule 37.65

After a defendant misses a payment per the payment plan agreed to by the court and the defendant the Judge may order a Show Cause Summons or Order to be issued to the defendant. Upon the defendant's failure to appear and respond to the Show Cause Summons or Order the Judge could issue a warrant. The failure to appear or pay fines and costs and the Order for a Show Cause Summons or Order to issue should be docketed on the court record. Once issued the sequential number of the summons issued or the issuance of the Order should be docketed by the date of issuance and keeping a copy of the summons or Order in the court file.

In the alternative, the court or Prosecutor could request a hearing to determine if the defendant is not making the agreed to payments because of a hardship set of circumstances or the defendant has the resources to make the payments but has chosen not to and has disregarded the Order of the court. The request for the hearing and the scheduling of the hearing should be docketed on to the court record. Notification of the scheduled hearing must be sent to all parties at least 5 days prior to the date of the scheduled hearing. In the event the Judge enters a finding that the defendant has the means to make payment on the outstanding fines and costs but has shown to be negligent by choice the defendant can be sentenced to up to 30 days in confinement. The hearing taking place and the outcome of the hearing must be docketed on the court record.

Minimum Operating Standard #2

The Municipal Division has procedures to inquire of defendants and allow them to present evidence about their financial condition in assessing their ability to pay and establishing payment requirements.

The Municipal Division Judge in the opening remarks should say that each defendant has the right to present evidence of their financial condition and have such evidence taken into account when determining fines, costs and payment plans. The defendant may request to show evidence of their financial condition at any point in the duration of the case, this includes before, during, and after the time of sentencing, when requesting appointment of counsel, Show Cause hearings, and contempt hearings pursuant to Rule 37.65.

If a defendant wants to present evidence of their financial condition, the Judge, Prosecutor and Court staff should direct the defendant to fill out the Statement of Financial Condition form

provided by the Missouri Supreme Court. A ready supply of these form should be kept in the courtroom and made available to all.

The defendant should present the Statement of Financial Condition to Judge and present the evidence of their financial condition to the Judge. Should the Judge enter a finding that the defendant is indigent no fines and court costs may be assessed, any fines and costs previously assessed must be stayed, and counsel must be appointed if the conviction of the charge could result in confinement.

This should be done at the time of sentencing in addition to any other points deemed appropriate by the Judge. If the defendant is unable to make payments the defendant must appear at an appropriately scheduled court appearance and evidence of the defendant's financial condition should be prepared by the defendant and presented to the Judge. Clerks may not determine indigent status.

Minimum Operating Standard #9

The Municipal Division should have standardized procedures to assure that defendants are given advice of their rights pursuant to Rules 37.47, 37.48, 37.50 and 37.58.

The Notice of Defendant's Rights provided in Rule 37.04, Appendix C, or in a similar form, must be posted in the courtroom and where business is transacted with the public. The Defendant's Notice of Rights is made available as handout for all defendants and is posted on the municipality's website.

In the Judge's opening announcement the defendants should be made aware of their rights as well as the defendant's opportunity to present evidence of their financial condition, utilize community service, utilize payment plans, and to speak with the Prosecutor to discuss their charges. A printed revision of the Judge's opening announcement should be made available for defendants in handout form.

All defendants should read, sign and file with the Court a "Know Your Rights" form which again states that each defendant is allowed to present evidence of their financial condition and have such evidence into account when determining fines, costs and related payment issues and should be docketed and made a part of the court file.

Municipal Division Pre-Visit Presiding Judge Checklist
(Based off of Supreme Court Rule 37.04, Appendix A & the Minimum Operating Standards (MOS))

MOS #1:

- No additional Failure to Appear (FTA) charge on Minor Traffic Violations (MTV). 479.350 & 479.360 RSMo
- No FTA fee on any charge.
- Duty Judge on call at all times. Rule 37.04
- Warrants are signed by the Judge unless the Court Administrator is directed to do so by a signed Order on a specific case, in a specific situation. No blanket orders for Court Administrator or Clerk to sign warrants. Rule 37.45
- Warrant recall procedure includes the Judge issuing an Order, verbally or written, for the clerk to recall the warrant unless following the disposition of a case, recording the issued Order as a docket entry on the docket sheet or docket entry in the case management system, and forwarding a copy of the Order the law enforcement to be cancelled in REJIS or MULES. (Court Clerks and Administrators should not have access to REJIS or MULES for any purpose.) Rule 37.04

MOS #2:

- Defendants are allowed to present evidence of their financial condition when assessing fines or probation, if the division charges a probation fee. 479.360 RSMo
- Payment plans are allowed. Payment Plans are signed by the defendant and court personnel, made a part of the court record by docket entry on the docket sheet or docket entry into the case management system, and payment review hearings are scheduled as dictated by the payment plan. 479.360 RSMo
- Recommendations are requested from and issued to the defendant or defense counsel by the Municipal Prosecuting Attorney. Upon a recommendation being offered the defendant should be notified of a court date by the court leaving enough time for the defendant and/or defense counsel time to consider the offer and respond. Once the plea offered is signed by the Municipal Prosecuting Attorney and defendant and/or defense counsel the plea agreement must be presented to the Judge for approval or denial of the agreement in open court (SCR 37.58), unless the case is disposed without a court appearance by consent of the Judge, Prosecutor, and defendant or defense counsel pursuant to SCR 37.57. If the case is disposed without a court appearance there should be a clear, written procedure of how this is to be done and on which charges this practice would apply.

MOS #3:

- The \$30 filing fee for Trial de Novo is waived if the defendant is found to be indigent. Rule 37.04
- No filing fee is collected upon certification to the Circuit Court for jury trial. Rule 37.04

MOS #4:

- Fines and Court Costs combined collected on any MTV charge do not exceed \$225. 479.353 RSMo
- Fines and Court Costs combined collected on any Municipal Ordinance Violation (MOV) do not exceed the statutory limits. 479.353 RSMo
- Fines and Court Costs collected on any charge other than MTV and MOV do not exceed the maximum amount authorized by state law or city code. 479.353 RSMo
- No fines or costs are assessed on dismissed cases. 479.353 RSMo & COR 21.03
- Court Costs are not assessed against defendants found to be indigent. 479.353 RSMo
- No fees are assessed for community service. 479.360 RSMo

- The patrolling entity provides a list of fines and courts costs assessed for those charges eligible to be disposed through the Violations Bureau. Rule 37.49 & 37.33

MOS #5:

- All certified cases are transferred to the Circuit Court with 15 days of the Order to certify. Rule 37.04

MOS #6:

- Online and in-person payments are not accepted by the court until the Municipal Prosecutor signs and/or issues the charging document to the court and a case is created. Rule 37.35

MOS #7:

- The Court Clerk does not share duties with the Prosecutor Clerk or Police Clerk.
- The Court Clerk(s) office(s) are clearly separate and distinguished from any City Offices, the Prosecutor's and Prosecutor Clerk's Offices, and the Police Department.
- Court personnel (clerks and court security) are under the administrative authority of the Municipal Judge while performing court duties.
- The court budget is separate from that of the city and does not include any Prosecutor costs.
- The entry to the Municipal Division is clearly marked and visible.
- Payment windows and payment options are clearly posted and visible.
- Hours of operation and contact information are clearly posted and visible.
- All signage displays a clear division between branches of government.

MOS #8:

- The Court Clerk is available at least 30 hours a week to receive payments and answer questions on case information and court operations. In lieu of the clerk being available at least 30 hours the clerk must be available at minimum 15 hours a week in the office and 15 hours by live electronic communication. 479.360 RSMo
- A written policy should exist for responding to requests for court records in accordance with Court Operating Rule (COR) 2.
- The courtroom gives the appearance of a courtroom.
- The courtroom is open to the public.
- The courtroom is large enough to accommodate all parties and attorneys.
- The courtroom is handicap accessible in accordance with ADA regulations.

MOS #9

- The Notice of Defendant's Rights are posted in the courtroom, website, and are available for defendants to take. Rules 37.47, 37.48, 37.50, & 37.58
- The Notice of Defendant's Rights are in the form of, or similar to, those issued by the Missouri Supreme Court on June 30, 2017 in SCR 37.04, Appendix C. Rule 37.04

MOS #10:

- Written procedures exist for defendants not being held for longer than 24, 48, and 72 hours according to their charge and issued to law enforcement. 479.360 RSMo
- Reports are provided to the municipality, OSCA, and the State Auditor pursuant to statute and rule.
- The Municipal Judge presides over no more than 5 Municipal Divisions. 479.050 RSMo

SCR 37:

- The Municipal Prosecutor signs all charging documents prior to a case being created. Rule 37.35
- The Violations Bureau fines schedule is posted where payments are processed. Rule 37.49
- A Waiver of Counsel is signed by all defendants that chose to represent themselves in cases that a conviction could result in confinement and made part of the court record by docket entry or entry into the case management system. Rule 37.58

COR 2/4/8 (483.065, 483.075 & 483.082 RSMo):

- Any electronic case management systems are backed up regularly.
- A case and judgement index is maintained pursuant to COR 4.
- All dispositions are signed by the Judge.
- All dispositions of charges reportable to the Department of Revenue are reported within 7 days from the date of disposition. 302.010, 302.225,
- All Offense Cycle Number (OCN) Cards (Fingerprint Cards) are submitted to the Missouri State Highway Patrol as required.

Financial/Bookkeeping (483.075 RSMo):

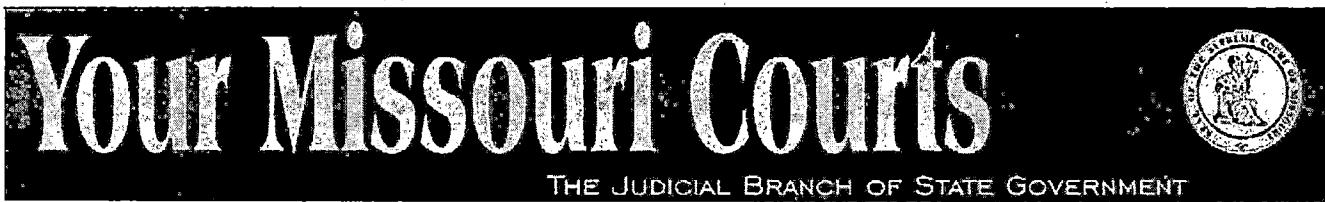
- A yearly internal or external audit of the Municipal Division is completed.
- Any manual receipts are printed with sequential numbers and the receipt numbers are recorded with the payment as a part of the court record.
- All bank accounts are reconciled monthly.
- All appropriate funds are disbursed monthly.
- All applicable funds are transferred to the municipality's general fund at least monthly.
- Excess Revenue calculations are reported to the State Auditor pursuant to statute. ?

Questions and Notes:

- The clerk(s) have access to the Court Information Center (CIC) to have access to record of conviction statistics.
- The clerk(s) have an active iNotes account.

Chapter 3

Rule 37.04, Appendix B – Code of Conduct
for Municipal Division Personnel



Clerk Handbooks

Supreme Court Rules

| | | | |
|----------|--------------------------------------------------------------------|---------------------------|-------------------|
| | | Section/Rule: | 37.04B |
| Subject: | Rule 37 - Statutory and Ordinance Violations and Violation Bureaus | Publication / Adopted | November 16, 2016 |
| | | Date: | |
| Topic: | Appendix B - Code of Conduct for Municipal Division Personnel | Revised / Effective Date: | January 1, 2017 |

Appendix B Code of Conduct for Municipal Division Personnel

This code of conduct applies to all full-time, part-time and temporary court system employees for municipal divisions, who are identified in this code as "court professionals."

Code of Conduct 1: Avoiding Impropriety and the Appearance of Impropriety in All Activities.

1.1. Performing Court Duties

A court professional shall faithfully carry out all appropriately assigned duties striving at all times to perform the work diligently, efficiently, equitably, thoroughly, courteously, honestly, truthfully and with transparency.

A court professional shall carry out properly issued court orders and rules, not exceeding the court professional's authority.

A court professional shall make every reasonable effort to act in a manner consistent with his or her judge's obligations under the Missouri Code of Judicial Conduct found at Supreme Court Rule 2.

1.2. Avoiding Impropriety

A court professional shall avoid both impropriety and the appearance of impropriety.

A court professional shall avoid improper influences from business, family, position, party, or person.

A court professional shall avoid activities that would impugn the dignity of the court.

1.3. Bias, Prejudice, and Harassment

A court professional shall perform his or her duties without bias or prejudice.

A court professional shall not, in the performance of his or her duties, by words or conduct, manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, or marital status.

A court professional shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, including but not limited to race, sex, gender, gender identity, religion, national origin, ethnicity, disability, age, sexual orientation, or marital status, against parties, witnesses, lawyers, or others.

These restrictions do not preclude court professionals from making legitimate reference to personal factors or characteristics, when they are relevant to an issue in a proceeding.

1.4. Respect of Others

A court professional shall treat litigants, coworkers and all others interacting with the court with dignity, respect and courtesy.

1.5. Involvement in Actions Before a Court

A court professional shall notify their supervisor of the court whenever he or she, anyone in his or her family, or anyone with whom he or she has a close personal relationship has been arrested, named as a party, or is otherwise formally involved in any action pending in any court.

1.6. Avoiding Privilege

A court professional shall use his or her official position solely for its intended purpose.

A court professional shall not use his or her position (intentionally or unintentionally), to secure unwarranted privileges or exemptions for oneself or others.

A court professional shall not dispense special favors to anyone, whether or not he or she was offered remuneration.

1.7. Assisting Litigants

A court professional shall be responsive to inquiries regarding standard court procedures, but shall not give legal advice unless it is required as part of one's official position.

Code of Conduct 2: Performing the Duties of Position Impartially and Diligently.

2.1. Independent Judgment

A court professional shall avoid relationships that would impair one's impartiality and independent judgment.

A court professional shall be vigilant of conflicts of interest and ensure that outside interests are never so extensive or of such nature as to impair one's ability to perform court duties.

2.2. Personal Relationships

A court professional shall recruit, select, and advance personnel based on demonstrated knowledge, skills, abilities, and bona fide work-related factors, not on favoritism.

A court professional shall avoid appointing, assigning, or directly supervising, a family member, or

attempting to influence the employment or advancement of a family member.

Where circumstances dictate that one must work directly with a family member, a court professional shall report the circumstance to their supervisor or the court, regularly assess the situation, and take remedial action at the earliest time practicable.

2.3. Misconduct of Others

A court professional should expect fellow professionals to abide by this code of conduct.

A court professional shall report to their supervisor or the court the behavior of any court professional who violates this code including, but not limited to, potential conflicts of interest involving one's duties and attempts to inappropriately influence one in performing one's duties.

2.4. Attempts at Influence

A court professional shall immediately report to their supervisor or the court any attempt to compel one to violate this code of conduct.

2.5. Properly Maintain Records

A court professional shall not inappropriately destroy, alter, falsify, mutilate, backdate or fail to make required entries on any records within the court's control.

2.6. Legal Requirements

A court professional shall maintain the legally required confidentialities of the court, not disclosing confidential information to any unauthorized person, for any purpose.

A court professional shall properly provide confidential information that is available to specific individuals authorized to receive such by reason of statute, court rule or administrative policy.

2.7. Discretion

A court professional shall be respectful of litigants, the public, applicants and employees' personal lives; disregard information that legally cannot or should not otherwise be considered; use good judgment in weighing the credibility of Internet data; and be cautious about verifying identities.

A court professional shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case.

2.8. Proper Use of Public Resources

A court professional shall use the resources, property and funds under one's official control judiciously and solely in accordance with prescribed procedures.

Code of Conduct 3: Conducting Outside Activities to Minimize the Risk of Conflict with Official Position.

3.1. Outside Business

The court is a court professional's primary employment. A court professional shall avoid outside activities, including outside employment, business activities, even subsequent employment and business activities after leaving judicial service, that reflect negatively upon the judicial branch and on one's own professionalism.

A court professional shall notify their supervisor or the court prior to accepting work or engaging in business outside of one's court duties.

A court professional shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment.

However, court professionals may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code of conduct.

3.2. Compensation and Post Employment Restrictions

During or following one's employment with a court, a court professional shall not represent a commercial interest to, or do business with, that same court unless both the employment and commercial interest are fully disclosed to and approved by the court's appropriate management authority.

3.3. Avoiding Gifts

A court professional shall not solicit, accept, agree to accept, or dispense any gift, favor, or loan either for oneself or on behalf of another based upon any understanding, either explicit or implicit, that would influence an official action of the court.

3.4. Financial Disclosure

A court professional shall dutifully disclose all financial interests and dealings required by law, rule, or regulation.

Code of Conduct 4: Refraining from Inappropriate Political Activity.

4.1. Refraining from Inappropriate Political Activity

A court professional retains one's right to vote and is encouraged to exercise it as a part of citizenship.

Engaging in any political activity is done strictly as a private citizen and only in accordance with state law or court rules.

A court professional shall participate only during non-court hours, using only non-court resources. A court professional shall not use one's position or title within the court system to influence others.

Unless a court professional is elected to one's court position, one shall campaign during non-work hours or take an unpaid leave of absence upon declaring one's intent to run for office.

If elected, a court professional shall resign one's post with the court unless one is holding a political office that clearly does not hold a conflict of interest, nor does it interfere with one's ability to perform one's court duties.

(Adopted Nov. 16, 2016, eff. Jan. 1, 2017)

Chapter 4

Rule 37.04, Appendix C – Notice of
Defendant's Rights in the Municipal Division

If you are a non-U. S. citizen

If you do not have the proper documentation to be in the United States, you should know that a guilty plea or conviction may result in your deportation, denial of admission to the United States, or you may be denied naturalization under United States law. You may wish to speak with an attorney, especially before entering a guilty plea to any charges.

If you need ADA accommodations

You have rights under the Americans with Disabilities Act (ADA). For example, if you or a witness are deaf or hearing impaired, you have the right to request assistance, including an interpreter. For help, please contact the court's ADA coordinator. A list of ADA coordinators can be found at <http://www.courts.mo.gov/page.jsp?id=180>.

If you need help with other ADA disabilities, please call (573)751-4377 or send an email to access2justice@courts.mo.gov.

While in the courtroom, please:

Stay seated until your case is ready to be heard by the judge.

Do not smoke or consume food or drink.

Silence any phones or pagers, and remain quiet.

Do not sleep or disrupt the court proceedings.

My next court date is _____ at
_____ am/pm.

Your Missouri Municipal Courts

Know your rights (see pages 2-4)

- Right to trial
- Right to know when the court is open
- Right to attend court
- Right to an attorney
- Right to release pending hearing
- Right to have a judge decide if you can afford a lawyer or afford to pay fines
- Right to a court-appointed attorney
- Right to access court records
- Right to request a different judge

Table of Contents

Overview of Municipal Courts.....1

Rights in Municipal Court.....2

Trial Process4

Punishments and Fines4

Other information to know5

Trial Process

1. The case is ready to be heard by the judge.
2. Witnesses are given an oath to testify.
3. The city's witnesses explain their version of what happened.
4. You or your attorney can ask questions of the City's witnesses.
5. You may testify and call witnesses to explain your version of what happened.
6. The city prosecutor may question you and your witnesses, if you and your witnesses testify.
7. The judge makes the decision.

Punishments and Fines

If you plead guilty or are found guilty, you may face the following punishments or fines:

1. Minor traffic violations—up to \$225 total fine and costs.
2. Housing, zoning or building code violations—up to \$200 total fine and costs for the first violation in a year, \$275 for the second violation in a year, \$350 for the third violation in a year, and \$450 for the fourth and any subsequent violation in a year.
3. All other municipal code violations—up to \$_____ fine plus costs.
4. In addition to these fines and costs, certain violations may result in jail time. Such violations include any violation involving alcohol or drugs, violations endangering the health or welfare of others, or giving false information to a police officer. You may face up to a year in jail.

You may be able to pay your fines by mail, online, or in person instead of appearing in court. Please check with the clerk of the municipality in which your case is located or go online at www._____ to get information on how you can pay fees and fines in the municipality.

Right to Trial

If you plead not guilty, your case will be scheduled for trial. Because of the number of cases the court hears each month and the need to have the officer and any witnesses present, your case cannot be heard that night. You will be given a future court date for trial.

When your case is scheduled for trial, it will be in the same municipal court in which you appear, UNLESS you request a jury trial. A request for a jury trial should be made by written motion 10 days prior to the scheduled trial date. If the motion is timely, your case will be sent to the presiding judge of the circuit court for a new trial date with a jury.

1. At trial, you have a right to testify or remain silent. If you remain silent, it is not considered an admission of guilt. If you testify, the judge may consider any statement you make in deciding your guilt or innocence.
2. At trial, you have the right to ask questions of witnesses testifying against you.
3. You have a right to require witnesses to come to trial and testify with a subpoena.
4. If you are found not guilty, the case ends.
5. If you are found guilty, you can accept the decision or appeal to the circuit court. If you appeal your case, you will be granted a new trial before a different judge. The request for appeal must be made within 10 (ten) days of the court's decision and cannot be extended for any reason. You can appeal even if you are not able to pay. Complete details of the appeal procedure can be found at www.mocourts.org. You may also ask the clerk for information on the process.

OVERVIEW OF MUNICIPAL COURTS

Municipal courts are authorized by the Missouri Constitution and are part of the circuit courts. They are open to the public. The purpose of these courts is to provide you with a place to obtain a fair and impartial trial on any alleged violation of a city ordinance. While this is a general overview of your rights in municipal court, each individual court may have local rules that may apply to your case. Please check with your local municipal court for the local court rules.

Municipal courts are a court of law established to protect the rights of all citizens. If there is anything you do not understand, do not hesitate to ask the judge any questions.

RIGHTS IN MUNICIPAL COURT:

Right to know when the court is open

Every municipal court has different hours it is open. It is important that you check the court's website or call the court's clerk to determine when it is open. A comprehensive listing of the websites and phone numbers for all municipal courts in Missouri can be found at <http://www.courts.mo.gov/mcw/findacourt/muniDivisionList.htm>

Right to attend court

Municipal courts in Missouri are open to the public.

Right to release pending hearing

If you are in jail for a municipal court charge, you have the right to be released unless the court decides you need to be in jail for the protection of the community. If the court orders your release from jail, there may be conditions on your release, including bail.

Right to access court records

If you have a case in municipal court, you have the right to see the court records for your case. This includes records that show charges, court rulings, fines, and other information for your case.

Right to an attorney

You have the right to be represented by an attorney and may hire one at any time. When you first appear in court, you can ask to postpone the hearing one time so you can hire an attorney. However, you are not required to have an attorney represent you. You may represent yourself.

Right to have a judge decide if you can afford a lawyer or pay fines

If you want an attorney, but cannot afford one, you can ask that the judge decide if you qualify for a court-appointed attorney. You may be required to fill out paper work about your finances as a part of this process.

You can also request the judge to decide if you are able to pay court fines or to be granted an alternative sentence. You may be required to fill out paper work regarding your finances as a part of this process.

Right to a court-appointed attorney

If you show you cannot afford an attorney, and the city is seeking to put you in jail, the court will provide an attorney to represent you.

Right to request a different judge

You may request a change of judge for any reason within ten (10) days after you enter your initial plea. If it is past the ten (10) days, then you must show cause why the judge should be changed.

In addition, a judge may decide he or she cannot hear the case if they have a conflict of interest in the case or the judge will appear as the prosecuting attorney in a neighboring county where the prosecuting attorney will serve as judge.

Chapter 5

Rule 37.04, Appendix D – Municipal Division

Bench Card



LAWFUL ENFORCEMENT OF LEGAL FINANCIAL OBLIGATIONS A BENCH CARD FOR JUDGES

Courts may not incarcerate a defendant/respondent, or revoke probation, for nonpayment of a court-ordered legal financial obligation unless the court holds a hearing and makes one of the following findings:

1. The failure to pay was not due to an inability to pay, but was willful or due to failure to make bona fide efforts to pay; or
2. The failure to pay was not the fault of the defendant/respondent and alternatives to imprisonment are not adequate in a particular situation to meet the State's interest in punishment and deterrence.

If a defendant/respondent fails to pay a court-ordered legal financial obligation but the court, after opportunity for a hearing, finds that the failure to pay was not due to the fault of the defendant/respondent, but rather due to lack of financial resources, the court should consider alternative measures of punishment rather than incarceration. *Bearden v. Georgia*, 461 U.S. 660, 667-669 (1983); *State ex rel. Fleming v. Mo. Bd. of Prob. & Parole*, 515 S.W.3d 224 (Mo. banc 2017). Punishment and deterrence can often be served fully by alternative means to incarceration, including an extension of time to pay, reduction of the amount owed, or community service. *Bearden*, 461 U.S. at 671.

Court-ordered legal financial obligations (LFOs) include all discretionary and mandatory fines, costs, fees, state assessments, and/or restitution in civil and criminal cases.

1. Adequate Notice of the Hearing to Determine Ability to Pay¹

Notice should include the following information:

- a. Hearing date and time;
- b. Total amount claimed due;
- c. That the court will evaluate the person's ability to pay at the hearing;
- d. That the person should bring any documentation or information the court should consider in determining ability to pay;
- e. That incarceration may result only if alternate measures are not adequate to meet the State's interests in punishment and deterrence or the court finds that the person had the ability to pay and willfully refused;
- f. Right to counsel*; and
- g. That a person unable to pay can request payment alternatives, including, but not limited to, community service and/or a reduction of the amount owed.

2. Meaningful Opportunity to Explain at the Hearing²

The person must have an opportunity to explain:

- a. Whether the amount charged as due is incorrect; and
- b. The reason(s) for any nonpayment (e.g., inability to pay).

3. Factors the Court Should Consider to Determine Willfulness³

- a. Income, including whether income is at or below 125% of the Federal Poverty Guidelines (FPG)⁴

| | |
|-----------------------------|-----------------------------|
| For 2016, 125% of FPG is: | |
| \$14,850 for an individual; | \$30,375 for a family of 4; |
| \$20,025 for a family of 2; | \$35,550 for a family of 5; |
| \$25,200 for a family of 3; | \$40,725 for a family of 6. |

- b. Receipt of needs-based, means-tested public assistance, including, but not limited to, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), or veterans' disability benefits (Such benefits are not subject to attachment, garnishment, execution, levy, or other legal process);

¹ Rule 37.65(b)(c); Rule 36.01(b); section 558.006 RSMo (formerly section 560.031 RSMo).

² Section 479.360.1(4); Rule 37.04, Appendix "A," Minimum Operating Standard #2.

³ See *Bearden v. Georgia*, 461 U.S. 660 (1983); *State ex rel. Fleming v. Mo. Bd. of Prob. & Parole*, 515 S.W.3d 224 (Mo. banc 2017).

⁴ U.S. Dep't of Health & Human Servs., Poverty Guidelines, Jan. 26, 2016, (<https://aspe.hhs.gov/poverty-guidelines>).

- c. Financial resources, assets, financial obligations, and dependents;
- d. Whether the person is homeless, incarcerated, or resides in a mental health facility;
- e. Basic living expenses, including, but not limited to, food, rent/mortgage, utilities, medical expenses, transportation, and child support;
- f. The person's efforts to acquire additional resources, including any permanent or temporary limitations to secure paid work due to disability, mental or physical health, homelessness, incarceration, lack of transportation, or driving privileges;
- g. Other LFOs owed to the court or other courts;
- h. Whether LFO payment would result in manifest hardship to the person or his/her dependents; and
- i. Any other special circumstances that may bear on the person's ability to pay.

4. Findings by the Court

The court should find, on the record and/or by docket entry, that the person was provided prior adequate notice of:

- a. Hearing date/time;
- b. Failure to pay an LFO is at issue;
- c. The right to counsel*;
- d. The defense of inability to pay;
- e. The opportunity to bring any documents or other evidence of inability to pay; and
- f. The opportunity to request an alternative sanction to payment or incarceration.

After the ability to pay hearing, the court should also find on the record that the person was given a meaningful opportunity to explain the failure to pay.

If the Court determines that incarceration must be imposed, the Court should make findings about:

1. The financial resources relied upon to conclude that nonpayment was willful;⁵ or
2. If the defendant/respondent was not at fault for nonpayment, why alternate measures are not adequate, in the particular case, to meet the State's interest in punishment and deterrence.⁶

Alternative Sanctions to Imprisonment That Courts Should Consider When There is an Inability to Pay⁷

- a. Reduction of the amount due;
- b. Extension of time to pay;
- c. A reasonable payment plan or modification of an existing payment plan;
- d. Credit for community service (*Caution:* Hours ordered should be proportionate to the violation and take into consideration any disabilities, driving restrictions, transportation limitations, and caregiving and employment responsibilities of the individual);
- e. Credit for completion of a relevant, court-approved program (e.g., education, job skills, mental health or drug treatment); or
- f. Waiver or suspension of the amount due.

*Case law establishes that the U.S. Constitution affords indigent persons a right to court-appointed counsel in most post-conviction proceedings in which the individual faces actual incarceration for nonpayment of a legal financial obligation, or a suspended sentence of incarceration that would be carried out in the event of future nonpayment, even if the original sanction was only for fines and fees. *See Best Practices for Determining the Right to Counsel in Legal Financial Obligation Cases.*

⁵ See, for example, *State v. Jackson*, 610 S.W.2d 420 (Mo. App. 1980).

⁶ *Bearden*, 461 U.S. at 672, *Fleming*, 515 S.W.3d at 232.

⁷ Section 479.360.1 (8)(9) RSMo; Rule 37.04, Appendix "A," Minimum Operating Standard #2, #4; section 558.006 RSMo (formerly section 560.031 RSMo).

Chapter 6

Presiding Judge (PJ) Protocols

PROTOCOLS FOR PRESIDING CIRCUIT COURT JUDGES IN SUPERVISING MUNICIPAL DIVISION JUDGES

(a) To assist in the supervision of each circuit's municipal divisions, the presiding circuit judges are encouraged to invite each municipal division judge to attend at least one of the circuit's court en banc meetings each year.

(b) In fulfilling their obligation to supervise municipal divisions within their circuit, the presiding circuit judge shall:

(1) Adopt a circuit court rule governing the operation of its municipal divisions and reporting obligations from the municipal divisions to the presiding circuit judge;

(2) Provide education, support, and direction to the municipal divisions;

(3) Verify annually each municipal division's substantial compliance with applicable circuit rules and minimum operating standards; and

(4) Submit to the clerk of the Supreme Court of Missouri by February 1 and August 1 of each year each judge's executed minimum operating standards form referenced in Appendix A to rule 37.04 and to provide a list of any judges or divisions that did not return the form for the most recent reporting period.

(c) The presiding circuit judge has the authority to take prompt and appropriate action in regard to the municipal division itself, to the municipal judge, or both, as appropriate, if the annual review or other information brought to the attention of the presiding circuit judge indicates that the municipal division or judge is having difficulty substantially complying with the law and minimum operating standards. If the presiding circuit judge is unable to obtain substantial

compliance voluntarily or believes that the noted deficiencies are serious or continuing, he or she shall immediately give written notice to the clerk of the Supreme Court of Missouri of the identified noncompliance/deficiencies.

(d) The presiding judge, with the assistance of the clerk of the Supreme Court, shall prepare a plan for remediation of the identified concerns and, until the plan for remediation is fully implemented, shall keep the clerk apprised in writing, at least once every 60 days, of the municipal division's success in coming into substantial compliance with the plan.

(e) If the circumstances appear to the presiding judge or the clerk or judges of the Supreme Court to require more immediate and decisive action in the interests of justice, any or all of them may take appropriate action with regard to the noncompliant municipal division. By way of example, this could include directives for necessary changes in operations with appropriate deadlines for compliance; consultation with the governing authorities of the municipality; reassignment of all cases pending in the division to another judge or to multiple judges as may be necessary to handle the case load; suspension of the division's operations until sufficient remediation of the identified noncompliance/deficiencies has been accomplished; reporting the municipal judge to the appointing authority for that judge or to the Commission on Retirement, Removal and Discipline; or other appropriate action within the constitutional authority of the presiding circuit judge or the Supreme Court of Missouri.

Chapter 7

Court Operating Order #4

NOTE: This Order is intended as a template for courts to use in implementing a local municipal division operating rule and local court rules. It contains informational notes within the body of the order which should be deleted before signing the final order. Other sections may contain several options where those that do not apply should be deleted, and/or blanks which must be filled in before signing the final Order.

**IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
_____ JUDICIAL CIRCUIT**

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL DIVISION OPERATING ORDER #4
Including Eight Local Court Rule provisions

Superseding Court Operating Orders #1, #2 and #3

Effective Date – _____, 2017

Background and Purpose of Division Operating Order #4
and Eight Applicable Local Court Rules

A. This Division Operating Order #4 compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Missouri Courts: Municipal Divisions (“**MOS**”). This Order shall supersede Court Operating Orders #1, #2 and #3, which are hereby rescinded. The term “Municipal Division” shall be referred to herein as “Division.”

B. This Order is intended to include in one consolidated Division Order, such relevant statutes, rules and standards, to provide for and achieve procedural fairness, order and convenience for those who appear before this Division. This Order is intended to apply, as is appropriate to do so to abide by the law imposed on the Court, to all Court personnel, officers of the Court, attorneys, and litigants, including without limitation the Judge, Court Administrator, Clerk of Court, Prosecuting Attorney, Prosecuting Attorney’s Clerk, Bailiff, and security personnel.

C. This Order is not intended to supersede, supplant, or alter any Missouri Supreme Court Rule, including the MOS, or any local circuit court rule adopted which governs the operations of a municipal division and reporting obligation, as provided in the “Protocols for Presiding Circuit Court Judges Supervising Municipal Court Judges” adopted by the Supreme Court in November, 2016. All the provisions of this Order shall be subordinate to Missouri Supreme Court Rules, Missouri statutes, and local circuit court rules, which may differ than the provisions of this Order.

D. This Order also includes in Part I, Section B, several local circuit court rules, which are not technically “operating orders” or “operating rules.” The term “Court Administrator” as used in Part I, Section B, and elsewhere, also applies to those Divisions which utilize the term “Court Clerk.” The Term “Division Clerk” shall also be considered synonymous, when that term is used in place of “Court Administrator” or “Court Clerk.” The same is true for “Deputy Court Administrators,” “Deputy Division Clerks, or “Deputy Court Clerks,” which are the same position.

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. General Administrative Procedures.

1. General Duties of Court Administrator. Court Administrator shall ensure that the Court regularly communicates with the Circuit Clerk and the Presiding Judge on all relevant matters, including the Division’s existence. The Court Administrator shall comply with the standards set forth in “Open Records and other Recordkeeping Matters” contained in the MOS, following MOS #10. Such standards shall include maintenance of complete and accurate records of all Division proceedings, including warrants outstanding, bonds posted, case files and dispositions. All documentation “backer sheets” shall be signed by the Judge. The Court Administrator shall ensure that Division’s computer data is backed-up, stored in secure offsite locations, and that passwords are kept confidential and periodically changed. Courts using the statewide case management system shall follow any published security guidelines.
2. Case Numbering and Case Indexing. Case index records shall be maintained on all municipal cases. Judgment index records shall be maintained on all municipal judgments. Case indexes shall be maintained for each case filed, including traffic or non-traffic violations. The index shall include the full name of the defendant, case number, date the case was filed with the court, and the case disposition. Confidential cases shall be accessible only by authorized personnel.

Cases filed by the prosecutor shall be assigned a unique number by the Division. The numbering system shall be that used by the Office of State Court Administrator (“OSCA”) or that computer software vendor approved by the State Judicial Records Committee. All forms used by the Division shall be numbered sequentially and accounted for, including tickets, summons, complaints, receipt slips, bond forms, and payment agreements. (*Source: §§483.065, 483.075, and 483.082 RSMo; Supreme Court Operating Rule (“COR”) 4.04.; payment agreement source State Auditor recommendation, Municipal Clerk Manual (“Clerk Manual”) Section 1.1c.*)

3. Violation Bureau Schedule – Posting and Availability to Accused. The Judge shall, from time to time, appoint a Court Administrator to be the Violation Bureau Clerk. This shall be by a separate order. The Violation Bureau Schedule shall list and process only those violations authorized by Supreme Court Rule 37.49(c). It shall

be prominently displayed at the place where fines are to be paid. The Court Administrator shall periodically communicate with the police department to ensure, where applicable, the schedule of fines and costs payable through the Violation Bureau is provided to an accused at the same time as a violation notice. (*Source: Supreme Court Rules (“SCR”) 37.49 and 37.33(b).*)

4. Budget. The Court Administrator shall communicate regularly with the Judge and the City Finance Department (“*City*”) regarding any budget issues involving the Division. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. The Court Administrator shall work with the City to identify associated fines and costs revenues for the purpose of the revenue calculations required by law. (*Source: Mo. Constitution, Article II; §479.359 RSMo; COR 13.*)
5. Advising Litigants of Their Rights in Court. The Court Administrator shall take necessary steps to ensure that defendants are given advice of rights pursuant to the SCR and MOS #9, including a “Notice of Rights in Municipal Division” form as approved by the Supreme Court. (*Source: SCR 37.47, 37.48, 37.50, and 37.58; MOS #9.*)
6. Compliance with Certifications and Reports to Auditors – Highway Patrol. The Court Administrator shall communicate with Missouri State Highway Patrol (“*MSHP*”), OSCA, and the Regional Justice Information System (“*REJIS*”) to be compliant with their policies and management agreements regarding information, including terminal operations. The Court Administrator shall communicate with the Judge and with the City to facilitate compliance with requirements of other agencies with respect to the information systems provided to the Division.

B. Applicable Local Circuit Court Rules.

NOTE: The following eight provisions are not “operating orders,” but in the nature of local court rules, are included here for convenience.

1. Court Administrator. The Court Administrator (or, as known in some Divisions, the “Court Clerk” or “Division Clerk”), shall be the chief administrator of the Division. The Court Administrator and all Deputy Clerks, shall be responsible for the orders contained in Parts I, II and III, except when such orders are applicable only to the Judge, to the Prosecuting Attorney, to the Prosecuting Attorney’s Clerk, or to other personnel other than the Court Administrator. The Court Administrator shall, when applicable, cooperate with the City to assist the Court Administrator to effectuate applicable provisions of this Order. To the extent not prohibited by the MOS, or other relevant law or rule, the Court Administrator shall cooperate with the Prosecuting Attorney’s Clerk, the police department, and the City.
2. Minor Traffic Violations – Special Rule. The Court Administrator shall clearly mark the jacket or outside of case files which fall under the current definition of

“Minor Traffic Violations” so that the Division may readily recognize such cases when handling the file. The Court Administrator shall communicate with the Division, and with the Prosecuting Attorney’s Clerk and Prosecuting Attorney, so that all court personnel are aware of the limitations with respect to fines, costs, and other conditions imposed upon the Division by legislation. (*Source: §§479.353 and 479.360 RSMo.*)

3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. (*Source: §§479.350(4) and 479.353(1)(b) RSMo.*)
4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney’s Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator’s Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator’s office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in Section 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (“*SATOP*”), or the defendant found not guilty) that contain confidential information. The Court Administrator, on behalf of the Judge, shall request the city provide adequate and secure file cabinets for the retention of confidential records and closed files. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. (*Source: §§566.226, 610.105 and 610.120 RSMo; Section 5.1 of Clerk Manual.*)

- b. Confidentiality of SATOP Programs. If the Division orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential. (*Source: 42 CFR Part 2, 42 U.S.C. 290 dd-3.*)
- 7. Record Retention and Destruction. The Court Administrator shall retain all Division records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow COR 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with COR 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. (*Source: COR 8; Section 5.2 of Clerk Manual.*)
- 8. Conflicts. In order to comply with the requirements of MOS #5, the Judge, in cooperation with the Court Administrator shall, as far as practicable, manage a conflict plan enacted by the Judge, in order to ensure there are no judicial conflicts as prohibited by SCR. The Judge shall recuse himself/herself in all instances when required to do so. Further, the Division, Court Administrator, and other non-judicial personnel shall not perform any functions which constitute an actual or apparent conflict of interest with the impartial performance of their duties. (*Source: SCR 37.53(b)(2); MOS #5 and #7.*)

C. **Reporting Requirements of the Municipal Division.**

- 1. Reporting to the City. Unless substituted with the report required under COR 4.28, within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk copies of the dockets of all cases heard during the preceding month by the Division and those cases in which there was an application for a trial de novo. If a record is closed under Chapter 610, RSMo., the Court Administrator shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. The Court Administrator may, pursuant to the authority in COR 4.29, substitute submission of the dockets to the City Clerk with the report required to be sent to OSCA under COR 4.28. (*Source: §§479.080.1 and 479.080.3 RSMo, COR 4.28 and 4.29; Section 1.4 of Clerk Manual.*)
- 2. Reporting to the Department of Revenue.
 - (a) Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while

driving a commercial motor vehicle, including commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("**DOR**"). The Court Administrator shall abide by the "Case Processing Procedures" found in Chapter 3 of the then current Clerk Manual published by OSCA. The Court Administrator shall ensure that the disposition is received by the DOR within seven (7) days of the disposition. If defendant requests a *trial de novo* within the ten (10) day period after judgment against defendant, then the DOR shall not receive the disposition. (Source: §§302.225.1 and 577.051 RSMo; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into the automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information to electronically provide to the DOR. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem logs.

[2. Divisions Using an Automated Case Management System Approved for Local Use and Approved for Electronic Reporting to the Department of Revenue]

The Court Administrator shall insure the accuracy of data entered into the automated case management system and ensure required reporting information is transmitted electronically in a format approved by the DOR.

[3. Divisions Not Using an Automated Case Management System or Using an Automated System Not Approved for Electronic Submission to Department of Revenue]

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a completed "Record of Conviction" form referenced in SCR form 37.B – *Record of Conviction*. (Source: SCR 37.B.)

- (b) Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund ("**CVC**") surcharge to be assessed on all non-moving and moving traffic violations and all other non-traffic municipal ordinance violations, unless the case has been dismissed, or costs have been waived due to the Division finding the defendant indigent. The Court Administrator shall forthwith cause the CVC charge to be reported to the DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and 5% (\$.37 of each fee) to the general fund of the City in accordance with IV.C, *infra*. (Source: §§488.5339 and 595.045.6 RSMo.)

The Court Administrator shall be familiar with and abide by those provisions set forth in Sections 4.2 and 4.3 of the then current Clerk Manual.

- (c) Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant's driving privileges under the Abuse and Lose law, the Court Administrator shall, within ten (10) days of the order, send any Missouri license surrendered to the Division, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Section 3.8 of the then current Clerk Manual. (Source: §§577.500 through 577.505 RSMo.)
- (d) Failure to Appear or Pay – License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant's failure to dispose of a moving traffic violation, that the Division will order the DOR to suspend that defendant's license in thirty (30) days, if the charges are not disposed of or fully paid. This provision shall not apply to Minor Traffic Violations as defined in Section 479.353 RSMo (2015). For such violations for which a notice may be sent to defendants, such notification shall not be sent until a summons has been mailed to the defendant and defendant thereafter shall fail to appear. On non-Minor Traffic Violation cases that apply, the Court Administrator shall send the Failure to Appear or Pay Traffic Violation (F.A.C.T.) form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant, without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. (Source: §§302.341 and 427.353 RSMo; Section 3.5 of Clerk Manual.)

- (e) Withholding Renewal of License. In the event a defendant shall fail to appear when ordered, and without being first granted a continuance, and appropriate summons to follow the failure to appear, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the "Lieu of Bail" form provided by the DOR, except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, *supra*. When the case is disposed of, the Court Administrator shall report the disposition as on any

other traffic case. (Source: §544.045.4 RSMo; Section 3.5 of Clerk Manual.)

- (f) Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to the DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact (NVRC) Form provided by the DOR, to the Compact Administrator at the DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. (Source: §544.046 RSMo; Sections 3.5 and 3.6 of Clerk Manual.)
- (g) Driver Improvement Programs. In the event that the Judge has ordered a non-CDL holder defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the moving traffic violation has been amended to a non-moving violation by the Prosecuting Attorney. (Source: §302.302 RSMo; Section 3.7 of Clerk Manual.)
- (h) Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device (“IID”), the Court Administrator shall forthwith send the Order to install the IID to the DOR properly executed, containing the requirements for the period of the use of the IID. (Source: §§577.600 through 577.614 RSMo; Section 3.2 of Clerk Manual.)

3. Reporting to OSCA.

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information as provided by COR 4.28. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system and filing and disposition exception reports. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use]

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of COR Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[3. Divisions Not Using an Automated Case Management System]

The Court Administrator shall complete and deliver the "Municipal Division Summary Reporting" form to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. This data shall be delivered by e-mail or fax to OSCA on the then current form provided by OSCA. The Court Administrator shall complete the form in accordance with the instructions submitted from time-to-time by OSCA, and as contained in the then current Clerk Manual. A copy of the OSCA form shall be submitted to the Judge each month. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

4. Reporting to the MSHP (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the MSHP any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations deemed to be "comparable ordinance violations" as defined by Section 43.503 RSMo and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Division that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the MSHP a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Sections 1.4 and 3.3 of the then current Clerk Manual. (Source: §§479.172, 43.503 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

Dispositions that must be reported to the MSHP are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence

- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information and forward it to the MSHP. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem log reports. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the MSHP the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to Section 43.506 RSMo. (Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.)

The Court Administrator shall provide any information received by the Division Administrator to the Judge, so that the Judge shall comply with the statutory requirement to receive "adequate instruction on the laws related to intoxication-related traffic offenses." (Source: §479.172.1 RSMo.)

5. Reporting Intoxication-Related Traffic Offenses to Circuit Court en Banc

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in that Division. The Division shall submit said report to the Circuit Court en Banc. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court en Banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day

period to submit the report following the end of the reporting period as there is for the report to the Circuit Court en Banc. (Source: §479.172.3 RSMo; MOS; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide]
Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall run the Report.net reports described in Chapter 1 of the then current Clerk Manual and complete the “Municipal Division Summary Reporting Form.” The Court Administrator shall send the “Municipal Division Summary Reporting Form” along with a cover letter to the Presiding Circuit Judge to meet the semi-annual reporting requirement to the Circuit Court en Banc.

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the “Municipal Division Summary Reporting Form” that is submitted monthly to OSCA to meet the semi-annual reporting requirement to the Circuit Court en Banc. The Court Administrator shall make copies of each month’s report for the required reporting period and send along with a cover letter to the Presiding Circuit Judge.

6. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Order to the MSHP and OSCA at the addresses shown below. If any revisions are made to this Order, the Court Administrator shall provide a revised copy to the MSHP and OSCA. (Source: §479.172 RSMo; Section 1.4 of Clerk Manual.)

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator
Attention: Court Services Division, DWI Reporting Policy
P.O. Box 104480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-5961

Missouri State Highway Patrol
Criminal Justice Information Services Division
P.O. Box 9500

Jefferson City, Missouri 65102
Email: mshpcjis@mshp.dps.mo.gov

7. Reporting to the Presiding Circuit Judge. The Court Administrator shall meet with the Judge to review the “Minimum Operating Standards Form” to be submitted semi-annually to the Presiding Circuit Judge, to ensure compliance with the items to be certified in such Form. (*Source: MOS #10.*)
8. Reporting to State Auditor. The Court Administrator shall meet and confer with the Judge to ensure that the City shall timely file with the State Auditor, together with the City’s report due under Section 105.145 RSMo, the City’s certification of its substantial compliance signed by the Judge with the Division procedures set forth in Section 79.360.1(1)(10) RSMo. The Court Administrator and the Judge shall meet periodically to review the provisions of Section 479.360(1) in order to ensure compliance with the State Auditor requirements.
9. Reporting to Judge. The Court Administrator shall assemble the reports submitted to DOR, the MSHP, OSCA, the Presiding Circuit Judge, and the State Auditor, and maintain same in a file for periodic review by the Judge, so that the Judge is aware that all reporting requirements have been complied with for the previous period.
10. Reporting to the Department of Insurance. The Court Administrator shall report all unsatisfied judgments against bail bond agents and sureties, and subsequent satisfactions of those judgments, to the Department of Insurance. The Court Administrator shall utilize those procedures set forth in the Clerk Manual. (*Source: § 374.763 RSMo; Section 2.3 of Clerk Manual.*)

D. **Fines, Division Costs, Surcharges and Fidelity Bonds.**

1. General Rules.
 - (a) The Court Administrator shall utilize his/her best efforts so that on each case adjudicated by the Judge, the Judge’s appropriate fines are assessed and general Division costs are assessed only in the amounts set forth by statute or ordinance. These shall include CVC surcharges, police officer standard and training commission (“**POST**”) surcharges, law enforcement training fine (“**LETF**”) surcharges, recoupment, and other legal surcharges as set forth by law and city ordinance. Those fines and costs that shall be collected shall be remitted timely to the City, and to the DOR respectively, in accordance with this Order. (*Source: MOS #4.*)
 - (b) The Court Administrator shall use the OSCA Cost Card on municipal division costs as a reference. Dismissal upon payment of costs shall not be permitted. Division costs shall not be assessed against indigent defendants, as per law. (*Source: §479.353(4)(5) RSMo; MOS #4.*)

- (c) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. (*Source: §479.360.1 RSMo; MOS #2 and #4.*)
 - (d) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall have other forms as available from OSCA to comply with requirements by law. (*Source: §479.360.1 RSMo; Rule 37.65; MOS #2.*)
- 2. Overpayment. The Court Administrator is not required to refund any overpayment of court costs of less than \$5.00. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00. Any overpaid court costs may be retained by the City for operation of the Division. The Court Administrator shall pay such overpaid funds to the City on a regular basis.

(*Source: Court Cost: City Ordinance; CVC: §§488.5339. and 595.045 RSMo; POST: §488.5336 RSMo; LETF: §488.5336 RSMo.; Overpayments/Underpayments: §488.014 RSMo.*)
- 3. Receipts for Payment of Fines, Division Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual receipts shall be issued and the payment shall be accounted for immediately following the restoration of the automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. (*Source: COR 4.53 and Section 4.5 of Clerk Manual.*)
- 4. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. (*Source: MOS #6.*)
- 5. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk

Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. (*Source: §479.359, RSMo.*)

- (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other city personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. (*Source: COR 21; Section 4.5 of Clerk Manual; MOS "Open Records and Other Recordkeeping Matters" and "Financial and Bookkeeping" provisions.*)

- 6. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. (*Source: Section 4.5 of Clerk Manual; MOS "Financial and Bookkeeping" provisions.*)

E. **Surety Bonds and Confinement.**

- 1. Bond Qualifications. The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. (*Source: SCR 37.29 and §374.710 RSMo.*)

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

- 2. Cash Bond Schedule. Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:
 - (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
 - (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the "24 hour Rule," as

described in Section 544.170.1 RSMo, relating to the right to review of conditions for release when no “conditions for release” have been imposed.

- (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

(Source: §§479.360.1, 479.360.2, 544.170.1 RSMo; SCR 37.1, 37.20 and 37.65; MOS #1.)

- 3. Unclaimed Bond Funds and other Funds. The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer’s Office Unclaimed Property Division, all funds unclaimed for three (3) years and cash bonds unclaimed for one (1) year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact the person and return the funds. Said report shall be sent to the State Treasurer’s Office by November 1st of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. *(Source: §§447.532, 447.539. and 447.595 RSMo; Section 4.4 of Clerk Manual.)*

F. Warrants.

- 1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. *(Source: SCR 37.45.)*
- 2. The Court Administrator shall work with the Judge to create procedures to ensure that the recall and cancellation of all outstanding warrants is communicated to the police department by the Court Administrator without delay. The Court Administrator shall coordinate with the police department and the Judge to make sure there is a duty judge available at all times to rule promptly upon warrants, bails, conditions, and pretrial release, and other matters. *(Source: Chapter 2 of Clerk Manual; MOS #1.)*

- G. **Administrative Search Warrants.** The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the Judge in the records of this Division. (*Source: Chapter 542 RSMo; Section 2.11 of Clerk Manual.*)

[NOTE: Section G is only applicable for Divisions that have city ordinances allowing the issuance of administrative search warrants.]

