SUPPLEMENTAL

RULES OF PROCEDURE, RULES OF DECORUM

AND ADMINISTRATIVE RULES FOR

CIRCUIT COURT OF \_\_\_\_\_\_\_\_\_\_COUNTY, MISSOURI

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ MUNICIPAL DIVISION

Effective:

SUPPLEMENTAL RULES OF PROCEDURE, RULES OF DECORUM,

AND ADMINISTRATIVE RULES FOR CIRCUIT COURT OF \_\_\_\_\_\_\_\_\_\_COUNTY, MISSOURI

\_\_\_\_\_\_\_\_\_\_\_\_\_\_ MUNICIPAL DIVISION

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**Chapter 1**

**PURPOSE, GENERAL COURT OFFICE AND**

**COURTROOM RULES AND PROCEDURES**

* 1. **Purpose and Scope**

These rules shall be known as the Supplemental Rules of Procedure, Rules of Decorum and Administrative Rules (“Rules”) for the Circuit Court of \_\_\_\_\_\_\_\_\_\_\_\_ County, Missouri, Municipal Division, City of \_\_\_\_\_\_\_\_\_\_\_\_\_ (“this Court”).

These Rules have been promulgated to supplement Court Operating Order #4 (“COO #4”) with procedures and rules which are particular to this Court. These Rules are designed to comply with and abide by all statutes, Supreme Court Rules (“SCR”), in particular Rule 37.04, which contains the Minimum Operating Standards (“MOS”), the four statute-based sections of the MOS after MOS #10, hereinafter referred to as AT1, AT2, AT3 and AT4, the Code of Conduct for Municipal Division Personnel (“Code of Conduct” SCR 37.04, Appendix B), COO #4, and other provisions relating to municipal divisions. The MOS mandate that there be established nine certain specific “procedures” in each municipal division, which are included in these Rules, in Chapter 9. These nine procedures are referenced throughout the chapters of these Rules, and are published in Chapter 9.

SCR 37.04 requires municipal divisions “operate in substantial compliance with the Minimum Operating Standards which are included in Rule 37.04 as Appendix A.” These Rules shall implement the provisions of the MOS to apply to this particular Court. If there are any variations in these Rules from those in the Missouri statutes or the SCR, including the MOS, these Rules shall be subordinate to such statutes, rules or standards.

For brevity’s sake, the Court Administrator of this Court shall be known in these Rules as the “Clerk.” The assistant court clerks shall be obligated, when appropriate, to the same duties as the Clerk. Similarly, the Provisional Judge shall have the same duties and rights as this Court’s Presiding Judge.

* 1. **Court Office; Judge Always On Call**
1. Calendar. This Court shall, at least one year in advance, publish this Court’s dates and times for the upcoming year. The current docket shall be available to the public for each Court session as soon as it is published. (*Source: MOS #8*)
2. Judge’s Availability. A judge shall be generally available to preside over Court and emergency hearings, and a duty judge to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay. When this Court’s Presiding Judge is not available, it shall be the policy of this Court to alert the Provisional Judge to hold Court or to be on call as duty judge. If neither the Presiding nor the Provisional Judge is available, or a conflict of interest exists, the Judge or city official, if a judge is not available, shall file a request with the Presiding Judge of the Circuit Court to appoint a special judge. (*Source:* *MOS #1*)
	1. **Court Office Hours of Operation, Always Open for Certain Purposes, Court Days Opening**
3. Business Hours; Always Open for Certain Purposes. The Court Office shall be open and accessible to the public from \_\_\_\_\_\_\_\_\_\_ a.m. to \_\_\_\_\_\_\_\_\_ p.m. Monday through Friday, for the purpose of paying fines and providing information, with the exception of City-observed holidays or if closed due to inclement weather or other emergency ordered by the Mayor or other appropriate City official. Notwithstanding, the Court shall be deemed always open for the purpose of filing proper papers, issuance and return of process, making of motions, applications and orders, in accordance with SCR 37.10. (*Source: MOS #8*)
4. Opening of Courtroom on Court Days. The Court will open on the day of Court at \_\_\_\_\_\_\_\_\_ \_\_.m. to begin check-in of defendants. If additional dates or times other than the scheduled Court shall be necessary, the same shall be published on the bulletin board outside of Court and on the Court’s website. (*Source: MOS #8*)
	1. **Courtroom Rules**.
5. Open to All. The Courtroom is open to the public of all ages. It shall have sufficient seating to reasonably accommodate the public, parties, and attorneys. No one will be excluded except those persons described as permitted to be excluded in COO #4, Part IIB, or excluded for other good cause shown. (*Source: MOS #8*)
6. Signage. The Judge and the Clerk shall communicate with the City to assure that the Court’s exterior and interior signage, design, functionality, and other factors shall clearly convey the appearance to the public that the Court is a separate and independent branch of government. (*Source: MOS #7 and MOS #8*)
7. Americans with Disabilities Act. The Judge and Clerk shall receive certification from the City that the entrances and exits to the Courtroom facilities, and the Courtroom itself, comply with the requirements of the