- H. **Accounting Procedures.** The Court Administrator shall to the fullest extent possible, abide by those accounting procedures as are mandated by law, and in particular as are set forth in Chapter 4 of the then current edition of the Clerk Manual. (*Source: §§479.080, 479.350, 479.353, 479.359, 483.075, and 483.082 RSMo; Chapter 610 RSMo; SCR 37; MOS “Financial and Bookkeeping” provisions; COR 4, 8 and 21.*)

In particular, the Court Administrator shall work with the Judge and the City, to ensure that the “Financing and Bookkeeping” provisions of MOS are abided by as far as can be practicably accomplished.

- I. **Marriage Records.** If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Court Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least ____ days [NOTE: *Number of days should be entered by local court based on local need*] before a scheduled wedding to ensure adequate review of such license.

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (*Source: §§451.110 through 451.130 RSMo, COR 14*)

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

- A. **General Rule.**

1. **Division Shall be Open to the Public.** The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (*Source: §479.360.1 RSMo; MOS #8.*)
2. **Opening of Division Doors.** Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division’s docket, unless a different order of the Division shall specify otherwise.

3. No Refusal of Entry. Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division 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. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

B. **Exceptions and Limitations to the Above General Rules Regarding Open Division.**

The Division recognizes and shall abide by the provisions of Sections 476.170, 479.060, 479.360 and 479.060 RSMo and MOS #8, requiring that the courtroom be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The following are limited exceptions to this General Rule, as set forth in Paragraphs 1 through 5 below:

1. Disruptive Persons. If any person attending a Division session shall become disruptive in any manner, including, but not limited to, talking in anything other than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Division personnel, that person shall be first cautioned by Division personnel, and if the offensive conduct is not immediately corrected, removed from the courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.
2. Persons under the Clear Influence of Alcohol or Drugs. If any person attending a court session shall appear to Division personnel to be clearly under the influence of alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the courtroom.
3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.
4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division 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 _____.

When it appears to the Division during any single Division session, that there will be more persons attempting to enter the courtroom than are permitted under the Fire Code, then the Division shall take such appropriate action as would be consistent with all legal and constitutional requirements.

5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:
 - (a) When a child becomes noisy or will not remain seated, the parents or guardians 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 Division.
 - (b) The Division may exclude children if the nature of a matter being heard may be, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 RSMo; MOS #8.)

- C. Closing of the Courtroom. Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defense counsel desires to close the courtroom during any particular motion or trial, the Division will conduct a brief hearing on whether to enter an order to close the proceedings. Guidelines for such closure shall be as follows:

1. 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 the accused's right to a fair trial, the proponent must show a "serious and imminent threat" to that right.
2. Anyone present in the courtroom when the closure motion is made, must be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the threatened person's interest.
4. This Division will weigh the compelling interest of the proponent of closure and the public.

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

See: State v. Bone-Club, 128 Wn.2d 254, 906 P.2d 325 (Wash. 1995) and *State v. Salazar*, 414 S.W.3d 606 (Mo. App. 2013)

- D. **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, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

- A. **Fax and Electronic Memoranda.**

1. This Division shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.
2. Requests for warrant recall may be submitted by fax.

- B. **Access to Division Files.** Members of the public, news media and attorneys of record shall have access to open Division records. There shall be an exception that requests to review files not on the docket must be made prior to the start of Division docket proceedings. The Court Administrator shall not be required to pull files not on the docket during Division sessions unless there is sufficient time to do so. (*Source: Chapter 610 RSMo; COR 2 and 4; MOS #8.*)

- C. **Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to interpret any proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (*Source: §§476.750-476.766 RSMo.*)

SO ORDERED:

DATE _____

Judge, City of _____

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Chapter 8

Recommended Practices under Local Court Rule 69

ST LOUIS COUNTY, MISSOURI

RECOMMENDED PRACTICES

Under

Local Court Rule 69.01- Operations of Municipal Divisions

INTRODUCTION

The St. Louis County Committee on Municipal Divisions has developed the below suggestions for complying with the new Local Court Rule 69.01 and with complying with Supreme Court Rule 37 as the same effects the operation of Municipal Divisions as well as their interactions with their respective municipalities and police departments. The Committee has attempted to assist all personnel, whether court, prosecutor, administrative, municipal or police, by keeping these recommendations in the same order as the Rule itself. It should also be observed that Rule 69.01 was adopted in such a fashion so as to keep the same order as the Minimum Operating Standards as declared by the Missouri Supreme Court.

PART I. COURTROOM, CLERK'S OFFICE, RECORDS, SEPARATION OF POWERS

A. Courtroom – Physical Requirements.

1. All courtrooms shall be suitable and meet due process requirements for all court attendees. Section 479.060.1.

Recommended Practice:

A reasonable survey needs to be undertaken to ascertain the following:

1. All American with Disabilities Act requirements are met.
2. The square footage of your courtroom.
3. The maximum capacity consistent with fire regulations.
4. The maximum capacity consistent with:
 - a. Court space requirements – bench, prosecutor, bailiff, other staff, etc.
 - b. Comfortable accommodation of attendees – seated or standing.
 - c. Other
5. Review historical data regarding docket sizes and attendees.
6. If there is consistently insufficient space to accommodate attendees, then other considerations may be necessary:
 - a. Consider other space available for the court.
 - b. Additional dockets or court dates to reduce average docket size.
 - c. Staggered dockets
 - d. Provisional judge.
 - e. Other

2. All courtrooms shall be open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys, unless the court orders otherwise in a particular circumstance for good cause shown.

Recommended Practice:

The court should have in place its own rule clearly setting out that the court is open and under what specific exceptions would apply to non-application of the rule. See Local Court Rule 69 and Court Operating Order #4.

3. The court facility's exterior and interior signage, design, functionality and other factors shall convey an appearance to the public that it is a separate and independent branch of government.

Recommended Practice:

1. If there is direct signage on the courtroom which could cause confusion with the public as the fact that the building or portion of building where court proceedings are held are anything but a courtroom, immediate action should be taken by the judge to interact with the city to make such building or signage corrections so as to eliminate any such misperception.
2. Bailiff, whether a police officer or not, should not be in uniform but dressed in such a manner to avoid a public perception that the bailiff is part of the police, i.e. coat and tie.
3. Bailiff should not interact with the prosecutor in any way that would convey to the public that the officer is working for or with the prosecuting attorney.
4. Uniformed officer or officers may be present for court security.

4. The violation bureau schedule of fines and costs shall be prominently posted at the place where fines are to be paid. Rule 37.49(d).

Recommended Practice:

A framed chart or sign should be posted immediately outside of the area where court fines and costs may be paid, setting out clearly the violation bureau schedule as adopted by the division. This signage must be reviewed periodically to reflect any changes which may have been adopted by the court. Recommended Practice to "tickle" this review for at least every 6 months and notify the judge of compliance.

5. The courtroom facility shall be sufficient for the purpose of a courtroom. The facility chosen for court shall take into consideration the safety and comfort of the public, parties, and lawyers. The facility chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.

Recommended Practice:

The courtroom should look, in all regards, like a courtroom and be held in a facility that is consistent with courtroom decorum. This should include the following:

- a. A judge's elevated bench
- b. Separate tables for prosecutor and defense lawyer.
- c. Payments and payment arrangements outside of courtroom.
- d. Prosecutor separate from the judge.
- e. Bailiff may be close enough in proximity to provide security but should not be on the bench with the judge.

6. Members of the public and the news media have access to open municipal division records in accordance with Court Operating Rules (COR) 2 and 4 and other relevant law.

Recommended Practice:

The Judge and Court Administrator/Clerk should adopt a written procedure, and instruct court personnel on the rule and procedure, to respond to requests for court records. The Judge's rule and procedure should be compliant with Supreme Court Operating Rules 2 and 4. With respect to administrative records, the rule should incorporate those exceptions to open records set forth in Chapter 610, including cases that have been nolle prossed, dismissed, the defendant found not guilty, or a sentence suspended on the record and the probation terminated, personnel records, and requests made under the Sunshine Law.

B. Clerk's Office – General.

1. The court division shall have a functional clerk's office that organizes and preserves the judicial records of the court in a prudent and organized manner and in compliance with applicable laws and Supreme Court rules.

Recommended Practice: See Court Operating Rule 4. Access restricted to court personnel and computer access restricted under Sup R. 37.04

2. The division shall have a municipal clerk available at least 30 hours per week during regular business hours and court sessions to whom the person can pay fines and from whom the person can obtain information about charges, payments and court operations. The clerk should be available in person during these hours in an office open and accessible to the public and may perform other functions for the municipality that do not constitute an actual or apparent conflict with the impartial performance of judicial duties. In the event the court does not have sufficient staff to have a clerk available for all of the 30 hours in person, the clerk may instead be made available for up to 15 of the 30 hours to provide information about charges, payments and court operations through live communication by telephone, email, or other means of electronic communication.

Recommended Practice: In cooperation with the municipality, sufficient and knowledgeable court personnel should be calendared so as to fulfill the obligations created under the operating standards.

As stated herein, other city personnel can be utilized for court operating procedures as long as those other employees have nothing to do with the prosecutor's office, law enforcement, or having any authority over previously stated entities.

C. Open Records, Recordkeeping. Each municipal division shall:

1. Maintain complete and accurate records of court proceedings, including warrants outstanding, bonds posted, case files and dispositions.
2. Ensure proper disposition of all cases is documented on the court dockets or backer sheets and that all court dockets or backer sheets are signed by the municipal judge, if required by law.
3. Ensure that information signed by the prosecuting attorney is filed for each ordinance violation to be prosecuted. In addition, the court shall ensure that the prosecuting attorney signs all tickets and reviews and approves all amended and dismissed tickets. Rule 37.49(d).
4. Document proper disposition of cases in manual and electronic records and ensure that sufficient documentation is maintained to support all case actions.
5. Maintain procedures to generate monthly reports of court activity. The court shall submit these reports timely to OSCA and to the city in accordance with state law, COR 4.28 and 4.29, and section 479.080.3, RSMo.
6. Maintain regular computer data backup procedures and ensure such data is stored in a secure off-site location and also test its recovery on a regular, predefined basis.
7. Ensure unique user identifications and passwords are required for each employee. Ensure passwords are confidential and periodically changed. Ensure user access is periodically reviewed and unnecessary access, including that of terminated users, is timely removed. Review user access to data and other information resources to ensure access rights are commensurate with current user job responsibilities.
8. Segregate accounting duties to the extent possible. If not possible to segregate duties, the court shall ensure that documented periodic independent or supervisory reviews of court records are performed.
9. Maintain accurate records to account for all payments received and deposited, that receipts are posted accurately and timely, and that the method for payment is indicated on all receipts. All checks and money orders are endorsed immediately upon receipt. If manual receipts are in use, the court shall ensure that manual receipt slips are timely entered in the computerized system and the numerical sequence of manual receipt slips is accounted for properly. The court shall ensure that voided transactions are properly documented and approved.

10. Perform reconciliation of the composition of receipts to the composition of deposits, and deposit all monies intact and timely.
11. Perform monthly bank reconciliations, resolve reconciling items, and make appropriate, documented adjustments to accounting records timely.
12. Prepare monthly lists of liabilities and reconcile the lists to the bank account and/or city fund balance, and promptly investigate and resolve differences. The court shall establish procedures to review the status of liabilities to determine the appropriate disposition of funds held.
13. Develop procedures to ensure the monthly distributions are properly calculated and disbursed timely.
14. Establish procedures to routinely generate and review the accrued costs list for accuracy and properly follow up on all amounts due.
15. Obtain signed payment plans from all defendants granted such plans. Ensure that payment plans are incorporated in the case management system in accordance with court operating rules where applicable.
16. Notify the circuit clerk of its court's existence. Section 479.030.1.
17. Provide sufficient nonjudicial personnel to ensure proper functioning of the court. Section 479.060.1.
18. Ensure all fines and costs collected shall be paid into the municipality's treasury at least monthly. Section 479.080.1.
19. Provide a monthly list of cases with required detail within 10 days of the end of each month to the municipality. Section 479.080.1.
20. Adopt a written policy for reporting intoxication-related traffic offenses to the central repository and provided same to OSCA and the highway patrol. Section 479.172.1 and 479.172.2. Court Operating Rule #1 shall suffice for this purpose.
21. Provide a semiannual disposition report of intoxication-related traffic offenses to the circuit court *en banc*. Section 479.172.3.
22. Maintain adequate documentation to support all adjustment transactions and ensure an independent review and approval of these transactions is performed and documented.

23. Maintain a change fund at an established amount and periodically counts and reconciles the monies on hand to the authorized balance.

24. Maintain bond coverage for all personnel with access to municipal division monies.

25. Ensure all bond receipts are recorded and deposited timely and intact.

26. Develop procedures and maintain records to identify applicable violations and the associated fines and court cost revenues for purposes of the revenue calculations required by Section 479.359 RSMo et seq., and provide this information to the city.

Recommended Practice: Due to the responsibilities with regard to court records, the judge, as the person ultimately responsible for proper compliance, must interact with court personnel and municipal officials to ensure that there is thorough and competent training on the requirements and, as significant, a procedure in place to ensure that the record keeping responsibilities are being met pursuant to Rule, Statute, and best practice.

D. Separation of Powers. Each court shall comply with the following requirements:

1. Administrators and clerks of court and other nonjudicial personnel, when performing court-related functions, shall work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

Recommended Practice: The judge should engage in a discussion with city officials regarding the personnel assigned to court and prosecutorial duties. All steps should be taken to ensure that there is no conflict, actual or apparent, in the performance of their respective duties.

2. Clerks of court and other nonjudicial personnel shall not perform any functions that could constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties.

Recommended Practice:

- A. Begin by defining the tasks performed by the clerks associated with any court work.
- B. Identify which are court functions and which are prosecutorial.
- C. If you have not done so, designate a clerk or clerks for prosecutorial functions. These clerks, although city employees, are answerable to the prosecutor and are not considered “court” personnel.
- D. Immediately ensure that court functions are properly designated to the proper clerk.
- E. Remember that, although the prosecutor is part of the executive branch, the judge has the continuing obligation to make sure that court functions are being properly performed.

F. Develop the proper protocols for defense counsel interaction with the court and the prosecutor. Post the proper protocols on the division's website and outside the court room and have copies available for distribution.

3. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

Recommended Practice: A written policy should be created, and promulgated to both court and city personnel, stating that improper contact with court personnel regarding pending court matters is prohibited and that any such contact must be reported to the judge immediately.

4. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the court to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

Recommended Practice: Municipal judges have the obligation under statute to create the court's budget and need to discuss that budget with the city. However, the judge should not engage in any discussion with the city with regard to the city's general financial obligations. However, as the limitations under the "Mack's Creek" law, SB5 and SB572 must be adhered to, the judge must be comply with the court's income reporting requirements. Prosecutor and Prosecutor Clerk salaries and expenses should not be included in the court's budget.

PART II. GENERAL COURTROOM PROCEDURES

A. Rights of Defendants. Each court shall comply with the following requirements:

1. Establish standardized procedures to assure that defendants are given advice of rights pursuant to Rules 37.47, 37.48, 37.50, and 37.58.

Recommended Practice: At the commencement of each court session the Judge should be making an opening statement that should include these defendant's rights and court procedure.

2. Provide a "Notice of Rights," in a form approved by or substantially similar to that approved by the Supreme Court, to all defendants. This notice of rights shall be displayed prominently wherever the clerk of the court transacts business with the public and in the facility where court proceedings

are held. This notice of rights shall be made available as a handout for those appearing before the court and is displayed on each public information website operated by the court or on behalf of the court.

Notice of Rights in the Municipal Division Notice must be available as a handout to defendants appearing before the municipal division, displayed on the wall next to the clerk's window, in the courtroom (large poster size display in large font or an electronic sign) and on the municipal court's website.

Recommended Practice: A handout must be prepared and made available to each defendant in attendance in the court. See Rule 37.04, Appendix C.

3. The judge's statement should be spoken into a microphone that can be heard in the courtroom as well as in the hall. The court's announcement should be available when persons enter the courtroom and have not had the opportunity to hear the judge's statement. This can be accomplished by having the announcement run continuously on an electronic sign in the courtroom and in the hall.

4. Ensure announcements by the judge intended for the benefit of all present are made in such a manner to that they can be heard throughout the courtroom or are communicated adequately in other ways. Such announcements shall also be communicated to those waiting outside the courtroom or otherwise made available to them when they come into the courtroom.

Recommended Practice:

The court should start on time – not early and not late. It is not necessary to repeat general notice of rights to latecomers but if there are oral notices given during the course of the court session, the judge should ensure, as is reasonably possible, that no defendant's rights suffer from their failure to be on time.

5. Utilize a written "Waiver of Counsel" substantially in the form of Form 37.C. Rule 37.58(d).

Recommended Practice: Anytime that conviction of a charge court result in confinement and the defendant wishes to proceed Pro Se a Waiver of Counsel must be signed and entered into the court record.

B. Other General Rules. Each court shall comply with the following requirements:

1. Ensure reasonable steps are taken so that, where applicable, the Violation Bureau schedule of fines and costs is provided to an accused at the same time as a violation notice. Rule 37.33(b).

Recommended Practice:

Prepare a document or mailing envelope that includes, at minimum, the fine schedule, payment method options and instructions, the division's address and contact information, the division's website, and any applicable court procedures. Provide law enforcement with copies of the prepared document or mailing envelopes to be provided to the defendant with the violation notice.

2. Ensure any violation bureau established by the court processes only those violations authorized by Rule 37.49(c).

3. Ensure no additional charges shall be issued for failure to appear for a minor traffic offense.

Recommended Practice:

1. Review all present charges to ensure that no "failure to appear" charges presently exist on charges where such a charge is prohibited. If any exist, they should be dismissed or nolle prossed.
2. Discuss with the prosecutor the restrictions on issuing any such charge except where permitted by law

PART III. ARRAIGNMENT, PLEAS, FINANCIAL CONDITION INQUIRIES, INDIGENCY, PAYMENT PLAN, ON-LINE

A. Fines, Costs, Surcharges, Indigency. Each court shall comply with the following requirements:

1. Fines and costs assessed on "minor traffic violations", as defined in Section 479.353(1)(a), shall not exceed \$225.00.

Recommended Practice:

Any city ordinance or practice contrary to these limitations must be eliminated. Request the city attorney to do a review of all city ordinances which could come into conflict with this limitation. Adjust all set city fines to be consistent with this limitation.

2. Fines and costs assessed on "municipal ordinance violations" as defined at Section 479.350(4) shall not exceed the mandatory maximum schedule of section 479.353(1)(b).

Recommended Practice:

Any city ordinance or practice to the contrary must be eliminated. Review the statute. Also, see the above recommendation for review of city ordinances.

3. Fines assessed on other ordinance violations shall not exceed the maximum amount authorized by state law and the city code.

Recommended Practice:

Clerks must be made aware of the statutory and ordinance restrictions. The judge should memorialize in writing a notice to the clerk setting out the specific amounts in the statutes as well as the city ordinances.

4. Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute shall be assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.

Recommended Practice:

In the past, small additional charges for sending letters, warrant charges, etc. have crept into usage by municipal courts. The judge and the clerk must assure that only those costs authorized by law are assessed.

5. “Dismissal on Payment of Costs” [DPC] shall **not** be permitted. Section 479.353(5), RSMo; COR 21.01(c).

Recommended Practice:

If a defendant has been found guilty or has pled guilty and the court believes that the defendant should pay a fine and costs for the city having to bring the charge to begin with, the court can assess a fine and costs, enter into an agreement that imposition of sentence is suspended for a brief period. However, the rules with regard to assessing fines or costs to people who are found indigent would apply.

6. Court costs shall **not** be assessed against indigent defendants. Section 479.353 (4)(5).

Recommended Practice:

See B (5) above and Local Court Rule 69

7. No fee shall be assessed to the defendant for the use of community service, in compliance with the requirements of Section 479.360.1, RSMo.

Recommended Practice:

- a. Develop or find a list of 501(c)(3) organizations who are willing to work with such defendants and supply that list the defendants; or,
- b. Inquire of the city as to public work available to the defendant; or,
- c. Develop both resources.
- d. Ensure that reasonable time for the defendant to complete the required hours of service.

B. Defendant’s Rights to Present Evidence of Inability to Pay. Each court shall comply with the following requirements:

1. Procedures shall be established for the judge to inquire of defendants and allow them to present evidence about their financial condition to assess their ability to pay and establishing payment requirements. The court shall ensure the indigence form provided by the Supreme Court is used in the determination of indigence.

Recommended Practice:

1. If the defendant has pled guilty or been found guilty, the court should announce to the defendant what the stated fine and costs are (per VB schedule or ordinance) or what fine and costs might be if not already set, and inquire of the defendant if the defendant, given time, could pay the possible fine and costs.
2. If the defendant states at that time that he or she will be able, given time, to pay the expected fine and costs, then the court shall immediately impose the fine and costs. Payment in installments will remain available to the defendant.
3. If the defendant states at that time that he or she will be unable, even given time, to pay the expected fine and costs, then the court shall inquire as to the financial ability of the defendant to pay the expected amount. If it is determined that the defendant is unable to pay the usual or anticipated fines and costs, then the court shall adjust the fine and costs accordingly, to an amount that the defendant can, given time, pay or the court shall order other disposition of the matter as would serve justice, including, but not limited to, alternative community service, suspended imposition of sentence or suspended execution of sentence. Community service is always an alternative.
4. Indigence guidelines promulgated by the Supreme Court must be used.
5. Any final determination that the defendant is or is not indigent must be based upon the indigence forms and criteria under Supreme Court Rule.
6. In order to comply with Rule 37 and R.S. Mo 479.360, Municipal Divisions should have signage or other visual displays, such as power points displays or videos at the entrance to the court and/or in the court room which notify defendants of their right to present evidence of their financial condition and have such evidence taken into account by the court in determining fines, costs and related payment issues.
7. The Municipal Division Judge in her or his opening remarks should reiterate that each defendant has the right to present evidence of their financial condition and have such evidence taken into account when determining fines, costs and related payment issues.
8. If a defendant wants to present evidence of their financial condition, the Judge, Prosecutor and Court staff should direct the defendant to fill out the Statement of Financial Condition form Recommended by the Missouri Supreme Court.

9. The defendant should present the Statement of Financial Condition to the Judge and present evidence of her or his financial condition to the Judge.
10. Statement of Financial Condition forms should be available in the Clerk's office, in court, and at any payment window. Any defendant, who, after the fine and costs is assessed, wants to present evidence of their financial condition to the Judge, should be directed to fill out the Statement of Financial Condition and allowed to speak with the Judge that night in a timely manner.
11. At any further hearings, such as a Rule 37.65 Show Cause For Failure to Pay hearing, a defendant shall be allowed to present any evidence regarding their financial condition to the Judge, including the Statement of Financial Condition.
12. To the extent that any defendant has agreed to pay her or his assessed fines and costs in installments, the Municipal Division should enter a stay of execution on any fines and costs that are assessed. Such stay of execution shall be conditioned upon the defendant's compliance with the installment agreement. If the defendant fails to comply with said installment agreement, then a show cause order shall be issued by the court.

2. Ensure stay of execution procedures are in place whereby defendants may pay fines and costs within a specified period or make installment payments. Rule 37.65(a)(1)(2).

Recommended Practice: See C below.

C. Alternative Payment, Community Service, Probation, Payment Plans. Each court shall comply with the following requirements:

1. Alternative payment plans shall be available for utilization. Rule 37.65(a)(1)(2).

Recommended Practice: Have a written payment agreement, signed by the defendant and made part of the court record, setting out the specific terms of any payment requirements, including times and amounts, as well as the repercussions of not meeting the agreed terms.

Not only should the court offer extensions of time to pay and payment schedules, alternative community service and probation, but these options should be included in the information provided to all defendants in the court notice and judge introductions. In addition, if the defendant after entering into an alternative pay plan has a financial problem in paying under said plan they, shall be given an opportunity to present any evidence regarding their financial condition to the judge.

2. The granting of probation shall not be conditioned upon the payment of anything other than authorized fees on that case. Probation shall not be denied because of the inability of the defendant to pay authorized probation fees and surcharges.

Recommended Practice: It should be noted that program fees for programs required by law or to which the defendant has agreed and which the defendant has the ability to pay, are authorized fees.

3. Any probation fees assessed shall be in compliance with Sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per month. The court shall advise offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

D. Payment On-Line. Each court shall comply with the following requirements:

Ensure procedures exist to allow payments online. The court shall make available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

OR

Actively pursue court automation to achieve compliance with allowing payments online and making available to the defendant, free, online access to information about his or her pending cases, outstanding warrants, and scheduled court dockets.

Recommended Practice: Work with the city's technical department or independent service provider to create and manage the payment-on-line service. The on-line service must operate within the confines of rule and statute as any other court procedure.

E. Trial De Novo, Jury Trial, Change of Judge. Each court shall comply with the following requirements:

1. The judge shall follow rules cutting off or limiting his or her authority to act in a case once a motion to disqualify, motion for jury trial, or motion for trial *de novo* is filed.

2. If a defendant files an application for trial *de novo*, the fee for trial *de novo* request shall be \$30.00. The payment of the statutory trial *de novo* fee shall be waived if the defendant qualifies as indigent. The court shall determine if the defendant qualifies as indigent.

3. When a trial *de novo* request has been filed, the court shall certify the file to the circuit court within 15 days. The court shall ensure that when a case record is certified to the circuit court

upon filing of a request for trial *de novo*, all funds received in connection with the case, any bonds, and the record, shall be transferred within 15 days.

4. If the defendant requests a jury trial, the cause shall be transferred to the circuit court without prepayment of fees.

5. Once a case has been certified to circuit court, the court shall not act on that case unless and until the case is remanded to that court.

6. Upon successful change of judge requests and recusals, the procedural requirements of Rule 37.53(d) and Section 479.230, RSMo shall be followed.

Recommended Practice: Standardized, written procedures should be developed so that these requirements are understood and followed by all court personnel. Recommended Practice may be to have court personnel notify the judge each time a trial de novo or request for jury trial is filed.

PART IV. DEFENDANTS IN CUSTODY, BONDS, WARRANTS and SENTENCING

A. Defendants in Custody. Each court shall comply with the following requirements:

1. Procedures shall exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.

Recommended Practice: The court should work with the police department by way of education and official notice regarding time limits and actions required. Further, the judge should ensure that all police personnel are aware of procedures in the event of arrest including, in addition to the time limits, methods of contact with the judge. Also, the police need to be informed that if the time limits are not met, the defendant must be released. A written order should be provided to the police listing the procedures to be used for defendants in custody of municipal charges.

It is incumbent upon the Police Department to keep an accurate record of the date and time any defendant is taken into custody. If the defendant is in custody on a municipal violation or warrant [a “municipal defendant”], then the Police Department should notify the Municipal Court that the defendant is in custody, along with the date and time the defendant was taken into custody and the Municipal Court should maintain an accurate record of such information.

2. The court shall make reasonable efforts to communicate to local law enforcement the 24-hour rule: “Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest.” Section 544.170.1, RSMo.

Recommended Practice: The “24-hour rule” needs to be part of the education and official notice Recommended above.

If it appears to the Police Department that any municipal defendant may be held in their custody for a period longer than 24 hours, then, prior to the expiration of said 24-hour period, Police or Court personnel shall notify the Judge or provisional Judge with a report on such municipal defendant in custody and a hearing held within said 24-hour period wherein the judge can set terms of release for said municipal defendant. If there has been no such hearing within the said 24-hour period, then the municipal defendant shall be released.

3. Confinement to coerce payment of fines and costs shall be utilized if the defendant is found in contempt of court, after compliance with Rule 37.65.

Recommended Practice: All court personnel need to be educated on the strict requirements of Rule 37.65 and should advise the judge of any attempt to arrest such a defendant so that the judge can assure that all such requirements have been met.

4. There shall be a duty judge available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay.

Recommended Practice: All modern contact methods should be available to court and police personnel including, but limited to, home phone, office phone, cell phone, text and email information of judge and, if applicable, provisional judge.

B. Bond Schedules. The municipal division shall ensure bond schedules be utilized only for persons arrested without a warrant and held no longer than 24 hours pursuant to sections 479.360.1(2) and 544.170.1, RSMo. Rule 37.17.

C. Warrants.

1. Warrants shall be issued only upon a finding that reasonable grounds exist to believe that the defendant will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).

Recommended Practice: Warrants should be last resort. There should be a written determination of the factual basis for the belief that the defendant will not appear (e.g. having ignored a signed “unsecured bond” agreement to appear); or, what danger exists if the defendant is not apprehended immediately.

2. All warrants shall be signed only by judges unless the exception of a specific warrant ordered by a judge to be signed by a clerk is applicable. Rule 37.45(b)(6).

Recommended Practice: Always have the judge sign except in the case of a real emergency. If the clerk is signing, then specific factual situation need to be memorialized.

3. When a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge shall recall and cancel any outstanding warrants in that case as soon as practicable.

Recommended Practice: A written policy and personnel education should be undertaken and followed in the event of any resolution, dismissal or other reason why the warrant needs to be recalled, withdrawn or cancelled.

Before any case file is closed in which a municipal warrant had been issued, a teletype or warrant cancellation from MULES/REJIS should be attached to the file indicating that any and all warrants were recalled. Cancelled paper warrants should be attached to the file if the Municipal Division uses paper warrants. The Judge should require that court personnel perform an active warrant audit at least monthly to determine if there is a need for any such active warrant which should be recalled.

4. The recall and cancellation of outstanding warrants shall be communicated to law enforcement by the clerk without delay.

Recommended Practice: A written policy and personnel education, including police, should be ordered regarding the importance of notification and the meaning of cancelled or recalled warrants.

5. Due process procedures of Rule 37.65 shall be strictly followed before confining defendants for failure to pay fines and costs. Section 479.353(3).

Recommended Practice: A written policy and personnel education should be undertaken regarding the requirements under Rule 37.65.

To insure that all required procedures have been followed, before any Municipal Judge issues an order confining a defendant for failure to pay fines and/or costs, the Municipal Court should use a checklist, which should include, but not necessarily be limited to, the following:

- **Terms of payment agreement and payment history;**
- **Date on which nature of default occurred and the nature of the default in the payment or an installment thereof;**

- **Date show cause order was entered;**
- **Date summons issued;**
- **Date warrant issued if defendant fails to appear on the summons;**
- **Detail facts showing defendant intentionally refused to obey the sentence or failed to make a good faith effort to obtain the necessary funds for payment. [Question – who has burden of proof in such a “show cause” hearing?]**
- **Date of sentence not to exceed 30 days.**

D. Sentencing. No person shall be sentenced to confinement on “minor traffic violations” or “municipal ordinance violations” with the exception of violations: involving alcohol or controlled substances; endangering the health or welfare of others; or involving eluding or giving false information to a law enforcement officer. Section 479.353(2).

Recommended Practice: This should be part of the general knowledge of the judge and prosecutor.

PART V. JUDGES’ QUALIFICATIONS, REGULATIONS and DUTIES

A. Qualifications.

1. All judge(s) serving in a court municipality - full-time, part-time, substitute, and provisional - shall be selected pursuant to municipality’s ordinance or charter before serving. Section 479.020.1.

Recommended Practice: Although most judges will assume that the city followed its own ordinance requirements, this is not a given and the judge should review both the ordinance and the procedure followed for the judge’s appointment or election. This should also be done for any provisional judge.

2. A judge may serve as a judge in no more than five municipalities. Section 479.020.9.

Recommended Practice: If there is an issue with regard to this and in particular serving in a provisional or part-time capacity, the judge should submit written inquiry to the Commission on Retirement, Removal and Discipline of judges [2190 South Mason Road, Suite 201, St. Louis, Missouri 63131 - (314) 966-1007 (phone) (314) 966-0076 (fax).

3. A judge shall not have attained age of 75 years. Section 479.020.7.

Recommended Practice: At least six (6) months prior to a judge reaching mandatory retirement age, she or he should notify the city or cities where she or he sits, of her or his mandatory retirement so as to provide ample time for the city to properly identify and select a replacement judge without negatively impacting court efficiency.

4. All lawyer judges shall obtain the following required training and continuing education, and provide documentation thereof to the presiding circuit judge:

- a. Orientation course completed within 12 months after beginning service. Rule 18.05(d).
- b. Five hours of judicial CLE completed annually. Rule 18.05(a).
- c. Two hours of judicial ethics CLE completed annually. Rule 18.05(b).
- d. CLE compliance form is submitted to the circuit court presiding judge.
- e. If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- f. Instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1.

Recommended Practice: It may be useful to join the Missouri Municipal and Associate Judges Association (MMACJA) and utilize the organization for questions, CLE requirements and other benefits.

B. Duties of Judge, Generally.

1. The court shall have a mechanism in place to check for judicial conflicts prohibited by Rule 37.53(b)(2), so the judge recuses himself/herself in all instances when required to do so pursuant to this rule.

Recommended Practice: If the judge serves as prosecuting attorney in any other court, the judge needs to be aware of any and all lawyers who have matters before the court. The clerk should provide the judge with a list of all attorneys presently having matters and the judge must review these in the context of Rule 37.53(b)(2). This should be done on the first date following the entry of appearance of any attorney on a matter in the city, if sooner. No action should be taken in any matter unless and until this review has been completed in that matter.

2. If holding administrative hearings, the court shall be authorized by law to do so.
Section 479.011.1.

Recommended Practice: If the court is presented with any administrative hearing duty, the judge should immediately review the statutes and ordinances with regard to the court's ability to do so.

C. Compliance with Minimum Standards. By January 1 and July 1 of each year, each judge of a court shall certify to the presiding judge of his/her compliance with Minimum Operating Standards by completing the following form:

Recommended Practice: At least one (1) month prior to the date that certification is due to the presiding judge, the judge should meet with court personnel and begin the process of reviewing court compliance with each and every requirement under the MOS. This inquiry should, of necessity, review the policies and practices of the court, the police and the prosecuting attorney vis-à-vis their obligations under the MOS.

Any deficiencies identified must be addressed immediately and safeguards put in place that the MOS are understood and complied with at all times.

Chapter 9

FAQ by Clerks, Court Administrators, and Judges

FAQ

(The answers and recommendations below are provided by the Supreme Court Municipal Divisions Court Monitor)

1. Can I close early on days that the division has a docket?

This might be an issue with the public's access to the court and case information, suggested to speak with the judge and city administration on this to make sure minimum operating standards are being met. Rule 37.04. Rule 37.04 MOS #s 8 & 10

2. Can a case be initiated by the court without the prosecutor's signature?

No, the prosecutor's signature must appear on the citation. The prosecutor's signature indicates that the prosecutor is choosing to prosecute and is filing charges with the court. Without the prosecutor's signature the case does not exist. SCR 37.35 & 37.04

3. Does the prosecutor's signature need to be on the citation before the court can collect fines and costs on a case online or in person and does this apply to charges that appear on the violations bureau schedule of fines?

Yes, the prosecutor's signature indicates that the prosecutor is choosing to prosecute and is filing charges with the court. Without the prosecutor's signature the case does not exist. No payment should be accepted on cases that have not yet been filed by the prosecutor. SCR 37.35 & 37.04

4. Should I use generic docket codes to record court actions and events?

Not if at all avoidable. Try not to use generic scheduling docket codes. Use scheduling docket codes specific to the court action; examples- arraignment hearing, disposition hearing, plea hearing, payment review hearing, and probation review hearing. When docketing the actions of a court case you want to be as specific and clear as possible. This is your official court record. COR 4 & best practice for proper and accurate preservation of the court record

5. Fingerprinting is required when indicated by the charge code. What should be done if the defendant appears in court without the Offense Cycle Number (OCN, fingerprint card)?

When a charge requires an OCN and one is not with the case file before the initial court date a fingerprint order should be created and presented to the defendant with the understanding that he or she is to appear at the next court date having been fingerprinted, and cause should be continued to the next court date. Section 43.503 does not specify that the OCN be acquired by the initial court date, but this is the suggested practice. Law enforcement, by statute, only has 15 days to return the fingerprinting information to the court with jurisdiction once receiving the order. 43.503 & 43.506 RSMo

6. Who sends the disposition to MSHP on charges that require fingerprinting?

The fingerprint card is 3-ply. The top copy stays with law enforcement. The second copy is the Prosecutor's copy. If the Prosecutor chooses to prosecute the court portion (3rd copy) is sent to the court. If the Prosecutor does not wish to file charges the Prosecutor portion (the 2nd copy) should be returned to law enforcement marked as "refused" by the Prosecutor or Prosecutor staff. It is the responsibility of the Municipal Division to report the disposition of the required cases to the MSHP. This includes amendments, dismissals, findings of not guilty, and nolle prosequi dispositions.

7. When should the disposition information be reported to the MSHP Central Repository on charges where fingerprinting is required?

The disposition of charges requiring fingerprinting should be immediately following disposition, without undue delay. If the defendant is currently in the custody of DOC or DOMH then reporting the disposition to them is required within 15 days. 43.503 RSMo

8. May the court's backer sheet or docket sheet be shared by the prosecutor and the court?

No, any space designated for the prosecutor's use needs to be removed. The prosecutor should maintain their own files. No court personnel should have access to the prosecutor files, nor should assist in prosecutorial functions. COR 4

9. What should be included on the court's backer sheet?

The court's backer sheet should include; the charge, any amended charge, plea, all disposition and sentencing information (examples: probation terms and conditions, fines assessed, court costs), bond information (including bond number, type, and amount), all payments made with the date and receipt number, any payment plan information, all court actions, issuance and return of service documents, requests and motions made to the court, and records of conviction information sent to the Department of Revenue and the Missouri State Highway Patrol Central Repository if not tracked and docketed by an automated case management system. For manual Municipal Divisions the backer sheet/docket sheet serve as the court's official court record and should be used and completed in its entirety to ensure accurate case processing and docketing. COR 4

10. Should all case activity be docketed in a case management system, manual or automated?

Yes, any and all actions taken, requests made, pleas entered, continuances granted, and disposition information should be docketed within the court's case management system. Regardless of case management system type, this serves as the court's official court record and all actions taken should be recorded accurately and specifically. If a division is an automated division using one of the state approved vendors the official court record is the electronic court record, not the backer/docket sheet. COR 4

11. When should the court use a summons service document versus a show cause summons service document?

A summons is a service document commanding a person to appear in court. Most commonly a summons is issued in response to a defendant's failure to appear on a case not yet disposed of, then upon a failure to appear upon being summoned, a warrant is issued. A show cause summons is a service document commanding a person to appear in court and show cause as to why an order issued by the court is not being complied with. Most commonly once a defendant has been ordered to make a payment or appear in court or produce various compliance documents (example: current vehicle registration or insurance coverage at the time of citation issuance), and the defendant fails to do so a show cause summons should be issued. Upon failure to appear on a show cause summons, a warrant is issued. Any service document issued should be recorded on the backer sheet and/or recorded in the court's automated case management system.

12. Is the division required to send 2 summons before a warrant can be issued?

No, unless otherwise dictated by judgment or consent decree. If the charge is a Minor Traffic Violation or Ordinance Violation you may not issue a warrant upon the first failure to appear. The Judge has the judicial discretion to require the clerk to issue any number of summons following the mandatory issuance of one summons issued before a warrant can be issued on Minor Traffic Violations and Ordinance Violations. A warrant may be issued upon the first failure to appear on any charge other than Minor Traffic Violations and Ordinance Violations.

13. Should the court clerk be issuing subpoenas?

No, it is the duty of the clerk to enter the information of the court location, date, and time of the hearing on the subpoena. The clerk should not fill out the recipient information or issue the subpoena. Issuance is the duty of the party requesting the subpoena. SCR 37.55

14. Can a clerk sign warrants?

No. A clerk should not sign warrant unless he or she is ordered to do so by the Judge in a specific situation on a specific case. SCR 37.45

15. Can signature stamps for Judges and prosecutors be used in place of hand written signature?

No. signature stamps should not be used by anyone other than the person whose name appears on the stamp. This differs from the use of an electronic signature being affixed to a warrant upon order of the Judge. Best practice

16. Should all plea agreements be seen by the judge?

Yes, Rule 37.58 states all plea agreements should be presented to the Judge for approval. SCR 37.58

17. Should the Judge be involved with facilitating a plea agreement or the prosecutor's recommendation?

No, a plea agreement is between the prosecutor and the defendant and/or defense counsel. Per Rule 37.58, the Judge should not participate in facilitating a plea agreement and should not see the plea agreement until agreed to and signed by the defendant and/or defense counsel.

18. Should the Prosecutor's recommendation be made a part of the court file?

This is a decision to be made by the Prosecutor. There is no restriction on making the recommendation a part of the court file. If the Prosecutor does wish to make their recommendation a part of the court file, the recommendation should be handled as any other document filed on the case and will be accessible by the public upon request. It should be docketed on the court's record as a "filing of the Prosecutor's recommendation". The Judge may not review and make a determination of approval or denial of the recommendation until a plea agreement has been entered into by the Prosecutor and defendant and/or defense counsel and the Prosecutor AND defendant and/or defense counsel signed the plea agreement.

19. If the Prosecutor's recommendation is filed with the court can the recommended fines and division's court costs be entered into the case management system?

No. Only a Judge may assess fines. A Prosecutor's recommendation is simply an offer to dispose of the case with a more favorable disposition for the defendant. It is subject to the approval or denial by the Judge. A Court Clerk could enter court costs at the time of initiation of a case, but any court costs entered would have to be zeroed out if the case was dismissed, nolle prose'd, or if the defendant was found not guilty, determined indigent, or the Judge entered an Order to waive court costs.

20. If a defendant files evidence of their financial condition is the filing confidential?

Yes.

21. Is there ever a situation where a clerk should amend a charge without a written amendment from the prosecutor?

No, amending a charge is the sole responsibility of the prosecutor.

22. Should driving records and criminal history checks be seen by the Judge prior to sentencing?

No, these documents are used to assist the prosecutor in prosecuting the case. These documents should not be viewed or available to the court until the time of sentencing. SCR 37.64

23. How many cases is an acceptable number of cases to have on a docket?

There is not a mandated number limiting the number of cases that can be scheduled on a docket. As long as the courtroom can accommodate all parties, public, and attorneys as required by Rule 37.04 a docket can be any size. If that is a concern, a division may look into staggering docket times based on the status of a case. Some example of this would be a trial docket, arraignment or first appearance docket, and payment docket. Section 479.060 & SCR 37.04 MOS #6

24. Is “guilty with an explanation” a valid plea and/or disposition?

No, a defendant’s plea is either guilty or not guilty. Valid dispositions of a case and charge include guilty plea, found guilty by trial, found guilty by jury trial, alford or open plea, found not guilty by trial, found not guilty by jury trial, dismissed by the court with or without prejudice, dismissed by the prosecution.

25. If a judge assesses a fine of \$200 on a Minor Traffic Violation and court costs are more than \$25, totaling a greater amount than allowed by law on a Minor Traffic Charge should the fine or the court costs be adjusted to make the total of fines and costs below \$225?

The fine should be adjusted, not the court costs. Court costs are set by statute, rule, and municipal ordinance and should not be adjusted unless waived by the Judge in a written order.

26. Is the \$225 cap on fines and court costs for Minor Traffic Violations per charge or per case?

Per charge, not per case.

27. What is the filing fee for a Trial de Novo?

The filing fee is \$30 unless the defendant is found indigent. If the defendant is found by the Judge to be indigent the \$30 filing fee shall be waived. Section 488.102 RSMo & Rule 37.04, Appendix A

28. Is there any filing fee for a request for jury trial?

No.

29. How long does the division have to transfer cases to the Circuit Court upon certification?

The division has 15 days to transfer a certified copy of the case file with any bonds attached to the case for all certified cases.

30. Can the division close for continued education and training?

Yes, see the Administrative Order # ____ issued by Judge Beach dated _____.

31. Where can the Notice of Defendant Rights, as approved by the Supreme Court, be located?

Supreme Court Rule 37.04, Appendix C.

32. Must all defendant sign a written guilty plea and/or an acknowledgment of the defendant's notice of rights?

No. Currently there is no requirement for defendant's in the Municipal Divisions to sign on any plea or Notice of Defendant's Rights. However, if the defendant chooses to represent themselves in a case that the conviction of the charge could result in confinement a Waiver of Counsel is required. Rule 37.50

33. Is the Judge required to appoint counsel upon the request of the defendant?

No. If the conviction of a charge could result in confinement and the defendant is found indigent and can not employ counsel the Judge shall appoint counsel. Rule 37.50

34. Upon appointment of counsel who is responsible to making payment to the counsel that was appointed?

35. Can a clerk make decisions on requests made of the court, such as continuance requests?

No, any request or motion filed with the court should be ruled on by the Judge only.

36. Must the Judge sign off on all dockets?

No. The docket is a listing of cases scheduled to be heard on a specific date and time. Asking the Judge to sign off on dockets is not the same as the Judge signing off on all dispositions. If the case is disposed while court is in session the Judge should be signing the disposition document or the docket/backer sheet. If the case is disposed in the Violations Bureau or otherwise the Judge should be provided a list of cases disposed during a specific time frame that lists the case number, original charge, the amended charge (if applicable), any fines and costs assessed, and the Judge should sign off on this listing as their acknowledgment of the dispositions.

37. How many days does the court have to report Records of Conviction to the Department of Revenue?

The court has 7 calendar days from the date of disposition/conviction to report to DOR. (If the requirement for submission is 5 days or less count the days as business days, if the requirement for submission is 6 days or greater count the days as calendar days.)

38. What charges require reporting Record of Conviction to DOR?

Any offense that involves the use of a motor vehicle, including felony convictions, shall, within seven days thereafter, forward to the department of revenue, in a manner approved

by the director of the department of public safety a record of any plea or finding of guilty of any person in the court for a violation of sections 302.010 to 302.780 or for any moving traffic violation under the laws of this state or county or municipal ordinances. The record related to offenses involving alcohol, controlled substances, or drugs shall be entered in the Missouri uniform law enforcement system records. 302.225 RSMo

39. Do bond forfeitures get reported to DOR?

Yes. Pursuant to Section 302. 225 RSMo, any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. Should the Judge's Order to forfeit bond be rescinded, the conviction would need to be withdrawn by notifying DOR of the Order to rescind.

40. Is there a standard form to report Municipal Division Compliance pursuant to Rule 37.04?

Yes, that form is labeled as MU 140. It can be found under "Court Forms" on CIC (Court Information Center) or on the Municipal Division Homepage from iNotes.

41. What reports should accompany the MU 140 Certifying that the division is in compliance with Rule 37.04 when submitted to the Presiding Judge of the Circuit on January 1 and July 1 of each year?

1. The semiannual disposition report of intoxication-related offenses provided to the circuit court en banc. This should be the report for the same reporting time frame as the MU 140. (Example- If the reporting period for compliance with Rule 37.04 is January 1st-June 30th then the DWI report should be for the same time frame.)
2. The substantial compliance certification sent to the state auditor certifying compliance with section 479.360 RSMo, numbers 1-10.
3. CLE compliance forms.
4. An up to date copy of the of the Division's Court Operating Order if any revisions have been made since the previous reporting period.

42. Should all judges, including provisional or substitute judges, complete the MU 140 Certifying that the division is in compliance with Rule 37.04?

Yes. Rule 37.04, Appendix A

43. If a municipality has entered into a contract with another municipality to provide municipal division services does an MU 140 Compliance form need to be completed for each division separately?

Yes. The compliance report is for each Municipal Division.

44. Does an Associate Division Judge that hears Municipal Division cases have to complete the MU140?

Yes, at this time there is no exception for Associate Division Judges.

45. What is the proper format to use to report to the municipality the filings and disposition information as required by section 479.080 RSMo?

Per Rule 4.29, for all divisions, the Municipal Summary Reporting Form should be used. Any other information requested by the municipality should be subject to the review of the Judge and all confidential information shall be removed prior to

46. What is the proper format to use to report to OSCA monthly as required by Rule?

Per Rule 4.28, for all divisions, the Municipal Summary Reporting Form should be used unless otherwise approved by OSCA.

47. Is reporting a Judge's Compliance with the Minimum Operating Standards the same as reporting Substantial Compliance with 479.360 RSMo?

No. Reporting compliance with the Minimum Operating Standards is dictated by Rule 37.04, Appendix A. Reporting Substantial Compliance with 479.360 RSMo is a certification on form MCC 17-1 that is completed by the Judge and given to the municipality to be attached to the Addendum (A15-1) that is submitted to the State Auditor's Office within 6 months of the end of the municipality's fiscal year. This Addendum includes the calculation of percentage of annual general operating revenue from fines, bond forfeitures and court costs for minor traffic and certain ordinance violations, included amended charges.

48. Who should the clerk issue a bond refund to after fines and costs assessed against the defendant are subtracted?

Any bond refund to be issued on a case should be issued to the defendant, unless a bond assignment has been filed with the court by the defendant directing the clerk to issue the refund to another party. If a bond assignment is filed with the court procedures should exist to ensure the refund is issued to the party named in the bond assignment and recorded properly in the court record.

49. What are some examples of police clerk duties that should not be performed by the court clerk?

1. Pulling driving records from MULES or REJIS.
2. Preparing Probable Cause statements or police narratives.
3. Recording the charge code and description on all citations issued.
4. Fingerprinting.
5. Entering, executing, withdrawing/cancelling warrants.

50. What are some examples of prosecutor clerk or assistant duties that should not be performed by the court clerk?

1. Issuing recommendations filed by the prosecutor to defendants and/or defense counsel.
2. Amending charges.
3. Requesting driving records or criminal background information from law enforcement.
4. Retrieving Probable Cause or police narratives from law enforcement.
5. Sending the Prosecutor portion of the OCN Card to the MSHP central repository for cases refused by the prosecutor.
6. Any trial preparation.

51. Can the Police Clerk and the Prosecutor Clerk be the same person?

Yes.

52. Can the Court Clerk also be the City Clerk/Manager?

If the City Clerk/Manager has any authority over law enforcement or prosecutor staff one person may not serve in both roles. If the duties of the City Clerk/Manager are ministerial in nature and execution then dual roles may be permitted. Rule 37.04, Appendix A

53. Who should the Court Clerk report to as an administrative authority?

While performing court functions the Court Clerk reports to the Municipal Judge. If performing other task on behalf of the city (with the exception of prosecutor or police clerk duties) the Court Clerk would be supervised by a representative from the city.

54. What budget should the Municipal Division be found under?

The Municipal Division should operate under their own budget. A budget should be submitted by the Municipal Judge and Court Administrator/Clerk to the city for approval. It is not appropriate for court expenditures and revenue to be accounted for under the City, Police, or Finance departments' budgets.

55. Should the Prosecutor and Prosecutor Clerk be included in the Court Budget?

No. The Prosecutor, Prosecutor Clerk, and additional expenses incurred by the prosecution should be accounted for under the Police Budget or City Budget.

56. Should ticket booklets come out of the court's budget or the police budget?

The Police budget.

57. Is an agreement with the county required for the division to not refund overpayments of \$5 or less and to write off funds due of \$5 or less?

No. This was required in the past, but is not any longer. Section 488.014 RSMo

58. Does the calculation for excess revenue include fines and court costs?

Yes. Section 479.359 RSMo

59. If a charge is amended to or from an excess revenue eligible charge does it have to be included in the excess revenue calculation?

Yes, Section 479.359 RSMo

60. What changes to a Municipal Division are required to be reported to the Presiding Judge and then forwarded by the Presiding Judge to the Clerk of the Supreme Court?

Any Judge change, including Provisional Judges (addition or removal), any change in Case Management Systems, any change in location or contact information for the division, and any court clerk personnel changes. The form "Presiding Judge's Report to the Supreme Court" (formerly known as the GN 240) should be used to communicate these changes.

61. Should prosecutor files and court files be stored together by retention schedules?

No. Prosecutor file retention is different than the retention schedule for court files. The file retention schedule for Prosecutor files can be found at sos.mo.gov. File retention for court files is found in COR 8.

62. What is the process to destroy files pursuant to COR 8?

Once the minimum retention time frame for confidential and closed files have been met Form GN 14 will need to be completed for the confidential files and Form GN 15 for the closed files. Upon completion of the applicable form or forms the original form(s) should be mailed to the Circuit Court en banc for consideration and determination on the request to destroy the files listed on the form(s). A copy of the request form(s) submitted should be retained by the division. If the request is denied the division should retain the denial and file with the request. Should the request be granted by the Circuit Court en banc and the Order to Destroy files is signed by the Presiding Judge the division should retain the Order and file with the request. For every case destroyed a docket entry should be made on the court record that the "paper case file has been destroyed pursuant to COR 8". In some instances, when an approved automated case management system is used, depending on its capabilities, a docket entry can be entered on each applicable case by IT script, copying the docket entry, or other means available by the provider. COR 8

All of the suggestions made above are subject to the review of the municipal judge, unless mandated by rule or statute. Please defer to the municipal judge and/or presiding judge for further instruction. Any assistance needed to implement any and all changes, please contact me. Please note that any procedural or operational changes made should be documented with the current practice, the date the change is effective, and the new or modified practice.

PART I. COURTROOM, CLERK'S OFFICE, RECORDS, SEPARATION OF POWERS

QUESTION 1: What functions can the Prosecutor's Assistant perform?

The Prosecutor's Assistant is to act in a clerical capacity when assisting the Prosecuting Attorney. This includes, but is not limited to, the following:

1. Maintain the Prosecuting Attorney's files;
2. File with the Court on behalf of the Prosecuting Attorney;
3. Track cases on probation;
4. Assist the Prosecutor during Court as needed;

However, the Prosecutor's Assistant cannot perform any of the Court Clerk and/or Clerk Administrator's job functions. The Prosecutor's Assistant may only assist the Prosecutor.

5. Answer questions from the defense attorneys regarding the Prosecuting Attorney's recommendations and other matters;
6. Assist the Prosecuting Attorney with responding to discovery;
7. Enter the Prosecuting Attorney's recommendations into the file and/or computer system;

However, the Court must have a computer database that separates information entered by the Prosecutor and/or Prosecutor's Assistant from that of the Court itself. Moreover, the Court staff should never participate in the Prosecutor's recommendation process, unless the Prosecutor's recommendation is filed with the Court. If the Prosecutor's recommendation is filed with the Court, it is the responsibility of the Court staff to enter the recommendation into the Court's file and/or computer system.

QUESTION 2: What functions does the Court Clerk/Court Administrator perform?

The Court Clerk/Court Administrator performs the general clerical functions of the Municipal Court. This includes, but is not limited to, the following:

1. Accept any form of payment regarding any case;

The Court staff should handle any and all payments related to Court fines. In the event that the Prosecutor's office receives payment, it should either: (1) forward the payment to the Court; or (2) return the payment to the Defendant or the Defendant's attorney if the individual is represented. If payment is sent to the Prosecutor's office along with a signed recommendation, the payment must be forwarded to the Court.

2. Enter information into the Court's file and/or system;

The Prosecutor filing a charging document, such as a citation or information, initiates court cases. Upon the filing of the charges with the Court, it is the responsibility of the Court Clerk and/or Court Administrator to enter the case into the Court's system and to create a file.

3. Issue summonses;

All summonses are to be issued by the Court Clerk and/or Court Administrator, because a summons is to be issued by the Court, not the Prosecutor. Only members of the Court's staff are allowed to enter anything, including summonses, into the Court's system.

4. Process an attorney's Entry of Appearance;

An attorney's Entry of Appearance is to be filed with the Court and is to be entered into the Court's file and/or system by Court staff. However, copies of the Entry of Appearance and all other pleadings must be served upon the Prosecutor. Therefore, the Prosecutor's Assistant will also have to ensure that copies of such documents are in the Prosecutor's file.

5. Enter recommendations into the Court's file and/or system;

The issuance of a recommendation is purely a matter between the Prosecutor and the Defendant or the Defendant's attorney if the individual is represented. The recommendation should be entered into the Prosecutor's file and/or system and should be sent out by the Prosecutor's office, not the Court. The Prosecutor can either (1) file a copy of the offered recommendation with the Court, along with a request to continue the case in order to allow the Defendant to consider the recommendation; or (2) the Prosecutor can choose not to file the recommendation with the Court.

If the recommendation is filed with the Court, then the Court Clerk and/or Court Administrator knows to ask the Defendant if they have a signed recommendation when the Defendant comes to make payment. However, if the Prosecutor's recommendation is in the Court file, the Judge may prematurely see the recommendation, which may impact the judge's decision in the case.

If the Prosecutor chooses not to file the recommendation with the Court, it is advisable that the Prosecutor request a continuance from the Court informing the Court that a recommendation has been issued and is under consideration. This request will put the Court on notice and may help to avoid any unintended pleas to non-amended charges.

6. Enter amended recommendations into the Court's file and/or system;

Only the Court Clerk and/or Court Administrator can make entries into the Court's system. If the Prosecutor's recommendation is accepted and is entered as

a plea on the date specified in the recommendation it must be entered into the Prosecutor's file only, unless the Prosecutor chooses to file it with the Court. If a plea is entered based upon an amended recommendation, then the Court Clerk and/or Court Administrator should enter it into the Court system.

7. Take general inquiries regarding the Court;

If the Prosecutor's Assistant receives a call intended for the Court, they should immediately redirect the caller to the Court Clerk and/or Court Administrator. Likewise, if the Court Clerk and/or Court Administrator receives a call intended for the Prosecutor's Assistant the call should be directed accordingly.

8. Process bonds received by the Police Department;

All bonds are to be processed by Court staff.

9. Process the Court's daily deposits;

Only the Court staff can process the Court's daily deposits.

10. Substitute for Court Clerk, Court Administrator or Court personnel in the event of being short staffed;

However, any non-Prosecutorial and non-Police department staff can perform any of the daily duties of the Court Clerk and/or Court Administrator.

11. Open or process daily Court mail, process online Court payments, or pull the Court docket.

Any communications, payments or preparation of the Court's docket must be handled and/or performed by the Court staff.

12. Enter certificates of completion of various classes, e.g., SATOP, VIP, and/or DDS in the Court's system.

Only Court staff can enter such information into the Court's file and/or system.

QUESTION 3: Who can substitute for the Prosecutor's Assistant when they are out due to illness or on vacation?

Any employee that does not perform any job function for the Court can perform the duties of the Prosecutor's Assistant. For example, a clerical worker in the police department can perform the job functions of the Prosecutor's Assistant. However, the Court Clerk and/or Court Administrator cannot perform the functions of the Prosecutor's Assistant. See *Minimum Operating Standard ("MOS") #8*.

QUESTION 4: Who can substitute for the Court Clerk and/or Court Administrator when they are out due to illness or vacation time?

Employees who do not perform functions for the Prosecutor or the Police Department can perform the job duties of the Court Clerk and/or Court Administrator. For example, a clerical employee in the Public Works department can perform duties for the Court Clerk and/or Court Administrator, but a clerical employee for the Police Department cannot. Cities should avoid using any employee from the housing/building department that might issue citations for housing violations since such an employee may have to work with the Prosecutor, the Police Department and perhaps even be a witness for the prosecution. If the permit clerk does not issue housing citations or take code enforcement action, then they can perform the functions of the Court Clerk. *See Minimum Operating Standard ("MOS") #8.*

QUESTION 5: Who is responsible for training, supervising and overseeing the Prosecutor's Assistant?

The Prosecutor is responsible for the training of his or her assistant. The Circuit Court and the Supreme Court of Missouri will oversee the Prosecutor and the Prosecutor's Assistant for compliance with rules and standards. The Prosecutor him or herself is answerable to the State Bar Association and the City officials by whom they are employed.

It is for the City to determine personnel policies and procedures. However, the Prosecutor's Assistant will most likely report to the Prosecutor with respect to the Prosecuting Attorney's functions on a day-to-day basis. For traditional employee issues, e.g. sick-time, the Prosecutor's Assistant should report to the appropriate executive official, e.g. the City Manager. For example, if the Prosecutor's Assistant is not responding to requests for recommendations and/or maintaining files it is the Prosecutor's responsibility to address such concerns. However, the Prosecutor should not have disciplinary powers, beyond reporting to the appropriate executive official.

QUESTION 6: What are the criteria for creating a Prosecutor's file, maintaining the file and the items to be included in the file?

The creation, maintenance and items contained in the Prosecutor's file will differ from prosecutor to prosecutor. However, most Prosecutors probably will not need a file for a Violations Bureau offense unless an attorney enters their appearance and/or it is set for trial. It is advisable to create a file for a matter where a driving and/or criminal record may be needed for sentencing. Additionally, a file should most likely need to be created anytime there is a police report, attorney entry or the matter is set for trial.

It is important that the Court's file and Prosecutor's file be maintained and stored separately. Optimally, the Prosecutor's files should be stored in a separate location than that of the Court's files. However, if due to space limitations files must be kept in a single location, then at a very minimum the Court files and the Prosecutor's files should be kept in two (2) separate files. Moreover, the two (2) files should not be fastened together. If the files are stored in a single location, it is advisable that the Judge enters an order prohibiting Court staff from reviewing the Prosecutor's files, unless otherwise

authorized. Where appropriate the Judge may request information from the Prosecutor's files, such as a defendant's driving and/or criminal record in relation to sentencing.

QUESTION 7: What are the Court's and the Prosecutor's respective responsibilities when a continuance is requested?

Only the Court can grant a continuance. If and when the Prosecutor wants to issue a recommendation on a file, the Prosecutor should also request a continuance from the Court to allow time for the plea negotiations. The Court needs to be advised by the Prosecutor's office of any requested or agreed upon continuance(s) so that the Court can keep its files up-to-date.

QUESTION 8: What is the proper procedure when a recommendation for Nolle Pros is sent out?

A case should not be entered as Nolle Prossed until the Prosecutor authorizes it. Most cities utilize a Nolle Pros memorandum that is filed with the Court; however, various methods can be used to track a case where a Nolle Pros is offered as part of the Prosecutor's recommendation. For example, if the Court Clerk and/or Court Administrator receives a signed recommendation from a defendant with payment consistent with that of the recommendation and the Nolle Pros memorandum has yet to be filed, the Court should enter the dispositions for the other charges and contact the Prosecutor's office to find out if the Prosecutor will be filing the Nolle Pros memorandum. Nolle Pros memoranda can be provisionally filed with the Court with an instruction that they are only to be finally filed upon receipt of the signed recommendation and/or payment.

QUESTION 9: What should the Court Clerk and/or Court Administrator do if they receive a question from a defendant or a defendant's attorney regarding a recommendation from the Prosecutor?

If the Court Clerk and/or Court Administrator receive a call requesting information about the Prosecutor's recommendation, the caller should be redirected to the Prosecutor's office. If the caller has questions for the Court the Court Clerk and/or Court Administrator is the appropriate person to speak to. Questions regarding the Court include, but are not limited to, how to request a continuance or what date a certain case has been docketed.

QUESTION 10: Can the Prosecutor and the Court use the same computer software?

Yes, as long as such software is suited for dual use and does not allow access to unauthorized information such as charges not yet issued. Most software utilized by municipal courts has the capability to separate Court information and prosecutorial information.

QUESTION 11: Can the Prosecutor use the Court's ORI?

No. If the Prosecuting Attorney does not have an ORI available, both the Prosecuting Attorney and Assistant may use the Police Department's ORI. Only authorized Court personnel should use the Court's ORI.

QUESTION 12: Can the Prosecutor's Assistant in one City work as a Court Clerk in another City?

While Local Court Rule 69.01 does not prohibit such an arrangement, it is not considered advisable. If various municipal courts are looking to consolidate and share staff to increase efficiency and reduce costs, it would be preferable that any Court Clerk and/or Court Administrator or Prosecutor's Assistant perform the same service for each City, i.e., a Court Clerk and/or Court Administrator would serve as the Court Clerk and/or Court Administrator in the two separate municipalities, instead of serving as a Court Clerk and/or Court Administrator in one and the Prosecutor's Assistant in the other.

PART II. GENERAL COURTROOM PROCEDURES

QUESTION 13: Who determines on what dates and times the municipality will have court?

This is a judicial function and is dependent upon the municipality's budget and availability of space. Yet, court must be held as many times as required to allow for court to be held in a reasonable manner without excessive amounts of cases heard on each docket. Also, court should be held at hours that are reasonable, convenient and accessible to the defendants and their legal counsel. It is imperative that the Court inform the Prosecutor's office of any and all court dates and advise the Prosecutor of any dockets that are too full to have cases continued to such date.

QUESTION 14: Does the Prosecutor need to be present in the courtroom during court proceedings?

No. In fact, if the Prosecutor is in the courtroom, he or she should not be sitting at the bench. It is permissible for the Prosecutor to be in a nearby room while court is in session, instead of in the courtroom for the entire duration of court.

MISCELLANEOUS

QUESTION 15: Where should the Prosecutor's salary, staff, supplies and expenses be budgeted?

It is for the City to decide where it wishes to budget expenditures associated with the Prosecutor's office in its annual budget. However, it is suggested that they should not be budgeted as Court expenditures. This would include any and all clerical and/or support staff. For example, such costs can be budgeted with the rest of the City's administrative staff and costs. Budgeting such expenditures as Court expenditures can give the impression that the Court and the Prosecutor's Office are not separate entities.

QUESTION 16: Can a case be dismissed upon payment of costs ("DPC")?

Under Section 479.353 RSMo the payment of costs upon a dismissal for any minor traffic violation or municipal ordinance violation is expressly prohibited.

Presiding Judge Discussion Items Implementation of Rule 37.04

Responses provided by Judge Karl DeMarce, as of February 9, 2017. These responses are based upon my research and study of these issues since being appointed to serve on the Municipal Division Work Group and the Committee on Practice and Procedure in Municipal Division Cases, and my own experience serving as an associate circuit judge who hears municipal ordinance violation cases which have been referred to the associate division by the city. However, these "answers" come with the strong caveat that my opinion (or, with no disrespect intended, anyone else's other than that of the Supreme Court of Missouri acting in its official capacity) is not binding on the presiding judges. Each judge must study the law and decide, as with everything else we do. Some of these are answers which I had provided to individual colleagues previously, in response to specific questions received.

The order of the questions has been changed somewhat. Where questions are closely related, I have grouped them together to avoid duplicating answers, to the extent possible. While I have not deliberately tried to be un-diplomatic, I have also not made any attempt to "sugar-coat" the answers. My reasoning is that only truthful answers will be useful to the judges, even if they don't like everything they are hearing. My hope is that most presiding judges will consider it to be at least some "good news" that – again, this is my own opinion – they are intended to have considerable flexibility in determining how best to make the Minimum Operating Standards and Supervision Protocols work most effectively in their own individual circuits.

In this discussion, the Committee on Practice and Procedure in Municipal Division Cases is referred to as the "CPPMDC." "Appendix A to Rule 37.04, Minimum Operating Standards for Missouri Courts: Municipal Divisions" is referred to as the "Minimum Operating Standards." The Protocols for Presiding Circuit Court Judges in Supervising Municipal Division Judges" are referred to as the "Supervision Protocols."

QUESTIONS:

- If the municipal cases are heard, handled, and processed by the circuit court and the cases are handled by an associate circuit court judge, does the associate judge still need to provide the certifications required by the rule to the presiding judge in January and July of each year?

There are two major types of certifications which municipal judges are required to make, and in an effort to avoid unnecessary confusion, I will try to address both.

First, there is the certification that municipal judges are required to submit to the city government, to be remitted with the city's other required reporting to the State Auditor, pursuant to Sec. 479.360, RSMo and 15 CSR 40-3.180. This is due to the municipal government prior to the end of its fiscal year, so that the municipality may provide it to the Auditor. Thus, the due date for this certification will vary by city, based upon each city's fiscal year. My understanding is that this filing is only required from municipal judges, and not from associate circuit judges who are taking care of the cases from a municipality. Presiding judges may want to review the statute and regulation for themselves. Presiding judges may want to require each municipal judge to provide a copy of this

annual certification to their office, when the municipal judge files with the city, since compliance with this requirement is required by Minimum Operating Standard #10.

Second (and this is the report mentioned in the question), there is the certification that the municipal judges must make to the presiding circuit judge, twice a year (by January 1 and July 1 of each year), pursuant to the Minimum Operating Standards. The first of these reports was due by January 1, 2017. All municipal judges must file this with their presiding circuit judge.

Due in part to the time pressures under which the standards had to be drafted, the CPPMDC never considered the specific question of whether associate circuit judges presiding over municipal divisions should be required to file this certification. This point is not clear under the wording adopted, and the Minimum Operating Standards can fairly be read either way. I have been suggesting to those who have asked, that the best practice would be for the associate circuit judges who preside over a municipal division to file the certification, until the question shall have been clarified. (I filed a certification form with my presiding circuit judge for the municipal division over which I preside as an associate circuit judge.) Admittedly, some of the questions on the form as it now exists are not applicable to an associate circuit judge.

In response to requests from several judges, the CPPMDC is presently working on a draft of a clarification of this matter, which should be provided to the Supreme Court for its consideration in the near future.

- When should the judge make a determination of indigence?

Minimum Operating Standard #2 is most directly relevant to this discussion. It provides:

Minimum Operating Standard # 2: Municipal divisions shall inquire of defendants and allow them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.

“ The Municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

- o Procedures exist to inquire of defendants and allow them to present evidence about their financial condition in assessing their ability to pay and establishing payment requirements.
- o Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).
- o Community service is utilized with no fee assessed to the defendant.

“ Stay of execution procedures exist for defendants to pay fines and costs within a specified period of time or to make installment payments. Rule 37.65(a)(1)(2).

“ If probation fees are assessed, the municipal division does so in compliance with sections 549.525.2, 559.604, and 559.607, RSMo, including consideration of factors exempting a probationer from part or all of the standard monthly probation fee of \$30 to \$50 per month. The municipal division advises offenders of the right to request individualized consideration of exemption from paying probation fees and surcharges under these statutes.

In my opinion, there is not one mandatory “right way” to do this. The standards were drafted with sufficient flexibility to permit a judge a certain amount of leeway in deciding how to run his/her own courtroom (which, in my opinion, is for the best). The judge may either make an ability to pay inquiry before assessing any fines and fees, and then take that into account in assessing an appropriate amount. In the alternative -- and this would be consistent with my own practice -- the judge may assess fines and fees in a manner consistent with his/her usual practice, and then make the ability to pay inquiry. Depending on the circumstances, the judge at that point has the discretion to remit all or a portion of the fines, waive all or a portion of the fees, establish a payment plan, permit an "alternative" such as community service, etc., after making the ability to pay inquiry.

So, it would be my opinion that "when" to make the ability to pay inquiry is at the discretion of the judge, but that "whether" to make the inquiry is not -- it must be made, and made in greater detail if the defendant suggests difficulty or inability in paying. The Supreme Court has provided a model form for this purpose, which may be adopted by local court rule in the individual circuit. See Supreme Court Order dated September 19, 2016, Model Local Rule 69.01.

- Can the associate judge refuse to take over cases previously handled by a municipal judge?
- If a municipality wants to transfer their cases to the associate division, is the associate division required to accept these cases?
- What requirements, if any, are needed to pursue Sections 479.040 and 479.050, RSMo regarding the election of a city to use the associate divisions and the establishment of a violations bureau? Is anything more than an ordinance requirement from the subdivision?

These three questions address the same basic issue. This question is definitively answered by the Missouri Constitution, Article V, and by Section 479.040, RSMo. If a city of under 400,000 population makes the election to have its municipal ordinance violation cases heard by the associate division, this must begin within six months (§479.040.2, RSMo). There is no authority for the associate division to refuse the cases. There is no indication that anything further is required for this to occur, beyond than adoption of an ordinance for this purpose. Per our Constitution, hearing municipal ordinance violation cases is just as much a responsibility of the circuit courts as hearing any other type of case cognizable in a Missouri state court.

For purposes of reference, the cited authorities provide:

Missouri Constitution, Art. V, § 23: Each circuit may have such municipal judges as provided by law and the necessary non-judicial personnel assisting them. The selection, tenure and compensation of such judges and such personnel shall be as provided by law, or in cities having a charter form of government as provided by such charter. A municipal judge may be a part-time judge except where prohibited by ordinance or charter of the municipality. A municipal judge shall hear and determine violations of municipal ordinances in one or more municipalities. Until otherwise provided by law, or supreme court rule, the practice, procedure, right to and method of appeal before and from municipal judges shall be as heretofore provided with respect to municipal courts. Associate circuit judges shall hear and determine violations of municipal ordinances in any municipality with a population of under four hundred thousand within the circuit for which a municipal judge is not provided, or upon

request of the governing body of any municipality with a population of under four hundred thousand within the circuit. (Emphasis added.)

RSMo 479.040. 1. (1) Any city, town or village with a population of less than four hundred thousand may elect to have the violations of its municipal ordinances heard and determined by an associate circuit judge of the circuit in which the city, town or village, or the major geographical portion thereof, is located; provided, however, if such election is made, all violations of that municipality's ordinances shall be heard and determined before an associate circuit judge or judges. If a municipality has elected to have the violations of its municipal ordinances heard and determined by an associate circuit judge, the municipality may thereafter elect to provide for a municipal judge or judges to hear such cases; provided, however, if such later election is made, all violations of that municipality's ordinances shall be heard and determined before a municipal judge. Nothing in this subsection shall preclude the transfer or assignment of another judge to hear and determine a case or class of cases when otherwise authorized by provisions of the constitution, law, or court rule. Nothing in this section shall preclude an election made under the provisions of subsection 4 of this section.

(2) In lieu of electing to have all violations of municipal ordinances heard and determined before an associate circuit court or a county municipal court, a city, town, or village may, under subdivision (1) of this subsection, elect to have such court only hear and determine those violations of its municipal ordinances as may be designated on the information by the prosecutor as involving an accused with special needs due to mental disorder or mental illness, as defined by section 630.005, or whose special needs, circumstances, and charges cannot be adequately accommodated by the municipal court of the city, town, or village, provided that the associate circuit court or county municipal court has established specialized dockets or courts to provide such adequate accommodations and resources for specifically handling such matters, such as a mental health court, housing court, domestic violence court, family court, or DWI court, and such associate circuit court or county municipal court accepts such election by consent of the presiding judge or by county contract, as applicable, and further provided that upon a determination by the court that the accused does not have such special needs, the matter shall be transferred back to the municipal court.

2. If, after January 1, 1980, a municipality elects to have the violations of its municipal ordinances heard and determined by an associate circuit judge, the associate circuit judge or judges shall commence hearing and determining such violations six months after the municipality notifies the presiding judge of the circuit of its election. With the consent of the presiding judge, the associate circuit judge or judges may commence hearing such violations at an earlier date.

3. Associate circuit judges of the circuit in which the municipality, or major geographical portion thereof, is located shall hear and determine violations of municipal ordinances of any municipality with a population of under four hundred thousand for which a municipal judge is not provided.

4. Any city, town or village with a population of less than four hundred thousand located in a county which has created a county municipal court under the provisions of section 66.010

may elect to enter into a contract with the county to have violations of municipal ordinances prosecuted, heard, and determined in the county municipal court. If a contract is entered into under the provisions of this subsection, all violations of that municipality's ordinances shall be heard and determined in the county municipal court. The contract may provide for a transition period after an election is made under the provisions of this subsection.

(L. 1978 H.B. 1634, A.L. 1993 S.B. 177, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722, A.L. 2012 S.B. 628 merged with S.B. 636)

- What city jobs cannot be held by a municipal judge and municipal clerk?

Minimum Operating Standard #2 is most directly relevant to this discussion. It provides:

Minimum Operating Standard # 7: Municipal divisions shall be operated in a manner that upholds the constitutional principles of separation of powers and the integrity of the judiciary as a separate and independent branch of government.

* Clerks of court and other nonjudicial personnel do not perform any functions that constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties. Work performed on behalf of law enforcement or the prosecuting attorney is one example of an actual or apparent conflict of interest.

* Clerks of court and other nonjudicial personnel, when performing court related functions, work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.

* Judges, clerks of court, and other nonjudicial personnel are not subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.

* Judges, clerks of court, and other nonjudicial personnel are not subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the municipal division to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

* Municipal division facility's exterior and interior signage, design, functionality, and other factors convey an appearance to the public that it is a separate and independent branch of government.

The Supreme Court has also adopted Appendix B to Rule 37.04, Code of Conduct for Municipal Division Personnel. While presiding judges should take time to review the entire document, the most directly relevant portions provide:

1.2. Avoiding Impropriety

A court professional shall avoid both impropriety and the appearance of impropriety.

A court professional shall avoid improper influences from business, family, position, party, or person.

A court professional shall avoid activities that would impugn the dignity of the court.

2.1. Independent Judgment

A court professional shall avoid relationships that would impair one's impartiality and independent judgment.

A court professional shall be vigilant of conflicts of interest and ensure that outside interests are never so extensive or of such nature as to impair one's ability to perform court duties.

3.1. Outside Business

The court is a court professional's primary employment. A court professional shall avoid outside activities, including outside employment, business activities, even subsequent employment and business activities after leaving judicial service, that reflect negatively upon the judicial branch and on one's own professionalism.

A court professional shall notify their supervisor or the court prior to accepting work or engaging in business outside of one's court duties.

A court professional shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment.

However, court professionals may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code of conduct.

3.4. Financial Disclosure

A court professional shall dutifully disclose all financial interests and dealings required by law, rule, or regulation.

The legal standard set forth in the Minimum Operating Standards is “an actual or apparent conflict of interest with the impartial performance of their judicial duties.” It is clear from the terms of the rule that a municipal division clerk may not also work for law enforcement (the police or the prosecuting attorney). This is true for the same reason that an attorney representing one side of a major civil lawsuit would not want to arrive on the day of trial to discover that the clerk assisting the judge in the courtroom was also the part-time secretary for opposing counsel! There is an obvious conflict of interest and appearance of partiality.

However, I do not believe it is intended that the rule would forbid all other types of work for the municipal government. For example – in my own opinion – it would not seem to be “an actual or apparent conflict” for the municipal division clerk also to have responsibilities for collecting utility bills, processing tax payments, or doing work for the parks department. Others must study the law for themselves and reach their own conclusions, unless and until there are precedential decisions or the Standards may be further revised. It would, however, probably be unworkable to draft a rule sufficiently specific as to cover every possible combination of duties.

With regard to whether the employment of a municipal judge constitutes a conflict of interest, the matter must be determined with reference to the Code of Judicial Conduct and Chapter 479,

RSMo, especially § 479.020. Specific questions should be referred to the Commission on Retirement, Removal, and Discipline with a request for a written opinion. See Mo. Const., Art. V, § 24.

With regard to whether the employment of a municipal clerk constitutes a conflict of interest, it would be my opinion that this is a determination which must be made by the municipal judge in the first instance, and by the presiding circuit judge in his/her supervisory capacity, based upon the applicable principles of law.

Should a presiding judge determine that a conflict of interest exists with regard either to a municipal judge or a municipal clerk, then that presiding judge would be obligated to follow the procedures set forth in paragraphs (c), (d), and (e) of the Supervision Protocols.

- What authority does the PJ have to make a municipality make changes to their website?

The supervisory authority of the presiding judge over the municipal divisions is provided by the Constitution, statute, and Supreme Court rule. This authority and responsibility has been in effect for many years, long before the promulgation of the Minimum Operating Standards and the Supervision Protocols.

Missouri Constitution, Art. V, §15.3: 3. The circuit and associate circuit judges in each circuit shall select by secret ballot a circuit judge from their number to serve as presiding judge. The presiding judge shall have general administrative authority over the court and its divisions.

Section 479.020.5, RSMo: Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit.

Supreme Court Rule 37.04: The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of all divisions of the circuit court hearing and determining ordinance violations within the circuit. The judges of all such divisions shall be subject to the rules of the circuit court that are not inconsistent with this Rule 37.

Under these broad grants of authority, it would be my opinion that a presiding judge would have plenary authority to order a municipality to make changes to those portions of its web site which concern court operations (including, but not limited to, matters related to Rule 37 and the Minimum Operating Standards (Appendix A to Rule 37.04). One hopes, in the interest of preserving working relationships with our valued governmental partners, that this could be resolved by informal consultation in most circumstances, without the need to issue a formal order.

Note: The Code of Judicial Conduct also speaks to the supervisory responsibilities of a judge:

RULE 2-2.12 Supervisory Duties

(A)) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

Comment

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

- What are the specific steps required by the PJ when a municipal division is terminated by the municipality?

This is a matter which has never been considered by the CPPMDC. Presumably the steps are the same as they have always been, prior to the recent promulgation of the Minimum Operating Standards and the Supervision Protocols. OSCA's accounting specialists may be able to provide helpful input as to the financial side. Records of the municipal division are records of the circuit court, and care should be taken to see that they are safeguarded, preserved, and kept accessible to the public and other governmental agencies in accordance with all requirements of law, including without limitation Court Operating Rules 2, 4, and 8.

- What, specifically, is required of presiding judges by Sections (b)(2) and (b)(3)?
- Will presiding judges receive further guidance as to how we are to "provide education, support and direction to the municipal divisions" and "verify annually each municipal division's substantial compliance with applicable circuit rules and minimum operating standards?"
- What is required by the phrase "substantial compliance" as used in the protocols?

These three questions raise the same basic issues. The relevant portion of the Supervision Protocols reads as follows:

(b) In fulfilling their obligation to supervise municipal divisions within their circuit, the presiding circuit judge should:

- (1) Adopt a circuit court rule governing the operation of its municipal divisions and reporting obligations from the municipal divisions to the presiding circuit judge;*
- (2) Provide education, support, and direction to the municipal divisions; and*
- (3) Verify annually each municipal division's substantial compliance with applicable circuit rules and minimum operating standards.*

During discussions of the CPPMDC as these rules were being drafted, there was discussion that we wanted to leave the presiding circuit judges sufficient flexibility to work things out in their own circuits, in the manner best suited to the widely varying local conditions around the state. My sense of the CPPMDC's discussion was that most members did not believe it to be either feasible, or desirable, for the Supreme Court, OSCA, the CPPMDC, or anyone else, to attempt to "micro-manage" the supervisory relationship between the presiding judges and their municipal divisions. A rule which would address every conceivable specific situation would be unduly lengthy, and unduly burdensome to those who are doing their jobs properly. Likewise, "substantial compliance" is a matter to be determined in the first instance by the presiding circuit judge, in the sound exercise of judicial discretion, with a view toward the purposes of the Minimum Operating Standards (most of which merely collect pre-existing law into a single document).

Therefore, it would be my sense that the CPPMDC would likely be reluctant to recommend "further guidance," at least until there has been a year or so to get some experience with the Minimum Operating Standards and Supervision Protocols in their current form, to see whether there are specific problem areas observed in multiple locations around the state.

General principles of good management and supervision would seem to apply here. For those divisions where things seem to be going well, and business is being conducted in compliance with the applicable rules and statutes, a very "light hand on the reins" would seem to be sufficient (as is generally the case now, in the relationship between the presiding judges and the other Article V state court judges in each of the circuits). But where deficiencies are identified, more significant "interventions" in terms of education, direction, remediation, etc., will be called for. See paragraphs (c), (d), and (e) of the Supervision Protocols.

- If the associate division starts handling the municipal cases, will additional staff be available to handle the increase clerical weighted workload demand?

Probably not. This will depend upon state funding – and the outlook for state funding in the foreseeable future appears to be very, very bleak. However, the vast majority of municipalities are very small, and many write fewer than 500 citations per year; quite a few write fewer than 100 per year. Nearly all of these are traffic-related, in most municipalities. If a small municipality refers its cases to the associate division, the workload impact will usually be negligible. The impact on clerical weighted workload will only be substantial if a larger city, or a city which writes an unusually large volume of citations, elects to have the municipal division hear its ordinance violation cases.

- If the presiding judge or the presiding judge's secretary is traveling to municipal divisions as part of the administrative duties, who is responsible for paying mileage?

I do not know. However, my suggestion would be to submit the mileage to OSCA with the judge's or other employee's ordinary monthly mileage reimbursement request for official state travel. To the extent that we are genuinely committed to treating the municipal divisions as integral component parts of the one circuit court, and not as something alien to us, it would be my opinion that this ought to be deemed to be the official business of the circuit court, just as much as when a judge travels to hear an assigned case as a special judge. We should be getting away from the mentality that by doing and/or supervising municipal division work, we are somehow providing a special "service" to the cities. We work for the people of Missouri, not for the local governments. Municipal division work is part and parcel of the judicial work which the people have delegated to the Judicial Branch in Article V of the Missouri Constitution. However, if the state refuses to pay mileage for this purpose, the presiding judges will have to seek funding as part of the circuit court budget process.

- If the city increases the municipal clerk's hours to 30 hours per week, is the clerk eligible for state benefits?

No, of course not. So long as a municipality chooses to operate a "free-standing" municipal court, the municipal court clerk is an employee of the municipality, not of the state.

The question may arise whether there is an "unfunded mandate" issue involved here. In my opinion, there is not. There is no state mandate to operate a municipal court, at all. No municipality is required to do so. The Minimum Operating Standards merely set forth the basic standards that must be met, if a municipality should elect to operate such a court. But where there is no mandate, there can be no unfunded mandate. PENDING LITIGATION NOTE: Some related issues have been briefed in a case which was argued before the Supreme Court in November (City of Normandy et al. v. Greitens et al., No. SC95624).

- What are the Presiding Judge's requirements with regards to actually visiting municipal courts while in action?

Under the Supervision Protocols as adopted by the Supreme Court, the presiding circuit judges retain substantial flexibility and discretion to determine how they will go about fulfilling their supervisory duties. This flexibility extends to the matter of personal visits to the individual municipal courts. The level of contact and oversight should be sufficient to permit the presiding judge to be able to certify, in good conscience, that he or she has "verified annually each municipal division's substantial compliance with applicable circuit rules and minimum operating standards."

- Can the Presiding Judge enlist or delegate the responsibilities of Municipal Division supervision to another Circuit or Associate Circuit Judge, and can Circuit and Associate Circuit Judges work in tandem to make sure all of the Supreme Court requirements are met?

During discussions of the CPPMDC as these rules were being drafted, there was discussion that we wanted to leave the presiding circuit judges sufficient flexibility to work things out in their own circuit in the manner best suited to the widely varying local conditions around the state. There is no reason why the presiding judge or the circuit court en banc could not detail responsibilities for specific municipal divisions to other Article V judges of the circuit, or to a select committee of judges, who could then report to the presiding judge. The presiding judge, however, would still retain the ultimate responsibility, as provided by the Constitution, statute, and rules.

- Are the cases being heard by Associate Circuit Judges and the Municipal Judge being treated any differently than stand-alone municipal courts?

The cases should not be treated differently. Both the substantive and procedural law are the same, whether municipal ordinance violation cases are heard in the associate division of the circuit court, in a stand-alone municipal division, or in a consolidated municipal division. The only real differences are where, and by whom, the cases are being heard.

COMMENTS:

- With the requirement to provide community service at no cost on municipal cases, the cost associated to these activities are falling to the counties instead of the cities when the cases are heard by an associate judge.

The question of assessing community service fees has proven to be one of the more difficult and divisive issues, with regard to improving municipal court operations. Minimum Operating Standard #4 is most directly relevant to this discussion. It provides:

Minimum Operating Standard # 4: Municipal divisions shall neither assess nor collect unauthorized fines, costs, or surcharges.

* Fines and costs assessed on minor traffic violations do not exceed \$225.00.

Section 479.353(1)(a).

* Fines and costs assessed on "municipal ordinance violations" as defined at section 479.350(4) meet the mandatory maximum schedule of section 479.353(1)(b).

* Fines assessed on other ordinance violations do not exceed the maximum amount authorized by state law and the city code.

* Only court costs (fees, miscellaneous charges, and surcharges as defined at section 488.010) authorized by state statute are assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260.1, 479.360(5), and 488.012, RSMo; COR 21.01.

* DPC (Dismissal on Payment of Costs) is not permitted. Section 479.353(5), RSMo; COR

21.01(c).

* Court costs are not assessed against indigent defendants. Section 479.353 (4)(5).

* The municipal division is in compliance with the following requirements of section 479.360.1, RSMo:

o Community service is utilized with no fee assessed to the defendant.

The prohibition on assessment of community service fees is also restated in Minimum Operating Standards #2 and #10.

Both municipal judges and presiding judges should keep in mind that “community service fees” were NEVER an “authorized court cost,” in either municipal or state court divisions. There is NO statute which expressly authorizes them. There never has been. This analysis leads to the conclusion that no division of the court is authorized to charge such fees. In the St. Louis area in the aftermath of Ferguson, there was substantial criticism of the courts for the practice of charging “community service fees,” particularly in regard to the impact of the practice upon low-income and youthful offenders. In addition, many judges – myself included – have always found the idea of charging someone extra money for the “privilege” of doing free work, to be deeply offensive. There are many courts which have never assessed “community service fees,” and which still routinely offer community service as an option for offenders.

However, there are also many judges who feel quite differently. The practice of charging these fees – usually to defray costs associated with supervision of community service workers – has grown up and become well-established, over a long period of time, in many courts around the state (both in municipal divisions and in state court divisions). In addition, the practice of referring offenders for supervision by “private probation companies,” which charge fees for their services, has become widespread.

The Supreme Court of Missouri requested that the Municipal Division Work Group provide an opinion on this question. These were among the majority recommendations of the Work Group (located at pp. 83-84 of the Work Group Report):

RECOMMENDATION: That, as the practice of surcharging individual offenders for the opportunity to participate in community service programs is not clearly authorized by state law, this practice be ended immediately. Charging offenders for participation in community service defeats a major purpose of encouraging courts to grant probation with community service in lieu of fines, diminishes the incentive for participation in community service programs, and poses a substantial obstacle to participation in such programs by younger and lower-income persons. We further recommend that one aspect of the supervisory responsibility of the presiding circuit judge of each judicial circuit be periodic monitoring to ensure that these duties are performed properly by municipal court personnel. This recommendation is directed to the municipal courts, to the presiding circuit judges, and to the Supreme Court of Missouri.

SUPPLEMENTAL RECOMMENDATION: That, should the General Assembly in the future choose to authorize the practice of surcharging offenders for participation in community service programs, judges be strongly encouraged to consider exempting offenders from paying all or part of the costs of such community service surcharges in appropriate circumstances, as required by §§ 559.604 or 549.525.2, RSMo, as applicable. We further recommend that, should such

community service surcharges be authorized in the future, judges advise offenders of the opportunity to request individualized consideration as to whether they should be exempt from paying all or part of such community service surcharges, based on the factors set forth in §§ 559.604 or 549.525.2, RSMo. This recommendation is directed to the municipal courts, to the presiding circuit judges, and to the Supreme Court of Missouri.

RECOMMENDATION: Probation should not be made conditional upon the payment of money, and no person should be denied probation because of inability to pay authorized probation surcharges. We recommend that where a city has elected to utilize a private probation supervision service as authorized by § 559.607, RSMo, or a supervision and rehabilitation service in the City of Kansas City as authorized by § 549.525, RSMo, and offenders are required to pay for the costs of this supervision, there be no additional surcharge required for participation in community service programs. We further recommend that judges be strongly encouraged to consider exempting offenders from paying all or part of the costs of private probation supervision in appropriate circumstances, as required by §§ 559.604 or 549.525.2, RSMo, as applicable. We further recommend that judges advise offenders of the opportunity to request individualized consideration as to whether they should be exempt from paying all or part of such probation supervision costs, based on the factors set forth in §§ 559.604 or 549.525.2, RSMo. We further recommend that one aspect of the supervisory responsibility of the presiding circuit judge of each judicial circuit be periodic monitoring to ensure that these duties are performed properly by municipal court personnel. This recommendation is directed to the municipal courts, to the presiding circuit judges, and to the Supreme Court of Missouri.

However, the Municipal Division Work Group was also divided on this issue:

While this is a recommendation of the majority of the Work Group, Mayor James and Judge Thornhill dissent on the basis that some Missouri municipal courts contract with third party agencies to administer community service. These agencies charge a fee to cover normal business-type expenses including indemnity insurance and fees for background checks. These fees are not transferred to the court; they are assessed, collected, retained, and in some instances waived by the agency. Thus, the fees are not charged by the court and are not a source of court revenue. Judge Thornhill further expresses the view that a reasonable fee associated with community service as a condition of probation (as opposed to community service ordered in lieu of payment of fines) is not inherently improper.

It should be noted that the Work Group Report was submitted prior to the statutory amendments dealing with community service in the municipal divisions. The 2016 legislation (Senate Bill 572) clarified that community service fees may not be assessed to offenders in municipal division cases. This statutory language is reflected in the Minimum Operating Standards.

After the CPPMDC was established, the Supreme Court again asked for a legal analysis of these matters. This is the analysis which was provided to the Court, in the CPPMDC's periodic report dated October 27, 2016:

IV. Report on Community Service Alternatives and Associated Costs, Fees, & Surcharges

In its memorandum to the Committee dated July 6, 2016, the Supreme Court of Missouri gave this Committee the following directive: “The Working Group concluded that state law did not authorize a judge of a municipal division to include the cost of participating in community service in the judgment against an offender. The Court would appreciate the Committee’s research and conclusions on this issue.”

A subcommittee was appointed, consisting of Judge Tucker and Ms. Frederickson, co-chairs, and members Judge Newsham and Ms. Banks. This subcommittee was charged with providing a draft report regarding community service alternatives. On October 12, 2016, the subcommittee unanimously recommended adoption of the following report:

COMMUNITY SERVICE AS AN ALTERNATIVE TO FINES/COSTS.

- 1) Municipal courts **shall** make use of community service alternatives to satisfy fine/cost obligations of defendants that are found to be indigent by the municipal judge.
- 2) Municipal courts shall not assess, or allow to be assessed, any costs to a defendant relating to satisfying the community service obligation when such community service is assessed in lieu of payment of fines/costs.
- 3) Municipal judges shall not assess a fee to defendants as a condition of probation when the municipal judge has found the defendant to be indigent.
- 4) Community service obligations may be satisfied for any public or charitable purpose, so long as (a) such community service hours are not verified by a family member, and (b) the purpose or location is not also a source of employment for the defendant.
- 5) Municipal courts are encouraged to create a “pre-approved” list of community service options to assist defendants in finding community service and assist the court in confirming community service.
- 6) Municipal court judges shall determine the per hour value of the community service at no less than minimum wage. Such determination shall consider local economic conditions, specialized skills utilized, etc.
- 7) Except in the case of negotiated diversion agreements, community service shall not be assessed as a condition of dismissing a charge in municipal court.

This report was discussed at the meeting of the full Committee held at St. Louis on October 14, 2016. There appeared to be a general consensus of the Committee in favor of the provisions of the subcommittee’s draft report; and your Committee now submits this Report to the Supreme Court of Missouri for its consideration, together with the following commentary on the law.

Differences of opinion within the Committee remain, with regard to the specific question of whether any court costs, fees and surcharges associated with community service, or mandatory fees specifically related to community service required by third-party nonprofit or statutorily authorized private probation contractors which oversee community service activities, can ever be charged. The Committee is in general agreement that such costs, fees, and surcharges may not be assessed to indigent defendants, either by the court itself or by such

contractors. However, with regard to non-indigent defendants, current law is susceptible to multiple interpretations.

Given the current state of the law, several plausible legal interpretations may be reached by people of good faith, and this range of views is reflected among the membership of the Committee.

INTERPRETATION #1: Court costs, fees and surcharges associated with community service, and mandatory fees specifically related to community service required by third-party non-profit or statutorily authorized private probation contractors supervising community service activities, may not be charged to any defendant, indigent or otherwise, who is required to perform community service as a result of any judgment or order of a municipal division, whether ordered as an “alternative” to payment of fines and costs or as a condition of probation.

This interpretation essentially reflects the majority opinion of the Municipal Division Work Group Report. This interpretation reflects a strict application of the observation that no state law authorizes the collection of costs, fees or surcharges by courts in relation to community service, and that the assessment of a mandatory fee by a contractor is essentially identical in its impact upon the defendant, as a court cost. Simply put, costs, fees, and surcharges which are not clearly authorized by state law may not be assessed.

Moreover, Senate Bill 572 (L. 2016), enacted since the issuance of the Work Group Report, requires the following of municipal divisions: “The municipal court makes use of community service alternatives for which no associated costs are charged to the defendant;” § 479.360(9), RSMo. Municipal divisions are now required to make an annual sworn certification to this effect to the Missouri State Auditor. Moreover, the Minimum Operating Standards recently adopted by the Supreme Court of Missouri, under Standards #2, #4, and #10, all require that “the municipal division is in compliance with the following requirements of section 479.360.1, RSMo . . . Community service is utilized with no fee assessed to the Defendant.” This interpretation assumes that fees directly related to community service are no longer authorized in municipal division cases, even when a private probation supervisor is involved, as provided by sections 559.604 and 559.607, RSMo (statewide application) and section 549.525, RSMo (City of Kansas City).

Moreover, this interpretation assumes that probation itself is always an “alternative” to a standard “straight” disposition of a case upon a finding of guilt (imposition of a fine, or incarceration in cases where that punishment is authorized by law). Therefore, there is no meaningful difference between a probation condition requiring community service, and an order to complete community service as an “alternative” to payment of fines and costs.

This interpretation also assumes that there are no “unfunded mandate” issues present, because there is no clear constitutional mandate to operate a municipal court.

INTERPRETATION #2: Court costs, fees, and surcharges associated with community service, and mandatory fees specifically related to community service required by third-party non-profit or statutorily authorized private probation contractors supervising community service activities,

may not be charged to any defendant, indigent or otherwise, who is required to perform community service as a result of a judgment or order of a municipal division, when community service has been ordered as an “alternative” to payment of fines and costs. However, such charges may be permissible in the case of non-indigent defendants, when performance of community service has been ordered as a condition of probation.

This interpretation draws a distinction between community service ordered specifically as an “alternative” to payment of fines and costs, and community service ordered as a condition of probation. This interpretation would hold that the provisions of SB 572 now in effect ban any assessment of costs, fees, or surcharges for community service when ordered as an “alternative” to payment of fines and costs, but not when ordered (for a non-indigent defendant) as a condition of probation.

Moreover, this interpretation expresses the opinion that there was no legislative intent to abolish the long-standing practice which has existed in a number of localities, of assessing community service fees to non-indigent defendants, either as a court cost/fee/surcharge or through a non-profit or statutorily authorized private probation contractor supervising community service activities. Concern has been expressed that requiring municipalities to offer community service as an alternative and/or as a condition of probation, without providing a means of paying for the related supervision and reporting, effectively amounts to an unfunded mandate upon the municipalities, because there is a cost associated with supervision and verification of community service, whether the supervision is provided directly by the municipality or whether it is provided through a contractor.

Fees collected by third-party contractors supervising community service activities must be assessed and collected in accordance with state law. *See* sections 559.604 and 559.607, RSMo (statewide application) and section 549.525, RSMo (City of Kansas City).

INTERPRETATION #3: Court costs, fees and surcharges associated with community service may not be charged to any defendant, indigent or otherwise, who is required to perform community service as a result of a judgment or order of a municipal division, whether ordered as an “alternative” to payment of fines and costs or as a condition of probation.

Moreover, the mandatory fees specifically related to community service required by third-party non-profit or statutorily authorized private probation contractors supervising community service activities may not be charged to any defendant, indigent or otherwise, when community service has been ordered specifically as an alternative to payment of fines and costs.

However, the mandatory fees specifically related to community service required by third-party non-profit or statutorily authorized private probation contractors supervising community service activities may be permissible for non-indigent defendants, when performance of community service has been ordered as a condition of probation for non-indigent defendants.

This interpretation makes many of the same assumptions as “Interpretation #2,” but draws a further distinction between costs, fees, and surcharges collected by the court itself, and the reasonable charges of a third-party contractor supervising community service. This

interpretation would hold that costs, fees, and surcharges may not be collected by the court, because they are not specifically authorized by state law. However, the reasonable fees of third-party non-profit or statutorily authorized private probation contractors supervising community service may be collected by those contractors, but only in the case of community service ordered as a condition of probation for non-indigent defendants.

INTERPRETATION #4: Court costs, fees and surcharges associated with community service, and mandatory fees specifically related to community service required by third-party non-profit or statutorily authorized private probation contractors supervising community service activities, may not be charged to any defendant, indigent or otherwise, who is required to perform community service as a result of any judgment or order of a municipal division, whether ordered as an “alternative” to payment of fines and costs or as a condition of probation. However, if a defendant wishes to utilize the services of a non-profit or statutorily authorized private probation supervision entity which charges a fee for its services, and collects said fee with no involvement on the part of the court, this is permissible.

This interpretation is reasonably self-explanatory. It incorporates the basic assumptions of Interpretation #1, but allows a caveat that an individual defendant may choose to utilize the services of a community service supervisor which charges a fee for supervision and verification services, so long as the court is not directly involved. This option may be of particular value to non-indigent defendants who are ordered to do community service in a municipality far distant from their place of residence, and who want the option to do verifiable community service hours in the community where they reside.

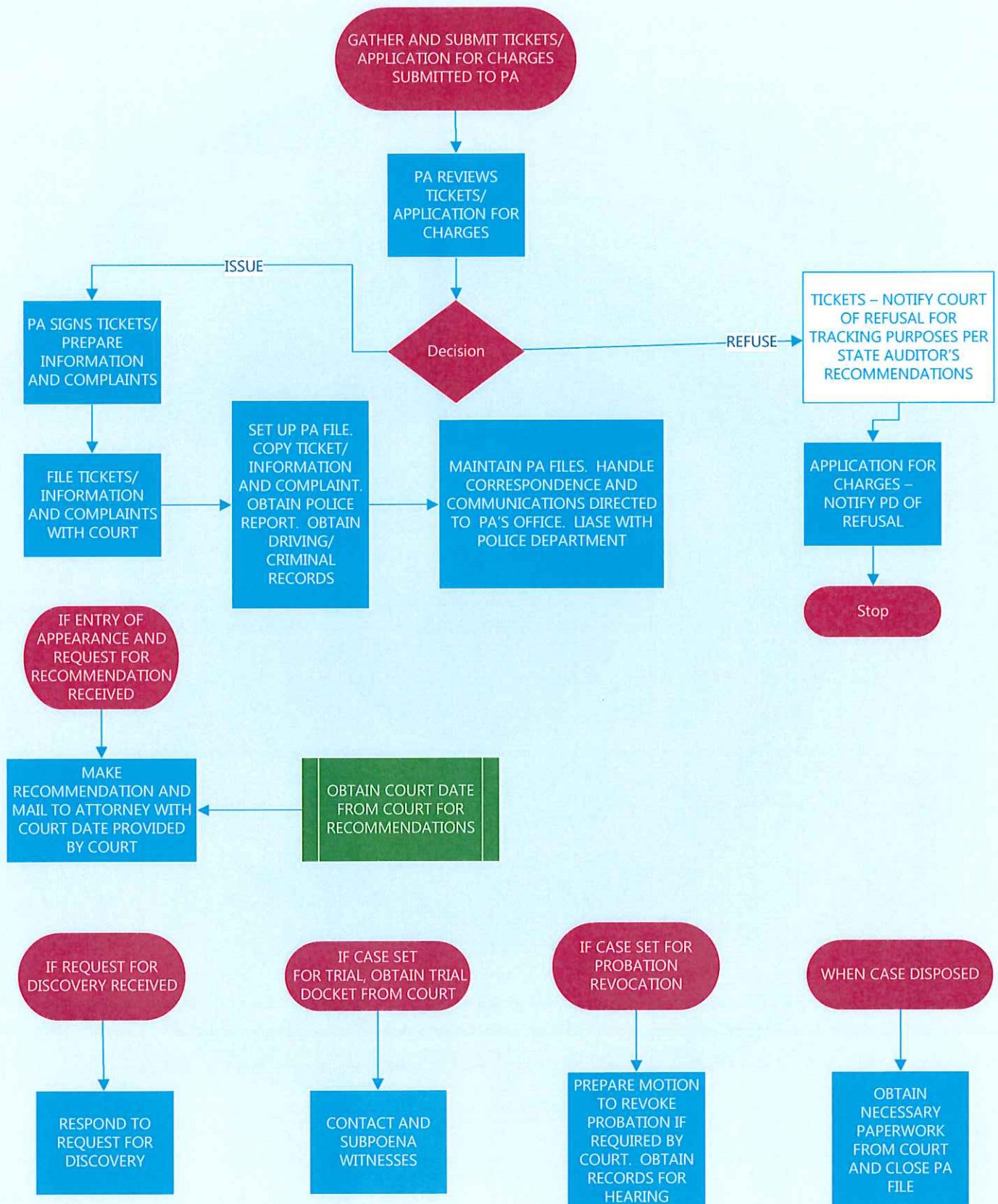
This Committee does not possess the authority to impose a definitive solution to this quandary. We believe that our greatest service to the Court at this time may be simply to point out several plausible interpretations of current law, and that there may be additional variations possible upon the interpretations we have suggested. This situation may persist for a significant period of time, in the absence of new legislative enactments to clarify the state of the law, or an appropriate case presented to the Supreme Court of Missouri which might provide an opportunity for an authoritative judicial interpretation.

That is where the matter appears to stand, for the time being. Future statutory changes may affect the legal analysis presented here.

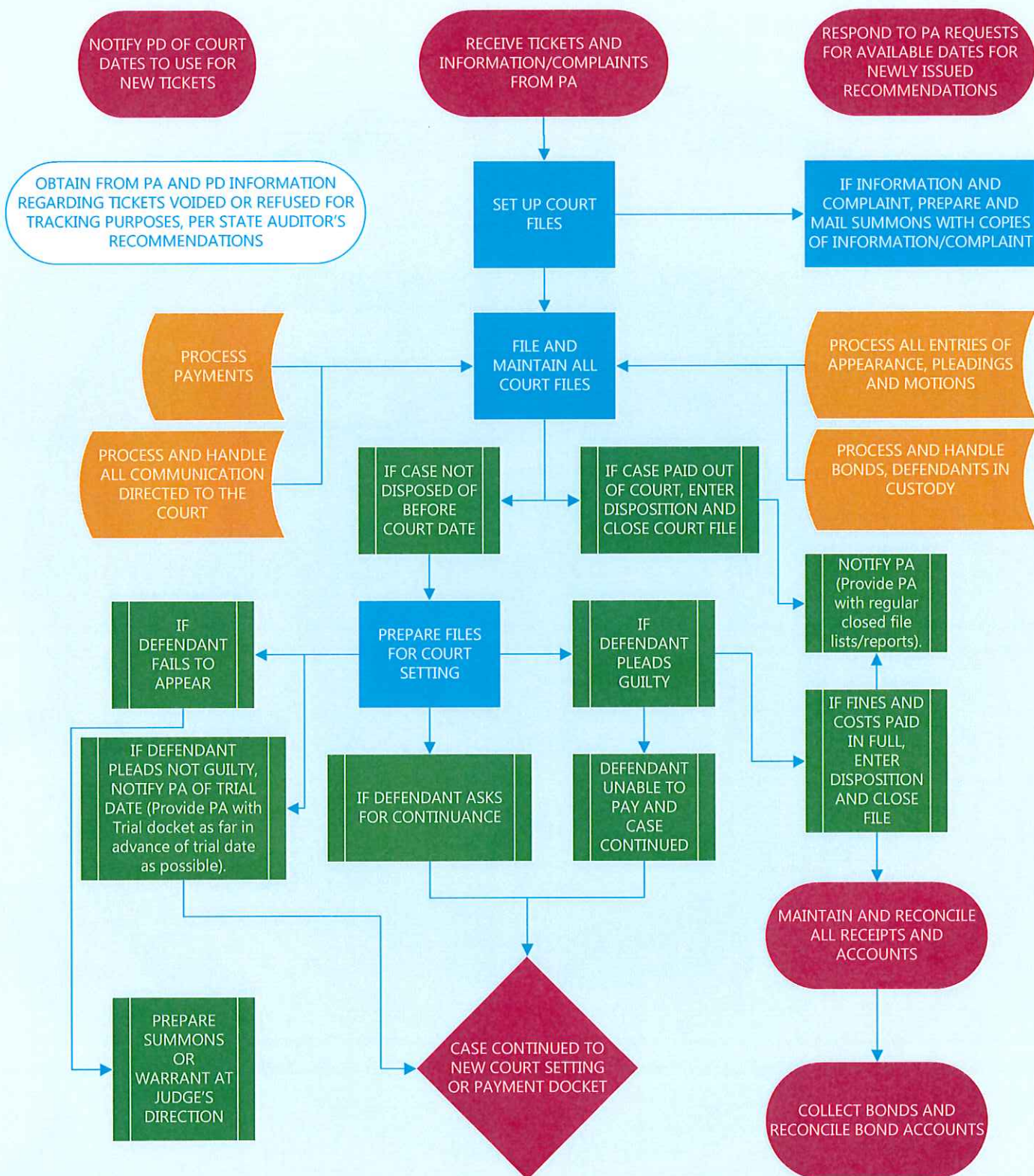
Chapter 10

Court Procedures Matrix

PROSECUTOR PROCEDURES



COURT PROCEDURES



Chapter 11

Rule 37 Comparison Chart

RULE 37 COMPARISON CHART

Judge Todd Thornhill, Springfield, Missouri Municipal Court
May 2012 Original, February 2017 Revision

| Ordinance Violations | Rules of Criminal Procedure |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>37.01. Rules--When Applicable Rule 37 governs the procedure in all courts of this state having original jurisdiction of ordinance violations and the disposition of any such violation in a violation bureau.</p> | <p>19.01. Misdemeanors or Felonies--Rules--When Applicable Rules 19 to 36, inclusive, govern the procedure in all courts of this state having jurisdiction of criminal proceedings. Rule 103 and Court Operating Rule 27 shall apply to all matters subject to electronic filing. To the extent there is a conflict between Rule 103 and Rules 19 to 36, Rule 103 shall apply.</p> |
| <p>37.02. Rules--Authority for--Statutes and Ordinances Superseded Rule 37 is promulgated pursuant to authority granted this Court by article V, section 5 of the Missouri Constitution and supersedes all statutes, ordinances and court rules inconsistent therewith.</p> | <p>19.02. Misdemeanors or Felonies--Rules--Authority for--Statutes Superseded Rules 19 to 36, inclusive, are promulgated pursuant to authority granted this Court by Section 5 of Article V of the constitution of Missouri and supersede all statutes and court rules inconsistent therewith.</p> |
| <p>37.03. Rules—Construction Rule 37 shall be construed to secure the just, speedy and inexpensive determination of ordinance violations."</p> | <p>19.03. Misdemeanors or Felonies--Rules—Construction Rules 19 to 36, inclusive, shall be construed to secure the just, speedy and inexpensive determination of every criminal proceedings.</p> |
| <p>37.04. Supervision of Courts Hearing Ordinance Violations The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of all divisions of the circuit court hearing and determining ordinance violations within the circuit. The judges of all such divisions shall be subject to the rules of the circuit court that are not inconsistent with this Rule 37.</p> <p><i>Effective July 1, 2017:</i> The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of all divisions of the circuit court hearing and determining ordinance violations within the circuit. Municipal divisions shall operate in substantial compliance with the minimum operating standards set out in Appendix A of this Rule 37.04. The judges of all such divisions shall be subject to the rules of the</p> | <p>Missouri State Constitution, Article V, section 4.1 Supervisory authority over all courts is vested in the supreme court which may make appropriate delegations of this power.</p> |

circuit court that are not inconsistent with this Rule 37.

37.05. Local Circuit Court Rules--

Publication and Distribution The circuit courts may make rules governing the disposition of ordinance violations if the rules are not inconsistent with the rules of this Court or the Constitution. Upon promulgation, copies of such rules shall be filed with the clerk of this Court. The clerk of each court shall from time to time compile all of the current rules and maintain copies.

37.06. Definitions Whenever in this Rule 37 the following terms are used, they mean the following:

- (a) "Animal control violation," any violation of an ordinance relating to the care or control of any animal;
- (b) "Clerk," any duly appointed court clerk or court administrator or any deputy or division court clerk serving courts to which this Rule 37 applies;
- (c) "Corrections official," a person in control of a detention facility;
- (d) "County," includes the City of St. Louis;
- (e) "Court," a division of the circuit court having jurisdiction to hear ordinance violations;
- (f) "Detention facility," any jail, workhouse, lockup or other facility normally operated to hold sentenced offenders or that is used to confine adults awaiting trial;
- (g) "Housing violation," any violation of an ordinance relating to the condition or maintenance of residential buildings and residential real property;
- (h) "Law," includes constitutions, statutes, ordinances, judicial decisions and this Rule 37;
- (i) "Municipal division," any division of the circuit court presided over by a judge having original jurisdiction to hear and determine municipal ordinance violations;
- (j) "Municipality," includes all charter, first, second, third and fourth class cities, towns and villages;
- (k) "Ordinance," a law enacted by a municipality or county;

19.07. Misdemeanors or Felonies--Rules of Court of Appeals and Trial Courts--Copy to Clerk of This Court—Distribution

The Missouri Court of Appeals, districts thereof, and trial courts may make rules governing the administration of judicial business if the rules are not inconsistent with the rules of this Court, the Constitution or statutory law in force. Upon their promulgation, copies of any such rules shall be furnished to the clerk of this Court. The clerk of each court shall from time to time compile all of the current rules and maintain copies thereof for distribution among members of the bar and litigants.

19.05. Misdemeanors or Felonies--Rules—Definitions

As used in Rules 19 to 36, inclusive, the term "law" includes rules, statutes and judicial decisions; "oath" includes affirmations; "prosecuting attorney" includes the Circuit Attorney of the City of St. Louis, the Attorney General of the State of Missouri, and associate and assistant prosecuting attorneys, assistant circuit attorneys and assistant attorneys general where, by law, they are authorized and permitted to act.

(l) "Peace Officer," includes police officers, members of the state highway patrol, sheriffs, marshals, constables, and their deputies;

(m) "Person," includes corporations;

(n) "Prosecutor," any attorney or counselor who represents any county, city, town, or village in the prosecution of a person for a violation of an ordinance;

(o) "Traffic violation," any violation of an ordinance relating to the control of traffic;

(p) "Violation," any ordinance violation within the jurisdiction of any court to which this Rule 37 applies.

37.07. Pleadings and Papers—Size All pleadings and other papers, except exhibits, offered for filing in any court and all forms used in any court, including opinions, shall be on paper of a size not larger than 8 1/2 x 11 inches. An exhibit may be on paper larger than size 8 1/2 x 11 inches. The use of recycled paper is acceptable and encouraged.

37.08. Rules--When not Applicable—Procedure If no procedure is specially provided by this Rule 37, the court shall be governed by Rules 19 to 36, inclusive, to the extent not inconsistent with this Rule 37.

37.09. Time--Computation of—Enlargement

(a) Computation. In computing any period of time prescribed or allowed by this Rule 37, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(b) Enlargement. When by this Rule 37 or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for

19.09. Pleadings and Papers--Size--Form--Recycled Paper Appellate court briefs shall be prepared as provided in Rule 84.06.

Petitions, motions, transcripts and legal files shall comply with Rule 81.18. All pleadings and other papers, except exhibits, offered for filing in any court and all forms used in any court, including opinions, shall be on paper of a size not larger than 8 1/2 X 11 inches. An exhibit may be on paper larger than size 8 1/2 X 11 inches. The use of recycled paper is acceptable and encouraged.

19.04. Misdemeanors or Felonies--Rules--When not Applicable—Procedure If no procedure is specially provided by rule, the court having jurisdiction shall proceed in a manner consistent with judicial decisions or applicable statutes.

20.01. Misdemeanors or Felonies--Time, Computation of--Extension--Expiration of Term--Service of Motions

(a) Computation. In computing any period of time prescribed or allowed by these Rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(b) Enlargement. When by these Rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon notice and motion made after the

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| <p>cause shown may at any time in its discretion:</p> <p>(1) With or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or</p> <p>(2) Upon notice and motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but the court may not enlarge the period for filing an application for trial de novo.</p> <p>(c) Additional Time After Service by Mail. When a party has the right or is required to do some act or take some action within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days shall be added to the prescribed period.</p> <p>37.10. Courts Always Open--Motions, Applications Grantable by Clerk</p> <p>(a) Court Always Open for Certain Purposes. The court shall be deemed always open for the purpose of filing proper papers,</p> | <p>expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but the court may not enlarge the period for filing a motion for new trial or for taking an appeal as provided by these rules.</p> <p>(c) Unaffected by Expiration of Term. The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the continued existence or expiration of a term of court. The continued existence or expiration of a term of court in no way affects the power of a court to do any act or take any proceeding in any criminal proceedings pending before it, which it is otherwise by law authorized to do or take.</p> <p>(d) Motions--Notice Required--Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by law or court rule or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by an affidavit, the affidavit shall be served with the motion; and, except as otherwise provided by law or rule in connection with a motion for a new trial, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.</p> <p>(e) Additional Time After Service by Mail. When a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.</p> <p>20.02. Misdemeanors or Felonies--Court Open, When--Motions and Proceedings Grantable by Clerk</p> <p>(a) Court Always Open for Certain Purposes. The court shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning <i>mesne</i> and final process and of making and directing all interlocutory motions, orders, and rules.</p> <p>(b) Motions and Proceedings Grantable by Clerk. All motions and applications in the clerk's office for issuing mesne process, for</p> |
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the issuance and return of process, and for the making of motions, applications and orders.

(b) Motions and Proceedings Grantable by Clerk. All motions and applications filed in the clerk's office for issuing process, for issuing final process to enforce judgments and for other proceedings that do not require an order of the court are grantable by the clerk; but such action by the clerk may be suspended, altered or rescinded by the judge upon cause shown.

37.11. Writs--Process—Return Every officer to whom any writ of process or order shall be directed and delivered for service under this Rule 37 shall make return thereof in writing, showing the time, place, and manner of service thereof, and shall sign such return and file the same with the clerk.

37.13. Counsel--Right to Consult Every person arrested and held in custody by any peace officer in any detention facility, police station, or any other place, upon or without a warrant or other process for the alleged commission of an ordinance violation, or upon suspicion thereof, shall promptly, upon request, be permitted to consult with counsel or other persons and, for such purpose, to use a telephone.

37.14. Rules of Evidence Inapplicable Proceedings under Rules 37.14 to 37.32 shall be informal, and technical rules of evidence need not apply.

37.15. Right to Release--Conditions
(a) Any person arrested for an ordinance violation shall be entitled to be released from custody pending trial. The person is also entitled to be released pending trial de novo, review and appeal. As each court enters a judgment, it shall review the conditions of release and may modify them as provided in Rule 37.19.
(b) If an arresting officer has not released a person, the court shall order the person released upon the person's written promise to appear unless the court finds:

issuing final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court are grantable as of course by the clerk; but this action may be suspended or altered or rescinded by the court upon cause shown.

20.03. Misdemeanors or Felonies--Writs--Process—Return Every officer to whom any writ of process or order shall be directed and delivered for service under these rules, shall make return thereof in writing, showing the time, place, and manner of service thereof, and shall sign such return and file the same in the clerk's office.

31.01. Misdemeanors or Felonies--Counsel--Right to Consult Every person arrested and held in custody by any peace officer in any jail, police station, or any other place, upon or without a warrant or other process for the alleged commission of a criminal offense, or upon suspicion thereof, shall promptly, upon request, be permitted to consult with counsel or other persons in his behalf, and, for such purpose, to use a telephone.

33.07. Misdemeanors or Felonies--Rules of Evidence Inapplicable Proceedings under Rule 33 shall be informal and technical rules of evidence need not apply.

33.01. Misdemeanors or Felonies--Right to Release—Conditions

(a) Any person charged with a bailable offense shall be entitled to be released pending trial. Any person convicted of an offense entitled to be released upon appeal shall be released upon appeal until adoption by the court of an opinion affirming the judgment of conviction. The affirming court may, by special order, permit the defendant to remain on bond after affirmance pending determination of after-affirmance motions or applications.

(b) The court shall set such conditions for release as will reasonably assure the appearance of the accused.

(c) The release shall be upon condition that the accused will appear in the court, or in any other court, trial or appellate, in which the case may be prosecuted or appealed, from time to time as required to answer the criminal charge; that he will submit to the orders, judgment and sentence and process of

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| <p>(1) The promise alone is not sufficient reasonably to assure the appearance of the person; or</p> <p>(2) The person poses a danger to a crime victim, the community or any other person.</p> <p>(c) If the court determines that the imposition of conditions will assure that the defendant is reasonably likely to appear and will not pose a danger to a crime victim, the community or any other person, the court shall impose conditions for the release of the person. The appropriate conditions shall include one or more of the following:</p> <p>(1) Place the person in the custody of a designated person or organization agreeing to supervise the person;</p> <p>(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;</p> <p>(3) Require the execution of a bond in a stated amount with sufficient solvent sureties, or the deposit in the registry of the court of the sum in cash or negotiable bonds of the United States or the State of Missouri or any political subdivision thereof;</p> <p>(4) Require the person to report regularly to some officer of the court or peace officer in such manner as the court directs;</p> <p>(5) Require the execution of a bond in a stated amount and the deposit in the registry of the court of ten percent, or such lesser sum as the court directs, of such sum in cash or negotiable bonds of the United States or the State of Missouri or any political subdivision thereof;</p> <p>(6) Impose any other conditions deemed reasonably necessary, including a condition requiring that the person return to custody after specified hours.</p> <p>(d) In determining which conditions of release will reasonably assure appearance, the court shall, on the basis of available information, take into account the nature and circumstances of the violation, the weight of the evidence against the person, the person's family ties, employment, financial resources, character, mental condition, the length of the person's residence in the community, the</p> | <p>any court having jurisdiction thereof; and that he will comply fully with any conditions imposed by the court in granting release.</p> <p>(d) The court shall in all cases release the accused upon his written promise to appear, unless the court determines that such release will not reasonably assure the appearance of the accused. If the court so determines it shall impose one or more of the following conditions for his release which will reasonably assure such appearance:</p> <p>(1) Place the person in the custody of a designated person or organization agreeing to supervise him;</p> <p>(2) Place restriction on the travel, association, or place of abode of the person during the period of release;</p> <p>(3) Require the execution of a bond in a stated amount with sufficient solvent sureties, or the deposit in the registry of the court of the sum in cash or negotiable bonds of the United States or of the State of Missouri or any political subdivision thereof;</p> <p>(4) Require the person to report regularly to some officer of the court or peace officer, in such manner as the court directs;</p> <p>(5) Require the execution of a bond in a stated amount and the deposit in the registry of the court of ten percent, or such lesser sum as the court directs, of such sum in cash or negotiable bonds of the United States or the State of Missouri or any political subdivision thereof;</p> <p>(6) Impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.</p> <p>(e) In determining which conditions of release will reasonably assure appearance, the court shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character, mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.</p> <p>(f) A court releasing a person under this Rule shall enter an order stating the conditions imposed. The court shall inform such person of the conditions imposed and of the penalties</p> |
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person's record of convictions, and record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings.

(e) A court releasing a person under Rule 37.15 shall enter an order stating the conditions imposed. The court shall inform such person of the conditions imposed and of the penalties applicable to violations of the conditions of release and shall advise that a warrant for arrest will be issued immediately upon any such violation.

37.16. Officials Authorized to Set Conditions of Release--Conditions to be Stated on Warrant

(a) The court issuing a warrant for the arrest of any accused shall set the conditions for release of the accused. The conditions of release shall be stated on the warrant of arrest. The court shall impose one of the following conditions:

(1) The written promise of the accused to appear; or

(2) The execution of a bond in a stated amount pursuant to Rule 37.15(c)(3); or

(3) The execution of a bond in a stated amount pursuant to Rule 37.15(c)(5).

The court may impose additional conditions for release as provided in Rule 37.15(c).

(b) If the arrest of the accused upon warrant occurs in a county other than that in which the ordinance violation occurred, the peace officer making the arrest shall promptly release the accused in accordance with the release conditions or bail prescribed on the warrant; but if none, the peace officer shall take the accused before the court in such county having jurisdiction of ordinance violations, to admit the accused to bail in such sum as the court may determine will likely ensure appearance of the accused. Bail, if taken by the peace officer making the arrest or if taken by a judge in such county, shall be promptly forwarded to the court from which the warrant was issued.

37.17. Arrest without Warrant When an arrest is made without a warrant, the peace officer may accept bond in accordance with a bail schedule furnished by the court having jurisdiction.

applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

33.02. Misdemeanors or Felonies--Warrant for Arrest--Officials Authorized to Set Conditions of Release--Conditions to be Stated on Warrant

The court or clerk thereof issuing a warrant for the arrest of any person shall set the condition for release of the accused which shall be one of the following:

(a) The written promise of the accused to appear; or

(b) The execution of a bond in a stated amount pursuant to Rule 33.01(d)(3); or

(c) The execution of a bond in a stated amount pursuant to Rule 33.01(d)(5).

The condition of release shall be stated on the warrant of arrest. If the condition of release is not stated on the warrant the sheriff may set the condition of release specified in Rule 33.01(d)(3).

33.03. Repealed by order dated Dec. 17, 1985, eff. Jan. 1, 1987 This rule was similar to current rule 37.17.

33.04. Misdemeanors or Felonies--Officer Authorized to Accept Conditions of Release The court or clerk who set the conditions of release, or the sheriff, may accept the conditions of release and release the accused.

33.06. Misdemeanors or Felonies--Modification of Conditions of Release

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| <p>37.18. Officer Authorized to Accept Conditions of Release The court that sets the conditions for release, or clerk or peace officer when authorized, may accept the conditions for release and release the accused.</p> <p>37.19. Modification of Conditions of Release (a) Upon motion by the prosecutor or by the accused, or upon the court's own motion, the court in which the proceeding is pending may modify the requirements for release after notice to the parties and hearing when the court finds that: (1) New, different, or additional requirements for release are necessary; (2) The conditions for release that have been set are excessive; (3) The accused has failed to comply with or has violated the conditions for the accused's release; or (4) The accused has been convicted of the ordinance violation charged. (b) When the court increases the requirements for release or new requirements are set, the accused shall be remanded to the custody of the corrections official until compliance with the modified conditions. If the accused is not in custody, the court may order that a warrant for the arrest of the accused be issued.</p> <p>37.20. Right to Review of Conditions An accused for whom conditions for release are imposed and who after 24 hours from the time of the release hearing continues to be detained on charges as a result of the accused's inability to meet the conditions for release shall, upon application, be entitled to have the conditions reviewed by the court that imposed them. The application shall be determined promptly.</p> <p>37.21. Re-arrest of Accused The court may order the arrest of an accused who has been released if it shall appear to the court that: (a) There has been a breach of any condition for the release; or</p> | <p>(a) Upon motion by the state or by the accused, or upon the court's own motion, the court in which the proceeding is pending may, after notice to the parties and hearing, modify the requirements for release when the court finds that: (1) New, different or additional requirements for release are necessary; or (2) The conditions for release which have been set are excessive; or (3) The accused has failed to comply with or has violated the conditions for his release; or (4) The accused has been convicted of the offense charged. (b) When the requirements for release are increased by the court, or new requirements are set, the accused shall be remanded to the custody of the sheriff or other officer until compliance with the modified conditions. If the accused is not in custody, the court may order that a warrant for his arrest be issued.</p> <p>33.05. Misdemeanors or Felonies--Right to Review of Conditions A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release shall, upon application, be entitled to have the conditions reviewed by the court which imposed them. The application shall be determined promptly.</p> <p>33.08. Misdemeanors or Felonies--Rearrest of Accused The court may order the arrest of an accused who has been released if it shall appear to the court that: (a) There has been a breach of any condition for the release; or (b) The bail should be increased or new or additional security be required or new conditions for release be imposed. The accused, upon application, shall be entitled to a hearing concerning the reasons for the issuance of the order.</p> <p>33.09. Misdemeanors or Felonies--Failure of Court to Set Conditions or Setting of Excessive Conditions for Release--Application to Higher Court</p> |
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(b) The bail should be increased or new or additional security be required or new conditions for release be imposed. The accused, upon application, shall be entitled to a hearing concerning the reasons for the issuance of the order.

37.22. Failure to Set Conditions or Setting of Excessive Conditions for Release--Application to Higher Court

(a) If a court shall fail to set conditions for release or shall set inadequate or excessive conditions, an application may be filed in a higher court by the accused or by the prosecutor stating the grounds for the application and the relief sought. A copy of the application and the notice of the time when it will be presented to the court shall be served on all parties.

(b) If the higher court finds that the accused is entitled to be released and no conditions therefor have been set or that the conditions are excessive or inadequate, the court shall make an order setting or modifying conditions for the release of the accused.

(c) At the time of complying with the conditions of release set by the higher court, the accused shall file with the clerk a signed and acknowledged written instrument in which the accused shall specify the post office address to which all notices in connection with the case thereafter may be mailed. Proof of mailing notice to the accused at that address shall constitute sufficient notice to the accused in all cases where notice is required under this Rule 37.

37.23. Transmittal of Record by Clerk of the Releasing Court When any person is released by a court other than the court in which the person is to appear, the clerk of the releasing court shall transmit a record of the release, together with any conditions imposed, to the clerk of the court in which the person released is required to appear.

37.24. Bonds--Where Filed--Certification by Peace Officer--Cash Bonds The clerk of the court in which the accused is required to

(a) If a court shall fail to set conditions for release, or shall set inadequate or excessive conditions, an application may be filed in a higher court by the accused or by the state, stating the grounds for the application and the relief sought. A copy of the application and notice of the time when it will be presented to the court shall be served on all parties.

(b) If the higher court finds that the accused is entitled to be released and no conditions therefor have been set, or that the conditions are excessive or inadequate, the court shall make an order setting or modifying conditions for the release of the accused.

(c) At the time of complying with conditions of release set by the appellate court, the defendant shall file with the clerk a signed and acknowledged written instrument in which he shall specify the post office address to which all notices in connection with his case thereafter may be mailed. Proof of mailing notice by certified or registered mail to defendant at that address shall constitute sufficient notice to defendant in all cases where notice is required under these Rules.

33.10. Misdemeanors or Felonies--Transmittal of Record by Clerk of the Releasing Court

When any person is released by a court other than the court in which the person is to appear the clerk of the releasing court shall transmit a record of the release, together with any conditions imposed, to the clerk of the court in which the person released is required to appear.

33.11. Misdemeanors or Felonies--Bonds--Where Filed--Certification by Sheriff or Peace Officer--Cash Bonds

All bonds shall be filed by the clerk of the court in which the person is required to appear. All bonds taken by the sheriff or by any other peace officer shall be certified by such officer and transmitted forthwith to the clerk of the court in which the person is required to appear. When cash or securities specified in Rule 33.01 are taken they shall be delivered forthwith to the clerk of the court in which the person is required to appear and deposited in the registry of the court.

appear shall file all bonds. All bonds taken by a peace officer shall be certified by such officer and transmitted forthwith to the clerk of the court in which the accused is required to appear. When cash or securities specified in Rule 37.15 are taken they shall be delivered forthwith to the clerk of the court in which the accused is required to appear and deposited in the registry of the court.

37.25. Surrender of Principal by Surety

Whenever the surety upon any bond shall desire to surrender the principal, the surety may procure from the clerk a certified copy of said bond, by virtue of which such surety, or any person authorized by the surety, may take the principal into custody. If a bond is forfeited for the failure of the principal to appear as required by the bond and the surety produces the principal prior to the rendition of judgment upon the forfeiture and the surety pays all costs and expenses caused by the principal's failure to appear, the surety is discharged from further liability. When surrendering the principal to the peace officer, the surety must deliver a certified copy of the bond and the peace officer shall take the principal into custody and acknowledge acceptance of the principal in writing. Any principal so surrendered may be conditionally released pursuant to Rule 37.15.

37.26. Bonds--Forfeiture--Procedural Notice--Judgment--Setting Aside Forfeiture

If there is a breach of a condition of a bond, the court in which the case is pending may declare a forfeiture of the bond. The court may direct that a forfeiture be set aside upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture. When a forfeiture has not been set aside, the court on the prosecutor's motion may enter a judgment of default and execution may issue thereon. By entering into a bond the obligors submit to the jurisdiction of the court in which the defendant is required to appear and irrevocably appoint the clerk as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on the prosecutor's motion without the necessity of an independent action. The

33.13. Misdemeanors or Felonies--

Surrender of Principal by Surety

Whenever the surety upon any bond shall desire to surrender his principal, he may procure from the clerk a certified copy of said bond, by virtue of which such surety, or any person authorized by him, may take the principal into custody. If a bond is forfeited for the failure of the principal to appear as required by the bond and the surety produces the principal prior to the rendition of judgment upon the forfeiture and the surety pays all costs and expenses caused by the principal's failure to appear the surety is discharged from further liability. When surrendering the principal to the sheriff the surety must deliver a certified copy of the bond and the sheriff shall take the principal into custody and acknowledge acceptance of the principal in writing. Any principal so surrendered may be conditionally released pursuant to Rule 33.01.

33.14. Misdemeanors or Felonies--Bonds--Forfeiture--Procedural Notice--

Judgment--Setting Aside Forfeiture

If there is a breach of a condition of a bond, the court in which the criminal case is pending may declare a forfeiture of the bond. The court may direct that a forfeiture be set aside, upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture. When a forfeiture has not been set aside, the court shall on motion enter a judgment of default and execution may issue thereon. By entering into a bond the obligors submit to the jurisdiction of the court in which the defendant is required to appear and irrevocably appoint the clerk of the court as their agent upon whom any papers affecting their liability may be served. Their liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the hearing as the court prescribes may be served on the clerk of the court, who shall forthwith mail a copy to each of the obligors.

33.15. Misdemeanors or Felonies--Bond--Release of Obligors

When the conditions of the bond have been satisfied the court shall release the obligors. When a forfeiture of the bond is set aside the court may release the obligors. Any surety may be released upon

motion and notice of the hearing as the court prescribes may be served on the clerk, who shall forthwith mail a copy to each of the obligors.

37.27. Bonds--Release of Obligor When the conditions of the bond have been satisfied the court shall release the obligors. When a forfeiture of the bond is set aside, the court may release the obligors. Any surety may be released upon depositing cash in the amount of the bond or by a timely surrender of the defendant.

37.28. Notice of Change of Address Any defendant who has been released pending further proceedings and any surety for such defendant shall give written notice to the clerk of the court in which the case is pending of any change of address.

37.29. Bonds--Surety, Individual—Qualifications A person shall not be accepted as a surety on any bail bond unless the person:

- (a) Is reputable, at least twenty-one years of age and a resident of the State of Missouri;
- (b) Has net assets with a value in excess of exemptions at least equal to the amount of the bond that are subject to execution in the State of Missouri;
- (c) Has not, within the past 15 years, been found guilty of or pleaded guilty or nolo contendere to:
 - (1) Any felony of this state, any other state, or the United States; or
 - (2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not a sentence was imposed;
- (d) Has no outstanding forfeiture or unsatisfied judgment thereon entered upon any bail bond in any court of this state or of the United States.

A lawyer, or an elected or appointed official or employee of the State of Missouri or any county or other political subdivision thereof shall not be accepted as a surety on any bail bond, except that, this disqualification shall not apply if the principal is the spouse, child or family member of the surety.

depositing cash in the amount of the bond or by a timely surrender of the defendant.

33.16. Misdemeanors or Felonies--Notice of Change of Address Any defendant who has been released pending further proceedings, and any surety for such defendant, shall give written notice to the clerk of the court in which the case is pending of any change of address.

33.17. Misdemeanors or Felonies--Bonds--Surety, Individual—Qualifications A

person shall not be accepted as a surety on any bail bond unless the person:

- (a) Is reputable and at least twenty-one years of age;
- (b) Has net assets with a value in excess of exemptions at least equal to the amount of the bond that are subject to execution in the state of Missouri;
- (c) Has not, within the past 15 years, been found guilty of or pleaded guilty or nolo contendere to:
 - (1) Any felony of this state, any other state, or the United States; or
 - (2) Any other crime of this state, any other state, or the United States involving moral turpitude, whether or not a sentence was imposed;
- (d) Is not a lawyer, except that this disqualification shall not apply if the principal is the spouse, child or family member of the surety;
- (e) Is not an elected or appointed official or employee of the State of Missouri or any county or other political subdivision thereof, except that this disqualification shall not apply if the principal is the spouse, child or family member of the surety; and
- (f) Has no outstanding forfeiture or unsatisfied judgment thereon entered upon any bail bond in any court of this state or of the United States.

If there is more than one surety, the aggregate net worth of the sureties in excess of exemptions shall be at least equal to the amount of the bond.

33.18. Misdemeanors or Felonies--Bonds--Compensated Surety--Affidavit of Justification--Additional Investigation—Approval Each surety who shall charge or receive compensation for signing a bond shall

If there is more than one surety, the aggregate net worth of the sureties in excess of exemptions shall be at least equal to the amount of the bond.

37.30. Compensated Surety--Affidavit of Justification--Additional Investigation--

Approval Each surety who shall charge or receive compensation for signing a bond shall specify by affidavit that the surety possesses the qualifications specified in Rule 37.29. The surety shall execute a separate affidavit to establish the surety's qualifications for each bond the surety proposes to execute.

If the surety has on file an affidavit relating to all bonds in force on the first day of the then current calendar month, the separate affidavit as to other bonds executed during such calendar month may be limited to the requirements of Rule 37.30(e) and appropriate reference shall be made therein to the separate affidavit of qualification currently relied upon to establish the surety's qualifications. The judge, clerk or officer who is authorized to take and approve the bond shall administer the oath to such affidavit. The affidavit shall be on a suitable form, which shall be provided. In addition to the matters specified in Rule 37.29, it shall contain:

(a) An accurate legal description of the real estate that the surety proposes to justify as to the surety's sufficiency, together with a description of the improvements located thereon, and the location of the property by street address if it is located in a city or town;

(b) The latest assessed value of such property;

(c) An accurate description of the personal property that the surety proposes to justify as to the surety's sufficiency and a statement of its reasonable market value;

(d) A list of all bail bonds upon which the surety is surety and upon which the surety's obligation remains undischarged, the amount of each bond, the name of the principal or defendant, the ordinance violation charged, and the court in which such bond is pending; and

(e) A statement whether or not the surety or anyone for the surety's use has been

specify by affidavit that he possesses the qualifications specified in Rule 33.17. He shall execute a separate affidavit to establish his qualifications for each bond he proposes to execute. If he has on file an affidavit relating to all bonds in force on the first day of the then current calendar month, the separate affidavit as to other bonds executed during such calendar month, may be limited to the requirements of paragraph (e) of this Rule and appropriate reference shall be made therein to the separate affidavit of qualification currently relied upon to establish the surety's qualifications under these Rules. The oath to such affidavit shall be administered by the judge, clerk or officer who is authorized to take and approve the bond. The affidavit shall be on a suitable form which shall be provided. In addition to the matters specified in Rule 33.17, it shall contain:

(a) An accurate legal description of the real estate which the surety proposes to justify as to his sufficiency, together with a description of the improvements located thereon, and the location of the property by street address if it is located in a city or town;

(b) The latest assessed value of such property;

(c) An accurate description of the personal property which the surety proposes to justify as to his sufficiency and a statement of its reasonable market value;

(d) A list of all bail bonds upon which he is surety and upon which his obligation remains undischarged, the amount of each bond, the name of the principal or defendant, the offense charged, and the court in which such bond is pending; and

(e) A statement whether or not he or anyone for his use has been promised or has received any consideration or security for his suretyship, and if so, the nature and amount thereof, and the name of the person, by whom such promise was made or from whom such security or consideration was received.

The judge, clerk, or officer to whom such affidavit of justification is submitted may make such additional investigation concerning the qualifications of the surety as he shall deem necessary and for this purpose shall have authority to administer all necessary oaths. No bond shall be approved unless the surety thereon appears to be qualified under the requirements of these Rules.

promised or has received any consideration or security for suretyship, and if so, the nature and amount thereof, and the name of the person by whom such promise was made or from whom such security or consideration was received.

The judge, clerk, or officer to whom such affidavit of justification is submitted may make such additional investigation concerning the qualifications of the surety as thought to be necessary and, for this purpose, shall have authority to administer all necessary oaths. No bond shall be approved unless the surety thereon appears to be qualified under the requirements of Rule 37.14 to 37.32, inclusive.

37.31. Bonds--Affidavit of Justification—

Record When a surety is accepted upon a bond, the surety shall execute an affidavit of justification that shall be attached to the bond and filed therewith by the clerk of the court in accordance with the provisions of Rule 37.24. A duplicate copy of such affidavit shall be preserved in a separate file in the office of the clerk of the court in which such bond is first filed, indexed alphabetically by the names of the sureties. Such file shall be open to the inspection of any interested person.

37.32. Bonds--Surety Company and Agent—Qualifications

(a) Any corporation qualified under the provisions of [section 379.010, RSMo](#), including the requirement that it produce evidence of its solvency satisfactory to the court, shall be qualified to act as a surety upon any bail bond taken under the provisions of this Rule 37. Any such bond shall be executed by a surety company in the manner provided by law.

(b) An agent acting on behalf of such a corporation shall be subject to the qualifications set forth in Rule 37.29(a), (c), and (d) and, in addition, shall be licensed as a bail bond agent as required by law.

37.33. Violation Notice--Contents

(a) A violation notice shall be in writing and shall:

- (1) State the name and address of the court;
- (2) State the name of the prosecuting county or municipality;

33.19. Misdemeanors or Felonies--Bonds--Affidavit of Justification—Record

When a surety is accepted upon a bond, he shall execute an affidavit of justification which shall be attached to the bond and filed therewith by the clerk of the court in accordance with the provisions of [Rule 33.11](#). A duplicate copy of such affidavit shall be preserved in a separate file in the office of the clerk of the court in which such bond is first filed, indexed alphabetically by the names of the sureties. Such file shall be open to the inspection of any interested person.

33.20. Misdemeanors or Felonies--Bond--Surety Company and Agent--Qualifications

(a) Any corporation, association, or company formed under the provisions of [section 379.010, RSMo](#), for the purpose of making surety insurance shall be qualified to act as a surety upon any bail bond taken under the provisions of these rules upon presenting evidence satisfactory to the court of its solvency. Any such bond shall be executed in the manner provided by law.

(b) An agent acting on behalf of such a corporation shall be subject to the qualifications set forth in [Rule 33.17\(c\)](#), (d), and (e), and, in addition, shall be licensed as a bail bond agent as required by law.

21.04. Misdemeanors--Statement of Probable Cause--Contents

A statement of probable cause must be in writing and shall:

(a) State the name of the accused or, if not known, designate the accused by any name or description by which the accused can be identified with reasonable certainty;

(b) State the date and place of the crime as definitely as can be done;

(c) State the facts that support a finding of probable cause to believe a crime was committed and that the accused committed it;

(d) State that the facts contained therein are true; and

(e) Be signed and on a form bearing notice that false statements made therein are punishable by law.

(3) State the name of the accused or, if not known, designate the accused by any name or description by which the accused can be identified with reasonable certainty;

(4) State the date and place of the ordinance violation as definitely as can be done;

(5) State the facts that support a finding of probable cause to believe the ordinance violation was committed and that the accused committed it;

(6) State that the facts contained therein are true;

(7) Be signed and on a form bearing notice that false statements made therein are punishable by law;

(8) Cite the chapter and section of the ordinance alleged to have been violated and the chapter and section that fixes the penalty or punishment; and

(9) State other legal penalties prescribed by law may be imposed for failure to appear and dispose of the violation.

(b) When a violation has been designated by the court to be within the authority of a violation bureau pursuant to Rule 37.49, the accused shall also be provided the following information:

(1) The specified fine and costs for the violation; and

(2) That a person must respond to the violation notice by:

(A) Paying the specified fine and court costs; or

(B) Pleading not guilty and appearing at trial.

(c) The violation notice shall be substantially in the form of the Uniform Citation set out in Form 37.A, with such additions as may be necessary to adapt the Uniform Citation to the jurisdiction involved.

37.34. Ordinance Violations— Information

All ordinance violations shall be prosecuted by information. An information charging the commission of an ordinance violation may be based on the prosecutor's information and belief that the ordinance violation was committed. The information shall be supported by a violation notice as prescribed by Rule 37.33.

21.01. Misdemeanors--Indictment or Information All misdemeanors shall be prosecuted by indictment or information.

21.02. Misdemeanors--Information--Prosecuting Attorney The prosecuting attorney may file an information charging the commission of a misdemeanor based upon the prosecutor's information and belief that the offense was committed. The information shall be supported by a statement of probable cause as prescribed by Rule 21.04.

23.01. Misdemeanors or Felonies-- Indictment or Information--Form of

(a) The indictment or information shall be in writing, signed by the prosecuting attorney, and filed in the court having jurisdiction of the offense. The indictment shall also be signed by the foreperson of the grand jury.

(b) The indictment or information shall:

- (1) State the name of the defendant or, if not known, designate the defendant by any name or description by which the defendant can be identified with reasonable certainty;
- (2) State plainly, concisely, and definitely the essential facts constituting the elements of the offense charged, including facts necessary for any enhanced punishment;
- (3) State the date and place of the offense charged as definitely as can be done. If

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| <p>37.35. Information--Form of--Contents</p> <p>(a) The information shall be in writing, signed by the prosecutor and filed in the court having jurisdiction of the ordinance violation.</p> <p>(b) The information shall:</p> <p>(1) State the name of the defendant or, if not known, designate the defendant by any name or description by which the defendant can be identified with reasonable certainty;</p> <p>(2) State plainly, concisely, and definitely the essential facts constituting the ordinance violation charged, including facts necessary for any enhanced punishment;</p> <p>(3) State the date and place of the ordinance violation charged as definitely as can be done;</p> <p>(4) Cite the chapter and section of the ordinance alleged to have been violated and the chapter and section providing the penalty or punishment.</p> | <p>multiple counts charge the same offense on the same date or during the same time period, additional facts or details to distinguish the counts shall be stated;</p> <p>(4) Cite the statute alleged to have been violated and the statutes that fix the penalty or punishment therefor; and</p> <p>(5) State the name and degree, if any, of the offense charged.</p> <p>All indictments or informations that are substantially consistent with the forms of indictments or informations that have been approved by this Court shall be deemed to comply with the requirements of this Rule 23.01(b).</p> <p>(c) The name of the defendant, if known, shall appear in the caption of an indictment or information, and thereafter the word "defendant" wherever used in the indictment or information shall refer to the defendant named in the caption.</p> <p>(d) Allegations made in one count of an indictment or information may be incorporated by reference in another count.</p> <p>(e) The names of all material witnesses for the prosecution shall be listed except rebuttal witnesses and witnesses who will appear upon the trial for the production or identification of public records. Additional witnesses may be listed at any time after notice to the defendant upon order of the court.</p> <p>(f) A copy of a document may be attached to, and incorporated in, an indictment or information by reference</p> <p>23.05. Misdemeanors or Felonies--Indictment or Information--Joinder of Offenses All offenses that are of the same or similar character or based on two or more acts that are part of the same transaction or on two or more acts or transactions that are connected or that constitute parts of a common scheme or plan may be charged in the same indictment or information in separate counts.</p> <p>23.06. Misdemeanors or Felonies--Indictment or Information--Joinder of Defendants Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately,</p> |
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| <p>37.36. Information--Joinder of Violations All ordinance violations that are of the same or similar character or based on the same act or on two or more acts that are part of the same transaction or on two or more acts or transactions that are connected or that constitute parts of a common scheme or plan may be charged in the same information in separate counts.</p> <p>37.37. Information--Joinder of Defendants Two or more defendants may be charged in the same information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an ordinance violation or violations. Such defendants may be charged in one or more counts together or separately, and all of the defendants need not be charged in each count.</p> <p>37.38. Information--Incorrect Name of Defendant Any defendant charged in an information under an incorrect name may furnish the defendant's correct name, and the correct name shall be substituted in the information. The defendant's failure to furnish the correct name shall not invalidate the proceedings.</p> <p>37.39. Information--Amendment—Delay Any information charging an ordinance violation may be amended at any time before verdict or finding if: (a) No additional or different ordinance violation is charged, and (b) A defendant's substantial rights are not thereby prejudiced. No such amendment shall cause delay of a trial unless the court finds that a defendant needs further time to prepare a defense by reason of such amendment.</p> <p>37.40. Information--Unavailability of Original If the original information is unavailable for any reason, a copy, certified by the clerk or by the prosecutor, may be substituted.</p> | <p>and all of the defendants need not be charged in each count.</p> <p>23.07. Misdemeanors or Felonies--Indictment or Information--Incorrect Name of Defendant Any defendant charged in an indictment or information under an incorrect name may furnish the defendant's correct name, and the correct name shall be substituted in the indictment or information. Defendant's failure to furnish the correct name shall not invalidate the proceedings.</p> <p>23.08. Misdemeanors or Felonies--Indictment or Information--Amendment or Substitution--Delay Any information may be amended or an information may be substituted for an indictment at any time before verdict or finding if: (a) No additional or different offense is charged, and (b) A defendant's substantial rights are not thereby prejudiced. No such amendment or substitution shall cause delay of a trial unless the court finds that a defendant needs further time to prepare a defense by reason of such amendment or substitution.</p> <p>23.09. Misdemeanors or Felonies--Indictment or Information--Unavailability of Original If the original indictment or information is unavailable for any reason, a copy, certified by the clerk of the court or by the prosecuting attorney, may be substituted.</p> <p>23.11. Misdemeanors or Felonies--Indictment or Information--Nonprejudicial Defects An indictment or information shall not be invalid, nor shall the trial, judgment, or other proceedings on the indictment or information be stayed, because of any defect that does not prejudice the substantial rights of the defendant.</p> <p>21.05. Misdemeanors--Summons--Contents The summons shall: (a) Be in writing and in the name of the State of Missouri; (b) State the name of the person summoned; (c) Describe the misdemeanor charged; (d) Be signed by a judge or by a clerk of the court when directed by the judge; and</p> |
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| <p>37.41. Information--Nonprejudicial Defects An information shall not be invalid, nor shall the trial, judgment, or other proceedings on the information be stayed, because of any defect that does not prejudice the substantial rights of the defendant.</p> <p>37.42. Summons—Content The summons shall:</p> <p>(a) Be in writing and in the name of the prosecuting county or municipality;</p> <p>(b) State the name of the person summoned and the address, if known;</p> <p>(c) Describe the ordinance violation charged;</p> <p>(d) Be signed by a judge or by a clerk of the court when directed by a judge; and</p> <p>(e) Command the person to appear before the court at a stated time and place in response thereto.</p> <p>37.43. Ordinance Violation--Summons or Arrest Warrant--When Issued--Failure to Appear When an information charging the commission of an ordinance violation is filed pursuant to Rule 37.34, a summons shall be issued unless the court finds that there are:</p> <p>(a) Sufficient facts stated to show probable cause that an ordinance violation has been committed, and</p> <p>(b) Reasonable grounds for the court to believe that the defendant will not appear upon the summons, or a showing has been made to the court that the accused poses a danger to a crime victim, the community, or any other person.</p> <p>If the court so finds, a warrant for the arrest of the defendant may be issued.</p> <p>37.44. Summons--Service and Return A summons may be served by:</p> <p>(a) The clerk mailing it to defendant's last known address by first class mail; or</p> <p>(b) An officer in the manner provided by Rule 54.13 or Rule 54.14.</p> <p>If the defendant fails to appear in response to a summons and upon a finding of probable cause that an ordinance violation has been committed, the court may issue an arrest warrant.</p> | <p>(e) Command the person to appear before the court at a stated time and place in response thereto.</p> <p>21.03. Misdemeanors--Summons or Warrant of Arrest--When Issued (a) When an information is filed pursuant to Rule 21.02, a summons shall be issued unless the court finds that sufficient facts have been stated to show probable cause that a misdemeanor has been committed and that there are reasonable grounds to believe that:</p> <p>(1) The defendant will not appear upon the summons; or</p> <p>(2) The defendant poses a danger to a crime victim, the community, or any other person.</p> <p>If the court so finds, a warrant for the arrest of the defendant may be issued.</p> <p>(b) When an indictment charging the commission of a misdemeanor is returned, either a summons or warrant for arrest may be issued.</p> <p>21.08. Misdemeanors--Summons and Warrant of Arrest--Service and Return A summons may be served by:</p> <p>(a) The clerk mailing it to defendant's last known address by first class mail; or</p> <p>(b) An officer in the manner provided in Rule 54.13 or Rule 54.14.</p> <p>If the defendant fails to appear in response to a summons and upon a finding of probable cause that the defendant has committed a misdemeanor, the court may issue an arrest warrant.</p> <p>.....</p> <p>21.06. Misdemeanors--Warrant of Arrest--Contents (a) The warrant of arrest must be in writing and issued in the name of the State of Missouri. It may be directed to any peace officer in the state.</p> <p>(b) The warrant shall:</p> <p>(1) Contain the name of the person to be arrested or, if not known, any name or description by which the defendant can be identified with reasonable certainty;</p> <p>(2) Describe the offense charged in the information or indictment;</p> <p>(3) State the date when issued and the county where issued;</p> <p>(4) Command that the defendant named or described therein be arrested and brought forthwith before the court designated in the warrant;</p> |
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| <p>37.45. Warrant of Arrest--Contents (a) The warrant of arrest shall be in writing and issued in the name of the prosecuting county or municipality. It may be directed to any peace officer in the state. (b) The warrant shall: (1) Contain the name of the person to be arrested or, if not known, any name or description by which the defendant can be identified with reasonable certainty; (2) Describe the ordinance violation charged in the information; (3) State the date when issued and the jurisdiction where issued; (4) Command that the defendant named or described therein be arrested and brought forthwith before the court designated in the warrant; (5) Specify the conditions of release; and (6) Be signed by a judge or by a clerk of the court when directed by the judge for a specific warrant.</p> <p>37.46. Warrant of Arrest—Service All warrants ordered for an ordinance violation may be directed to any peace officer in the state. The warrant shall be executed by the arrest of the defendant. A warrant may be executed anywhere in the state by any peace officer. The peace officer need not possess the warrant at the time of the arrest, but upon request the officer shall show the warrant to the defendant as soon as possible. If the peace officer does not possess the warrant at the time of the arrest, the officer shall inform the defendant of the ordinance violation charged and the fact that a warrant has been issued.</p> <p>37.47. Initial Proceedings Before a Judge (a) Appearance Under Warrant Before Judge. A person arrested under a warrant for an ordinance violation who does not satisfy conditions for release shall be brought as soon as practicable before a judge of the court from which the warrant was issued. The warrant, with proper return thereon, shall be filed with the court. (b) Statement of Judge. Upon the defendant's initial appearance, the judge shall inform the defendant of: (1) The ordinance violation charged, (2) The right to retain counsel, (3) The right to request the appointment of counsel if:</p> | <p>(5) Specify the conditions of release; and (6) Be signed by a judge or by a clerk of the court when directed by the judge for a specific warrant.</p> <p>21.08. Misdemeanors--Summons and Warrant of Arrest--Service and Return A warrant may be executed anywhere in the state by any peace officer. The peace officer need not possess the warrant at the time of the arrest, but upon request the officer shall show the warrant to the defendant as soon as possible. If the peace officer does not possess the warrant at the time of the arrest, the officer shall inform the defendant of the misdemeanor charged and the fact that a warrant has been issued.</p> <p>21.09. Misdemeanors--Appearance Under Warrant Before Judge A person arrested under a warrant for any misdemeanor shall be brought as soon as practicable before a judge of the court from which the warrant was issued.</p> <p>21.10. Misdemeanors--Initial Proceedings Before Judge Upon the defendant's initial appearance, the judge shall inform the defendant of the misdemeanor charged, the right to retain counsel, the right to request the appointment of counsel if the defendant is unable to retain counsel, and the right to remain silent. The judge shall also inform the defendant that any statement made by the defendant may be used against the defendant.</p> <p>24.01. Misdemeanors or Felonies—Arraignment Arraignment shall be conducted in open court and shall consist of reading the indictment or information to the defendant or stating to him the substance of the charge and calling on him to plead thereto. He shall be given a copy of the indictment or information before he is called upon to plead.</p> |
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(A) The defendant is indigent and unable to employ counsel, and

(B) There is a possibility of a jail sentence, and

(4) The right to remain silent.

The judge shall also inform the defendant that any statement made by the defendant may be used against the defendant.

37.48. Arraignment Arraignment shall be conducted in open court and shall consist of reading the information to the defendant or stating the substance of the charge and calling on the defendant to plead thereto. Defendant shall be afforded a reasonable time to examine the charge before defendant is called upon to plead.

37.49. Violation Bureau--Violations Clerk--Schedule of Fines--Payment

(a) Any judge having original jurisdiction of any animal control violation, housing violation, or traffic violation may establish by court order a violation bureau, which shall be subject to the supervision of the circuit court.

(b) The judge shall designate a clerk. The clerk shall perform the duties designated by the court, including accepting appearance, waiver of trial, plea of guilty, and payment of fine and costs for the designated violations, entering the plea on the record, and transmitting the violation record as required by law, subject to the limitations hereinafter prescribed.

(c) The violations within the authority of the bureau shall be designated by order of the judge. Such designated violations may be amended from time to time but shall in no event include the following:

(1) Any violation resulting in personal injury or property damage;

(2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or drugs;

(3) Operating a vehicle with a counterfeited, altered, suspended, or revoked license;

(4) Fleeing or attempting to elude an officer; and

(5) Any other violation excluded by law.

(d) The judge, by order prominently posted at the place where the fines are to be paid, shall specify by schedule the amount of fines and costs to be imposed for each violation.

(e) Within the time fixed by the judge and subject to the judge's order, any person charged with an animal control, housing, or

38.14. Local Violation Bureau--Clerk--Schedule of Fines--Payment

(a) Any judge having original jurisdiction of any public safety, traffic, watercraft, or wildlife violation may establish by court order a violation bureau.

(b) The judge shall designate a clerk. The clerk shall perform the duties designated by the court including accepting appearance, waiver of trial, plea of guilty, and payment of fine and costs for the designated violations, entering the plea on the record, and transmitting the violation record as required by law.

(c) The violations within the authority of the bureau shall be designated by order of the judge. Such designated violations may be amended from time to time, but shall in no event include any violation set forth in Rule 38.06.

(d) The judge, by order prominently posted at the place where the fines are to be paid, shall specify by schedule the amount of fines and costs to be imposed for each violation.

(e) Within the time fixed by the judge and subject to the judge's order, any person charged with a violation, except violations requiring court appearance, may deliver by mail, automated teller machine or as otherwise directed the specified amount of the fine and costs to the bureau. Said delivery constitutes a guilty plea and waiver of trial.

(f) The associate circuit judges within each county may meet en banc and adopt any uniform fine schedule. Notice of adoption of a uniform fine schedule shall be filed with the clerk of this Court.

38.09. Uniform Fine Schedules

Uniform schedules of fine and costs for violations shall be established and maintained as provided by section 476.385, RSMo. The uniform fine schedules shall be filed with the clerk of this Court.

31.02. Misdemeanors or Felonies--Right to Counsel--Appointment by Court--Arraignment--Record--Appeal

(a) In all criminal cases the defendant shall have the right to appear and defend in person and by counsel. If any person charged with an offense, the conviction of which would probably result in confinement, shall be without counsel upon his first appearance before a judge, it shall be the duty of the court to advise him of his right to counsel, and

traffic violation, except violations requiring court appearance, may deliver by mail, automatic teller machine, or as otherwise directed the specified amount of the fine and costs to the bureau. This delivery constitutes a guilty plea and waiver of trial.

37.50. Right to Counsel--Appointment of Counsel In a prosecution for an ordinance violation, the defendant shall have the right to appear and defend in person and by counsel.

If any person charged with an ordinance violation, whose conviction would possibly result in confinement, shall be without counsel upon a first appearance before a judge, it shall be the duty of the judge to advise the defendant of the right to counsel and of the willingness of the judge to appoint counsel to represent the defendant if the defendant is unable to employ counsel. Upon a showing of indigency, it shall be the duty of the judge to appoint counsel to represent the defendant.

If, after being informed of the right to counsel, the defendant requests to proceed without the benefit of counsel and the judge finds that the defendant has knowingly, voluntarily and intelligently waived the defendant's right to have counsel, the judge shall have no duty to appoint counsel. If at any stage of the proceedings it appears to the judge before whom the matter is then pending that because of the gravity of the ordinance violation charged and other circumstances affecting the defendant the failure to appoint counsel may result in injustice to the defendant, the judge shall then appoint counsel. Appointed counsel shall be allowed a reasonable time in which to prepare the defense.

of the willingness of the court to appoint counsel to represent him if he is unable to employ counsel. Upon a showing of indigency, it shall be the duty of the court to appoint counsel to represent him. If after being informed as to his rights, the defendant requests to proceed without the benefit of counsel, and the court finds that he has intelligently waived his right to have counsel, the court shall have no duty to appoint counsel. If at any stage of the proceedings it appears to the court in which the matter is then pending that because of the gravity of the offense charged and other circumstances affecting the defendant, the failure to appoint counsel may result in injustice to the defendant, the court shall then appoint counsel. Appointed counsel shall be allowed a reasonable time in which to prepare the defense.

(b) If a defendant in a felony case appears for arraignment without counsel, and if appointment of counsel is waived by the defendant, the reporter shall prepare a transcript of such proceedings and file it in the case.

(c) If an indigent defendant convicted of an offense and sentenced to confinement desires to appeal, the trial court shall appoint counsel to represent him. Such counsel may, but need not, be the same counsel who represented the defendant at the trial.

24.04. Misdemeanors or Felonies--Pleadings and Motions Before Trial--Defenses and Objections

(a) Pleadings. Pleadings shall be the indictment or the information and the plea thereto.

(b) Motion Raising Defenses and Objections.

1. *Defenses and Objections Which May Be Raised.* Any defense or objection which is capable of determination without trial of the general issue may be raised before trial by motion.

2. *Defenses and Objections Which Must Be Raised.* Defenses and objections based on defects in the institution of the prosecution or in the indictment or information other than that it fails to show jurisdiction in the court or to charge an offense may be raised only by motion before trial. The motion shall include all such defenses and objections then available to the defendant. Failure to present any such defense or objection as herein

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| <p>37.51. Pleadings and Motions Before Trial--Defenses and Objections--Hearing on Motion</p> <p>(a) Pleadings. Pleadings shall be the information and plea thereto.</p> <p>(b) Motion Raising Defenses and Objections.</p> <p>(1) <i>Defenses and Objections That May Be Raised.</i> Any defense or objection that is capable of determination without trial of the general issue may be raised before trial by motion.</p> <p>(2) <i>Defenses and Objections That Must Be Raised.</i> Defenses and objections based on defects in the institution of the prosecution or in the information other than that it fails to show jurisdiction in the court or to charge an ordinance violation may be raised only by motion before trial.</p> <p>The motion shall include all such defenses and objections then available to the defendant. Failure to present any such defense or objection as herein provided constitutes a waiver thereof, but the court for cause shown may grant relief from the waiver.</p> <p>(3) <i>Time of Making Motion.</i> The motion shall be made before the plea is entered, but the judge may permit it to be made within a reasonable time thereafter.</p> <p>(4) <i>Hearing on Motion.</i> The motion shall be heard and determined before trial on application of the prosecutor or the defendant, unless the court orders that the hearing and determination be deferred until the trial.</p> <p>(5) <i>Matters That Shall Be Noticed by the Court.</i> Lack of jurisdiction or the failure of the information to charge an ordinance violation shall be noticed by the court at any time during the pendency of the proceeding.</p> <p>37.52. Motions to Suppress Requests that evidence be suppressed shall be raised by motion before trial; however, the court in the</p> | <p>provided constitutes a waiver thereof, but the court for cause shown may grant relief from the waiver. Lack of jurisdiction or the failure of the indictment or information to charge an offense shall be noticed by the court at any time during the pendency of the proceeding.</p> <p>3. <i>Time of Making Motion.</i> The motion shall be made before the plea is entered, but the court may permit it to be made within a reasonable time thereafter.</p> <p>4. <i>Hearing on Motion.</i> The motion shall be heard and determined before trial on application of the state or the defendant, unless the court orders that the hearing and determination thereof be deferred until the trial.</p> <p>5. <i>Effect of Determination.</i> If a motion is determined adversely to the defendant he shall be permitted to plead if he has not previously pleaded. A plea previously entered shall stand. If the court grants a motion based on a defect in the institution of the prosecution or in the indictment or information, it may also order that the defendant be held in custody or that the conditions of his release be continued for a specified time pending the filing of a new indictment or information.</p> <p>24.05. Misdemeanors or Felonies--Motions to Suppress Requests that evidence be suppressed shall be raised by motion before trial; however, the court may in its discretion entertain a motion to suppress evidence at any time during trial.</p> <p>32.07. Misdemeanors or Felonies--Change of Judge--Procedure</p> <p>(a) Except as provided in <u>Rule 32.06</u>, a change of judge shall be ordered in any criminal proceeding upon the timely filing of a written application therefor by any party. The applicant need not allege or prove any reason for such change. The application need not be verified and may be signed by any party or an attorney for any party.</p> <p>(b) In felony and misdemeanor cases the application must be filed not later than ten days after the initial plea is entered. If the</p> |
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exercise of discretion may entertain a motion to suppress evidence at any time during trial.

37.53. Ordinance Violation Cases Not Heard on the Record--Disqualification and Change of Judge

(a) This Rule 37.53 governs the procedure for disqualification of a judge in all ordinance violation cases, except those heard de novo or those in which there is a timely exercise of a right to a jury trial.

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(c) **With Application--Procedure.** A change of judge shall be ordered upon the filing of a written application therefor by any party. The applicant need not allege or prove any reason for such change.

The application need not be verified and may be signed by any party or an attorney for any party.

The application must be filed not later than ten days after the initial plea is entered. If the designation of the trial judge occurs less than ten days before trial, the application may be filed any time prior to trial. If the designation of the trial judge occurs more than ten days after the initial plea is entered, the application shall be filed within ten days of the designation of the trial judge or prior to the commencement of any proceeding on the record, whichever is earlier.

No party shall be allowed more than one change of judge pursuant to this Rule 37.53(c). However, no party shall be precluded from requesting any change of judge for cause at any time.

(d) When a timely application for a change of judge is filed or a judge recuses, the judge shall:

- (1) Comply with any circuit court rule that provides for the assignment of a judge; or
- (2) Notify the presiding judge of the circuit who shall designate a judge to hear the case or request this Court to transfer a judge to hear the case.

(e) If an associate circuit judge or a circuit judge is designated to try the case, the designated judge shall determine the location of the trial at a place within the county.

designation of the trial judge occurs more than ten days after the initial plea is entered, the application shall be filed within ten days of the designation of the trial judge or prior to commencement of any proceeding on the record, whichever is earlier.

(c) A copy of the application and a notice of the time when it will be presented to the court shall be served on all parties.

(d) Upon the presentation of a timely application for change of judge, the judge promptly shall sustain the application. The disqualified judge shall thereupon:

(1) If the case is being heard by an associate circuit judge, notify the presiding judge who shall assign a judge within the circuit or request this Court to transfer a judge.

(2) If the case is being heard by the only circuit judge in the circuit, or by an associate circuit judge after the disqualification of the only circuit judge in the circuit, request this Court to transfer a judge.

(3) If the case is being heard by a circuit judge in a circuit having two circuit judges, transfer the case to the other circuit judge or request this Court to transfer a judge.

(4) If the case is being heard by a circuit judge in a circuit having three or more circuit judges, transfer the case to the presiding judge for assignment by lot or the presiding judge may request this Court to transfer a judge or the case may be assigned in accordance with local court rules.

(e) If after a change of judge has been granted the action shall be removed on application of another party to some other county in the same circuit, the transferred judge shall continue as the judge therein.

32.10. Misdemeanors or Felonies--When Judge Disqualifies Without Application

If the judge is related to any defendant or has an interest in or has been counsel in the criminal proceedings or disqualifies for any other reason, the judge promptly shall transfer the case to the presiding judge of the circuit for reassignment in accordance with the procedures of Rule 32.07(d).

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| <p>37.53(b) Without Application The judge shall recuse:</p> <p>(1) When the judge is related to any defendant, when the judge has an interest in the case, or when the judge previously has been counsel in the case; or</p> <p>(2) When the attorney representing the prosecuting county or municipality in the case regularly serves as a judge in another municipal division located within the same county before whom the judge regularly represents a prosecuting county or municipality.</p> <p>37.54. Discovery Discovery shall be permitted solely in the judge's discretion as justice requires.</p> | <p>25.01. Misdemeanors or Felonies--Rules--Applicable to What Cases and When Commenced</p> <p>25.02. Misdemeanors or Felonies--Time for Discovery</p> <p>25.03. Misdemeanors or Felonies--Disclosure by State to Defendant Without Court Order</p> <p>25.04. Misdemeanors or Felonies--Disclosure by State to Defendant by Court Order Requiring a Showing of Good Cause</p> <p>25.05. Misdemeanors or Felonies--Disclosure by Defendant to State Without Court Order</p> <p>25.06. Misdemeanors or Felonies--Disclosure by Defendant to State by Court Order Requiring a Showing of Good Cause</p> <p>25.07. Misdemeanors or Felonies--Manner of Making Disclosure</p> <p>25.08. Misdemeanors or Felonies--Continuing Duty to Disclosure</p> <p>25.09. Misdemeanors or Felonies--Use of Matters Disclosed</p> <p>25.10. Misdemeanors of Felonies--Matters not Subject to Disclosure</p> <p>25.11. Misdemeanors or Felonies--Protective Orders</p> <p>25.12. Misdemeanors or Felonies--Deposition by Defendant--How Taken</p> <p>25.13. Misdemeanors or Felonies--Deposition Offered by Defendant--When Admissible</p> <p>25.14. Misdemeanors or Felonies--Depositions by State to Preserve Testimony--When and How Taken</p> <p>25.15. Misdemeanors or Felonies--Discovery Depositions by State--When and How Taken</p> <p>25.16. Misdemeanors or Felonies--Deposition Offered by State--When Admissible</p> <p>25.17. Misdemeanors or Felonies--Costs Of Depositions</p> <p>25.18. Misdemeanors or Felonies--Sanctions</p> <p>26.01. Misdemeanors or Felonies--Process for Witnesses The state and defendant shall be entitled to process for witnesses.</p> <p>26.02. Misdemeanors or Felonies--Witnesses--Subpoena</p> |
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37.55. Process for Witnesses--Subpoena Duces Tecum--Service--Return--Failure to Appear--Hearing Continuance--Contempt

The prosecutor and the defendant shall be entitled to process for witnesses as follows:

(a) For Attendance of Witnesses; Form; Issuance. A subpoena shall be issued by the clerk under the seal of the court. It shall state the name of the court and the title of the proceedings and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein.

The clerk shall issue a subpoena, signed and sealed but otherwise in blank to a party requesting it, who shall fill in the blanks before it is served.

(b) For Production of Documentary Evidence and of Objects. A subpoena duces tecum may also command the person to whom it is directed to produce the books, papers, documents, or other objects designated therein.

(c) Modification of Subpoena. The court may quash or modify a subpoena if compliance would be unreasonable or oppressive.

The court may direct that books, papers, documents, or objects designated in a subpoena duces tecum be produced before the court at a time prior to the trial or prior to the time when they are offered in evidence. Upon their production the court may permit the books, papers, documents, or objects, or portions thereof to be inspected by the parties or their attorneys.

(d) Service--Tender of Fees and Mileage Not Required. A subpoena may be served by any peace officer or by any other person who is not a party and who is not less than 18

(a) For Attendance of Witnesses; Form; Issuance. A subpoena shall be issued by the clerk under the seal of the court. It shall state the name of the court and the title of the proceedings and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The clerk shall issue a subpoena, signed and sealed but otherwise in blank to a party requesting it, who shall fill in the blank before it is served.

(b) For Production of Documentary Evidence and of Objects. A subpoena duces tecum may also command the person to whom it is directed to produce the books, papers, documents, or other objects designated therein.

(c) Motion to Quash or Modify. The court on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive. The court may direct that books, papers, documents, or objects designated in a subpoena duces tecum be produced before the court at a time prior to the trial or prior to the time when they are offered in evidence and may upon their production permit the books, papers, documents, or objects, or portions thereof, to be inspected by the parties or their attorneys.

(d) Service--Tender of Fees and Mileage Not Required. A subpoena may be served by the sheriff or by any other person who is not a party and who is not less than eighteen years of age. Service of the subpoena shall be made by delivering a copy thereof to the person named. A subpoena may be served any place within the state. Fees and mileage need not be tendered to the witness upon service of a subpoena.

(e) Return.

(1) Every officer to whom a subpoena is delivered for service shall make return thereof in writing as to the time, place, and manner of service of such subpoena, and shall sign such return.

(2) If service of such subpoena is made by a person other than an officer such person shall make affidavit as to the time, place, and manner of service thereof.

years of age. A subpoena may be served any place within the state.

Fees and mileage need not be tendered to the witness upon service of a subpoena.

The service of a subpoena shall be by reading the same or delivering a copy thereof to the person to be summoned. If the witness shall refuse to hear such subpoena read or to receive a copy thereof, the offer of the officer or other person to read the same or to deliver a copy thereof and such refusal shall be sufficient service of such subpoena.

(e) Return.

(1) Every officer to whom a subpoena is delivered for service shall make return thereof in writing as to the time, place, and manner of service of the subpoena, and shall sign the return.

(2) If a person other than an officer makes service of the subpoena, he or she shall make affidavit as to the time, place, and manner of service.

(f) Contempt. Any person who does not obey a subpoena without good cause shall be subject to contempt of court proceedings.

(g) Continuing Obligation to Attend.

Whenever a witness in a proceeding has been once subpoenaed or required to give bail to appear before the court, the witness shall attend from time to time until the case is disposed or the witness is finally discharged by the judge. The witness shall be liable to attachment and bail may be forfeited for failure to appear if the witness has received notice of the time and place to appear.

If the trial is continued, the judge shall orally notify such witnesses present as either party requests to attend on the new date set for hearing to give testimony. The oral notice shall be valid as a summons. The names of the witnesses so notified shall be entered on the docket.

It shall be the sole responsibility of the respective parties or their attorneys to notify any witnesses not orally notified by the judge of the new date set for hearing, and court process shall be provided for such purpose when requested.

(f) For Taking Deposition. Service of a notice to take a deposition authorizes the clerk of the court or a notary public to issue subpoenas for the persons named or described therein.

(g) Contempt. Any person who, without good cause, does not obey a subpoena shall be subject to contempt of court proceedings.

26.03. Misdemeanors or Felonies--

Witnesses--Continuing Obligation to

Attend Whenever a witness in a criminal

proceeding has been once subpoenaed or

required to give bail to appear before any

court, he shall attend from time to time, until

the case is disposed of or he is finally

discharged by the court. The witness shall be

liable to attachment and bail may be forfeited

for failure to appear if the witness has

received notice of the time and place to

appear.

24.08. Misdemeanors or Felonies—

Continuance For good cause shown, the

court may continue a criminal proceeding to a

fixed day, or to a date for trial to be set

thereafter.

Missouri Constitution Article I, § 18(a).

Rights of accused in criminal

prosecutions That in criminal prosecutions

the accused shall have the right to...a speedy

public trial by an impartial jury of the county.

31.03. Misdemeanors or Felonies--

Presence of Defendant--When Required

(a) No trial shall be conducted or a plea of guilty entered unless the defendant is present, except that in a misdemeanor case the court, the prosecuting attorney, and the defendant may agree that the defendant need not be present.

(b) A verdict may be received by the court in the absence of the defendant when such absence is voluntary.

37.56. Continuances The prosecution and defense in each case shall have the right to a speedy trial. Continuances may be granted for good cause shown.

37.57. Presence of Defendant--When Required No defendant shall either be tried or permitted to enter a plea of guilty unless the defendant is personally present or the judge, defendant, and prosecutor consent to such trial or plea in the defendant's absence. The defendant's presence in the courtroom shall not be required in the event of a reduction of sentence.

37.58. Pleas

(a) Alternatives. A defendant may plead not guilty or guilty. If a defendant refuses to plead or if a corporation fails to appear, the court shall enter a plea of not guilty.

(b) Advice to Defendant. Except as provided by Rule 37.49 or Rule 37. 57, before accepting a plea of guilty, the judge shall address the defendant personally in open court. The judge shall inform the defendant of the following:

(1) The nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and

(2) The defendant's right to be represented by an attorney and that the judge will appoint an attorney for the defendant if defendant is indigent and if it appears to the judge that there would possibly be a jail sentence upon conviction; and

(3) That if defendant pleads guilty there will not be a trial of any kind, so that by pleading guilty the defendant waives the right to a trial, and

(4) The defendant's right to plead not guilty or to persist in that plea if it has already been made.

(c) If there is a record entry showing that the defendant was present at the commencement or at any stage of the trial, it shall be presumed, in the absence of any record entry to the contrary, that he was present during the entire trial.

24.02. Misdemeanors or Felonies--Pleas

(a) Alternatives. A defendant may plead not guilty, guilty, or not guilty by reason of mental disease or defect excluding responsibility, or both not guilty and not guilty by reason of mental disease or defect excluding responsibility. If a defendant refuses to plead or if a corporation fails to appear, the court shall enter a plea of not guilty.

(b) Advice to Defendant. Except as

provided by Rule 31.03, before accepting a plea of guilty, the court must address the defendant personally in open court, and inform defendant of, and determine that defendant understands, the following:

1. The nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law; and

2. If the defendant is not represented by an attorney, that defendant has the right to be represented by an attorney at every stage of the proceedings against defendant and, if necessary, one will be appointed to represent defendant; and

3. That defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against defendant, and the right not to be compelled to incriminate himself or herself; and

4. That if defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty defendant waives the right to a trial.

(c) Ensuring That the Plea is Voluntary.

Except as provided by Rule 31.03, the court shall not accept a plea of guilty without first, by addressing the defendant personally in open court, determining that the plea is voluntary and not the result of force or threats or of promises apart from a plea agreement. The court shall also inquire as to whether the defendant's willingness to plead guilty results from prior discussions between the prosecuting attorney and the defendant or defendant's attorney.

The judge shall further inform defendant of any right to a jury trial, the right to present witnesses on behalf of the defendant, that defendant has the right to confront and cross-examine witnesses against defendant, that defendant has the right to testify and that nobody can compel defendant to testify. The judge shall determine whether the defendant understands, upon oral or written information provided, the matters presented.

(c) Ensuring That the Plea is Voluntary.

Except as provided by Rule 37.49 or Rule 37.57, the judge shall not accept a plea of guilty unless the judge finds that said plea is knowingly, voluntarily, and intelligently made and not the result of force or threats or promises.

(d) Waiver of Counsel. If the defendant would possibly receive a jail sentence upon conviction, the judge shall determine, before accepting the defendant's plea of guilty or not guilty, that the defendant has made a knowledgeable, voluntary, and intelligent waiver of the right to assistance of counsel. Prior to making the finding, the judge shall review with the defendant a written waiver of counsel.

If the judge finds the waiver is knowingly, voluntarily, and intelligently made, the waiver shall be signed by the defendant, witnessed by the judge or the clerk at the judge's direction, and appropriately recorded. The written waiver of counsel shall be substantially in the form as set out in Form 37.C.

(e) Plea Agreement Procedure. The judge shall not participate in any plea agreement discussions, but after a plea agreement has been reached the judge may discuss the agreement with the attorneys including any alternative that would be acceptable.

(1) *In General.* The prosecutor and the attorney for the defendant or the defendant acting pro se may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty to a charged ordinance violation or to a lesser or related ordinance violation, the prosecutor will do any of the following:

- (A) Dismiss other charges; or
- (B) Make a recommendation, or agree not to oppose the defendant's request for a particular sentence with the understanding that such recommendation or request shall not be binding on the judge; or

(d) Plea Agreement Procedure. The court shall not participate in any such discussions, but after a plea agreement has been reached, the court may discuss the agreement with the attorneys including any alternative that would be acceptable.

1. *In General.* The prosecuting attorney and the attorney for the defendant or the defendant when acting pro se may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty to a charged offense or to a lesser or related offense, the prosecuting attorney will do any of the following:

- (A) Dismiss other charges; or
- (B) Make a recommendation, or agree not to oppose the defendant's request, for a particular disposition, with the understanding that such recommendation or request shall not be binding on the court; or
- (C) Agree that a specific sentence is the appropriate disposition of the case; or
- (D) Make a recommendation for, or agree on, another appropriate disposition of the case.

The court shall not participate in any such discussions, but after a plea agreement has been reached, the court may discuss the agreement with the attorneys including any alternative that would be acceptable.

2. *Disclosure of Plea Agreement--Court's Action Thereon.* If a plea agreement has been reached by the parties, the court shall require the disclosure of the agreement on the record in open court or, on a showing of good cause, in camera, at the time the plea is offered. If the agreement is pursuant to Rule 24.02(d)1(B), the court shall advise the defendant that the plea cannot be withdrawn if the court does not adopt the recommendation or request. Thereupon the court may accept or reject the agreement or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report.

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| <p>(C) Agree that a specific sentence is the appropriate disposition of the case; or (D) Make a recommendation for, or agree on, another appropriate disposition of the case. The judge shall not participate in any such discussions, but after a plea agreement has been reached, the judge may discuss the agreement with the attorneys including any alternative that would be acceptable.</p> <p>(2) <i>Disclosure of Plea Agreement--Court's Actions Thereon.</i> If the parties have reached a plea agreement, the judge shall require the disclosure of the agreement in open court or, on a showing of good cause, in camera at the time the plea is offered. If the agreement is pursuant to Rule 37.58(e)(1)(B), the judge shall advise the defendant that the plea cannot be withdrawn if the judge does not adopt the recommendation or request. Thereupon the judge may accept or reject the agreement or may defer a decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report.</p> <p>(3) <i>Acceptance of a Plea Agreement.</i> If the judge accepts the plea agreement, the judge shall inform the defendant that the judge will embody in the judgment and sentence the disposition provided for in the plea agreement.</p> <p>(4) <i>Rejection of a Plea Agreement.</i> If the judge rejects the plea agreement, the judge shall inform the parties of this fact, advise the defendant personally in open court or, on a showing of good cause, in camera that the judge is not bound by the plea agreement, afford the defendant the opportunity to then withdraw the plea if it is based on an agreement pursuant to Rule 37.58(e)(1)(A), (C), or (D), and advise the defendant that if the defendant persists in the guilty plea, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.</p> <p>(5) <i>Inadmissibility of Pleas, Offers of Pleas, and Related Statements.</i> Except as otherwise provided in this subdivision, evidence of a plea of guilty, later withdrawn, or of offer to plead guilty to the ordinance violation charged or of any other ordinance violation, or of statements made in connection with, and relevant to, any of the foregoing pleas or offers, is not admissible in any civil or criminal proceeding against the person who made the plea or offer. However, evidence of a statement made in connection with, and</p> | <p>3. <i>Acceptance of a Plea Agreement.</i> If the court accepts the plea agreement, the court shall inform the defendant that it will embody the disposition provided for in the plea agreement in the judgment and sentence.</p> <p>4. <i>Rejection of a Plea Agreement.</i> If the court rejects the plea agreement, the court shall, on the record, inform the parties of this fact, advise the defendant personally in open court or, on a showing of good cause, in camera, that the court is not bound by the plea agreement, afford the defendant the opportunity to then withdraw defendant's plea if it is based on an agreement pursuant to Rule 24.02(d)1(A), (C), or (D), and advise the defendant that if defendant persists in the guilty plea, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement.</p> <p>5. <i>Inadmissibility of Pleas, Offers of Pleas, and Related Statements.</i> Except as otherwise provided in this Rule 24.02(d)5, evidence of a plea of guilty, later withdrawn, or of an offer to plead guilty to the crime charged or of any other crime, or of statements made in connection with, and relevant to, any of the foregoing pleas or offers is not admissible in any civil or criminal proceeding against the person who made the plea or offer. However, evidence of a statement made in connection with, and relevant to, a plea of guilty, later withdrawn, or an offer to plead guilty to the crime charged or any other crime is admissible in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record, and in the presence of counsel.</p> <p>(e) Determining Accuracy of Plea. The court shall not enter a judgment upon a plea of guilty unless it determines that there is a factual basis for the plea.</p> <p>24.07. Misdemeanors or Felonies-- Severance of Offenses</p> <p>When a defendant is charged with more than one offense in the same indictment or information, the offenses shall be tried jointly</p> |
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| <p>relevant to a plea of guilty, later withdrawn, or an offer to plead guilty to the ordinance violation charged or any other ordinance violation, is admissible in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath and in the presence of counsel.</p> <p>(f) Determining Accuracy of Plea. The judge shall not enter a judgment upon a plea of guilty without first determining that there is a factual basis for the plea.</p> <p>37.59. [Reserved]</p> <p>37.60. Severance If two or more defendants are charged in an information, all defendants shall be tried together unless the court orders a defendant to be tried separately. A defendant shall be ordered to be tried separately only if the defendant files a written motion requesting a separate trial and the court finds a probability of prejudice exists. If a defendant is charged with more than one ordinance violation in the same information, the violations shall be tried jointly unless the court orders a violation to be tried separately. A violation shall be ordered to be tried separately only if:</p> <p>(a) A party files a written motion requesting a separate trial of the offense;</p> <p>(b) A party makes a particularized showing of substantial prejudice if the violation is not tried separately; and</p> <p>(c) The court finds the existence of a bias or discrimination against the party that requires a separate trial of the violation.</p> <p>37.61. Trials--Issues of Fact--Jury—Certification</p> <p>(a) All trials of ordinance violations shall be held in open court in an orderly manner according to law.</p> <p>(b) If practical, traffic cases shall be heard and tried separately from other types of cases. Where a particular session of court has been designated a traffic case session, only traffic cases shall be tried except for good cause shown.</p> <p>(c) The judge shall determine all issues of fact in ordinance violation cases unless a jury trial is authorized by law and requested by the defendant.</p> <p>(d) A request for a jury trial shall be made by motion filed at least ten days prior to the scheduled trial date. If the designation of the trial judge occurs less than ten days before</p> | <p>unless the court orders an offense to be tried separately. An offense shall be ordered to be tried separately only if:</p> <p>(a) A party files a written motion requesting a separate trial of the offense;</p> <p>(b) A party makes a particularized showing of substantial prejudice if the offense is not tried separately; and</p> <p>(c) The court finds the existence of a bias or discrimination against the party that requires a separate trial of the offense.</p> <p>27.01. Misdemeanors or Felonies--Trial by Jury--Waiver</p> <p>(a) All issues of fact in any criminal case shall be tried by a jury to be selected, summoned and returned in the manner prescribed by law, unless trial by jury be waived as provided in this Rule.</p> <p>(b) The defendant may, with the assent of the court, waive a trial by jury and submit the trial of any criminal case to the court, whose findings shall have the force and effect of the verdict of a jury. In felony cases such waiver by the defendant shall be made in open court and entered of record.</p> <p>27.03. Misdemeanors--Order of Trial In the trial by jury of a misdemeanor case before a circuit judge or an associate circuit judge the court shall instruct the jury, in writing, upon all questions of law necessary for their guidance in returning a verdict and, in so doing, may use, where applicable, instructions and verdict forms authorized under Rule 28. In other respects, the order of trial shall be as provided in <u>Rule 27.02</u>.</p> <p>27.02. Felonies--Order of Trial</p> |
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trial, the application may be filed any time prior to trial. The judge shall promptly rule on a motion for jury trial. If the motion is sustained, the case shall be certified to the presiding judge for assignment for trial by jury unless otherwise provided by statute.

(e) All jury trials shall proceed in the manner provided for the trial of a misdemeanor by the rules of criminal procedure.

(f) If the defendant files a written motion so requesting and attaches thereto a waiver of the right to a jury trial, the case may be remanded to the municipal division for trial.

37.61. Trials--Issues of Fact--Jury--Certification

(e) All jury trials shall proceed in the manner provided for the trial of a misdemeanor by the rules of criminal procedure.

37.62. Order of Trial

The order of trial in nonjury ordinance violation cases shall be as follows:

(a) The prosecutor may make an opening statement. The defendant may make an opening statement or reserve it.

(b) The prosecutor shall offer evidence.

(c) The defendant may move for judgment of acquittal.

(d) The defendant may make an opening statement, if reserved.

(e) Evidence may be offered on behalf of the defendant.

(f) The parties, respectively, may offer evidence in rebuttal.

(g) The defendant may move for judgment of acquittal.

(h) The court may fix the length of time for arguments and shall announce it to counsel. The prosecutor shall make the opening argument, the attorney for the defendant shall make an argument, and the prosecutor for the state shall conclude the argument.

Each party may waive the right to argument.
(i) The judge pronounces judgment.

The order of trial by jury in felony cases shall be as follows:

(a) The court shall read to the jury panel
MAI-CR 3d 300.02.

(b) The voir dire examination shall be conducted.

(c) Before each recess or adjournment of the court, the court shall read to the jury the applicable portion of MAI-CR 3d 300.04.

(d) A qualified jury shall be selected as provided by law and shall be sworn well and truly to try the case.

(e) The court shall read to the jury MAI-CR 3d 300.06, 302.01, and 302.02.

(f) The attorney for the state shall make an opening statement. The attorney for the defendant may make an opening statement or it may be reserved.

(g) The attorney for the state shall offer evidence on behalf of the state.

(h) The attorney for defendant may move for judgment of acquittal.

(i) The attorney for defendant may make an opening statement if it has been reserved.

(j) Evidence may be offered on behalf of defendant.

(k) The parties, respectively, may offer evidence in rebuttal only, unless the court, for good cause shown or believing that the interests of justice will be served thereby, permits the parties to offer evidence upon their original cases.

(I) The attorney for defendant may move for judgment of acquittal.

(m) After conferring with counsel, the court shall instruct the jury in the manner provided by Rule 28.02.

(n) The court shall fix the length of time for the arguments and shall announce same to counsel. The attorney for the state shall make the opening argument, the attorney for defendant shall make an argument, and the attorney for the state shall conclude the argument. Each side may waive its right to argument.

(5) The original of all numbered instructions and all verdict forms shall be handed to the jury for its use during its deliberations and shall be returned to the court and filed at the conclusion of the jury's deliberations.

(p) MAI-CR 3d 312.10 may be given when appropriate, after extended deliberation by the jury.

(q) For second stage proceedings in death penalty cases, the order of those proceedings shall be in accordance with Supplemental

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| <p>37.63. Failure of Defendant or Defendant's Spouse to Testify (a) If the defendant shall not avail himself or herself of the right to testify or of the testimony of the wife or husband on the trial in the case, it shall not be construed to affect the innocence or the guilt of the defendant nor shall the same raise any presumption of guilt, nor be referred to by any party or attorney in the case, nor be considered by the court or jury before whom the trial takes place. (b) If the defendant does not testify and the defendant so requests, but not otherwise, the court shall instruct the jury in writing as follows: "Under the law, a defendant has the right not to testify. No presumption of guilt may be raised and no inference of any kind may be drawn from the fact that defendant did not testify."</p> <p>37.64. Sentence and Judgment (a) Pre-sentence Investigation. (1) <i>When Made.</i> When a probation or parole officer is available to the judge and upon the direction of the judge, the officer shall make a pre-sentence investigation and report to the</p> | <p>Notes on Use applicable to the 313.00 Series in MAI-CR 3d.</p> <p>27.05. Misdemeanors or Felonies--Failure of Defendant or Wife to Testify (a) If the defendant shall not avail himself or herself of his or her right to testify, or of the testimony of the wife or husband, on the trial in the case, it shall not be construed to affect the innocence or guilt of the accused, nor shall the same raise any presumption of guilt, nor be referred to by any attorney in the case, nor be considered by the court or jury before whom the trial takes place. (b) If the defendant does not testify, and the defendant so requests, but not otherwise, the court shall instruct the jury in writing as follows: "Under the law, a defendant has the right not to testify. No presumption of guilt may be raised and no inference of any kind may be drawn from the fact that defendant did not testify."</p> <p>29.07. Misdemeanors or Felonies--Sentence and Judgment (a) Pre-sentence Investigation. (1) <i>When Made.</i> When a probation officer is available to the court, such probation officer shall, unless otherwise directed by the court, make a pre-sentence investigation and report to the court before the imposition of sentence or the granting of probation. The report shall not be submitted to the court or its contents disclosed to anyone unless the defendant has pleaded guilty or has been found guilty. (2) <i>Report.</i> The report of the pre-sentence investigation shall contain any prior criminal record of the defendant and such information about his characteristics, his financial condition, his social history, and the circumstances affecting his behavior as may be helpful in imposing sentence or in granting probation or in the correctional treatment of the defendant. The probation officer shall secure such other information as may be required by the court and, if directed by the court, such investigation shall include a physical and mental examination of the defendant. Before making any authorized disposition the court shall, upon request of defendant or the attorney for the defendant, allow the defendant and the attorney for the defendant access to the complete pre-sentence investigation report and recommendations.</p> |
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| <p>judge before the imposition of sentence or the granting of probation. The report shall be submitted to the court only after the defendant has pleaded guilty or has been found guilty.</p> <p>(2) <i>Report.</i> The report of the pre-sentence investigation shall contain such information as the judge shall request. Before making any authorized disposition, the judge, upon request of defendant or the attorney for defendant, shall allow the defendant and the attorney for the defendant access to the complete pre-sentence investigation report and recommendations.</p> <p>(b) Sentence. Sentence shall be imposed without unreasonable delay. A defendant must be personally present when sentence and judgment are pronounced unless the judge, the prosecutor, and the defendant consent to the absence of the defendant.</p> <p>(c) Notification of Right to Trial De Novo. After imposing sentence, the judge shall advise the defendant of any right to trial de novo and the right of a defendant who is</p> | <p>(b) Sentence.</p> <p>(1) <i>Allocution and Imposition of Sentence.</i> Sentence shall be imposed without unreasonable delay. When the defendant appears for judgment and sentence, he must be informed by the court of the verdict or finding and asked whether he has any legal cause to show why judgment and sentence should not be pronounced against him; and if no sufficient cause be shown, the court shall render the proper judgment and pronounce sentence thereon. If the defendant has been heard on a motion for new trial, and in all cases of misdemeanor, the requirements of this subparagraph are directory and the omission to comply with them shall not invalidate the judgment or sentence.</p> <p>(2) <i>Presence of Defendant.</i> If the defendant has been convicted of a felony, he must be personally present when sentence and judgment are pronounced. A defendant convicted of a misdemeanor must be personally present when sentence and judgment are pronounced unless the court, the prosecuting attorney and the defendant consent to the absence of the defendant.</p> <p>(3) <i>Notification of Right to Appeal.</i> After imposing sentence in a case which has gone to trial on a plea of not guilty, the court shall advise the defendant of his right to appeal and the right of a defendant who is unable to pay the cost of the appeal to apply for leave to appeal in forma pauperis.</p> <p>.....</p> <p>(c) Judgment. A judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly.</p> <p>.....</p> <p>(e) Probation and Parole. Any court may place on probation and parole any defendant eligible for judicial parole under the laws of this state and, to this end, may suspend the imposition or execution of sentence of any person.</p> <p>Section 546.900 RSMo. In case of a conviction for any offense where the punishment has been fixed at a fine or imprisonment in the county jail, or workhouse, or by both such fine and imprisonment, the court in which any such conviction was had, or the judge thereof in vacation, or any associate circuit judge before whom such conviction was had, may, for good</p> |
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unable to pay the cost the right to proceed as an indigent.

(d) Judgment. A judgment of conviction shall set forth the plea, the verdict or findings, and the adjudication and sentence. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly.

(e) Probation and Parole. If authorized by law, the judge may suspend the imposition of sentence or execution of sentence and place the defendant on probation or parole for a term not to exceed two years.

(f) Stay of Sentence. The court in which any judgment, whether of imprisonment or fine, was rendered may grant, by an order entered of record and signed by the judge, a stay of execution upon such judgment or portion thereof for a specified period or periods of time, not to exceed six months. The judge may require the defendant to enter into a bond conditioned upon surrender of the defendant in execution upon such judgment on a day to be specified in such order.

.....

(g) Conviction of Two or More Sentences. When pronouncing sentence, the judge shall state whether the sentence shall run consecutively or concurrently with sentences on one or more ordinance violations for which defendant is being sentenced or for which defendant has been previously sentenced. If the judge fails to do so at the time of pronouncing the sentences, the respective sentences shall run concurrently.

37.65. Fines, Installment or Delayed Payments--Response to Nonpayment

(a) When a fine is assessed and it appears to the judge that the defendant does not have

cause shown, by order entered of record, or in writing signed by such judge or associate circuit judge, grant a stay of execution on any such judgment of conviction and sentence thereon for a definite period of time to be fixed by the court, judge or associate circuit judge granting the same, not to exceed six months, upon the defendant or some person for him entering a recognizance conditioned for his surrendering himself in execution at the time and place fixed by the judgment of such conviction or sentence on a day to be named in such order.

29.09. Misdemeanors or Felonies--Conviction on Two or More Offenses--Sentences The court, when pronouncing sentence, shall state whether the sentence shall run consecutively to or concurrently with sentences on one or more offenses for which defendant has been previously sentenced. If the court fails to do so at the time of pronouncing the sentences, the respective sentences shall run concurrently.

558.004.4 RSMo Imposition of fines

When an offender is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, the fine shall be payable forthwith.

558.006. Response to nonpayment.

1. When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him or her to show cause why he or she should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his or her appearance.

2. Following an order to show cause under subsection 1 of this section, unless the offender shows that his or her default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his or her part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant

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| <p>at that time the present means to pay the fine, the judge shall order a stay of execution on the payment of the fine and:</p> <p>(1) Grant the defendant a specified period of time within which to pay the fine in full, or</p> <p>(2) Provide for the payment of the fine on an installment basis under such terms and conditions as the judge may deem appropriate.</p> <p>(b) The judge may issue an order to show cause, consistent with Rule 36.01(b), for the defendant to appear in court at a future date in the event the fine is not paid in the time specified by the judge. In the event the defendant fails to appear at that future date, the court may issue a warrant to secure the defendant's appearance for a hearing on the order to show cause.</p> <p>(c) If a defendant defaults in the payment of the fine or any installment thereof, the judge may issue an order to show cause why the defendant should not be held in contempt of court. The judge shall issue a summons for the defendant's appearance on the order to show cause unless the defendant was ordered to appear at a future date as provided in Rule 37.65(b). If the defendant fails to appear on the summons, the court may then issue a warrant to secure the defendant's appearance for a hearing on the order to show cause. The summons may be served by the clerk mailing it to the defendant's last known address by first class mail.</p> <p>(d) If following the show cause hearing the judge finds the defendant intentionally refused to obey the sentence of the court or to have made a good faith effort to obtain the necessary funds for payment, the judge may confine the defendant for a term not to exceed thirty days for contempt of court. If the judge finds that the failure to pay the fine is excusable, the judge shall enter an order allowing the defendant additional time for payment, or may modify the method of payment or waive the collection of all or part of any unpaid portion of the fine.</p> <p>(e) Upon default in the payment of a fine or any installment thereof, the fine may be</p> | <p>imprisoned for a term not to exceed one hundred eighty days if the fine was imposed for conviction of a felony or thirty days if the fine was imposed for conviction of a misdemeanor or infraction. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his or her release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.</p> <p>3. If it appears that the default in the payment of a fine is excusable under the standards set forth in subsection 2 of this section, the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.</p> <p>4. When a fine is imposed on a corporation it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from the assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under subsections 1 and 2 of this section.</p> <p>5. Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized for the enforcement of money judgments.</p> <p>29.10. Misdemeanors or Felonies--Sentence of Imprisonment--Transcript to Sheriff When a defendant is sentenced to imprisonment, the clerk of the court shall deliver to the sheriff of the county a certified copy of the judgment and sentence and the sheriff shall confine the defendant in jail or deliver the defendant to the Division of Corrections as specified in the order.</p> <p>29.13. Misdemeanors or Felonies--Court may Set Aside Judgment or Grant New Trial--30 Day Period--Grounds</p> <p>(a) Within thirty days after the entry of the judgment and prior to the filing of the transcript of the record in the appellate court, the court may of its own initiative or on motion of a defendant arrest or set aside a judgment upon either of the following grounds: (1) that the facts stated in the indictment or information do not constitute an offense; or (2) that the court is without jurisdiction of the offense charged. The court</p> |
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collected by any means authorized by law for the enforcement of money judgments.

**37.66. Sentence of Imprisonment--
Transcript to Corrections Official**

When a defendant is sentenced to imprisonment, the clerk shall deliver to the corrections official a certified copy of the judgment and sentence, specifying credit for time served, and the corrections official shall confine the defendant in a detention facility or deliver the defendant as specified in the order.

37.67. Judgment Set Aside--When

(a) Within ten days after the entry of judgment and prior to the filing of application for trial de novo, the court may of its own initiative or on motion of a defendant set aside judgment upon any of the following grounds:

- (1) That the facts stated in the information filed and upon which the cause was tried do not state an ordinance violation;
- (2) That the court was without jurisdiction of the ordinance violation charged;
- (3) To correct manifest injustice.

The court shall record the grounds upon which the order was entered.

37.67. Judgment Set Aside--When

(b) A motion to withdraw a plea of guilty may be made only before sentence is imposed or when imposition of sentence is suspended; but to correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the defendant's plea.

37.68. [Reserved]

37.69. Judgment--Commutation

After commitment of a defendant to serve a sentence of imprisonment, the judge may commute the term of the sentence to the time then served.

shall specify of record the grounds upon which the order is entered.

(b) The court may, with the consent of the defendant, order a new trial of its own initiative before the entry of judgment and imposition of sentence but not later than thirty days after the verdict of the jury is returned.

**29.07. Misdemeanors or Felonies--
Sentence and Judgment**

(d) **Withdrawal of Plea of Guilty.** A motion to withdraw a plea of guilty may be made only before sentence is imposed or when imposition of sentence is suspended; but to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

558.031.1 RSMo A sentence of imprisonment shall commence when a person convicted of a crime in this state is received into the custody of the department of corrections or other place of confinement where the offender is sentenced. Such person shall receive credit toward the service of a sentence of imprisonment for all time in prison, jail or custody after the offense occurred and before the commencement of the sentence, when the time in custody was related to that offense,

29.18. Probation Violations--Procedure

(d) Revocation of Probation or Parole.

A court may revoke probation or parole upon compliance with section 559.036, RSMo, but not otherwise. The defendant may be conditionally released pending final hearing.

30.01. Right to and Manner of Appeal

(a) **Right to Appeal.** After the rendition of final judgment in a criminal case, every party shall be entitled to any appeal permitted by law. Appeals may be taken as provided in Rule 81.04 and Rule 81.08.

30.15. Stay of Execution

(a) **Death.** A sentence of death shall be stayed if an appeal is taken.

(b) **Imprisonment.** A sentence of imprisonment shall be stayed if an appeal is taken and the defendant is conditionally

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| <p>37.70. Revocation of Probation or Parole A judge may revoke probation or parole upon compliance with section 559.036, RSMo, but not otherwise, except that notice of the hearing may be mailed in the same manner as a summons. The defendant may be conditionally released pending final hearing.</p> <p>37.71. Trial De Novo--Right—Time (a) An application for trial de novo shall be filed as provided by law. No judge may order an extension of time for filing or perfecting an application for trial de novo. (b) An application for trial de novo shall not be granted after the defendant satisfies any part of the penalty and costs of the judgment.</p> <p>37.72. Trial De Novo--Stay of Execution The filing of an application for trial de novo or review shall suspend the execution of the judgment of the municipal division. If the applicant for trial de novo withdraws the application, or if before commencement of trial, the court enters a finding that the applicant has abandoned the trial de novo, the case shall be remanded to the municipal division for execution of judgment.</p> <p>37.73. Trial De Novo--Transmittal of Record When an application for trial de novo is filed, the clerk shall transmit the duly certified record to the clerk of the division</p> | <p>released pursuant to Rule 33. A sentence of imprisonment in the penitentiary may be stayed if an appeal is taken and the defendant requests not to commence service of the sentence pending the appeal and the trial court in its discretion so orders. Such request shall be in writing and shall be filed with the clerk of the trial court at or prior to the time of the filing of the notice of appeal. In such cases the defendant may be committed to jail of the county or city, or other safe place, to abide such judgment as may be rendered upon appeal.</p> <p>(c) Fine. A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the trial court or by the appellate court upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs with the clerk of the trial court, or give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating his assets.</p> <p>30.04. Record on Appeal--Contents--Designation--Compiling, Ordering, Filing and Service--Errors, Omissions and Supplemental Record (f) Record on Appeal--When and Where Filed and Served. Within the time prescribed by Rule 81.19, the appellant shall cause the record on appeal to be prepared in accordance with the provisions of this Rule 30 and filed with the clerk of the proper appellate court and shall serve a copy thereof on the respondent. Proof of such service shall be filed with the appellate court. A copy of the transcript and the index of the legal file, with the caption of the case noted thereon, shall be filed with the clerk of the trial court. A copy of the complete legal file shall not be filed with the trial court except upon court order. Respondent may file within the time allowed for serving respondent's brief additional parts of the record. In the event of the filing of any additional or supplemental record, such additional or supplemental record shall be served, and copies thereof shall be filed with the clerk of the trial court as provided herein.</p> <p>No corresponding rule of criminal procedure</p> |
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designated to hear ordinance violations de novo. The failure of the clerk to transmit the record shall not affect the defendant's trial de novo.

37.74. Trial De Novo—Procedure All trials de novo shall proceed in the manner provided for the trial of a misdemeanor by the rules of criminal procedure.

37.75. Criminal Contempt

(a) A criminal contempt may be punished summarily if the judge certifies that the judge saw or heard the conduct constituting the contempt and that it was committed in the judge's presence. The judgment of contempt and the order of commitment shall recite the facts and shall be signed by the judge and entered of record.

(b) All other instances of contempt shall be prosecuted on notice. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a finding of guilt, the judge shall recite in the judgment of contempt and in the order of commitment the essential facts constituting the criminal contempt and fixing the punishment.

36.01. Criminal Contempt

(a) A criminal contempt may be punished summarily if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The judgment of contempt and the order of commitment shall recite the facts and shall be signed by the judge and entered of record.

(b) A criminal contempt except as provided in subdivision (a) of this Rule shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the prosecuting attorney or of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to be conditionally released as provided in these Rules. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a finding of guilt the court shall recite in the judgment of contempt and in the order of commitment the essential facts constituting the criminal contempt and fixing the punishment.

Chapter 12

Forms

FORMS TABLE OF CONTENTS

FORM 1: Opening Statement: Points to Cover
FORM 2: Summons
FORM 3: Warrant for Arrest
FORM 4: Order to Recall Warrant
FORM 5: Municipal Bond Form
FORM 6: Bond Assignment Memo
FORM 7: General Affidavit- Questionnaire (Bondsmen)
FORM 8: Motion for Bond Forfeiture
FORM 9: Motion to Enter a Judgment of Default on Bond Forfeiture
FORM 10: Judgment on Bond Forfeiture
FORM 11: Notice of Bond Forfeiture Judgment
FORM 12: Fingerprint Order
FORM 13: Listing of Ordinance Violations Requiring Fingerprinting (Subject to change)
FORM 14: Joint Request to Continue
FORM 15: Pre-Trial Conference Memo
FORM 16: Mega Memo
FORM 17: Order for Discovery
FORM 18: Subpoena Order to Appear/Produce Documents/Give Depositions
FORM 19: MTV General Written Guilty Plea
FORM 20: Plea of Guilty and Waiver of Counsel
FORM 21: Waiver of Counsel and Guilty Plea Pursuant to Rule 37.57
FORM 22: Waiver of Counsel
FORM 23: Plea of Guilty
FORM 24: Order Granting Withdrawing of Guilty Plea (MU 130)
FORM 25: Statement of Financial Condition
FORM 26: Financial Statement for Appointment of Counsel
FORM 27: Agreement to Pay by Date Certain
FORM 27A: Agreement to Pay for Monthly Payments
FORM 28: Judgment and Sentence
FORM 29: Judgment of Guilty After Trial
FORM 30: Stay of Execution
FORM 31: Application for Trial de Novo
FORM 32: Order for Dismissal
FORM 33: Order for Probation
FORM 34: Motion to Suspend and Revoke Probation (Prosecutor or Court Form)
FORM 35: Order Suspending Probation
FORM 36: Notice of Probation Revocation Hearing
FORM 37: Order on Probation Revocation Hearing
FORM 38: Probation Revocation Memo
FORM 39: Community Service Agreement
FORM 40: Community Service Work Schedule
FORM 41: Finding of Indigency and Community Service Agreement
FORM 42: Motion for Contempt

FORM 43: Judgment of Contempt
FORM 44: Judgment Finding Defendant in Contempt of Court
FORM 45: Show Cause Summons for Failure to Pay
FORM 46: Application to Inspect Closed Criminal Records
FORM 47: Certified Copy following the Request for Records
FORM 48: Certification of Copies
FORM 49: Order to Install Ignition Interlock
FORM 50: Abuse and Lose Order of Suspension/Revocation
FORM 51: Waiver of Right to Auxiliary Aid and Services
FORM 52: General Letter to Defendant
FORM 53: Sample Letter to Police Chief, Re: Confinement Release
FORM 54: Presiding Judge Visit Checklist
FORM 55: Rule 37.04, Appendix C- Notice of Defendant's Rights in Municipal Divisions
FORM 56: Rule 37.04, Appendix D-Lawful Enforcement of Legal Obligations: A Bench Card
for Judges
FORM 57: Court Operating Order #4
FORM 58: Presiding Judge's Report to the Supreme Court (GN 240)
FORM 59: Minimum Operating Standards Certification (MU 140)
FORM 60: Information (Prosecutor Form)
FORM 61: Memorandum of Plea Agreement (Prosecutor Form)
FORM 62: Request for Recoupment (Prosecutor Form)

NOTES ON USE- Opening Statement

The following should be covered at the opening of each court session:

1. Check in procedure
2. How cases are called
3. The following rights should be addressed or a signed waiver presented to each defendant:
 - a. Right to be advised of the charge.
 - b. Right to be advised of the range of punishment.
 - c. Right to plead guilty or not guilty.
 - d. Right to consult with an attorney or to be appointed counsel if indigent.
 - e. Right to a trial, and right to trial by jury.
 - f. Right to remain silent at trial and that such silence cannot be held against the defendant.
 - g. That the defendant is presumed innocent until proven guilty beyond a reasonable doubt.
 - h. Right to confront witnesses against the defendant.
 - i. Right to present witnesses of their own, and to subpoena witnesses.
 - j. Right to appeal if they are found guilty.
 - k. Right to have time to pay fines and court costs assessed.
 - l. Right to present evidence of the financial condition if they are unable to pay their fines and court costs.
 - m. That by pleading guilty tonight they waive all their rights and the Court's decision is final and cannot be appealed to another court.
4. If defensive driving school is offered, that should be mentioned.
5. Many of the rights above can be addressed with the Notice of Rights in Municipal Division form.
6. Also a power point presentation encompassing the above information can be used.



IN THE 21st JUDICIAL CIRCUIT, ST. LOUIS COUNTY, MISSOURI

| | | |
|----------------------------------------------------------------|---------------------------------------------------|-------------------|
| Judge or Division: | Case Number: | (Date File Stamp) |
| | Court ORI Number: | |
| City of _____ vs. | Charges: vs. | |
| To: (Name and Address of Defendant to be served) Alias: | Date/Time of Hearing: Location of Hearing: | |

Summons

Because you have been charged in this court with the above municipal offense, you are summoned to appear at the above location and time to plead and answer to the charge(s). If you fail to appear, a warrant for your arrest may be issued.

Seal

Date

Judge

By: _____
Clerk
(As directed by the Judge)

If you have a disability requiring special assistance for you court appearance please contact the court at least 48 hours in advance of the scheduled hearing.

Certificate of Mailing

I certify that the summons was mailed on _____ (date) by first class mail to the above named defendant at the address listed above.

Seal

Date

Judge

Sheriff's or Server's Return

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the defendant.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant with _____ a person of the defendant's family over the age of 15 years.
- ☐ (For service on a corporation) delivering a copy of the summons and a copy of the petition to:
(name) _____ (title) _____ at
(address) _____
- ☐ other _____.

Served in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Sheriff's Fees

Fees \$ _____

Mileage \$ _____ (____ miles @ \$ _____ per mile).

Total \$ _____

Sheriff or Server

By: _____
Deputy



IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI
MUNICIPAL DIVISION, CITY OF _____

| | | | | |
|-------------------------------------|------------------------------------------------------------|--------------------------|---------|------------------------------------------------|
| Judge or Division: | Case Number: | | | |
| Defendant's Name/Alias(es)/Address: | Court ORI Number: | Offense Cycle No. (OCN): | | |
| | Investigating Agency ORI: | | | (Date File Stamp) |
| | DOB: | | | SSN: |
| | | | | SID: |
| | Warrant Number: | | | Driver's License No./Issuing State/ Exp. Date: |
| Place of Employment: | MSHP Number: | | | Vehicle License Plate Number: |
| | Sex: <input type="checkbox"/> M <input type="checkbox"/> F | Height: | Weight: | Race: |

Warrant for Arrest

To Any Peace Officer in the State of Missouri:

The court having found probable cause that a crime has been committed commands you to arrest the above-named defendant who is charged with:

Charge Code/Description

Charge Level

Offense Date

alleged to have been committed within the jurisdiction of this court and in violation of the laws of the State of Missouri. You are further commanded to bring the defendant before this court to be dealt with in accordance with the law.

- ☐ The court further finds reasonable grounds to believe the defendant, who is charged with an ordinance violation,
☐ will not appear on summons; or;
☐ is a danger to the crime victim, the community or another person.

The officer serving this warrant shall execute in writing a return on this warrant to this court.

(Seal) _____ Date _____ Judge _____

By _____ Clerk _____

Bond Set at \$ _____ By Judge _____

Bond Conditions: _____

Officer's Return

I certify that I served this warrant in _____ (County/City of St. Louis), Missouri on _____ (date), by arresting the above named defendant and bringing him/her before the court on _____ (date).

Offense Cycle Number (OCN) if not indicated above _____

- ☐ Defendant's permit surrendered for concealed carry suspension and is attached.

Sheriff's Fees

Fees \$ N/A

Mileage \$ _____ (_____ miles @ \$. _____ per mile)

Total \$ _____

Served By _____

Title _____ Agency ORI _____



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

| | |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ vs. | <input type="checkbox"/> Original Notice of Withdrawal <input type="checkbox"/> Follow up to Verbal Notice Given on _____ (date) |
| (Date File Stamp) | |
| Defendant's Name/Address: | |

Order to Recall Warrant

The Court orders the warrant for the arrest of the defendant to be recalled. Special instructions: _____

Date

Judge

To Law Enforcement Agency

Pursuant to the above order, you are directed to withdraw and return the warrant issued in this case. Please return the warrant to:

- ☐ The division noted above
- ☐ Municipal Division _____
- ☐ _____

Date

Clerk/Deputy Clerk

Certificate of Delivery Notice

A copy of this notice was:

- ☐ Hand delivered.
- ☐ Mailed by regular mail to the law enforcement agency noted above as a follow-up to the verbal notice given.
- ☐ Electronically transmitted

Date

Clerk/Deputy Clerk



**IN THE 21st JUDICIAL CIRCUIT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION, CITY OF _____**

| | | |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Judge or Division: | Case Number: | |
| | Offense Cycle No. (OCN): | |
| | Type of Bond: <input type="checkbox"/> Unsecured (ROR) <input type="checkbox"/> Cash <input type="checkbox"/> 10% <input type="checkbox"/> Property <input type="checkbox"/> Surety | |
| Defendant's Name, Address, Zip Code: | Bond Amount: | Bond Received: |
| | (Date File Stamp) | |
| | Description of Securities: (If Applicable) | |
| | <input type="checkbox"/> See attached | |
| | <input type="checkbox"/> Check if Security Qualifications Filed | |
| Telephone: | Charge(s): | |
| SSN: | DOB: | Next Court Hearing: (Date, Time, Division) |

Bond

The undersigned as principal and surety agrees to pay the City of _____ the sum of \$ _____ unless the defendant abides by the conditions set out below.

Bond conditions and consequences for failure to meet conditions:

Having been charged with/convicted of the ordinance violation(s) shown above, the defendant has posted this bond to be released from law enforcement custody.

The defendant is required to and agrees to:

1. Attend all court hearing as set by this court or any court to which this case is transferred or appealed.
2. Submit to any orders, judgments and sentence of this court or any court hearing this case.
3. Inform the court of any change of address.
4. **Other Conditions:**
 - a. Defendant shall not tamper with a witness or victim nor allow another person to tamper with a witness or victim on behalf of the defendant as described on the reverse of this form.
 - b. Obey all laws.
 - c. _____

If the above conditions are followed, the defendant will be released from this bond and any cash or securities deposited will be returned to the defendant or the assignee, **less any fines, court costs, restitution and other fees, permitted by law, which may be deducted from the cash bond before any money will be refunded.**

The defendant understands that the consequences for failure to follow any of the above conditions are:

1. Any cash or securities deposited with the court may be forfeited.
2. The defendant's property may be sold to collect the full amount of the bond.
3. The defendant's bond may be revoked.
4. An arrest warrant may be issued.
5. Additional charges may be filed.

| | | |
|-----------------------|------|--------------|
| Defendant's Signature | Date | Witnessed By |
|-----------------------|------|--------------|

For persons other than the defendant who post bond:

I now assume custody of the defendant. The defendant will appear and abide by the conditions as shown above. If the defendant fails to do so, I understand that I or the company I represent must forfeit or pay the full amount of the bond or it will be levied against my property or estate or the property of the company I represent. If the bond concerns a case on appeal from the circuit court, I irrevocably appoint the clerk of this court and the clerk of the appellate court as my agent to receive service of any notice or process in connection with the forfeiture of this bond. If acting as bail bond agent or general bail bond agent, I attest that I have no unsatisfied judgments against me.

When posting a cash bond, any money deposited will be considered by the court as belonging to the defendant. Be advised fines, court costs, restitution, and other fees, permitted by law, may be deducted from the cash bond before any money will be refunded to the defendant.

| | | |
|-----------------------------------------|----------------------------|----------------------------------------|
| Print name(s) of person(s) posting bond | License No (If Applicable) | Signature(s) of person(s) posting bond |
|-----------------------------------------|----------------------------|----------------------------------------|

Address(es)

If Bond is signed by a surety company, attach the Agent's Power of Attorney

Approved by (Judge or Clerk, with authority from Judge):

Date:

Witness/Victim Tampering

1. A person commits the offense of tampering with a witness or victim if:

(1) With the purpose to induce a witness or a prospective witness to disobey a subpoena or other legal process, absent himself or herself, avoid subpoena or other legal process, withhold evidence, information, or documents, or testify falsely, he or she:

- (a) Threatens or causes harm to any person or property; or
- (b) Uses force, threats or deception; or
- (c) Offers, confers or agrees to confer any benefit, direct or indirect, upon such witness; or
- (d) Conveys any of the foregoing to another in furtherance of a conspiracy.

(2) He or she purposely prevents or dissuades or attempts to prevent or dissuade any person who has been a victim of any crime or a person who is acting on behalf of any such victim from:

- (a) Making any report of such victimization to any peace officer, state, local or federal law enforcement officer, prosecuting agency, or judge;
- (b) Causing a complaint, indictment or information to be sought and prosecuted or assisting in the prosecution thereof;
- (c) Arresting or causing or seeking the arrest of any person in connection with such victimization.

2. The offense of tampering with a witness or victim is a class A misdemeanor, unless the original charge is a felony, in which case tampering with a witness or victim is a class D felony. Persons convicted under this section shall not be eligible for parole.

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

_____ **MUNICIPAL DIVISION**

CITY OF _____,

Plaintiff,

vs.

Defendant.

)
)
)
)
)
)
)

Date

Case No.

\$_____ Cash Bond

BOND ASSIGNMENT MEMO

I, _____, do hereby freely and voluntarily
assign and transfer all rights, title, and interest in the above bond money to

_____.

DEFENDANT

Subscribed and sworn to before me this _____ day of _____,
20____.

Notary Public



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------|--------------|
| Judge or Division: | Case Number: |
| | |
| (Date File Stamp) | |

General Affidavit-Questionnaire (Bondsman)

| | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|-------------------------|
| 1. Name/Present Address | | 2. Previous Address | |
| 3. How long at this address? | | | |
| 4. Your Age | 5. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Single | 6. Name of Spouse | |
| 7. Have you ever been convicted of a criminal offense in any state or federal court or any foreign country court? (Convictions of municipal violations are not included) <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| 8. Are you an attorney at law admitted to practice by the Supreme Court of Missouri? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| 9. Have you ever been licensed as an attorney and later disbarred or suspended? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| 10. Are you an elected or appointed official or employee of the State of Missouri or any county or other political subdivision thereof? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| 11. Are you a party upon any bail bond in any court of this state or any other state or territory of the United States, which after being forfeited, remains unpaid or unsatisfied. <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| 12. Inventory of all real estate of which you are the sole legal or equitable owned. (attach additional sheet if more space is needed) | | | |
| Tract One | | Tract Two | |
| A. Legal description | | A. Legal description | |
| B. City, zone, street and street number | | B. City, zone, street and street number | |
| C. Description of all improvements | | C. Description of all improvement | |
| D. Present market value (est.) \$ | E. Assessed value \$ | D. Present market value (est.) \$ | E. Assessed value \$ |
| F. Encumbrances with amounts and names of persons holding the same (mortgages, mechanics' liens, tax liens and other liens) | | F. Encumbrances with amounts and names of persons holding the same (mortgages, mechanics' liens, tax liens and other liens) | |

| Tract Three | | Tract Four | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| A. Legal description | | A. Legal description | |
| B. City, zone, street and street number | | B. City, zone, street and street number | |
| C. Description of all improvements | | C. Description of all improvement | |
| D. Present market value (est.) \$ | E. Assessed value \$ | D. Present market value (est.) \$ | E. Assessed value \$ |
| F. Encumbrances with amounts and names of persons holding the same (mortgages, mechanics' liens, tax liens and other liens) | | F. Encumbrances with amounts and names of persons holding the same (mortgages, mechanics' liens, tax liens and other liens) | |
| Note: Do not list any property which you and your spouse own as tenants by the entirety or as joint tenants and do not list any property in which you own only a life estate or a remainder interest. | | | |
| 13. If bond is to be signed by both husband and wife as sureties, attach a separate sheet providing the same information required by question number 12. Attached <input type="checkbox"/> Yes <input type="checkbox"/> No | | 14. If any of the real estate listed on this questionnaire is subject to a lease for longer than two years, state the name of the lessee, term of the lease and amount of rental on a separate sheet. Attached <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 15. List any personal property and indicate if any of the property is subject to any encumbrance or liens, state the nature and amount of the same and by whom held. (Provide on a separate attached sheet). Attached <input type="checkbox"/> Yes <input type="checkbox"/> No | | 16. List all bail bonds upon which you are surety and are now outstanding. Specify amount of each bond, name of defendant, the offense charged and the court in which the charge is pending. (Provide on a separate attached sheet). Attached <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| 17. Has a Federal tax lien been filed against you? <input type="checkbox"/> Yes <input type="checkbox"/> No | | 18. State the amount of your outstanding debts, other than those listed above. | |
| 19. Have you, or anyone for you, or on your behalf received or been promised any consideration or security suretyship? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide the nature and amount of the consideration/security and the name of the person(s) by whom such promise was made or from whom such security or consideration was received. (Attach additional sheet if necessary). | | | |
| <p>The applicant swears that the matters set forth above are true and correct to the best of his/her knowledge, information and belief, and that applicant is subject to the penalties for making a false affidavit or declaration.</p> <p>_____</p> <p style="text-align: center;">Date</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature(s)</p> | | | |



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

| | |
|-------------------------------------------|------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ vs. _____ (Date File Stamp) | |
| Defendant's Name/Address: | Surety's Name/Address: |

Motion of Bond Forfeiture

The above named defendant failed to appear in the Municipal Court of the City of _____ on _____ (date) as required by the terms and conditions of the bond dated _____ (date). The amount of \$ _____ be forfeited unless the defendant and surety appears on the hearing date.

Prosecuting Attorney

Notice of Hearing

The above named defendant and surety are notified they may appear before the court on _____ (date) at _____ (time) for the hearing on the City's Motion for Bond Forfeiture and to show cause why in the interest of justice, bond should not be forfeited.

Judge

I certify that a copy of this notice has been mailed on _____ (date) via regular mail to the above named defendant, surety and defendant's attorney, if applicable.

Clerk

Order

☐ City motion for bond forfeiture denied.

☐ City motion for bond forfeiture granted. Bond ordered forfeited.

Date

Judge



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|---------------------------|-------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| | Offense Cycle No. (OCN) |
| City of _____ vs. | |
| Defendant's Name/Address: | Surety's Name/Address |

(Date File Stamp)

Motion to Enter a Judgment of Default on Bond Forfeiture

The above named defendant failed to appear in the Municipal Court of the City of _____
on _____ (date) as required by the terms and conditions of the bond dated _____ (date).
The amount of \$ _____ may be forfeited unless the defendant and surety appear(s) on the hearing date.

Prosecuting Attorney

Notice of Hearing

The above named defendant and surety are notified they may appear before the court on _____ (date)
at _____ (time) at _____ (court address) for the hearing on the
City's Motion to Enter a Judgment of Default on Bond Forfeiture and to show cause why in the interest of justice, bond should not
be forfeited.

Judge

I certify that a copy of this notice has been mailed on _____ (date) by regular mail to the above
named defendant, surety and defendant's attorney, if applicable.

Clerk



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|----------------------|---------------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ vs. | Prosecuting Attorney/MO Bar No. |
| Defendant | Surety's Name/Address |

(Date File Stamp)

Judgment of Bond Forfeiture

On _____ (date), the City appears by its Prosecuting Attorney and the above named surety on the bond fails to appear even though notified as provided by law. The cause was considered on the City's motion. Evidence was adduced.

- ☐ City's motion for bond forfeiture is denied.
- ☐ City's motion for bond forfeiture is granted. Bond ordered forfeited. The court finds all the issues in favor of the City and against the above named surety on the bond. IT IS ORDERED that the City have judgment against the surety on the bond in the amount of \$_____.

Date

Judge



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|----------------------------------------------------------------------------------------------------|---------------------------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| To: Licensing Supervisor Mo Department of Insurance P.O. Box 690 Jefferson City, MO 65102 | General Bail Bond Agent: |
| | Bail Bond Agent: |
| | Company/Surety Name: |
| | Date Bond Forfeiture Judgment Entered _____ |
| | By Judge _____ |

(Date File Stamp)

Notice of Bond Forfeiture Judgment

Reference: Unsatisfied Judgment on a Bond Forfeiture

Enclosed is a certified copy of a judgment entered by this court against the above named licensed general bail bond agent who has failed to satisfy the terms of a bond ordered by this court.

Name and Title

Date

Notice of Satisfaction of Judgment

I hereby certify that the above named bail bond agent has satisfied, or the court has set aside, the bond forfeiture judgment noted above.

☐ Satisfied __Date: _____

☐ Set Aside __Date: _____

Name and Title

Date



IN THE _____ JUDICIAL CIRCUIT, _____, MISSOURI
_____ MUNICIPAL DIVISION

| | |
|-----------------------------------------------------------------------------|--------------|
| Judge or Division: | Case Number: |
| Defendant's Name, Alias(es)/Address: | DOB: |
| | SSN: |
| Offense Charge Code(s) and Description(s) / Charge Level(s) / Offense Date: | |
| ORI and Name of Originating Arresting Agency: | |
| (Date File Stamp) | |

Order for Fingerprinting

Now on _____ (date), the Court, having concluded that the Defendant has not previously been fingerprinted for an offense reportable under section 43.503.6, RSMo, hereby orders Defendant to report immediately to the _____ Department for fingerprinting. The Defendant is ordered to submit to the fingerprinting, and is further ordered to provide all information necessary for the officer taking the fingerprints to fully complete all identification and photograph portions of the standard fingerprint cards.

Judge

Return

The _____ Department hereby confirms that the Defendant appeared and was fingerprinted pursuant to the court's order on _____ (date).

The State Criminal Fingerprint card bearing OCN _____ will be submitted to the Missouri Central Records Repository within thirty (30) days.

Deputy/Officer

ORDINANCE VIOLATIONS REQUIRING FINGERPRINTS

ANIMAL VIOLATIONS

ANIMAL - HEALTH & SAFETY ANIMAL CRUELTY
VICIOUS ANIMAL - CAUSE SERIOUS INJURY/DEATH TO A PERSON

ASSAULTS

ASSAULT DOMESTIC ASSAULT
ASSAULT ON LAW ENFORCEMENT MISCELLANEOUS ASSAULT

OPERATOR'S LICENSE, SUSPENSION, REVOKED

EXPIRED LICENSE
OPERATE VEHICLE ON HIGHWAY WITHOUT VALID OR NO LICENSE
OPERATE MOTORCYCLE WHEN DRIVER'S LICENSE NOT VALIDATED FOR SUCH-
1ST OR 2ND OFFENSE
OPERATE MOTOR VEHICLE WITHOUT OBTAINING NEW DRIVER'S LICENSE AFTER
BEING REVOKED/SUSPENDED
DRIVING WHILE REVOKED OR DRIVING WHILE SUSPENDED
DRIVING WHILE LICENSE REVOKED (SUSPENDED FOR STEALING MOTOR FUEL)
OPERATED MOTOR VEHICLE ON HIGHWAY WHILE DRIVERS LICENSE/PRIVILEGE
REVOKED (FOR ABUSE AND LOSE LAW)
OPERATED MOTOR VEHICLE ON HIGHWAY WHILE DRIVERS LICENSE/PRIVILEGE
REVOKED (POINTS/FAILURE TO TAKE TEST)
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVER LICENSE/PRIVILEGE
REVOKED FOR PROBABLE CAUSE OF 08% BLOOD ALCOHOL CONTENT AND ZERO
TOLERANCE
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVER LICENSE/PRIVILEGE
REVOKED (SUSPENDED FOR PROBABLE CAUSE .08% BLOOD ALCOHOL CONTENT
AND ZERO TOLERANCE)
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVERS LICENSE/PRIVILEGE
REVOKED (SUSPENDED FOR POINTS)
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVERS LICENSE/PRIVILEGE
SUSPENDED (FOR
IMPROPRIETIES IN COMPACT STATE)
OPERATE MOTOR VEHICLE WHILE SUSPENDED OR REVOKED AFTER FAILING
EXAM/FAILING TO SUBMIT TO EXAM REQUIRED BY DEPARTMENT OF REVENUE
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVER LICENSE/PRIVILEGE
REVOKED (SUSPENDED FOR NONAPPEAR/NONPAYMENT OF COURT FINES/COSTS)
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVER LICENSE/PRIVILEGE
REVOKED (SUSPENDED FOR NONPAYMENT OF CHILD SUPPORT)
OPERATE COMMERCIAL MOTOR VEHICLE WHILE DRIVER PRIVILEGE
SUSPENDED, REVOKED, CANCELLED FROM OPERATING A COMMERCIAL MOTOR
VEHICLE
OPERATE MOTOR VEHICLE ON HIGHWAY WHILE DRIVER LICENSE SUSPENDED

ALCOHOL-DRIVING

EXCESSIVE BAC
DROVE COMMERCIAL MOTOR VEHICLE - BLOOD ALCOHOL CONTENT OVER .04%
DROVE COMMERCIAL MOTOR VEHICLE UNDER INFLUENCE OF CONTROLLED
SUBSTANCE
DWI - ALCOHOL
DWI - DRUG INTOXICATION
OFFENDER
DWI - COMBINED ALCOHOL/DRUG INTOXICATION
DWI-COMBINED ALCOHOL/DRUG INTOXICATION-PRIOR OFFENDER
FAILED TO COMPLY WITH COURT ORDER REQUIRING USE OF IGNITION
INTERLOCK DEVICE - 1ST OFFENSE
FAILED TO COMPLY WITH COURT ORDER REQUIRING USE OF IGNITION
INTERLOCK DEVICE - 2ND OFFENSE
VIOLATION OF IGNITION INTERLOCK RESTRICTIONS

COMMERCIAL DRIVING VIOLATIONS

VIOLATE OUT-OF-SERVICE ORDER WHILE TRANSPORTING HAZARDOUS
MATERIALS - 1ST OFFENSE
VIOLATE OUT-OF-SERVICE ORDER WHILE TRANSPORTING HAZARDOUS
MATERIALS - 2ND OR SUBSEQUENT OFFENSE

LEAVING THE SCENE-DRIVING

FAIL TO STOP OR OBEY REASONABLE SIGNAL/DIRECTION OF HIGHWAY
PATROLMAN
LEAVING THE SCENE OF A MOTOR VEHICLE ACCIDENT
LEAVING THE SCENE OF A MOTOR VEHICLE ACCIDENT - INJURY/PROPERTY
DAMAGE - 2ND OFFENSE
LEAVING THE SCENE OF ALL-TERRAIN VEHICLE ACCIDENT - INJURY
LEAVING THE SCENE OF ALL-TERRAIN VEHICLE ACCIDENT - DEATH OR 2ND
OFFENSE
FAILED TO STOP AND REPORT ALL-TERRAIN VEHICLE ACCIDENT TO PROPERTY
OWNER/INJURED PERSON/POLICE OFFICER/LAW ENFORCEMENT AGENCY

CONTROLLED SUBSTANCE

POSSESS DRUG PARAPHERNALIA
INHALE SOLVENT FUMES
MISCELLANEOUS CONTROLLED SUBSTANCE

JUDICIAL VIOLATIONS

INTERFERE WITH JUDICIAL PROCEEDING
PROBATION VIOLATION
MISCELLANEOUS OBSTRUCTING JUDICIAL PROCEEDING

FRAUD, STEALING

PASSING BAD CHECK
FRAUDULENT USE OF A CREDIT/DEBIT DEVICE
DECEPTIVE BUSINESS PRACTICE MISCELLANEOUS FRAUD OFFENSE
BINGO VIOLATION MISCELLANEOUS GAMBLING VIOLATION
ROBBERY
STEALING SHOPLIFTING
CABLE TV THEFT TAMPERING
TAMPERING WITH MOTOR VEHICLE, AIRPLANE, MOTOR BOAT, ETC
RECEIVE STOLEN PROPERTY POSSESS STOLEN PROPERTY
FAILED TO RETURN RENTED OR LEASED PROPERTY
BURGLARY/BREAKING AND ENTERING
POSSESSION OF BURGLARY TOOLS

SEX OFFENSES

PROSTITUTION PATRONIZING PROSTITUTION
MISCELLANEOUS SEX VIOLATION SEXUAL MISCONDUCT
INDECENT EXPOSURE
PROMOTING OBSCENITY/PORNOGRAPHY
PROMOTING OBSCENITY/PORNOGRAPHY FOR MINORS - 1ST OFFENSE
PROMOTING OBSCENITY/PORNOGRAPHY FOR MINORS-2ND OFFENSE
POSSESSION OF CHILD PORNOGRAPHY MATERIAL-1ST OFFENSE
POSSESSION OF CHILD PORNOGRAPHY MATERIALS-2ND OFFENSE
FURNISH PORNOGRAPHIC MATERIAL TO MINOR-1ST OFFENSE
FURNISH PORNOGRAPHIC MATERIAL TO MINOR-2ND OFFENSE
PUBLIC DISPLAY OF EXPLICIT MATERIALS-1ST OFFENSE
PUBLIC DISPLAY OF EXPLICIT MATERIALS-2ND OFFENSE
COERCING ACCEPTANCE OF OBSCENE MATERIALS
PROMOTING CHILD PORNOGRAPHY-1ST OFFENSE
PROMOTING CHILD PORNOGRAPHY-2ND OFFENSE
KNOWINGLY PROMOTE CHILD PORNOGRAPHY TO MINOR-1ST OFFENSE
KNOWINGLY PROMOTE CHILD PORNOGRAPHY TO A MINOR-2ND OFFENSE
FAILURE TO MAINTAIN PORNOGRAPHIC, MORBID, VIOLENT VIDEOS IN SEPARATE
AREA - SALES OR RENTALS TO JUVENILES
MAKING OBSCENE OR INDECENT COMMERCIAL TELEPHONE MESSAGES-1ST
OFFENSE
MAKING OBSCENE OR INDECENT COMMERCIAL TELEPHONE MESSAGES-2ND
OFFENSE
MISCELLANEOUS OBSCENITY VIOLATION
MISCELLANEOUS PORNOGRAPHY OFFENSE

WEAPONS OFFENSE

DISCHARGING/SHOOTING A FIREARM AT OR FROM A MOTOR VEHICLE -
PHYSICAL INJURY/DEATH
DISCHARGING/SHOOTING A FIREARM AT OR FROM A MOTOR VEHICLE
MISCELLANEOUS WEAPON VIOLATION

VIOLATIONS AGAINST POLICE

RESISTING ARREST
ESCAPE CUSTODY

MISCELLANEOUS OBSTRUCTING POLICE

OFFENSES AGAINST THE FAMILY

NON-SUPPORT
ENDANGERING WELFARE OF A CHILD
VIOLATE ORDER OF PROTECTION FOR ADULT
VIOLATE ORDER OF PROTECTION FOR CHILD
MISCELLANEOUS FAMILY OFFENSE
SUPPLYING ALCOHOL TO A MINOR

CHILD ABUSE

MISCELLANEOUS

LITTERING
HARASSMENT-PHONE CALLS
MADE FALSE STATEMENT/AFFIDAVIT OR KNOWINGLY SWORE/AFFIRMED
FALSELY TO ANY MATTER REQUIRED BY SECTIONS 302.010 - 302.540
FALSIFYING ODOMETER READING
ODOMETER FRAUD - 1ST DEGREE
ODOMETER FRAUD - 3RD DEGREE

PROPERTY DAMAGE
STALKING
ODOMETER FRAUD-2ND DEGREE

NOTES ON USE

In accordance with Section 43.503.6 RSMo., defendants who are charged with certain offenses or are convicted of those offenses must be fingerprinted and the prints must be forwarded to the Missouri Highway Patrol, Missouri Central Records Repository within 30 days of the fingerprints being obtained.

The above list was compiled in June, 2017 which included all cases designated by the Missouri Charge Code to be offenses which require the defendant to be fingerprinted.

If the defendant is not fingerprinted at the time of the arrest or issuance of the charges, then the Court must order the defendant to be fingerprinted immediately.

To comply with this statute, the Court should work closely with the Police Department, the Prosecuting Attorney and court personnel to ensure all defendants whom are required to be fingerprinted do so in a prompt fashion. Ideally all such defendants should be fingerprinted prior to appearing in court.

This can be accomplished in several ways. Certainly a defendant who is arrested at the time of the offense will more likely than not be fingerprinted.

For those defendants who are not taken into custody at the time of the offense or have not been fingerprinted while in custody, the Police Department should have in place a policy to notify the defendant of their need to be fingerprinted prior to their court date. A printed notice should be given to the defendant by the police officer when the officer issues the defendant the violation notice. The notice would provide the defendant with instructions on how to make arrangements to be fingerprinted prior to court.

If the defendant obtains an attorney, it is suggested that the prosecuting attorney notify the defendant's attorney of the need for the defendant to be fingerprinted, again with instructions on how that should be accomplished. No plea should be accepted or disposition entered until the defendant has complied with this requirement.

If the defendant appears in court and has yet to be fingerprinted, the court should enter the Order For Fingerprinting included in the Recommended Forms. Depending on the arrangement with the Police Department, the fingerprinting can be done prior to the defendant court that day or evening. If this is not practical, then the Order should be given to the defendant who must comply with the Order prior to the next court appearance.

The Police Department, the Prosecuting Attorney's office and the court personnel should become familiar with the various reporting forms required by the Missouri Highway Patrol to assure accuracy.

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

| | | |
|----------------|---|-----------------|
| CITY OF _____, |) | |
| |) | Cause No. _____ |
| v. |) | _____ |
| |) | _____ |
| _____ |) | _____ |
| |) | |
| Defendant. |) | |

JOINT REQUEST TO CONTINUE MATTER

COMES NOW, the Municipal Prosecutor and Defendant or Defendant's
Counsel and jointly request to continue the above-referenced matters to
_____ at _____ a.m./p.m.

DEFENDANT/COUNSEL

MUNICIPAL PROSECUTOR

Date: _____

SO ORDERED:

The Honorable _____
Municipal Judge

Date: _____

| | | |
|------------|---|-----------------|
| |) | |
| vs. |) | Cause No. _____ |
| |) | _____ |
| |) | _____ |
| |) | _____ |
| Defendant. |) | |

Judge's Signature



IN THE 21ST JUDICIAL CIRCUIT, ST LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

(MUNICIPALITY) V _____ CASE NO. _____

DATE _____

☐ COMES NOW _____ AND ENTERS HIS OR HER APPEARANCE AS ATTORNEY FOR THE DEFENDANT

☐ CAUSE IS CONTINUED AT THE REQUEST OF _____ TO _____ AT _____ AM/PM FOR:

- ☐ DEFENDANT ORDERED TO APPEAR
- ☐ BENCH TRIAL
- ☐ PROBATION HEARING
- ☐ BOND FORFEITURE/ REDUCTION HEARING
- ☐ TRAFFIC/ORDINANCE APPEARANCE

- ☐ PAYMENT REVIEW
- ☐ INDIGENCY HEARING
- ☐ COUNSEL STATUS
- ☐ DISPOSITION/PLEA
- ☐ SENTENCING

☐ DEFENDANT IS ORDERED TO PRODUCE _____ BY THE NEXT COURT DATE OF _____ AT _____ AM/PM.

☐ COMES NOW (PROSECUTOR/DEFENDANT AND REQUESTS A CHANGE OF JUDGE. MOTION IS GRANTED/DENIED.

☐ DEFENDANT HAS REQUESTED A TRIAL BY JURY. MOTION IS GRANTED/DENIED.

☐ COMES NOW THE COURT AND RECONSIDERS DEFENDANT'S BOND AND SETS BOND AT \$_____, (10% IS/IS NOT AUTHORIZED) (PERSONAL RECOGNIZANCE IS AUTHORIZED) (CASH ONLY) (SURETY ACCEPTED)

☐ DEFENDANT HAS BEEN ARRAIGNED AND ADVISED OF THE DEFENDANT'S RIGHTS IN THE MUNICIPAL DIVISION.

☐ DEFENDANT PRESENT/NOT PRESENT.

☐ DEFENDANT PLEADS NOT GUILTY AND CAUSE IS SET FOR TRIAL.

☐ CLERK TO ISSUE SUMMONS/SHOW CAUSE SUMMONS.

☐ CLERK TO ISSUE WARRANT, BOND SET AT _____ WITH THE CONDITIONS OF _____

DEFENSE ATTORNEY & BAR NO. _____ PROSECUTING ATTORNEY _____

DEFENDANT _____

SO ORDERED: _____



IN THE _____ JUDICIAL CIRCUIT, ST. LOUIS COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | | |
|--------------------|-----------------------|-------------------|
| Judge or Division: | Case Number: | (Date File Stamp) |
| | City of _____ v _____ | |

DISCOVERY ORDER

Pursuant to Rule 37.54, the Court hereby issues the following order:

The municipal prosecutor is hereby directed to send the following items to the Defendant (Defendant's attorney) within ____ days.

- ☐ The names and last known addresses of persons whom the City intends to call as witnesses at any hearing or at the trial, together with their written or recorded statements, and existing memoranda, reporting or summarizing part or all of their oral statements;
- ☐ Any written or recorded statements and the substance of any oral statements made by the defendant or by a co-defendant, a list of all witnesses to the making, and a list of all witnesses to the acknowledgment, of such statements, and the last known addresses of such witnesses;
- ☐ Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons;
- ☐ Any books, papers, documents, photographs, or objects, which the City intends to introduce into evidence at the hearing or trial or which were obtained from or belong to the defendant;
- ☐ Any record of prior criminal convictions of persons the City intends to call as witnesses at a hearing or the trial;
- ☐ If there has been any photographic or electronic surveillance (including wiretapping), relating to the offense with which the defendant is charged, of the defendant or of conversations to which the defendant was a party or of his premises; this disclosure shall be in the form of a written statement by counsel for the City briefly setting forth the facts pertaining to the time, place, and persons making the same;
- ☐ Any material or information, within the possession or control of the City, which tends to negate the guilt of the defendant as to the offense charged, mitigate the degree of the offense charged, or reduce the punishment.

SO ORDERED:

Municipal Judge

Date



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | | |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| Judge or Division: | Case Number: | |
| Plaintiff(s) | Persons Subpoenaed: | Plaintiff's Attorney: |
| | Address: | Address: |
| | | Telephone |
| Defendant(s) | Requesting Party: <input type="checkbox"/> Pltfs Attny <input type="checkbox"/> Pltf <input type="checkbox"/> Def Attny <input type="checkbox"/> Def | Defendant's Attorney: |
| | Address (of party checked above): | Address: |
| | Telephone: | Telephone: |

(Date File Stamp)

Subpoena Order to Appear/Produce Documents/Give Depositions

The State of Missouri to: _____ (person subpoenaed). You are commanded:

- ☐ to contact _____ (name) at _____ (telephone) who will advise of time and place appearance is required.
- ☐ to appear at _____ on _____ (date), at _____ (time).
- ☐ to testify on behalf of _____
- ☐ to give depositions.
- ☐ to bring the following: _____

(Attach additional sheet if necessary).

(Seal)

Date Issued

Clerk/Deputy Clerk

Return/Affidavit

I certify that I served this subpoena in _____ County, Missouri by:

- ☐ Delivering a copy to the person subpoenaed.
- ☐ Reading a copy to the person subpoenaed on _____ (date).

Person serving subpoena

Instructions

1. This subpoena will remain in effect until this trial is concluded or you are discharged by the Court. You must attend trial from time to time as directed. No additional subpoena is required for your future appearance at any trial of this case. If you fail to appear, you may be held in contempt of court.
2. If you have any questions regarding this subpoena, contact the person who requested it listed on the front.
3. Bring this form with you to court. This form must be completed, signed, and returned to the clerk as soon as you have testified or been dismissed.

Witness Claim

I have served _____ day(s) as a witness and I travelled _____ mile(s) round trip from my home to the courthouse to attend this proceeding.

Signature

Current Address

City, State, Zip

Subscribed and sworn to before me _____ (date)

Clerk

Total Claimed \$ _____

By: _____
Deputy Clerk

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI
_____ **MUNICIPAL DIVISION**

| | | |
|----------------|---|-----------------|
| CITY OF _____, |) | Cause No. _____ |
| Plaintiff, |) | _____ |
| |) | _____ |
| vs. |) | _____ |
| |) | _____ |
| _____, |) | _____ |
| Defendant. |) | |

GUILTY PLEA

I have been charged with the following offense(s) said to have been committed on or about ____/____/20____ and on ____/____/20____.

| | | |
|--|--|--|
| | | |
| | | |
| | | |

I HAVE READ AND I FULLY UNDERSTAND THE NOTICE OF RIGHTS FOR DEFENDANTS APPEARING IN MUNICIPAL DIVISIONS, AND I REQUEST THE COURT TO ACCEPT MY PLEA.

I hereby plead **guilty**.

I HAVE ENTERED A PLEA OF GUILTY AND I DO SO BECAUSE I AM GUILTY OF THE ABOVE NAMED OFFENSE(S) AND I AM PLEADING GUILTY WITHOUT BEING COERECED AND OF MY OWN FREE AND VOLUNTARY ACT.

| | |
|-----------------|------------|
| Defendant _____ | Date _____ |
|-----------------|------------|

JUDGE _____

Judge

Date _____



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of Maryland Heights | |
| VS. | |
| (Date File Stamp) | |
| Defendant's Name/Address: | |

Plea of Guilty & Waiver of Counsel

I, the undersigned defendant, enter a plea of guilty to the charge(s) pending against me. By pleading guilty, I admit that I committed the offense(s) with which I am charged and that I have been advised of the following rights:

1. To a trial; to be present at my trial and question witnesses against me; to secure a court document ordering witnesses to appear in my defense and testify at my trial; to not testify at my trial and not have my silence held against me.
2. To be represented by an attorney; to have an attorney appointed for me if I am found by the Judge to be indigent.
3. To be fully advised of the charge(s) to which I plead guilty.
4. To be fully advised of the minimum penalty (\$1.00 fine or 1 day in jail) provided by law and the maximum penalty provided by law (\$1,000.00 fine or up to 90 days in jail). For minor traffic violation the maximum penalty is a fine of \$225.00 inclusive of court costs.
5. To be fully advised that by pleading guilty, I waive my right to a trial.
6. To be fully advised that I have the right to plead not guilty.
7. To be fully advised that I may have the right to a jury trial.
8. To be fully advised that I have the right to present witnesses on my behalf and to confront and cross-examine witnesses against me.
9. To be fully advised that I have the right to testify, but that no one can compel my testimony.
10. If I am not a citizen of the United States and I am charged with certain offenses (stealing assault, drug offenses, driving while intoxicated, prostitution, etc.) a plea of guilty could result in deportation or other action against me taken by the Federal government.

I now have been advised of, and understand, that my plea of guilty will result in my giving up all of the above rights, and that I freely and voluntarily give up those rights, and I plead guilty to the above charge(s). I voluntarily and without the result of force or threats or promises, waive my right to counsel.

Understanding these rights, I waive my right to counsel and I plead guilty to the above charge(s).

Date

Defendant's Signature

The Court finds that the defendant has been fully informed of the aforementioned rights, understands them and knowingly, intelligently and voluntarily waived these rights and the defendant pleads guilty to the above charge(s).

Date

Judge's Signature



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ | |
| Defendant's Name/Address: | |

VS. (Date File Stamp)

Waiver of Counsel and Plea of Guilty Pursuant to Rule 37.57

I, the undersigned defendant, am currently incarcerated in _____ or I am unable to appear Because _____. I am charged in this court with the offense(s) set forth in paragraph 1 I request the Court allow my waiver of attorney with full understanding that I am entitled to an attorney if I so desire. With full knowledge and understanding of the following additional considerations, I am asking the Court to accept my plea of guilty. Those additional considerations are:

1. That the offense charged is _____ with the punishment range of _____
2. That I have the right to be represented by an attorney, that if indigent and unable to employ an attorney, I have a right to request the judge to appoint an attorney to assist me in defending against the charge, and that the Court will appoint an attorney to assist me if it finds I am indigent and unable to employ one.
3. That I have a right to a trial or trial by jury with assistance of an attorney to confront and cross-exam witnesses; that a guilty plea waives any right to trial. Further, that I have the right to remain silent and not make any statements which may be used in the prosecution of the charges filed against me.
4. That if a guilty plea is entered or if found guilty by trial of the charge, the judge is empowered to impose a sentence of confinement in jail (except for minor traffic violations and municipal ordinance violations). Further, that I have the right to appeal the Court's judgment or the jury's verdict should I exercise my right to trial and be found guilty.
5. That I am aware of the dangers and disadvantages of representing myself in this legal proceeding, but I feel confident of my ability to represent and defend myself. I am aware that if I represent myself, I cannot later claim that I was inadequately represented.
6. That if I am incarcerated, that I am requesting the Court to sentence me to "time served" if allowed by law with a waiver of court costs, and that if the Court is willing to impose such a sentence, I will be allowed to withdraw this plea of guilty.
7. That I am aware that my plea of guilty to these charges could expose me to enhancement of criminal penalties in the event I face any similar charges in the future, and that such plea of guilty will expose me to such other administrative or statutory requirements pertaining to my driving privileges as may be imposed by the Court or the Department of Revenue pursuant to law.
8. If you are not a citizen of the United States and you are charged with certain offenses (stealing, assault, drug offenses, driving while intoxicated, prostitution, etc.) a plea of guilty could result in deportation or other action against you being taken by the Federal government You should consult with an attorney before entering a plea if this applies to you.

I now have been advised of and understand, that my plea of guilty will result in my giving up all of the above rights, and that I freely and voluntarily give up those rights, and I plead guilty to the above charge(s). I voluntarily and without the result of force or threats or promises, waive my right to counsel. Further I request the Court to waive my personal appearance at time of plea and sentencing.

Understanding these rights, I waive my right to counsel and I plead guilty to the above charge(s).

Date

Defendant's Signature

Date

Prosecuting Attorney's Signature

The Court finds that the defendant has been fully informed of the aforementioned rights, understands them and knowingly, intelligently and voluntarily waived these rights and the defendant pleads guilty to the above charge(s).

Date

Judge's Signature



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of Maryland Heights | |
| VS. | |
| (Date File Stamp) | |
| Defendant's Name/Address: | |

Waiver of Counsel

I, request that the Court allow my waiver of attorney with full understanding that I am entitled to an attorney if I so desire, and with full knowledge and understanding of the following additional considerations:

1. That the offense charged is _____ with the punishment range of _____.
2. That I have the right to be represented by an attorney and that, if indigent, and unable to employ an attorney, I have the right to request the judge to appoint an attorney to assist me in defending against the charge, and that the Court will appoint an attorney to assist me if it finds that I am indigent and not able to employ one.
3. That I have a right to a trial or trial by jury with the assistance of an attorney to confront and cross-examine witnesses; that a guilty plea waives any right to a trial.
4. That I have the right to remain silent and not make any statement which may be used in the prosecution of the charges filed against me.
5. I am aware that any recommendation by the prosecutor is not binding on the judge who may accept or reject such recommendation.
6. That if a guilty plea is entered or if found guilty by trial of the charge, the judge could impose a sentence including a fine and/or probation up to a sentence of confinement, depending on the range of punishment referenced above.
7. That I have the right to appeal the Court's judgment (decision) or the jury's verdict should I exercise my right to trial and be found guilty.
8. I understand that by representing myself, I cannot claim inadequate representation at a later date.
9. I now have been advised of, and understand, that my plea of guilty will result in my giving up all of the above rights, and that I freely and voluntarily give up those rights, and I plead guilty to the above charge(s). I voluntarily and without the result of force or threats or promises, waive my right to counsel.

The above rights have been read to me by the judge in open court, and I understand these rights and I request the court to accept my request of waiver of attorney.

Date

Defendant's Signature

On this date, the defendant personally appeared before me and was read the above information by me and stated these rights were understood and the defendant signed this request in my presence.

Therefore, the Court accepts the defendant.

Date

Judge's Signature

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, STATE OF MISSOURI
CITY OF _____ MUNICIPAL DIVISION

| | | | |
|----------------|---|--|-----------------|
| CITY OF _____, |) | | Cause No. _____ |
| Plaintiff, |) | | _____ |
| |) | | _____ |
| vs. |) | | _____ |
| |) | | _____ |
| _____ |) | | _____ |
| Defendant. |) | | |

PLEA OF GUILTY

1. The City appears by Prosecuting Attorney _____ .
2. Defendant appears (in person) (and by attorney) _____ .
3. The City has charged Defendant with the offense of:

- | | |
|-------------------|------------------------|
| a . Offense _____ | Date of Offense: _____ |
| b . Offense _____ | Date of Offense: _____ |
| c . Offense _____ | Date of Offense: _____ |
| d . Offense _____ | Date of Offense: _____ |

4. (MINOR TRAFFIC VIOLATIONS) The range of offense on any minor traffic violation is a fine and court costs total not to exceed \$225.00.
(MOV) The range of offense for offense termed municipal ordinance violations committed within a twelve-month period beginning with the first violation: two hundred dollars for the first municipal ordinance violation, two hundred seventy-five dollars for the second municipal ordinance violation, three hundred fifty dollars for the third municipal ordinance violation, and four hundred fifty dollars for the fourth and any subsequent municipal ordinance violations.
(OTHER OFFENSE) The range of offense for *other offenses* not classified above carries term of imprisonment from one day to ninety days in jail and/or a fine not to exceed \$_____.
5. Defendant understands that he/she has the following rights:
 - a. The right to remain silent. A defendant does not have to testify nor say anything that would incriminate himself/herself. A defendant's silence cannot be used as evidence of guilt.
 - b. The right to the assistance of counsel and of the fact that the Court will appoint counsel if the defendant is financially unable to obtain counsel, and understanding these rights, does hereby voluntarily, of his/her own free will knowingly, and intelligently forego and waive the right to the assistance of counsel. The defendant is advised that he/she may withdraw this waiver upon due notice to the Court at any time and that if waiver of counsel is withdrawn, he/she have the right to appointed or retained counsel at any stage of the proceedings.
 - c. The right to have a subpoena issued by the clerk under the seal of the court. It shall state the name of the court and the title of the proceedings and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The clerk shall issue a subpoena, signed and sealed but otherwise blank to a party requesting it, who shall fill in the blanks before it is served.
 - d. The right to confront witnesses the City would call and that the City has the burden of proving every element of the offense. beyond a reasonable doubt.
 - e. That if defendant pleads guilty there will not be a trial of any kind, bench or jury, so that by

pleading guilty the defendant waives the right to a trial, and the defendant's right to plead not guilty or to persist in that plea if it has already been made.

- f. That if the defendant is not a US citizen then the defendant knows that a plea of guilty or a finding of guilt after a trial may result in deportation, denial of naturalization and inadmissibility from the United States.'
6. Defendant hereby freely enters this plea knowingly, voluntarily, and intelligently made and not the result of force or threats or promises.
 7. Defendant acknowledges that by pleading guilty, there will not be a trial of any kind.
 8. Defendant acknowledges that he/she is not under the influence of any drug or alcohol and enters this plea with a full understanding of the charges and the possible consequences thereof.
 9. Defendant knows that this court may accept or reject the plea agreement. If the Court rejects the agreement, Defendant will have the opportunity to withdraw his/her plea.
 10. A. Defendant acknowledges that there is a factual basis to support the charge(s) against him/her and that he/she committed the crimes to which he/she is pleading guilty or
 10. B. The defendant does not admit to the criminal act and asserts innocence but the defendant admits that the evidence the prosecution has would be likely to persuade a judge or jury to find the defendant guilty beyond a reasonable doubt.
 11. The plea is made voluntarily with a full understanding of the nature of the charges.
 12. Defendant understands that if he/she is presently on probation or parole in this or any other court, his/her guilty plea at this time could be the basis for the revocation of his/her parole.
 13. Defendant acknowledges that he/she is completely satisfied with the services rendered to his/her attorney.
 14. Defendant hereby acknowledges both reading and understanding all of the information contained in this form.

Defendant

Prosecuting Attorney

Attorney for the Defendant

A. The Court hereby finds a factual basis for Defendant's plea(s) and further finds that Defendant entered the plea(s) freely and voluntarily with a full understanding of his/her rights, the charges and of the possible consequences thereof. The Court, therefore, accepts Defendant's plea(s).

B. Sentencing is deferred to _____.

SO ORDERED:

Honorable _____

Date



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | | | | |
|-------------------------------------|---------------------------------------------------------------|--------------------------|--------------------------|-------|
| Judge or Division: | Case Number: | | | |
| | Court ORI Number: | Offense Cycle No. (OCN): | | |
| Defendant's Name/Alias(es)/Address: | Birth Date: | | SSN: | |
| | Place of Employment: | | Driver's License Number: | |
| | Sex: <input type="checkbox"/> M <input type="checkbox"/> F | Height: | Weight: | Race: |

(Date File Stamp)

Order Granting Withdrawal of Guilty Plea

This matter having been heard on motion from Defendant, by Defendant's attorney,
_____, for an Order permitting Defendant to
withdraw Defendant's guilty plea(s) to the charged ordinance violation(s) of:

_____,
such plea(s) having been entered on _____. Plaintiff, through counsel, raises no
objection to the motion. The Court specifically finds that said motion should be granted in order to correct
a manifest injustice.

IT IS HEREBY ORDERED that Defendant's motion is granted and the judgment and sentence entered in
the above-styled matter on _____ is set aside. This cause is hereby reinstated on
the Court's docket and set for hearing or other disposition on _____(date). The Clerk shall
forward a copy of this Order to the Missouri Department of Revenue for appropriate amendment of the
Department's records.

So Ordered,

Date

Judge

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

CITY OF _____,)
) Cause No. _____
v.) _____
) _____
_____) _____
) _____
Defendant.)

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

Phone Number: _____ (Is it OK to text you at this number? Yes/No)

1) If you plead guilty or are found guilty, can you pay your fines and costs today? Yes/No

If you answered "No," why not? _____

If you answered "No" to Question #1, or if you want the court to consider your financial situation, please answer the following questions and provide the following information:

2) Are you currently in the custody of the Children's Division or DYS? Yes/No

3) Have you spent a night in jail during the past year because you were unable to post a bond?

Yes/No If "Yes," how much was your bond? \$_____

4) Are you receiving public assistance? Yes/No If "Yes," please tell us what type of public assistance you are receiving (for example, food stamps, TANF, Medicaid, housing assistance, other types of public assistance): _____

5) Please list the following income from the **previous month** for your **entire**

household:

Take home pay for the month including overtime and bonuses: _____

Social security income (including social security disability): _____

Workers' compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

7) Do you have cash, bank accounts, or any other assets, including vehicles or real estate free of debt, that totals more than \$5,000? Yes/No If "Yes," what type?

If you are facing the possibility of jail time and cannot afford to hire a lawyer, you are entitled to have a lawyer appointed by the court to represent you.

Do you want a lawyer to represent you in this case? Yes/No

Can you afford to hire a lawyer to represent you in this case? Yes/No

Are you asking the court to give you some more time to hire a lawyer? Yes/No

Are you asking the court to appoint a lawyer for you today? Yes/No

The above information is true and correct to the best of my knowledge under penalty of law.

Applicant



IN THE _____ JUDICIAL CIRCUIT COURT, _____, MISSOURI
MUNICIPAL DIVISION, CITY OF _____

| | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|----------------------|-----------------------------------|
| Judge or Division: | Case Number: | | |
| Financial Statement & Affidavit | | | |
| PLEASE PRINT and COMPLETE BOTH PAGES | | | (Date File Stamp) |
| PERSONAL INFORMATION | | | |
| Name (last, first, middle) | | Date of Birth | Full Social Security Number (SSN) |
| Address <input type="checkbox"/> house <input type="checkbox"/> apartment <input type="checkbox"/> lot no. <input type="checkbox"/> owned <input type="checkbox"/> rented | | City | Zip |
| Home Phone Number | | Work Phone Number | Cellular Phone Number |
| Mailing Address (if different than above) | | | |
| Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated | | Number of Dependents | Number of People Living with You |
| Are you Employed? | Employer's Name and Address | | |
| Take Home Pay <input type="checkbox"/> Week <input type="checkbox"/> Bi-Week <input type="checkbox"/> Month | How many hours do you work per week? | | |
| COMPLETE THIS SECTION IF MARRIED | | | |
| Spouse's Name (last, first, middle) | | | |
| Does Your Spouse Work? | Spouse's Employer and Address | | |
| Spouse's Take Home Pay <input type="checkbox"/> Week <input type="checkbox"/> Bi-Week <input type="checkbox"/> Month | | | |
| FINANCIAL INFORMATION | | | |
| Do you have a bank/credit union account? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, How much money do you have in your accounts? Bank _____ Amount in Account \$ _____ | | | |
| Do you or your spouse own/lease a vehicle? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, monthly payment \$ _____ Year/Make/Model _____ | | | |
| Do you own a house or land? <input type="checkbox"/> Yes <input type="checkbox"/> No Value of Property: \$ _____ | | | |
| Please provide any facts you want the court to know regarding why you cannot pay your entire penalty at this point in time. _____ _____ | | | |

| MONTHLY INCOME | | MONTHLY EXPENSES | |
|-------------------------------|-----------|---------------------------------|-----------|
| Gross monthly income (self) | \$ | Mortgage or rent | \$ |
| Gross monthly income (spouse) | \$ | Utilities | \$ |
| Unemployment benefits | \$ | Vehicle payments | \$ |
| Social Security/SSI | \$ | Insurance (vehicle/health/life) | \$ |
| Retirement/Pension benefits | \$ | Other loan payments | \$ |
| Child Support | \$ | Child support | \$ |
| Alimony/Maintenance | \$ | Alimony/Maintenance | \$ |
| Disability/SSDI/Worker's Comp | \$ | Medical payments | \$ |
| Veteran's benefits | \$ | Phone/Cell Phone | \$ |
| Interest/Dividends | \$ | Food | \$ |
| Public Assistance/Food Stamps | \$ | Child care | \$ |
| Medicaid | \$ | Court Payments | \$ |
| Rental Income | \$ | Cable/Satellite | \$ |
| Other (cash): | \$ | Entertainment | \$ |
| | | Other Monthly Expenses | \$ |
| | | | |
| | | | |
| | | | |
| | | | |
| TOTAL INCOME | \$ | TOTAL EXPENSES | \$ |

ACKNOWLEDGEMENT & DECLARATION

I acknowledge that:

- The above information is a complete and accurate statement of my current financial condition.
- Lying on this application constitutes a crime. (Section 575.060, RSMo.)
- I authorize this court, their employees or agents to conduct a complete and thorough investigation of my statement.
- I understand this investigation could include direct verifications of all information given and the obtaining of reports from credit reporting agencies.

I hereby authorize my employers or any financial institutions to release to the court or authorized representative, any information they may have regarding the information on this affidavit. I agree to hold harmless any individual or entity from any liability for any damages whatsoever for issuing such information.

By signing below, I swear under the penalty of perjury that all of the foregoing information is true, correct, and completed to the best of my knowledge.

X

Defendant's Signature

Date



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ vs. | |
| (Date File Stamp) | |
| Defendant's Name/Address: | |
| SSN: | |

Agreement to Pay

I, _____ hereby acknowledge that I am liable and indebted to the Court in the amount of \$ _____. I have told the Court that I am ready, willing and able to pay said sum to the Court in equal weekly/monthly installments in the following manner:

| Payment Date | Payment Amount | Payment Dates | Payment Amount |
|--------------|----------------|---------------|----------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

I understand that the payments are due on the above date(s) specified, or on the last business day before, until the sum owed is paid in full. Further, I understand the following payment conditions:

1. The Court does not have to give me installment payments, they are being offered as a courtesy.
2. All payments must be paid by _____ p.m. of the date stated.
3. I am obligated to immediately advise the court of any change in address, telephone number, or employment.
4. The Judge or Clerk will **not** grant an extension by telephone.

I hereby state to the Court that I will pay my fine and costs in full by _____ (date). In the event I do not fully comply with the court order regarding installment payments, then I will notify the court in advance to make a court appearance on the day the payment was due, to show cause, if any, why I did not comply with the court order, and why I should not be held in contempt of Court.

Further, I understand that payments may be made by mail; however, the risk of loss of payment in the mail is upon me and **not** the Court. All payments must be sent to: _____

_____.

Response to Nonpayment RSMo 560.31

1. When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.
2. Following an order to show cause under subsection 1, unless the offender shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for payment, the court may order the defendant imprisoned for a term not to exceed one hundred eighty days if the fine was imposed for conviction of a felony or thirty days if the fine was imposed for the conviction of a misdemeanor or infraction. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

I understand and agree that should I fail to make the above payments according to the schedule set forth, legal action will be taken against me by the court for the entire balance. I further understand that should I fail to make payments as set forth above, the Court may access my credit report from any credit reporting agency as necessary, and may also report this agreement as delinquent to all credit reporting agencies.

DATED this _____ day of _____, _____. _____
Signature Phone Number

Street City State Zip

Date of Birth Social Security Number Driver's License Number

Employer Name Employer Address

Job Title Phone Number Pay Days

Order to Show Cause in Event of Non-Compliance

In the event you do not fully comply with the court order regarding installment payments, then you will notify the court in advance to make a court appearance on the date the payment was due, to show cause, if any, why you did not comply with the court order and why you should not be held in contempt of court.

ATTEST:

Clerk/Deputy Clerk Judge

Date Date



IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI

| | | |
|---------------------------|----------------------------------------------|-------------------|
| Judge or Division: | Case Number: | (Date File Stamp) |
| | Court ORI Number: | |
| Defendant's Name/Address: | Plan Number(s): | |
| | Party ID: | |
| | Employer Name, Address and Telephone Number: | |
| Date of Birth: | | |
| SSN: | | |
| Driver's License Number: | | |
| Telephone Number: | | |
| Cell Phone Number: | | |

Agreement to Pay

I, _____, acknowledge that I owe the court the amount of \$ _____.

After 30 days a \$25 time payment fee will be assessed making the total amount due \$ _____. I agree to pay the court according to the following payment plan:

| Scheduled Payment Amount | Pay Period (weekly, monthly, etc.) | Beginning Payment Date |
|--------------------------|------------------------------------|------------------------|
| _____ | _____ | _____ |

I understand that the payments are due as agreed to above. I understand the following payment conditions:

1. The court does not have to give me installment payments, they are being offered as a courtesy.
2. No payment agreement shall be issued unless a full and accurate Social Security Number is provided.
3. All payments must be paid by _____ p.m. on the due date.
4. I am obligated to immediately advise the court of any change in address, telephone number, or employment.
5. The judge or clerk will **not** grant an extension by telephone.

If I fail to make the required payments, legal action may be taken against me by the court for the entire balance.

I further understand that failure to comply with the payment schedule may result in:

1. The entire balance being due to the court immediately.
2. Future tax refunds being intercepted for past due amounts.
3. Delinquent amounts being turned over to a collection agency.
4. Delinquent amounts being reported to credit reporting agencies.
5. An immediate warrant being issued for my arrest.

I understand these actions may be taken without further notice.

I understand that payments may be made by mail; however, the risk of loss of payment in the mail is upon me and **not** the court. Payments can be made in person at the _____ Court located at _____, or by mail to the same address. Include your case number on all payments. For a return receipt, include a self-addressed stamped envelope. The court may accept the following payment methods: cash, money order, cashier's check, debit card or credit card. If you have any questions, please call the court at _____.

I HAVE READ AND UNDERSTAND THE ABOVE.

| | |
|-----------------------|-------|
| _____ | _____ |
| Defendant's Signature | Date |
| _____ | _____ |
| Judge/Clerk | Date |

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

| | | |
|------------|---|--------------|
| CITY OF |) | |
| Plaintiff, |) | Cause No(s). |
| |) | |
| vs. |) | |
| |) | |
| _____ , |) | |
| Defendant, |) | |

JUDGMENT AND SENTENCE

Defendant appears in person (and by attorney) _____ .

The City (County) appears in person by Prosecuting Attorney _____ .

Defendant appears for Sentence, having been found guilty of offenses as set out on defendant's plea on _____, in violation of the ordinances of the City (County) of _____.

☐ Report of Pre-Sentence investigation received and examined by the court. Allocution granted.

☐ Defendant is sentenced to pay a fine of \$ _____.

☐ Defendant is sentenced to serve a term of imprisonment of _____ days/months in the _____ .

☐ Granted _____ days credit against said term of imprisonment.

☐ Defendant to be discharged.

☐ Said to be served concurrent/consecutive with _____ .

☐ Further orders the execution of sentence be suspended and that defendant be placed on probation for a period of probation for _____ days/months on (bench) (supervised probation under _____) based on conditions set forth in the order of probation attached.

☐ Suspends the imposition of said sentence and places defendant on probation for _____ days/months/years on (bench probation) (supervised probation under _____) based on the conditions set forth in the order of probation and certificate attached hereto.

THE COURT FINDS THAT:

- (1) Defendant is not under the influence of alcohol or drug, that there is a factual basis for the guilty plea, and upon inquiry of defendant, that defendant is in fact guilty of the charges.
- (2) That defendant fully understands the charges(s) against him/her, that the defendant understands his/her rights, and the defendant has made a knowing, intelligent and voluntary waiver of those rights.
- (3) The court accepts the defendant's plea and of guilty to the charge(s).

SO ORDERED:

Judge

Dated

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI
MUNICIPAL DIVISION

CITY OF _____

Plaintiff,

Cause No. _____

vs.

Defendant.

JUDGMENT OF GUILTY AFTER TRIAL

Cause called for Trial on _____, 20 _____. City announces ready. Defendant announces ready. Evidence adduced. Cause taken under advisement.

Based upon the evidence presented at trial, the Court hereby finds beyond a reasonable doubt the Defendant guilty as charged.

☐ _____ Sentencing is deferred to _____, 2017 at _____ AM/PM.

___ Defendant waives right to be present at time of sentencing.

___ Suspended Imposition of Sentence is granted. Defendant placed on probation for a period of _____ months with conditions in accordance with the Order of Probation filed herein.

___ Defendant is sentenced to _____ days in jail and a fine of _____. Suspended Execution of Sentence as to _____ days in jail and as to \$ _____ of the fine. Defendant placed on probation for a period of _____ months with conditions in accordance with the Order of Probation filed herein.

___ Defendant is hereby sentenced to pay a fine in the sum of \$ _____ plus costs of court. Cause continued for payment to _____, 20 ____ at _____ AM/PM. If payment is not made by said court date, Defendant is to appear in court at 6:00 PM to advise the court why he should not be held in contempt for failure to pay said fines and court costs.

Defendant is hereby sentenced to _____ days confinement in the City of _____ jail.
Defendant to report on _____ at _____ PM.

Defendant is hereby notified of his right to request a Trial de Novo which must be filed within 10 days of the date of this judgment or said judgment becomes final.

SO ORDERED:

JUDGE



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ vs. | |
| Defendant's Name/Address: | |
| SSN: | (Date File Stamp) |

Stay of Execution

On this date, a judgment for fine and costs in the above mentioned case was rendered against you. The fine and cost in the amount of \$_____ must be paid by _____ (date) at _____ (time).

If you fail to pay the total amount due by said date or you fail to appear in Court on that date, you will be summoned to appear to show cause as to your failure to pay.

Payment of your fine prior to your court date may be made at _____,
Monday through Friday, between the hours of _____.

Date

Judge

☐ Mailed to defendant

☐ Served on defendant

Date

Clerk

IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | | |
|--------------------------|-------------------------------|-----------------|
| Judge or Division: | Case Number: | Date File Stamp |
| | Court ORI Number: | |
| City of _____ | | |
| Defendant's Name/Address | Judgment Date: | |
| | Applicant's Telephone Number: | |

Application For Trial De Novo

Judgment having been rendered against me before the Municipal Division of the Circuit Court, I the above named defendant, make application for Trial De Novo.

Date

Applicant Signature

Date Filed

Clerk



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|---------------------------|-------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| City of _____ | |
| vs. | |
| Defendant's Name/Address: | |

(Date File Stamp)

Dismissal Order

Date of Offense: _____

Charge: _____

Defendant appears in person; witness for the city appears not. Case is dismissed for failure to prosecute.

So Ordered:

(Seal)

Date

Person Waiving Right

cc: Police Department
County Sheriff's Department

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

CITY OF _____ ,
Plaintiff,

Case Number:

vs.

Defendant,

PROBATION ORDER AND CERTIFICATE

FOR YOUR SENTENCE THE COURT:

☐ Suspends the imposition of any sentence

☐ Suspends the execution of your fine of \$ _____ and/or your jail term of _____ day(s).

THE COURT ORDERS YOU PLACED ON BENCH PROBATION FOR _____ YEARS/MONTHS/DAYS,
THE COURT ORDERS YOU PLACED ON SUPERVISED PROBATION FOR _____ YEARS/MONTHS/DAYS
SUPERVISED BY _____.

You shall abide by these conditions of probation:

1. You shall not violate any Federal, State, County or Municipal law or ordinance which is punishable by a fine or jail sentence.
2. You shall report in writing to the court clerk any arrest within 48 hours from the time of your arrest. This (does) (does not) include any traffic offense where there is no arrest.
3. You shall report in writing to the court clerk any change of your resident address, telephone number of employment within 7 days from the date of such change.
4. You shall pay all fines and court costs imposed on this case any companion cases in the amount of \$ _____ You shall abide by the by any of the following **SPECIAL CONDITIONS** of probation which are marked as follows:

☐ Complete _____ Hours of Community service within _____ days.

☐ Attend and complete a Substance Abuse Traffic Offenders Program within _____ days.

☐ Attend Victim Impact Program with _____ days.

☐ Attend and complete Defensive Driving school within _____ days.

☐ Attend and complete an ADEP program within _____ days.

☐ Attend and complete a Petty Larceny Program within _____ days.

☐ Attend and complete an Anger Management program within _____ days.

☐ Attend Alcohol Anonymous at least _____ until _____.

☐ You will make restitution in the sum of \$ _____ by Cashier's Check or Money Order by _____.

☐ You shall not consume any alcoholic beverage within six hours prior to or while operating a motor vehicle. You shall consent to a chemical test of your breath, blood or urine upon the request of a law enforcement officer.

☐ You shall not have any contact with any victim or witness on this case, or their families without the express consent of said victim, witnesses or business.

☐ You shall complete the following work to the satisfaction of code requirements within _____ days on the property at _____.

☐ Other: _____.

I understand and agree to the terms and conditions of probation. I fully understand that if I violate any of the conditions, the court may revoke my probation and impose sentence and/or order the execution of sentence of sentence previously imposed.

Defendant: _____

Address: _____

Telephone: _____ Zip: _____

SO ORDERED:

Judge

Date

STATE OF MISSOURI

MUNICIPAL DIVISION

CITY OF _____,

Plaintiff,

VS.

Cause No. _____

Defendant.

MOTION TO SUSPEND AND REVOKE PROBATION

_____ On Court's own motion, defendant is ordered to appear pursuant to the Notice of

_____ On Motion of the Prosecuting Attorney, the City hereby moves this Honorable

Defendant was placed on probation in the above cause, and the Prosecuting Attorney and

Based upon said Motion, the court hereby orders the suspension of the period of probation

PROSECUTING ATTORNEY

SO ORDERED:

JUDGE

DATED: _____

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI
MUNICIPAL DIVISION, CITY OF _____**

| | | |
|----------------|---|-----------------|
| CITY OF _____, |) | _____, 20____ |
| Plaintiff, |) | |
| vs. |) | |
| |) | |
| _____ |) | Cause No. _____ |
| Defendant. |) | |

ORDER SUSPENDING PROBATION

Pursuant to Section 559.036 RSMo., and Supreme Court Rule 37.70 the court hereby orders the suspension of the period of probation for the above named defendant in the above cause, and said probation shall remain suspended until the court herein rules on the motion to revoke probation or otherwise orders the reinstatement of defendant's probation.

SO ORDERED:

JUDGE



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | | |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Judge or Division: | <div style="border-bottom: 1px solid black; margin-bottom: 5px;">Case Number:</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;">Court ORI Number:</div> | (Date File Stamp) |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|

City of _____ vs. _____

NOTICE OF PROBATION REVOCATION HEARING

TO: DEFENDANT: _____

ADDRESS: _____

COURT DATE: _____ TIME: _____

At your sentencing the Court entered an Order placing you on probation. The Court has now received information that you may have violated certain condition(s) of your probation based upon:

(_____) Your summons/arrest/conviction by the _____ Court and/or Police Department on new charge(s) of _____.

(_____) Your failure to timely complete your community service and/or the program for _____.

(_____) Your failure to timely pay in full (_____) our fines and court costs, (_____) the program fee or (_____) restitution.

(_____) Your failure to report or notify the Court concerning _____.

(_____) Other: _____.

Your case has now been reset on the docket for a Probation Revocation Hearing when noted above. At this hearing you will have the opportunity to be heard on whether you have violated the conditions of your probation and, if so, whether a revocation or other modification of your probation is warranted under all the circumstances.

This notice is being mailed, so you may voluntarily appear in court when noted above. If you fail to appear, an arrest warrant will be issued. An order has been entered extending your probation until this matter is heard and decided.

This notice was mailed to the Defendant on _____ and a copy to _____

_____, Attorney for Defendant

Court Clerk



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

MUNICIPAL DIVISION, CITY OF _____

| | | |
|--------------------|-------------------|-------------------|
| Judge or Division: | Case Number: | (Date File Stamp) |
| | Court ORI Number: | |

City of _____ vs. _____

Defendant's Name/Address: _____

Defendant's D/O/B: _____ Driver's License No.: _____

ORDER OF PROBATION REVOCATION HEARING

Case called for probation revocation hearing. Municipality appears by Prosecuting Attorney. Defendant appears in person and by attorney, _____; said defendant having been given notice of the alleged violations of probation.

(_____) Defendant waives the right to a probation revocation hearing and admits violating these conditions of probation:

Based upon defendant's admission, the Court finds that the defendant has violated his/her probation.

(_____) Upon hearing, the Court finds that the defendant has violated these conditions of probation: _____

The Court makes said finding based on the following evidence: _____

(_____) Upon hearing, the Court finds the defendant has not violated the conditions of probation.

After considering the alternatives, the Court hereby:

(_____) Continues the defendant's probation

(_____) Without modification or extension.

(_____) Subject to the following modifications: _____

(_____) Extends the term of probation _____ months to _____, 20____.

(_____) Imposes sentence of \$_____ fine and/or _____ days in jail. Execution stayed subject to completion of probation.

(Continued on Next Page)

(____) Terminates defendant's probation, effective immediately.

(____) Revokes defendant's probation and imposes the following sentence to be executed: \$_____ fine and/or _____ days in jail.

(____) Revokes the defendant's probation and orders that the sentence imposed on _____, upon which execution has been previously stayed, to be executed forthwith. Accordingly, defendant is ordered to pay the fine of \$_____ and/or to serve said sentence of _____ days in jail.

Defendant

SO ORDERED:

Judge

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

| | | | |
|------------|-------|---|--------------|
| CITY OF | _____ |) | |
| | |) | Case No. |
| | |) | |
| Plaintiff, | |) | |
| | |) | |
| vs. | |) | |
| | |) | |
| | _____ |) | Division No. |
| | |) | |
| Defendant, | |) | |

PROBATION REVOCATION MEMO

The City appears by Prosecuting Attorney_____.

Defendant appears in person and by counsel _____.

☐ Cause continued to _____ at _____ for Probation Revocation Hearing.

☐ Last Continuance

Defendant to show written proof of completion of the following on the next court date:

☐ SATOP

☐ Community Service

☐ VIP

☐ Drug Testing

☐ AA Meetings

☐ Restitution

☐ Other _____

☐ Defendant fails to appear.

☐ Warrant ordered

SO ORDERED:



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------|------------------------|
| Judge or Division: | Case Number: |
| | Court ORI Number: |
| Defendant Name: | Address and Telephone: |

(Date File Stamp)

Community Service Agreement

I agree to participate in the performance of community service work as set forth in a condition of my probation ordered by the court. I understand and agree to the following as it relates to this community service work.

- ☐ I will complete _____ hours of work by _____ (date).
- ☐ I will cooperate with the work supervisor, exhibit a proper attitude, appear on time, dress appropriately, and contact the agency, unit if there is a time conflict.
- ☐ I am not an employee of the agency/governmental unit that will supervise my work.
- ☐ The work is performed for free, without any compensation, **I am not covered by workers compensation, social security or other employee benefits**
- ☐ The agency/governmental unit/person supervising my work is not liable for any injuries, loss, or damages resulting from this work unless the injury, loss or damage results from gross negligence or an intentional tort.
- ☐ Special Conditions:

I have read or had read to me this agreement and fully understand the conditions of this community service work. I also understand that I may refuse to enter into this agreement. I understand that a violation of this agreement could result in my probation being revoked and a sentence set or executed, and that I could be held in contempt.

I freely and knowingly accept and enter into this agreement.

| | |
|-------------------------|--------------------|
| _____ Judge or Clerk | _____ Defendant |
| _____ Date | _____ Date |

Statement of Completion

This is to inform the Court hat the above-named defendant has completed community service hours required by the Court pursuant to this agreement. A list showing the days and hours worked is attached to this statement.

Total Number of Hours Completed: _____

| | |
|-------------------------|--------------------|
| _____ Judge or Clerk | _____ Defendant |
| _____ Date | _____ Date |

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

COMMUNITY SERVICE WORK SCHEDULE

Volunteer: _____

Total Required Service Hours: _____

Service Hours to be Finally Completed By: _____

Dates & Number of Hours Completed:

| | | | |
|-------------|-------------------|-------------|-------------------|
| Date: _____ | # of Hours: _____ | Date: _____ | # of Hours: _____ |
| Date: _____ | # of Hours: _____ | Date: _____ | # of Hours: _____ |
| Date: _____ | # of Hours: _____ | Date: _____ | # of Hours: _____ |
| Date: _____ | # of Hours: _____ | Date: _____ | # of Hours: _____ |
| Date: _____ | # of Hours: _____ | | |

Total Hours Completed:

CERTIFICATION

(Check one)

- ☐ The Volunteer has satisfactorily completed the number of required service hours listed above.
- ☐ The Volunteer has completed the number of service hours listed above, and requests an extension of _____ weeks to complete the remainder of required service hours.
- ☐ The Volunteer has not satisfactorily completed the required service hours.
- ☐ The Volunteer has not reported to service as required.
- ☐ I certify the above stated information is true and correct to the best of my knowledge and belief.

Date: _____ Signed: _____

Organization: _____ Title: _____

Please complete and return this document on or before the final completion date to the address listed on the front page. Thank you again for your help in this matter.

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------|------------------------|
| Judge of Division: | Case Number: |
| Defendant Name: | Address and Telephone: |
| (Date File Stamp) | |

Finding of Indigency and Community Service Agreement

The Court after submission of Defendant's Financial Statement and other evidence does hereby determine the Defendant to be indigent and therefore eligible to complete Alternative Community Service in lieu of payment of fine. Court costs are hereby waived.

I agree to participate in the performance of community service work as ordered by the court. I understand and agree to the following as it relates to this community service work.

- ☐ I will complete _____ hours of work by _____ (date).
- ☐ I will cooperate with the work supervisor, exhibit a proper attitude, appear on time, dress appropriately, and contact the agency, unit if there is a time conflict.
- ☐ I am not an employee of the agency/governmental unit that will supervise my work.
- ☐ The work is performed for free, without any compensation, **I am not covered by workers compensation, social security or other employee benefits**
- ☐ The agency/governmental unit/person supervising my work is not liable for any injuries, loss, or damages resulting from this work unless the injury, loss or damage results from gross negligence or an intentional tort.
- ☐ Special Condition:

I have read or had read to me this agreement and fully understand the conditions of this community service work. I understand that my failure to complete the community service work could result in be being held in contempt of court. I freely and knowingly accept and enter into this agreement.

| | |
|-------------------------|--------------------|
| _____ Judge or Clerk | _____ Defendant |
| _____ Date | _____ Date |

Statement of Completion

This is to inform the Court that the above-named defendant has completed community service hours required by the Court pursuant to this agreement. A list showing the days and hours worked is attached to this statement.

Total Number of Hours Completed: _____

| | |
|---------------|------------------------------------|
| _____ Date | _____ Name and Title |
| | _____ Agency/ Governmental Unit |



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------------|-------------------------|
| Judge of Division: _____ | Case Number: _____ |
| | Court ORI Number: _____ |

(Date File Stamp) _____

| | |
|---------------------------------|-----|
| City of _____ | vs. |
| Defendant's Name/Address: _____ | |

Motion for Contempt

Comes now the undersigned and states that the defendant _____ has committed an act constituting

☐ Direct Criminal Contempt of Court

☐ Indirect Criminal Contempt of Court on the _____

day of _____, _____ by:

Wherefore, the undersigned prays the court to issue its order directed to the defendant to show cause why he/she should not be held in criminal contempt of court and punished therefore.

Prosecuting Attorney

I certify that a copy of this motion has been mailed to the above named defendant and defendant's attorney, if applicable, by regular mail on: _____ (date).

Prosecuting Attorney



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|---------------------------|-------------------|
| Judge of Division: | Case Number: |
| | Court ORI Number: |
| (Date File Stamp) | |
| City of _____ | |
| vs. | |
| Defendant's Name/Address: | |

Judgment of Contempt

On the _____ day of _____, _____, the above named defendant appeared the Municipal Court of the City of _____ on a charge of

☐ Direct Criminal Contempt

☐ Indirect Criminal Contempt;

The Court, having heard the evidence finds the Defendant did commit the following acts of contempt of court:

Therefore, it is Ordered that the defendant is held in

☐ Direct Criminal Contempt

☐ Indirect Criminal Contempt;

for the willful ☐ violation of the Order of the Court and/or ☐ conduct committed on _____ day of _____, _____. The Defendant is ordered to pay the Municipal Court of the City of _____ the sum of \$ _____ and/or is ordered to serve _____ days in jail.

Let execution issue hereon.

Date

Judge



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | | |
|---------------------------|-------------------|-------------------|
| Judge of Division: | Case Number: | (Date File Stamp) |
| | Court ORI Number: | |
| City of _____ | | |
| vs. | | |
| Defendant's Name/Address: | | |

Judgment Finding Defendant in Contempt of Court

On the _____ day of _____, _____, the defendant was ordered to pay fine(s), costs and fees totaling \$ _____, defendant agreed to pay said amount, but has failed to pay \$ _____ of said amount when he agreed to do so, and

On the _____ day of _____, _____, the court issued its Show Cause Order For Failure to Pay Fine(s) Costs and Fees which was delivered to defendant by regular mail, postage prepaid and which was returnable on _____, that defendant failed to appear on the return date of said Order and has failed to show good cause why he/she failed, refused or neglected to appear on the return date of the Show Cause Order.

Therefore, it is Ordered that the defendant be committed to the custody of _____ to be confirmed in the _____ Jail for a period of _____ days for his contempt and that a Commitment be issued therefore.

Date

Judge



IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI

| | |
|--------------------------------------------------|--------------------------|
| Judge or Division: | Case Number: |
| City of _____ vs. | Court ORI Number: |
| To: (Name and Address of Defendant to be served) | Offense Cycle No. (OCN): |
| Alias: | Charge(s): |
| | Date/Time of Hearing: |
| | Location of Hearing: |

Show Cause Summons Failure to Pay

You are summoned to appear at the above location and time to show cause for failure to pay in the above named case. If you fail to appear, a warrant for your arrest may be issued.

Seal _____ Date _____ Judge _____
By _____ Clerk _____

If you have a disability requiring special assistance for your court appearance, please contact the court at least 48 hours in advance of scheduled hearing.

Further Information:

Certificate of Mailing

I certify that this summons was mailed on _____ (date) by first class mail to the above named defendant at the address listed above.

Seal _____ Date _____ Clerk _____

Sheriff's or Server's Return

I certify that I have served the above summons by: (check one)

- ☐ Delivering a copy of the summons and a copy of the petition to the defendant.
- ☐ Leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant with _____, a person of the defendant's family over the age of 15 years.
- ☐ (For Service on a corporation) delivering a copy of the summons and a copy of the petition to: (name) _____ (title) _____ at (address) _____.
- ☐ Other _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Sheriff's Fees

Fees \$ _____
Mileage \$ _____ (_____ miles @ \$._____ per mile)
Total \$ _____
By _____ Sheriff or Server
Deputy



IN THE _____ JUDICIAL CIRCUIT COURT, _____, MISSOURI

| | |
|---------------------------|----------------------------------|
| Judge or Division: | Case Number: |
| Defendant's Name/Address: | Applicant's Name (Please Print): |
| | Agency Applicant Represents: |
| | Agency Address: |
| | Agency's Telephone Number: |

Application to Inspect Closed Criminal Records

I request the Court to authorize access to closed criminal records in which _____
is named a defendant.

- ☐ I am the defendant or the defendant's authorized representative (unless representative is the attorney of record, attach a copy of the authorization.)
- ☐ I am the victim of an offense, as defined and for the purposes identified in Section 610.105 RSMo.
- ☐ Access is desired for purposes of:
- ☐ prosecution
 - ☐ sentencing
 - ☐ parole consideration
 - ☐ investigation by a federal agency as authorized by law or Presidential Order
 - ☐ criminal justice employment Section 610.120 RSMo.
 - ☐ Child care agency
 - ☐ elder care employment
 - ☐ disabled care employment
 - ☐ administration of criminal justice, as defined and for the purposes identified in Section 43.500 RSMo
 - ☐ law enforcement agency for issuance/renewal of license, permit, certificate and registration
 - ☐ state agency, as defined and for the purposes identified in Section 43.543 RSMo
 - ☐ in home services provider agency and federal agency Section 610.120 RSMo
 - ☐ other, as defined by Section 610.120 RSMo, (please explain): _____

Date and Time

Applicant's Signature

Bar Number (If an Attorney)

Order

Pursuant to Section 610.120 RSMo, the above Application to Inspect Closed Criminal Records is ☐ granted ☐ denied.

Date

Judge

NOTES ON USE

1. Section 610.210 allows access to closed criminal records under limited circumstances.
2. it is highly suggested that these matters be referred to the municipal judge immediately as a response must be filed within 72 hours. 610.023.3



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

I, _____, Clerk of the Municipal Division of the City of _____,
do hereby certify that the foregoing document(s) is/are true, accurate and correct copies as the
same appear in the records of this Municipal Division, this _____ day of _____,
20____.

By _____
Court Administrator/Clerk

Letterhead

Case ID:
Municipality v. Defendant

Date: _____

Dear _____,

Please find enclosed a certified copy of the information requested by you on _____.

Name of Defendant: _____

Case Number(s): _____

Document and/or Information requested:

If further documentation is requested please forward you request in writing to the Municipal Division clerk.

Thank you,

Court Administrator for _____ Municipal Division



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------------------------|---------------------------------------------|
| Judge of Division: | Case Number: |
| | Court ORI Number: |
| Defendant's Name, Alias(es)/Address: | Offense(s): |
| | Date of Birth: |
| | Driver License No./Issuing State/Exp. Date: |
| | Offense Cycle No. (OCN): |

(Date File Stamp)

Order to Install Ignition Interlock Device

Pursuant to section 302.442.2, RSMo, the court orders you to have an ignition interlock device installed on any vehicle you operate and prohibits you from operating any vehicle unless it is equipped with such a device. The ignition interlock device shall have ☐ photo identification technology.

Proof of installation of the ignition interlock device(s) must be provided to the ☐ court ☐ probation officer by _____ (date) and remain on the vehicles:

- ☐ during the period of probation: Start date: _____ Probation term: _____
- ☐ during the period of limited driving privilege: Effective date: _____ Term date: _____
- ☐ six (6) months after the date of the reinstatement of the driver license.
- ☐ Your application to the court for an employment exemption variance to allow you to drive an employer-owned vehicle not equipped with an ignition interlock device for employment purposes only is granted for your employment with _____. You shall not drive, operate, or be in physical control of an employer-owned vehicle used for transporting children under 18 years of age or vulnerable persons, as defined in section 630.005, RSMo, or an employer-owned vehicle for personal use.
- ☐ Your application to the court for an employment exemption variance to allow you to drive an employer-owned vehicle not equipped with an ignition interlock device for employment purposes only is **not** granted.

Failure to provide proof of installation within that period may result in your probation being revoked or your limited driving privilege being terminated. (Section 302.442, RSMo)

You are responsible for all costs associated with the installation, maintenance, calibration, and removal of the device. You are also liable for the cost of replacement if the device is broken, destroyed or stolen. (Section 302.442.5, RSMo)

This order does not authorize you to operate a motor vehicle if your driving privilege has been suspended or revoked, unless you have obtained a limited driving privilege or restricted driving privilege under other provisions of law. (Section 302.442.4, RSMo)

Violation of the order prohibiting you from operating a vehicle that is not equipped with an ignition interlock device will result in the revocation of your driving privilege and you could be convicted of a class A misdemeanor, punishable for a term of imprisonment not to exceed one year.

Date

Judge

| | |
|------------|-------------------|
| Defendant: | Case Number: |
| | Court ORI Number: |

Proof of Installation

I certify that ignition interlock device(s) were installed on vehicle(s), as ordered by the court for

_____ (name), _____ (DOB) on
 _____ (date).

The ignition interlock device(s) installed has ☐ photo identification technology ☐ and global positioning system features.

Manufacturer: _____

Device Name: _____

Device Serial Number: _____

Installation facility, address and telephone number: _____

 Date

 Judge

 Type or Print Name of Installer

 Signature of Installer

Instructions to the Clerk

1. Provide a copy of the Order to Install Ignition Interlock Device to the defendant to be returned to the court ordered supervising authority once the device is installed and Proof of Installation is completed by the installer.

2. Send a copy of the Order to the Department of Revenue at the time the order is entered to the following address:

Department of Revenue
 Driver License Bureau
 301 West High Street Room 470
 P.O. Box 200
 Jefferson City, Missouri 65105-0200



IN THE _____ JUDICIAL CIRCUIT, _____ COUNTY, MISSOURI

| | |
|-------------------------------|--------------------------|
| Judge or Division: | Case Number: |
| Defendant's Name and Address: | DOB: |
| | Driver's License Number: |

Date File Stamp)

Abuse and Lose-Order of Suspension/Revocation

The court finds the defendant committed the following offense(s) on _____ (date):

☐ **The court finds the defendant was under 21 years of age on the date of the violation(s).**
(Complete this section only)

Pursuant to the provisions of sections 302.400-302.426, RSMo, the court orders that:

1. Any license to operate a motor vehicle in the possession of the defendant be surrendered to the court and is enclosed with this order to be sent to the Department of Revenue.
2. Driving privileges of the defendant be suspended or revoked pursuant to section 302.400.5, RSMo, as determined by the Director of the Department of Revenue in reviewing the driving record of defendant for any prior abuse and lose actions.
3. The defendant shall successfully complete a substance abuse traffic offender program as defined in section 302.010, RSMo.

☐ **The court finds the defendant was 21 years of age or older on the date of the violation(s).**
(Complete this section only)

Pursuant to the provisions of sections 302.400-302.426 and 302.580, RSMo, the court orders that:

1. Any license to operate a motor vehicle in the possession of the defendant be surrendered to the court and is enclosed with this order to be sent to the Department of Revenue.
2. Driving privileges of the defendant be revoked for one year pursuant to section 302.405, RSMo.
3. The defendant shall successfully complete a substance abuse traffic offender program as defined in section 302.010, RSMo.

Date

Judge

I state that the above order is a true copy of the original as it appears on record in my office and that this copy was mailed to the Missouri Director of Revenue.

Defendant's driver's license is enclosed ☐ Yes ☐ No

Date

Clerk

Supporting Information

If offense involves a municipal or county ordinance violation, complete the following:

The defendant (check one):

- ☐ was represented by an attorney.
☐ waived in writing the right to an attorney.
☐ was not represented by an attorney and did not sign a written waiver.



IN THE 21st JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI
MUNICIPAL DIVISION OF THE CITY OF _____

| | |
|--------------------|--------------|
| Judge or Division: | Case Number: |
| | |

(Date File Stamp)

Waiver of Right to Auxiliary Aid and Services by the Hearing Impaired

Pursuant to Section 476.760.3 RSMo, I knowingly and voluntarily waive the right to auxiliary aids and services, which are available under the provision of Section 476.750(2) RSMo

Date

Person Waiving Right

Counsel to the Hearing Impaired Person (if any)

Designated Responsible Authority
(if no counsel is used)

Letterhead

Case ID:
Municipality v. Defendant

Date: _____

Payment was made to the _____ Municipal Division, we are unfortunately unable to accept your payment for one or more of the following reasons;

- ☐ **Personal checks are not accepted by this Municipal Division.** Your case has been continued to _____ at _____ am/pm to allow time for you to re-submit your payment in the form of a cashier's check or money order. You may also make a cash or credit card payment at _____ or pay online at _____. Please find your check enclosed. If you choose not to re-submit payment you must appear at the court date indicated above. Failure to re-submit a payment or appear in court may result in a summons or a warrant being issued.
- ☐ **The offense of _____ requires that you appear in court.** Your case has been continued to _____ at _____ am/pm. Failure appear in court may result in a summons or a warrant being issued.
- ☐ **The incorrect fine amount was submitted.** The correct fine amount for the offense of _____ is \$ _____. Your case has been continued to _____ at _____ am/pm to allow time for you to re-submit your payment in the form of a cashier's check or money order. You may also make a cash or credit card payment at _____ or pay online at _____. If you choose not to re-submit payment you must appear at the court date indicated above. Failure to re-submit a payment or appear in court may result in a summons or a warrant being issued.
- ☐ **The payment submitted is missing information or the writing is illegible and the submission cannot be processed.** Please find your form of payment enclosed. Your case has been continued to _____ at _____ am/pm to allow time for you to re-submit your payment. You may also make a cash or credit card payment at _____ or pay online at _____. If you choose not to re-submit payment you must appear at the court date indicated above. Failure to re-submit a payment or appear in court may result in a summons or a warrant being issued.

Thank you,

Court Administrator for the _____ Municipal Division

(Date)

Note to Police Chief

Please find attached a new directive regarding the confinement of individuals by your department. The changes are a result of the enactment of Senate Bill 5.

First, in Minor Traffic Violations (MTVs), defined under Subsection 479.350 R.S.Mo. and generally as all non-moving and moving violations from 0-4 points, exceptions being involving an accident or injuries, a commercial motor vehicle, construction or school zone violations and speeding over 19mph the speed limit, in these cases the defendant should be issued a citation and released.

Second, there is a presumption of release on recognizance and if the officer chooses to arrest an individual on an MTV or other violation, he or she must compose a probable cause statement, convey it to the prosecutor, and I must sign a warrant (all within 24 hours). Furthermore, if this procedure is used I must see that individual within 48 hours of arrest.

Third, if you take an individual in on a pending warrant from another jurisdiction, I would suggest that you immediately notify the jurisdiction wanting that individual and make sure that individual is not held in excess of 24 hours by our city on their behalf.

Finally, the bond schedule is set aside. I will designate a bond on each case on an individual basis. If an arrestee claims to be indigent I am to be notified immediately and I will then see the individual or release him or her as soon as practicable, in all cases no longer than 24 hours.

I need to see all persons who are arrested on warrants who cannot post the full amount of the bond within 48 hours. The officers may contact me in the event the individual wishes to post a bond in an amount less than the designated amount on the bond.

Failure to contact the judge or the duty judge shall not justify holding a prisoner in excess of the time limits stated above. Contact information is: Judge (name and number), Provisional Judge (name and number) or Prosecutor (name and number).

Please instruct your officers accordingly and feel free to call me if you have any questions.

Municipal Judge

Municipal Division Pre-Visit Presiding Judge Checklist
(Based off of Supreme Court Rule 37.04, Appendix A & the Minimum Operating Standards (MOS))

MOS #1:

- No additional Failure to Appear (FTA) charge on Minor Traffic Violations (MTV). 479.350 & 479.360 RSMo
- No FTA fee on any charge.
- Duty Judge on call at all times. Rule 37.04
- Warrants are signed by the Judge unless the Court Administrator is directed to do so by a signed Order on a specific case, in a specific situation. No blanket orders for Court Administrator or Clerk to sign warrants. Rule 37.45
- Warrant recall procedure includes the Judge issuing an Order for the clerk to recall the warrant unless following the disposition of a case, recording the issued Order as a docket entry on the docket sheet or docket entry in the case management system, and forwarding a copy of the Order to the law enforcement to be cancelled in REJIS or MULES. (Court Clerks and Administrators should not have access to REJIS or MULES for any purpose.) Rule 37.04

MOS #2:

- Defendants are allowed to present evidence of their financial condition when assessing fines or probation, if the division charges a probation fee. 479.360 RSMo
- Payment plans are allowed. Payment Plans are signed by the defendant and court personnel, made a part of the court record by docket entry on the docket sheet or docket entry into the case management system, and payment review hearings are scheduled as dictated by the payment plan. 479.360 RSMo
- Recommendations are requested from and issued to the defendant or defense counsel by the Municipal Prosecuting Attorney. Upon a recommendation being offered the defendant should be notified of a court date by the court leaving enough time for the defendant and/or defense counsel time to consider the offer and respond. Once the plea offered is signed by the Municipal Prosecuting Attorney and defendant and/or defense counsel the plea agreement must be presented to the Judge for approval or denial of the agreement in open court (SCR 37.58), unless the case is disposed without a court appearance by consent of the Judge, Prosecutor, and defendant or defense counsel pursuant to SCR 37.57. If the case is disposed without a court appearance there should be a clear, written procedure of how this is to be done and on which charges this practice would apply.

MOS #3:

- The \$30 filing fee for Trial de Novo is waived if the defendant is found to be indigent. Rule 37.04
- No filing fee is collected upon certification to the Circuit Court for jury trial. Rule 37.04

MOS #4:

- Fines and Court Costs combined collected on any MTV charge do not exceed \$225. 479.353 RSMo
- Fines and Court Costs combined collected on any Municipal Ordinance Violation (MOV) do not exceed the statutory limits. 479.353 RSMo
- Fines and Court Costs collected on any charge other than MTV and MOV do not exceed the maximum amount authorized by state law or city code. 479.353 RSMo
- No fines or costs are assessed on dismissed cases. 479.353 RSMo & COR 21.03
- Court Costs are not assessed against defendants found to be indigent. 479.353 RSMo
- No fees are assessed for community service. 479.360 RSMo

- The patrolling entity provides a list of fines and courts costs assessed for those charges eligible to be disposed through the Violations Bureau. Rule 37.49 & 37.33

MOS #5:

- All certified cases are transferred to the Circuit Court with 15 days of the Order to certify. Rule 37.04

MOS #6:

- Online and in-person payments are not accepted by the court until the Municipal Prosecutor signs and/or issues the charging document to the court and a case is created. Rule 37.35

MOS #7:

- The Court Clerk does not share duties with the Prosecutor Clerk or Police Clerk.
- The Court Clerk(s) office(s) are clearly separate and distinguished from any City Offices, the Prosecutor's and Prosecutor Clerk's Offices, and the Police Department.
- Court personnel (clerks and court security) are under the administrative authority of the Municipal Judge while performing court duties.
- The court budget is separate from that of the city and does not include any Prosecutor costs.
- The entry to the Municipal Division is clearly marked and visible.
- Payment windows and payment options are clearly posted and visible.
- Hours of operation and contact information are clearly posted and visible.
- All signage displays a clear division between branches of government.

MOS #8:

- The Court Clerk is available at least 30 hours a week to receive payments and answer questions on case information and court operations. In lieu of the clerk being available at least 30 hours the clerk must be available at minimum 15 hours a week in the office and 15 hours by live electronic communication. 479.360 RSMo
- A written policy should exist for responding to requests for court records in accordance with Court Operating Rule (COR) 2.
- The courtroom gives the appearance of a courtroom.
- The courtroom is open to the public.
- The courtroom is large enough to accommodate all parties and attorneys.
- The courtroom is handicap accessible in accordance with ADA regulations.

MOS #9

- The Notice of Defendant's Rights are posted in the courtroom, website, and are available for defendants to take. Rules 37.47, 37.48, 37.50, & 37.58
- The Notice of Defendant's Rights are in the form of, or similar to, those issued by the Missouri Supreme Court on June 30, 2017 in SCR 37.04, Appendix C. Rule 37.04

MOS #10:

- Written procedures exist for defendants not being held for longer than 24, 48, and 72 hours according to their charge and issued to law enforcement. 479.360 RSMo
- Reports are provided to the municipality, OSCA, and the State Auditor pursuant to statute and rule.
- The Municipal Judge presides over no more than 5 Municipal Divisions. 479.050 RSMo

SCR 37:

- The Municipal Prosecutor signs all charging documents prior to a case being created. Rule 37.35
- The Violations Bureau fines schedule is posted where payments are processed. Rule 37.49
- A Waiver of Counsel is signed by all defendants that chose to represent themselves in cases that a conviction could result in confinement and made part of the court record by docket entry or entry into the case management system. Rule 37.58

COR 2/4/8 (483.065, 483.075 & 483.082 RSMo):

- Any electronic case management systems are backed up regularly.
- A case and judgement index is maintained pursuant to COR 4.
- All dispositions are signed by the Judge.
- All dispositions of charges reportable to the Department of Revenue are reported within 7 days from the date of disposition. 302.010, 302.225,
- All Offense Cycle Number (OCN) Cards (Fingerprint Cards) are submitted to the Missouri State Highway Patrol as required.

Financial/Bookkeeping (483.075 RSMo):

- A yearly internal or external audit of the Municipal Division is completed.
- Any manual receipts are printed with sequential numbers and the receipt numbers are recorded with the payment as a part of the court record.
- All bank accounts are reconciled monthly.
- All appropriate funds are disbursed monthly.
- All applicable funds are transferred to the municipality's general fund at least monthly.
- Excess Revenue calculations are reported to the State Auditor pursuant to statute. ?

Questions and Notes:

- The clerk(s) have access to the Court Information Center (CIC) to have access to record of conviction statistics.
- The clerk(s) have an active iNotes account.

If you are a non-U. S. citizen

If you do not have the proper documentation to be in the United States, you should know that a guilty plea or conviction may result in your deportation, denial of admission to the United States, or you may be denied naturalization under United States law. You may wish to speak with an attorney, especially before entering a guilty plea to any charges.

If you need ADA accommodations

You have rights under the Americans with Disabilities Act (ADA). For example, if you or a witness are deaf or hearing impaired, you have the right to request assistance, including an interpreter. For help, please contact the court's ADA coordinator. A list of ADA coordinators can be found at <http://www.courts.mo.gov/page.jsp?id=180>.

If you need help with other ADA disabilities, please call (573)751-4377 or send an email to access2justice@courts.mo.gov.

While in the courtroom, please:

Stay seated until your case is ready to be heard by the judge.

Do not smoke or consume food or drink.

Silence any phones or pagers, and remain quiet.

Do not sleep or disrupt the court proceedings.

My next court date is _____ at
_____ am/pm.

Your Missouri Municipal Courts

Know your rights (see pages 2-4)

- Right to trial
- Right to know when the court is open
- Right to attend court
- Right to an attorney
- Right to release pending hearing
- Right to have a judge decide if you can afford a lawyer or afford to pay fines
- Right to a court-appointed attorney
- Right to access court records
- Right to request a different judge

Table of Contents

Overview of Municipal Courts.....1

Rights in Municipal Court.....2

Trial Process4

Punishments and Fines4

Other information to know5

Trial Process

1. The case is ready to be heard by the judge.
2. Witnesses are given an oath to testify.
3. The city's witnesses explain their version of what happened.
4. You or your attorney can ask questions of the City's witnesses.
5. You may testify and call witnesses to explain your version of what happened.
6. The city prosecutor may question you and your witnesses, if you and your witnesses testify.
7. The judge makes the decision.

Punishments and Fines

If you plead guilty or are found guilty, you may face the following punishments or fines:

1. Minor traffic violations—up to \$225 total fine and costs.
2. Housing, zoning or building code violations—up to \$200 total fine and costs for the first violation in a year, \$275 for the second violation in a year, \$350 for the third violation in a year, and \$450 for the fourth and any subsequent violation in a year.
3. All other municipal code violations—up to \$_____ fine plus costs.
4. In addition to these fines and costs, certain violations may result in jail time. Such violations include any violation involving alcohol or drugs, violations endangering the health or welfare of others, or giving false information to a police officer. You may face up to a year in jail.

You may be able to pay your fines by mail, online, or in person instead of appearing in court. Please check with the clerk of the municipality in which your case is located or go online at www._____ to get information on how you can pay fees and fines in the municipality.

Right to Trial

If you plead not guilty, your case will be scheduled for trial. Because of the number of cases the court hears each month and the need to have the officer and any witnesses present, your case cannot be heard that night. You will be given a future court date for trial.

When your case is scheduled for trial, it will be in the same municipal court in which you appear, UNLESS you request a jury trial. A request for a jury trial should be made by written motion 10 days prior to the scheduled trial date. If the motion is timely, your case will be sent to the presiding judge of the circuit court for a new trial date with a jury.

1. At trial, you have a right to testify or remain silent. If you remain silent, it is not considered an admission of guilt. If you testify, the judge may consider any statement you make in deciding your guilt or innocence.
2. At trial, you have the right to ask questions of witnesses testifying against you.
3. You have a right to require witnesses to come to trial and testify with a subpoena.
4. If you are found not guilty, the case ends.
5. If you are found guilty, you can accept the decision or appeal to the circuit court. If you appeal your case, you will be granted a new trial before a different judge. The request for appeal must be made within 10 (ten) days of the court's decision and cannot be extended for any reason. You can appeal even if you are not able to pay. Complete details of the appeal procedure can be found at www.mocourts.org. You may also ask the clerk for information on the process.

OVERVIEW OF MUNICIPAL COURTS

Municipal courts are authorized by the Missouri Constitution and are part of the circuit courts. They are open to the public. The purpose of these courts is to provide you with a place to obtain a fair and impartial trial on any alleged violation of a city ordinance. While this is a general overview of your rights in municipal court, each individual court may have local rules that may apply to your case. Please check with your local municipal court for the local court rules.

Municipal courts are a court of law established to protect the rights of all citizens. If there is anything you do not understand, do not hesitate to ask the judge any questions.

RIGHTS IN MUNICIPAL COURT:

Right to know when the court is open

Every municipal court has different hours it is open. It is important that you check the court's website or call the court's clerk to determine when it is open. A comprehensive listing of the websites and phone numbers for all municipal courts in Missouri can be found at <http://www.courts.mo.gov/mcw/findacourt/muniDivisionList.htm>

Right to attend court

Municipal courts in Missouri are open to the public.

Right to release pending hearing

If you are in jail for a municipal court charge, you have the right to be released unless the court decides you need to be in jail for the protection of the community. If the court orders your release from jail, there may be conditions on your release, including bail.

Right to access court records

If you have a case in municipal court, you have the right to see the court records for your case. This includes records that show charges, court rulings, fines, and other information for your case.

Right to an attorney

You have the right to be represented by an attorney and may hire one at any time. When you first appear in court, you can ask to postpone the hearing one time so you can hire an attorney. However, you are not required to have an attorney represent you. You may represent yourself.

Right to have a judge decide if you can afford a lawyer or pay fines

If you want an attorney, but cannot afford one, you can ask that the judge decide if you qualify for a court-appointed attorney. You may be required to fill out paper work about your finances as a part of this process.

You can also request the judge to decide if you are able to pay court fines or to be granted an alternative sentence. You may be required to fill out paper work regarding your finances as a part of this process.

Right to a court-appointed attorney

If you show you cannot afford an attorney, and the city is seeking to put you in jail, the court will provide an attorney to represent you.

Right to request a different judge

You may request a change of judge for any reason within ten (10) days after you enter your initial plea. If it is past the ten (10) days, then you must show cause why the judge should be changed.

In addition, a judge may decide he or she cannot hear the case if they have a conflict of interest in the case or the judge will appear as the prosecuting attorney in a neighboring county where the prosecuting attorney will serve as judge.



LAWFUL ENFORCEMENT OF LEGAL FINANCIAL OBLIGATIONS A BENCH CARD FOR JUDGES

Courts may not incarcerate a defendant/respondent, or revoke probation, for nonpayment of a court-ordered legal financial obligation unless the court holds a hearing and makes one of the following findings:

1. The failure to pay was not due to an inability to pay, but was willful or due to failure to make bona fide efforts to pay; or
2. The failure to pay was not the fault of the defendant/respondent and alternatives to imprisonment are not adequate in a particular situation to meet the State's interest in punishment and deterrence.

If a defendant/respondent fails to pay a court-ordered legal financial obligation but the court, after opportunity for a hearing, finds that the failure to pay was not due to the fault of the defendant/respondent, but rather due to lack of financial resources, the court should consider alternative measures of punishment rather than incarceration. *Bearden v. Georgia*, 461 U.S. 660, 667-669 (1983); *State ex rel. Fleming v. Mo. Bd. of Prob. & Parole*, 515 S.W.3d 224 (Mo. banc 2017). Punishment and deterrence can often be served fully by alternative means to incarceration, including an extension of time to pay, reduction of the amount owed, or community service. *Bearden*, 461 U.S. at 671.

Court-ordered legal financial obligations (LFOs) include all discretionary and mandatory fines, costs, fees, state assessments, and/or restitution in civil and criminal cases.

1. Adequate Notice of the Hearing to Determine Ability to Pay¹

Notice should include the following information:

- a. Hearing date and time;
- b. Total amount claimed due;
- c. That the court will evaluate the person's ability to pay at the hearing;
- d. That the person should bring any documentation or information the court should consider in determining ability to pay;
- e. That incarceration may result only if alternate measures are not adequate to meet the State's interests in punishment and deterrence or the court finds that the person had the ability to pay and willfully refused;
- f. Right to counsel*; and
- g. That a person unable to pay can request payment alternatives, including, but not limited to, community service and/or a reduction of the amount owed.

2. Meaningful Opportunity to Explain at the Hearing²

The person must have an opportunity to explain:

- a. Whether the amount charged as due is incorrect; and
- b. The reason(s) for any nonpayment (e.g., inability to pay).

3. Factors the Court Should Consider to Determine Willfulness³

- a. Income, including whether income is at or below 125% of the Federal Poverty Guidelines (FPG)⁴

| For 2016, 125% of FPG is: | |
|-----------------------------|-----------------------------|
| \$14,850 for an individual; | \$30,375 for a family of 4; |
| \$20,025 for a family of 2; | \$35,550 for a family of 5; |
| \$25,200 for a family of 3; | \$40,725 for a family of 6. |

- b. Receipt of needs-based, means-tested public assistance, including, but not limited to, Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), or veterans' disability benefits (Such benefits are not subject to attachment, garnishment, execution, levy, or other legal process);

¹ Rule 37.65(b)(c); Rule 36.01(b); section 558.006 RSMo (formerly section 560.031 RSMo).

² Section 479.360.1(4); Rule 37.04, Appendix "A," Minimum Operating Standard #2.

³ See *Bearden v. Georgia*, 461 U.S. 660 (1983); *State ex rel. Fleming v. Mo. Bd. of Prob. & Parole*, 515 S.W.3d 224 (Mo. banc 2017).

⁴ U.S. Dep't of Health & Human Servs., Poverty Guidelines, Jan. 26, 2016, (<https://aspe.hhs.gov/poverty-guidelines>).

- c. Financial resources, assets, financial obligations, and dependents;
- d. Whether the person is homeless, incarcerated, or resides in a mental health facility;
- e. Basic living expenses, including, but not limited to, food, rent/mortgage, utilities, medical expenses, transportation, and child support;
- f. The person's efforts to acquire additional resources, including any permanent or temporary limitations to secure paid work due to disability, mental or physical health, homelessness, incarceration, lack of transportation, or driving privileges;
- g. Other LFOs owed to the court or other courts;
- h. Whether LFO payment would result in manifest hardship to the person or his/her dependents; and
- i. Any other special circumstances that may bear on the person's ability to pay.

4. Findings by the Court

The court should find, on the record and/or by docket entry, that the person was provided prior adequate notice of:

- a. Hearing date/time;
- b. Failure to pay an LFO is at issue;
- c. The right to counsel*;
- d. The defense of inability to pay;
- e. The opportunity to bring any documents or other evidence of inability to pay; and
- f. The opportunity to request an alternative sanction to payment or incarceration.

After the ability to pay hearing, the court should also find on the record that the person was given a meaningful opportunity to explain the failure to pay.

If the Court determines that incarceration must be imposed, the Court should make findings about:

1. The financial resources relied upon to conclude that nonpayment was willful;⁵ or
2. If the defendant/respondent was not at fault for nonpayment, why alternate measures are not adequate, in the particular case, to meet the State's interest in punishment and deterrence.⁶

Alternative Sanctions to Imprisonment That Courts Should Consider When There is an Inability to Pay⁷

- a. Reduction of the amount due;
- b. Extension of time to pay;
- c. A reasonable payment plan or modification of an existing payment plan;
- d. Credit for community service (*Caution:* Hours ordered should be proportionate to the violation and take into consideration any disabilities, driving restrictions, transportation limitations, and caregiving and employment responsibilities of the individual);
- e. Credit for completion of a relevant, court-approved program (e.g., education, job skills, mental health or drug treatment); or
- f. Waiver or suspension of the amount due.

*Case law establishes that the U.S. Constitution affords indigent persons a right to court-appointed counsel in most post-conviction proceedings in which the individual faces actual incarceration for nonpayment of a legal financial obligation, or a suspended sentence of incarceration that would be carried out in the event of future nonpayment, even if the original sanction was only for fines and fees. *See Best Practices for Determining the Right to Counsel in Legal Financial Obligation Cases.*

⁵ See, for example, *State v. Jackson*, 610 S.W.2d 420 (Mo. App. 1980).

⁶ *Bearden*, 461 U.S. at 672; *Fleming*, 515 S.W.3d at 232.

⁷ Section 479.360.1 (8)(9) RSMo; Rule 37.04, Appendix "A," Minimum Operating Standard #2, #4; section 558.006 RSMo (formerly section 560.031 RSMo).

NOTE: This Order is intended as a template for courts to use in implementing a local municipal division operating rule and local court rules. It contains informational notes within the body of the order which should be deleted before signing the final order. Other sections may contain several options where those that do not apply should be deleted, and/or blanks which must be filled in before signing the final Order.

**IN THE CIRCUIT COURT OF _____ COUNTY, MISSOURI
_____ JUDICIAL CIRCUIT**

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL DIVISION OPERATING ORDER #4
Including Eight Local Court Rule provisions

Superseding Court Operating Orders #1, #2 and #3

Effective Date – _____, 2017

Background and Purpose of Division Operating Order #4
and Eight Applicable Local Court Rules

A. This Division Operating Order #4 compiles those applicable statutes, Supreme Court Rules, Supreme Court Operating Rules, and standards, as are effective as of September 30, 2016, including relevant sections of Supreme Court Rule 37.04, entitled “Supervision of Courts Hearing Ordinance Violations,” including Appendix A, the Minimum Operating Standards for Missouri Courts: Municipal Divisions (“*MOS*”). This Order shall supersede Court Operating Orders #1, #2 and #3, which are hereby rescinded. The term “Municipal Division” shall be referred to herein as “Division.”

B. This Order is intended to include in one consolidated Division Order, such relevant statutes, rules and standards, to provide for and achieve procedural fairness, order and convenience for those who appear before this Division. This Order is intended to apply, as is appropriate to do so to abide by the law imposed on the Court, to all Court personnel, officers of the Court, attorneys, and litigants, including without limitation the Judge, Court Administrator, Clerk of Court, Prosecuting Attorney, Prosecuting Attorney’s Clerk, Bailiff, and security personnel.

C. This Order is not intended to supersede, supplant, or alter any Missouri Supreme Court Rule, including the MOS, or any local circuit court rule adopted which governs the operations of a municipal division and reporting obligation, as provided in the “Protocols for Presiding Circuit Court Judges Supervising Municipal Court Judges” adopted by the Supreme Court in November, 2016. All the provisions of this Order shall be subordinate to Missouri

Supreme Court Rules, Missouri statutes, and local circuit court rules, which may differ than the provisions of this Order.

D. This Order also includes in Part I, Section B, several local circuit court rules, which are not technically “operating orders” or “operating rules.” The term “Court Administrator” as used in Part I, Section B, and elsewhere, also applies to those Divisions which utilize the term “Court Clerk.” The Term “Division Clerk” shall also be considered synonymous, when that term is used in place of “Court Administrator” or “Court Clerk.” The same is true for “Deputy Court Administrators,” “Deputy Division Clerks, or “Deputy Court Clerks,” which are the same position.

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. General Administrative Procedures.

1. General Duties of Court Administrator. Court Administrator shall ensure that the Court regularly communicates with the Circuit Clerk and the Presiding Judge on all relevant matters, including the Division’s existence. The Court Administrator shall comply with the standards set forth in “Open Records and other Recordkeeping Matters” contained in the MOS, following MOS #10. Such standards shall include maintenance of complete and accurate records of all Division proceedings, including warrants outstanding, bonds posted, case files and dispositions. All documentation “backer sheets” shall be signed by the Judge. The Court Administrator shall ensure that Division’s computer data is backed-up, stored in secure offsite locations, and that passwords are kept confidential and periodically changed. Courts using the statewide case management system shall follow any published security guidelines.
2. Case Numbering and Case Indexing. Case index records shall be maintained on all municipal cases. Judgment index records shall be maintained on all municipal judgments. Case indexes shall be maintained for each case filed, including traffic or non-traffic violations. The index shall include the full name of the defendant, case number, date the case was filed with the court, and the case disposition. Confidential cases shall be accessible only by authorized personnel.

Cases filed by the prosecutor shall be assigned a unique number by the Division. The numbering system shall be that used by the Office of State Court Administrator (“*OSCA*”) or that computer software vendor approved by the State Judicial Records Committee. All forms used by the Division shall be numbered sequentially and accounted for, including tickets, summons, complaints, receipt slips, bond forms, and payment agreements. (*Source: §§483.065, 483.075, and 483.082 RSMo; Supreme Court Operating Rule (“COR”) 4.04.; payment agreement source State Auditor recommendation, Municipal Clerk Manual (“Clerk Manual”) Section 1.1c.*)

3. Violation Bureau Schedule – Posting and Availability to Accused. The Judge shall, from time to time, appoint a Court Administrator to be the Violation Bureau Clerk. This shall be by a separate order. The Violation Bureau Schedule shall list and process only those violations authorized by Supreme Court Rule 37.49(c). It shall be prominently displayed at the place where fines are to be paid. The Court Administrator shall periodically communicate with the police department to ensure, where applicable, the schedule of fines and costs payable through the Violation Bureau is provided to an accused at the same time as a violation notice. *(Source: Supreme Court Rules (“SCR”) 37.49 and 37.33(b).)*
4. Budget. The Court Administrator shall communicate regularly with the Judge and the City Finance Department (“*City*”) regarding any budget issues involving the Division. Any budget disputes shall be resolved through a settlement conference with the Presiding Judge, if necessary. The Court Administrator shall work with the City to identify associated fines and costs revenues for the purpose of the revenue calculations required by law. *(Source: Mo. Constitution, Article II; §479.359 RSMo; COR 13.)*
5. Advising Litigants of Their Rights in Court. The Court Administrator shall take necessary steps to ensure that defendants are given advice of rights pursuant to the SCR and MOS #9, including a “Notice of Rights in Municipal Division” form as approved by the Supreme Court. *(Source: SCR 37.47, 37.48, 37.50, and 37.58; MOS #9.)*
6. Compliance with Certifications and Reports to Auditors – Highway Patrol. The Court Administrator shall communicate with Missouri State Highway Patrol (“*MSHP*”), OSCA, and the Regional Justice Information System (“*REJIS*”) to be compliant with their policies and management agreements regarding information, including terminal operations. The Court Administrator shall communicate with the Judge and with the City to facilitate compliance with requirements of other agencies with respect to the information systems provided to the Division.

B. **Applicable Local Circuit Court Rules.**

NOTE: The following eight provisions are not “operating orders,” but in the nature of local court rules, are included here for convenience.

1. Court Administrator. The Court Administrator (or, as known in some Divisions, the “Court Clerk” or “Division Clerk”), shall be the chief administrator of the Division. The Court Administrator and all Deputy Clerks, shall be responsible for the orders contained in Parts I, II and III, except when such orders are applicable only to the Judge, to the Prosecuting Attorney, to the Prosecuting Attorney’s Clerk, or to other personnel other than the Court Administrator. The Court Administrator shall, when applicable, cooperate with the City to assist the Court Administrator to effectuate applicable provisions of this Order. To the extent not prohibited by the MOS, or other relevant law or rule, the Court Administrator

shall cooperate with the Prosecuting Attorney's Clerk, the police department, and the City.

2. Minor Traffic Violations – Special Rule. The Court Administrator shall clearly mark the jacket or outside of case files which fall under the current definition of “Minor Traffic Violations” so that the Division may readily recognize such cases when handling the file. The Court Administrator shall communicate with the Division, and with the Prosecuting Attorney's Clerk and Prosecuting Attorney, so that all court personnel are aware of the limitations with respect to fines, costs, and other conditions imposed upon the Division by legislation. (*Source: §§479.353 and 479.360 RSMo.*)
3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. (*Source: §§479.350(4) and 479.353(1)(b) RSMo.*)
4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney's Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator's Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator's office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in Section 610.120 RSMo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (“*SATOP*”), or the defendant found not guilty) that contain confidential information. The Court Administrator, on behalf of the Judge, shall

request the city provide adequate and secure file cabinets for the retention of confidential records and closed files. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. (*Source: §§566.226, 610.105 and 610.120 RSMo; Section 5.1 of Clerk Manual.*)

- b. Confidentiality of SATOP Programs. If the Division orders the defendant to participate in a SATOP program, the Court Administrator shall file all documents received from the program provider in the case file, and all documents relating to the program assessment, assignments and completion shall remain confidential. (*Source: 42 CFR Part 2, 42 U.S.C. 290 dd-3.*)

- 7. Record Retention and Destruction. The Court Administrator shall retain all Division records unless there shall be an order signed by the Presiding Judge of the Circuit Court to destroy same. The Court Administrator shall follow COR 8 and the City shall cooperate with the Court Administrator to follow a regular schedule to destroy and/or transfer cases eligible for transfer or destruction in accordance with COR 8. The Court Administrator shall abide by those recommended procedures set forth in Chapter 5 of the then current Clerk Manual. All requests to destroy or transfer records shall be signed by the Presiding Judge. (*Source: COR 8; Section 5.2 of Clerk Manual.*)
- 8. Conflicts. In order to comply with the requirements of MOS #5, the Judge, in cooperation with the Court Administrator shall, as far as practicable, manage a conflict plan enacted by the Judge, in order to ensure there are no judicial conflicts as prohibited by SCR. The Judge shall recuse himself/herself in all instances when required to do so. Further, the Division, Court Administrator, and other non-judicial personnel shall not perform any functions which constitute an actual or apparent conflict of interest with the impartial performance of their duties. (*Source: SCR 37.53(b)(2); MOS #5 and #7.*)

C. **Reporting Requirements of the Municipal Division.**

- 1. Reporting to the City. Unless substituted with the report required under COR 4.28, within the first ten (10) days of each month, the Court Administrator shall submit to the City Clerk copies of the dockets of all cases heard during the preceding month by the Division and those cases in which there was an application for a trial de novo. If a record is closed under Chapter 610, RSMo., the Court Administrator shall not include the name of the defendant in the monthly report. For all cases that are nolle prossed, dismissed, or those in which the defendant is found not guilty, the Court Administrator shall supply all the required information, but black out the defendant's name. The Court Administrator may, pursuant to the authority in COR 4.29, substitute submission of the dockets to the City Clerk with the report required to be sent to OSCA under

COR 4.28. (Source: §§479.080.1 and 479.080.3 RSMo, COR 4.28 and 4.29; Section 1.4 of Clerk Manual.)

2. Reporting to the Department of Revenue.

- (a) Case Disposition. The Court Administrator shall report case disposition information on all moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence, all convictions while driving a commercial motor vehicle, including commercial driver's license holders driving a personal vehicle, to the Missouri Department of Revenue ("**DOR**"). The Court Administrator shall abide by the "Case Processing Procedures" found in Chapter 3 of the then current Clerk Manual published by OSCA. The Court Administrator shall ensure that the disposition is received by the DOR within seven (7) days of the disposition. If defendant requests a *trial de novo* within the ten (10) day period after judgment against defendant, then the DOR shall not receive the disposition. (Source: §§302.225.1 and 577.051 RSMo; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into the automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information to electronically provide to the DOR. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem logs.

[2. Divisions Using an Automated Case Management System Approved for Local Use and Approved for Electronic Reporting to the Department of Revenue]

The Court Administrator shall insure the accuracy of data entered into the automated case management system and ensure required reporting information is transmitted electronically in a format approved by the DOR.

[3. Divisions Not Using an Automated Case Management System or Using an Automated System Not Approved for Electronic Submission to Department of Revenue]

The Court Administrator shall complete the report by submitting a completed "Abstract of Court Record," portion of the Uniform Citation, or by submitting a

completed “Record of Conviction” form referenced in SCR form 37.B – *Record of Conviction*. (Source: SCR 37.B.)

- (b) Crime Victims Compensation Fund. The Court Administrator shall cause a \$7.50 Crime Victims Compensation Fund (“CVC”) surcharge to be assessed on all non-moving and moving traffic violations and all other non-traffic municipal ordinance violations, unless the case has been dismissed, or costs have been waived due to the Division finding the defendant indigent. The Court Administrator shall forthwith cause the CVC charge to be reported to the DOR and disbursed as follows:

95% (\$7.13 of each fee) shall be sent to the DOR no less than monthly and 5% (\$.37 of each fee) to the general fund of the City in accordance with IV.C, *infra*. (Source: §§488.5339 and 595.045.6 RSMo.)

The Court Administrator shall be familiar with and abide by those provisions set forth in Sections 4.2 and 4.3 of the then current Clerk Manual.

- (c) Abuse and Lose Procedures. In the event that the Judge shall enter an order suspending or revoking the defendant’s driving privileges under the Abuse and Lose law, the Court Administrator shall, within ten (10) days of the order, send any Missouri license surrendered to the Division, along with the certified copy of the Order of Suspension on the official DOR form, to the DOR. The Court Administrator shall follow those procedures regarding Abuse and Lose reporting as set forth in Section 3.8 of the then current Clerk Manual. (Source: §§577.500 through 577.505 RSMo.)
- (d) Failure to Appear or Pay – License Suspension. The Court Administrator shall notify defendants within ten (10) days of that defendant’s failure to dispose of a moving traffic violation, that the Division will order the DOR to suspend that defendant’s license in thirty (30) days, if the charges are not disposed of or fully paid. This provision shall not apply to Minor Traffic Violations as defined in Section 479.353 RSMo (2015). For such violations for which a notice may be sent to defendants, such notification shall not be sent until a summons has been mailed to the defendant and defendant thereafter shall fail to appear. On non-Minor Traffic Violation cases that apply, the Court Administrator shall send the Failure to Appear or Pay Traffic Violation (F.A.C.T.) form to the DOR when a defendant has failed to appear on a court date after a summons has been issued to the defendant, when the defendant fails to appear on a subsequent court date to which the case has been continued, or, when the defendant, without good cause, fails to pay any fine or costs assessed against him or her.

Upon payment of all fines and costs, or, if earlier ordered by the Judge, a compliance notice on forms approved by the DOR shall be issued to the

defendant, and the Court Administrator shall forthwith advise the DOR of such compliance. (Source: §§302.341 and 427.353 RSMo; Section 3.5 of Clerk Manual.)

- (e) Withholding Renewal of License. In the event a defendant shall fail to appear when ordered, and without being first granted a continuance, and appropriate summons to follow the failure to appear, the Court Administrator shall notify the DOR within ten (10) days of the failure to appear, by using the “Lieu of Bail” form provided by the DOR, except such notification shall not be required if the Court Administrator has utilized the notification procedures set forth in Paragraph 5, *supra*. When the case is disposed of, the Court Administrator shall report the disposition as on any other traffic case. (Source: §544.045.4 RSMo; Section 3.5 of Clerk Manual.)
- (f) Non-Resident Violator Program. In the event a defendant who is not a resident of Missouri fails to appear, the defendant shall be notified by regular mail and given a specific amount of time to dispose of the traffic ticket before notification is made to the DOR. If defendant fails to comply, the Court Administrator shall forward the Non-Resident Violator Compact (NVRC) Form provided by the DOR, to the Compact Administrator at the DOR. This provision shall be in effect for non-resident defendants from all other states in the United States which are members of the Non-Resident Violator Compact. (Source: §544.046 RSMo; Sections 3.5 and 3.6 of Clerk Manual.)
- (g) Driver Improvement Programs. In the event that the Judge has ordered a non-CDL holder defendant to complete the Driver Improvement Program, the Court Administrator shall send notice of its completion to the DOR within fifteen (15) days of Program completion. The Court Administrator shall not send any notice of the Driver Improvement Program if the moving traffic violation has been amended to a non-moving violation by the Prosecuting Attorney. (Source: §302.302 RSMo; Section 3.7 of Clerk Manual.)
- (h) Ignition Interlock Device. When the Judge shall order the use of an ignition interlock device (“*IID*”), the Court Administrator shall forthwith send the Order to install the IID to the DOR properly executed, containing the requirements for the period of the use of the IID. (Source: §§577.600 through 577.614 RSMo; Section 3.2 of Clerk Manual.)

3. Reporting to OSCA.

NOTE: For the judge authoring the order, three options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the

type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information as provided by COR 4.28. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system and filing and disposition exception reports. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[2. Divisions Using an Automated Case Management System Approved for Local Use]

The Court Administrator shall insure that required reporting information is transmitted either electronically or manually in a format according to provisions of COR Rule 4.28. The Court Administrator shall insure the accuracy of data entered in the case management system. This information shall be submitted to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

[3. Divisions Not Using an Automated Case Management System]

The Court Administrator shall complete and deliver the "Municipal Division Summary Reporting" form to OSCA no later than the 15th day of each month, with data completed from the previous month's Division activity. This data shall be delivered by e-mail or fax to OSCA on the then current form provided by OSCA. The Court Administrator shall complete the form in accordance with the instructions submitted from time-to-time by OSCA, and as contained in the then current Clerk Manual. A copy of the OSCA form shall be submitted to the Judge each month. (Source: COR 4.28; Section 1.4 of Clerk Manual.)

4. Reporting to the MSHP (Criminal History Reporting including Intoxication-Related Traffic Offenses, "Fingerprint Cards").

The Court Administrator shall report to the MSHP any violations of municipal ordinances involving alcohol or drug related driving offenses or any violations deemed to be "comparable ordinance violations" as defined by Section 43.503 RSMo and as listed in the Missouri State Charge Code Manual. The Court Administrator shall report violations without undue delay or within 30 days of case disposition.

At any court appearance for any reportable offense, the Court Administrator shall inform the Division that the defendant needs to be fingerprinted and photographed, if not already obtained. The order for fingerprints shall contain the

offense, charge code, date of offense and any other information necessary to complete the reporting.

For any reportable violation, the Court Administrator shall report to the MSHP a record of all charges filed, including all those added subsequent to the filing of the case, amended charges, and all final dispositions of cases where the central repository has a record of an arrest. The Court Administrator shall abide by reporting requirements found in Sections 1.4 and 3.3 of the then current Clerk Manual. (*Source: §§479.172, 43.503 RSMo; Sections 1.4 and 3.3 of Clerk Manual.*)

Dispositions that must be reported to the MSHP are:

- Not guilty, dismissed, nolle prossed or acquittal
- Plea of guilty or finding of guilt
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide Use]

The Court Administrator shall insure the accuracy of data entered into an automated case management system approved for statewide use by the State Judicial Records Committee, so that OSCA can automatically extract required reporting information and forward it to the MSHP. In an effort to comply with this requirement, the Court Administrator shall actively review and correct data errors identified through the case management system's problem log reports. (*Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.*)

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

The Court Administrator shall insure that required reporting information is transmitted manually by completing and sending to the MSHP the Prosecutor Action and/or Court Action Segment(s) of the State Criminal Fingerprint Card, which contains an Offense Cycle Number (OCN), pursuant to Section 43.506 RSMo. (*Source: §§ 43.503 and 43.506 RSMo; Sections 1.4 and 3.3 of Clerk Manual.*)

The Court Administrator shall provide any information received by the Division Administrator to the Judge, so that the Judge shall comply with the statutory

requirement to receive “adequate instruction on the laws related to intoxication-related traffic offenses.” (Source: §479.172.1 RSMo.)

5. Reporting Intoxication-Related Traffic Offenses to Circuit Court en Banc

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in that Division. The Division shall submit said report to the Circuit Court en Banc. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court en Banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day period to submit the report following the end of the reporting period as there is for the report to the Circuit Court en Banc. (Source: §479.172.3 RSMo; MOS; Section 1.4 of Clerk Manual.)

NOTE: For the judge authoring the order, two options for reporting are listed below. Retain only the appropriate section [minus text in brackets] that applies to the type of case management system operating in the Division. The other sections, as well as this note, should be deleted.

[1. Divisions Using Automated Case Management System Approved for Statewide]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall run the Report.net reports described in Chapter 1 of the then current Clerk Manual and complete the “Municipal Division Summary Reporting Form.” The Court Administrator shall send the “Municipal Division Summary Reporting Form” along with a cover letter to the Presiding Circuit Judge to meet the semi-annual reporting requirement to the Circuit Court en Banc.

[2. Divisions Using an Automated Case Management System Approved for Local Use or a Manual Case Management System]

Unless instructed by the circuit court to provide additional information or report in a different manner, the Court Administrator shall use the “Municipal Division Summary Reporting Form” that is submitted monthly to OSCA to meet the semi-annual reporting requirement to the Circuit Court en Banc. The Court Administrator shall make copies of each month’s report for the required reporting period and send along with a cover letter to the Presiding Circuit Judge.

6. Reporting to OSCA and MSHP (Intoxication-Related Traffic Offense Written Policy)

The Court Administrator shall provide a signed copy of this Order to the MSHP and OSCA at the addresses shown below. If any revisions are made to this Order, the Court Administrator shall provide a revised copy to the MSHP and OSCA. (Source: §479.172 RSMo; Section 1.4 of Clerk Manual.)

Addresses and facsimile numbers where copies shall be sent are:

Office of State Courts Administrator
Attention: Court Services Division, DWI Reporting Policy
P.O. Box 104480
2112 Industrial Drive
Jefferson City, Missouri 65110
Fax: 573-522-5961

Missouri State Highway Patrol
Criminal Justice Information Services Division
P.O. Box 9500
Jefferson City, Missouri 65102
Email: mshpcjis@mshp.dps.mo.gov

7. Reporting to the Presiding Circuit Judge. The Court Administrator shall meet with the Judge to review the “Minimum Operating Standards Form” to be submitted semi-annually to the Presiding Circuit Judge, to ensure compliance with the items to be certified in such Form. (Source: MOS #10.)
8. Reporting to State Auditor. The Court Administrator shall meet and confer with the Judge to ensure that the City shall timely file with the State Auditor, together with the City’s report due under Section 105.145 RSMo, the City’s certification of its substantial compliance signed by the Judge with the Division procedures set forth in Section 79.360.1(1)(10) RSMo. The Court Administrator and the Judge shall meet periodically to review the provisions of Section 479.360(1) in order to ensure compliance with the State Auditor requirements.
9. Reporting to Judge. The Court Administrator shall assemble the reports submitted to DOR, the MSHP, OSCA, the Presiding Circuit Judge, and the State Auditor, and maintain same in a file for periodic review by the Judge, so that the Judge is aware that all reporting requirements have been complied with for the previous period.
10. Reporting to the Department of Insurance. The Court Administrator shall report all unsatisfied judgments against bail bond agents and sureties, and subsequent satisfactions of those judgments, to the Department of Insurance. The Court Administrator shall utilize those procedures set forth in the Clerk Manual. (Source: § 374.763 RSMo; Section 2.3 of Clerk Manual.)

D. **Fines, Division Costs, Surcharges and Fidelity Bonds.**

1. **General Rules.**

- (a) The Court Administrator shall utilize his/her best efforts so that on each case adjudicated by the Judge, the Judge's appropriate fines are assessed and general Division costs are assessed only in the amounts set forth by statute or ordinance. These shall include CVC surcharges, police officer standard and training commission ("**POST**") surcharges, law enforcement training fine ("**LETF**") surcharges, recoupment, and other legal surcharges as set forth by law and city ordinance. Those fines and costs that shall be collected shall be remitted timely to the City, and to the DOR respectively, in accordance with this Order. (*Source: MOS #4.*)
- (b) The Court Administrator shall use the OSCA Cost Card on municipal division costs as a reference. Dismissal upon payment of costs shall not be permitted. Division costs shall not be assessed against indigent defendants, as per law. (*Source: §479.353(4)(5) RSMo; MOS #4.*)
- (c) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. (*Source: §479.360.1 RSMo; MOS #2 and #4.*)
- (d) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall have other forms as available from OSCA to comply with requirements by law. (*Source: §479.360.1 RSMo; Rule 37.65; MOS #2.*)

2. **Overpayment.** The Court Administrator is not required to refund any overpayment of court costs of less than \$5.00. The Court Administrator is not required to pursue collection of underpayments of court costs of less than \$5.00. Any overpaid court costs may be retained by the City for operation of the Division. The Court Administrator shall pay such overpaid funds to the City on a regular basis.

(*Source: Court Cost: City Ordinance; CVC: §§488.5339. and 595.045 RSMo; POST: §488.5336 RSMo; LETF: §488.5336 RSMo.; Overpayments/Underpayments: §488.014 RSMo.*)

3. **Receipts for Payment of Fines, Division Costs and Surcharges.** The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual

receipts shall be issued and the payment shall be accounted for immediately following the restoration of the automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. (Source: COR 4.53 and Section 4.5 of Clerk Manual.)

4. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. (Source: MOS #6.)
5. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. (Source: §479.359, RSMo.)
 - (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other city personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. (Source: COR 21; Section 4.5 of Clerk Manual; MOS "Open Records and Other Recordkeeping Matters" and "Financial and Bookkeeping" provisions.)
6. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. (Source: Section 4.5 of Clerk Manual; MOS "Financial and Bookkeeping" provisions.)

E. **Surety Bonds and Confinement.**

1. **Bond Qualifications.** The Court Administrator shall keep a list of those sureties who have qualified to post surety bonds. No person shall be accepted as a surety on any bail bond unless he or she is licensed by the Department of Insurance. *(Source: SCR 37.29 and §374.710 RSMo.)*

No lawyer, elected or appointed official or municipal or state employee shall be accepted as a surety on any bond unless related to the defendant.

2. **Cash Bond Schedule.** Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:
 - (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
 - (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the “24 hour Rule,” as described in Section 544.170.1 RSMo, relating to the right to review of conditions for release when no “conditions for release” have been imposed.
 - (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

(Source: §§479.360.1, 479.360.2, 544.170.1 RSMo; SCR 37.1, 37.20 and 37.65; MOS #1.)

3. **Unclaimed Bond Funds and other Funds.** The Court Administrator shall follow those procedures set forth in the then current Clerk Manual to pay to the State Treasurer’s Office Unclaimed Property Division, all funds unclaimed for three (3) years and cash bonds unclaimed for one (1) year, from the date the bond was due back to a person. The Court Administrator shall send a letter of notification and otherwise reasonably attempt to contact the person and return the funds. Said report shall be sent to the State Treasurer’s Office by November 1st of each year, and the Court Administrator shall remit said unclaimed funds with the report. The Court Administrator shall request the City assist in processing, reporting and remitting to the State Treasurer. *(Source: §§447.532, 447.539. and 447.595 RSMo; Section 4.4 of Clerk Manual.)*

F. **Warrants.**

1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. (*Source: SCR 37.45.*)
2. The Court Administrator shall work with the Judge to create procedures to ensure that the recall and cancellation of all outstanding warrants is communicated to the police department by the Court Administrator without delay. The Court Administrator shall coordinate with the police department and the Judge to make sure there is a duty judge available at all times to rule promptly upon warrants, bails, conditions, and pretrial release, and other matters. (*Source: Chapter 2 of Clerk Manual; MOS #1.*)

G. **Administrative Search Warrants.** The Court Administrator shall keep the application and any supporting affidavits, and a copy of all search warrants issued by the Judge in the records of this Division. (*Source: Chapter 542 RSMo; Section 2.11 of Clerk Manual.*)

[*NOTE: Section G is only applicable for Divisions that have city ordinances allowing the issuance of administrative search warrants.*]

H. **Accounting Procedures.** The Court Administrator shall to the fullest extent possible, abide by those accounting procedures as are mandated by law, and in particular as are set forth in Chapter 4 of the then current edition of the Clerk Manual. (*Source: §§479.080, 479.350, 479.353, 479.359, 483.075, and 483.082 RSMo; Chapter 610 RSMo; SCR 37; MOS “Financial and Bookkeeping” provisions; COR 4, 8 and 21.*)

In particular, the Court Administrator shall work with the Judge and the City, to ensure that the “Financing and Bookkeeping” provisions of MOS are abided by as far as can be practicably accomplished.

I. **Marriage Records.** If the Judge performs marriages, the Court Administrator shall communicate with parties desiring to have a marriage solemnized by the Judge. The Court Administrator shall require that the parties provide a marriage license and a Certificate of Marriage blank form to the Court at least ___ days [*NOTE: Number of days should be entered by local court based on local need*] before a scheduled wedding to ensure adequate review of such license.

The Court Administrator shall assist the Judge in completing the license and the Certificate of Marriage. The Court Administrator shall retain a full record of the solemnization performed by making a copy of the completed marriage license and a copy of the executed Certificate of Marriage, and keeping both documents in a permanent binder or folder. The Court Administrator shall cause the executed marriage license return to be sent to the appropriate licensing official as soon as possible, but not later than 10 days after the marriage is performed. (Source: §§451.110 through 451.130 RSMo, COR 14)

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

A. General Rule.

1. Division Shall be Open to the Public. The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (Source: §479.360.1 RSMo; MOS #8.)
2. Opening of Division Doors. Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division's docket, unless a different order of the Division shall specify otherwise.
3. No Refusal of Entry. Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division 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. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

B. Exceptions and Limitations to the Above General Rules Regarding Open Division.

The Division recognizes and shall abide by the provisions of Sections 476.170, 479.060, 479.360 and 479.060 RSMo and MOS #8, requiring that the courtroom be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The following are limited exceptions to this General Rule, as set forth in Paragraphs 1 through 5 below:

1. Disruptive Persons. If any person attending a Division session shall become disruptive in any manner, including, but not limited to, talking in anything other

than a respectful whisper, creating other noise, not remaining seated, or in any other way becoming disruptive as observed by the Division personnel, that person shall be first cautioned by Division personnel, and if the offensive conduct is not immediately corrected, removed from the courtroom. The name of any defendant associated with the disruptive person shall be recorded. The defendant may be allowed to stay outside until the Judge permits re-entry to take up defendant's case.

2. Persons under the Clear Influence of Alcohol or Drugs. If any person attending a court session shall appear to Division personnel to be clearly under the influence of alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the courtroom.
3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.
4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division 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 _____.

When it appears to the Division during any single Division session, that there will be more persons attempting to enter the courtroom than are permitted under the Fire Code, then the Division shall take such appropriate action as would be consistent with all legal and constitutional requirements.

5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:
 - (a) When a child becomes noisy or will not remain seated, the parents or guardians 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 Division.

- (b) The Division may exclude children if the nature of a matter being heard may be, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 RSMo; MOS #8.)

- C. **Closing of the Courtroom.** Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defense counsel desires to close the courtroom during any particular motion or trial, the Division will conduct a brief hearing on whether to enter an order to close the proceedings. Guidelines for such closure shall be as follows:

1. 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 the accused's right to a fair trial, the proponent must show a "serious and imminent threat" to that right.
2. Anyone present in the courtroom when the closure motion is made, must be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the threatened person's interest.
4. This Division will weigh the compelling interest of the proponent of closure and the public.
5. The order shall be no broader in its application or duration than necessary to serve its purpose.

See: State v. Bone-Club, 128 Wn.2d 254, 906 P.2d 325 (Wash. 1995) and *State v. Salazar*, 414 S.W.3d 606 (Mo. App. 2013)

- D. **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, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

- A. **Fax and Electronic Memoranda.**

1. This Division shall be always open for purposes of receiving faxes, electronic entries of appearance and motions. Notwithstanding, entries of appearances and motions for continuances shall be submitted for any particular court session no later than twenty-four (24) hours prior to the scheduled court date.

2. Requests for warrant recall may be submitted by fax.

B. **Access to Division Files.** Members of the public, news media and attorneys of record shall have access to open Division records. There shall be an exception that requests to review files not on the docket must be made prior to the start of Division docket proceedings. The Court Administrator shall not be required to pull files not on the docket during Division sessions unless there is sufficient time to do so. (*Source: Chapter 610 RSMo; COR 2 and 4; MOS #8.*)

C. **Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to interpret any proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (*Source: §§476.750-476.766 RSMo.*)

SO ORDERED:

DATE _____

Judge, City of _____



Presiding Judge's Report of Municipal Division to the Supreme Court of Missouri

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Presiding Judge: | Circuit: |
| Total Number of Municipal Divisions Judge Presides Over: | |
| <p style="text-align: center;">Any municipal division change must be reported within 90 days of the action.</p> <p>Report of:</p> <p><input type="checkbox"/> Existing</p> <p><input type="checkbox"/> Discontinued</p> <p><input type="checkbox"/> Newly Established</p> <p><input type="checkbox"/> Transferring into the Associate Division</p> <p><input type="checkbox"/> Contracting with another Municipal Division</p> <p>Enter name of division: _____</p> | |
| Name of Municipality: | |
| Case Management System Used: | |
| County: | |
| Name of Municipal Division (if different than name of municipality): | |
| Mailing Address of Municipal Division: | |
| Physical Address of Municipal Division: | |
| Name of Municipal Division Judge(s): <input type="checkbox"/> Judge(s) is an attorney | |
| Municipal Division Clerk or Contact Person: | |
| Telephone Number of Municipal Division Clerk or Contact Person: | |
| <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 45%; text-align: center;">_____ Date</div><div style="width: 45%; text-align: center;">_____ Presiding Judge Signature</div></div> <p style="margin-top: 20px;">E-mail completed form to: Designation.MunicipalDivisions@courts.mo.gov</p> | |



Judge's Report to the Presiding Circuit Judge of Municipal Division Compliance with Minimum Operating Standards

| | |
|------------------|---------|
| Municipal Judge: | County: |
|------------------|---------|

By January 1 and July 1 of each year, every Municipal Judge, Substitute Judge, or Provisional Judge shall certify to the Presiding Circuit Judge of the County compliance with the Minimum Operating Standards.

| |
|---------------------------------------------------|
| Municipal Division: |
| Any Substitute or Provisional Judges: |
| Address where municipal division is held: |
| Dates and times where municipal division is held: |
| Municipal Division phone number: |
| Judge Contact Number: |
| Judge E-mail: |
| Clerk E-mail: |

I, _____, certify that this municipality complies with the following minimum operating standards together with all other minimum operating standards as approved by the Supreme Court of Missouri:

☐ Judge has received instruction on laws related to intoxicated-related traffic offenses. Section 479.172.01.

☐ A written policy for reporting intoxication-related traffic offenses to the central repository has been adopted and provided to OSCA and the highway patrol. Section 479.172.1 and 2.

☐ A copy of this written policy for reporting intoxication-related offenses to the central repository has been provided to the presiding circuit judge.

☐ Warrants are signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. Rule 37.45

☐ Judge complies with Rule 37.47: Initial Proceedings before the Judge, including:

- o Arraignment as soon as practicable if defendant has not satisfied conditions for release.
- o Judge shall inform the defendant of the:
 - Ordinance violation charged,
 - Right to retain counsel,
 - Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,
 - Right to remain silent,
 - Fact that anything that the defendant says may be used against him or her.

☐ Judge complies with Rule 37.48: Arraignment

- o Arraignment shall be conducted in open court.
- o Judge reads the information to the defendant or states the substance of the charge.
- o Municipal division calls upon the defendant to plead there to.
- o Defendant shall be afforded a reasonable time to examine the charge before the defendant is called upon to plead.

- ☐ Judge complies with Rule 37.50: Right to Counsel
- If conviction for an ordinance violation could result in confinement, the judge advises the defendant of the right to counsel and willingness of the judge to appoint counsel to represent the defendant.
 - Upon a showing of indigency, judge appoints counsel to represent the defendant.
 - Judge allows the defendant to proceed without counsel if the judge finds that the defendant has knowingly, voluntarily, and intelligently waived the right to counsel.
 - If it appears during the proceedings that because of the gravity of the ordinance violation charged and other circumstances that failure to appoint counsel may result in injustice, the judge then appoints counsel. Judge gives said counsel reasonable time to prepare.
- ☐ Choose one of the following:
- ☐ The municipal division allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets. The municipal division website is _____.
- OR
- ☐ The municipal division is actively pursuing court automation for compliance with payments online and making free, online access to information about pending cases, outstanding warrants, and schedule municipal division dockets is scheduled to be in place by _____ (estimated date).
- ☐ Courtroom facility is sufficient for the purpose of a courtroom.
- Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
 - The facility chosen for the municipal division takes into consideration the safety and comfort of the public, parties, and lawyers.
 - The facilities chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.
- ☐ Following applicable law, the judge relinquishes jurisdiction over a case when a motion to disqualify, motion for jury trial, or motion for trail de novo is filed.
- ☐ When a case is transferred to circuit court, the transfer occurs within 15 days.
- ☐ Judge has certified substantial compliance with section 479.360.1(1 to 10), RSMo, and provided signed certification to the governing body in compliance with the state auditor's rules and procedures. Section 479.360.1 and 2. Additionally, the judge complies with the following provisions of section 479.360.1:
- Procedures exist to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.
 - The municipal division has made reasonable efforts to communicate to local law enforcement the 24-hour rule: "Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest." See also section 544.170.1, RSMo.
 - Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Rule 37.65.
 - The municipal division inquires of defendants and allows them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.
 - The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
 - Alternative payment plans are utilized. See also Rule 37.65(a)(1)(2).
 - Community service is utilized with no fee assessed to the defendant.
 - For minor traffic violations, procedures exist for electronic payment or payment by mail.
- ☐ Municipal division provides to the municipality adequate information for the municipality to determine excessive revenue calculations to the state auditor.

☐ If judge is a lawyer, complete Section A. If judge is non-lawyer, complete Section B.

Section A

☐ If judge is a lawyer, the lawyer has completed each of the following:

- MJEC orientation course within 12 months after beginning service. Rule 18.05(d).
- Five hours of judicial CLE annually. Rule 18.05(a).
- Two hours of judicial ethics CLE annually. Rule 18.05(b).
- CLE compliance form is submitted to the circuit court presiding judge.
- If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

Section B

☐ If judge is a non-lawyer judge, he or she has completed each of the following:

- Course of instruction administered by the MJEC within six months after selection. Rule 18.04; section 479.020, RSMo.
- 15 hours of judicial CLE annually. Rule 18.05(a).
- Two hours of judicial ethics CLE annually. Rule 18.05(b).
- CLE compliance form is submitted to the circuit court presiding judge.
- If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

☐ Judge has read the Supreme Court's "Minimum Operating Standards for Missouri Courts: Municipal Divisions" and substantially complies with the remaining minimum operating standards.

☐ Judge has attached to this certification the following:

- Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court *en banc*,
- Substantial compliance certification with section 479.360.1(1 to 10),
- CLE compliance forms.

I hereby certify that my municipal division has complied with all of the above minimum operating standards terms.

Date

Signature

| | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--|
| State of Missouri | | INFORMATION | | Case Number: | |
| <div>CITY OF _____ Plaintiff, v. _____ _____ _____ Defendant. Date of Violation(s): _____</div> | | | <div>Ordinance Violation(s) charged: _____ _____ _____ Penalty: Code Section _____ Fine for Minor Traffic Violations shall not exceed \$225.00 including court costs Maximum Fine for Nuisance/Zoning Violations is between \$200.00 and \$450.00 depending on number of violations during 12 month period The penalty for all other cases is a fine not exceeding \$1,000.00 or imprisonment not exceeding 90 days, or both such fine and imprisonment</div> | | |
| <div>_____, prosecutor for the City of _____, Missouri, on his/her own knowledge or information and belief or upon complaint duly filed, charges that on _____ day of _____, 20____, the above defendant: _____ _____ _____ _____ _____ _____ _____ _____ _____ in violation of Section(s) _____ and punishable upon conviction under Code Section _____ as set forth above plus the costs of court.</div> | | | | | |
| DATE: | | | PROSECUTOR'S SIGNATURE | | |

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

CITY OF _____,)
) Cause No. _____
v.) _____
) _____
_____) _____
) _____
Defendant.)

MEMORANDUM OF PLEA AGREEMENT

COMES NOW, the Municipal Prosecutor and Defendant, individually or by counsel, and agree upon the following disposition in the above-referenced cases and submit such agreement to the Municipal Court for approval. Defendant has represented that he/she is not indigent. Defendant agrees that this plea agreement shall be null and void if Defendant does not fulfill the agreement as stated.

Charge: _____
___ As charged ___ Nolle Pros ___ Amended to _____
Fine: _____ Payment Date: _____
___ Other: _____

Charge: _____
___ As charged ___ Nolle Pros ___ Amended to _____
Fine: _____ Payment Date: _____
___ Other: _____

Charge: _____
___ As charged ___ Nolle Pros ___ Amended to _____
Fine: _____ Payment Date: _____
___ Other: _____

DEFENDANT/COUNSEL

MUNICIPAL PROSECUTOR

Date: _____

SO ORDERED:

The Honorable _____
Municipal Judge
Date: _____

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
_____ MUNICIPAL DIVISION

CITY OF _____, MISSOURI,

v.

Defendant.

)
)
)
)
)
)
)

Case Number:

REQUEST FOR REIMBURSEMENT OF COSTS
PURSUANT TO § 488.5334 RSMO AND
§ _____ OF THE MUNICIPAL CODE

COMES NOW the Municipal Prosecutor and hereby request that this Court order the defendant to reimburse to the City of _____ Police Department the costs associated with the arrest made in this case. The outline of the reasonable cost of making the arrest, including the cost of any chemical test and the cost of booking, processing, charging and holding such person in custody, is shown on Exhibit A, attached hereto.

_____, # _____
Prosecuting Attorney
City of _____

SO ORDERED:

Judge

Dated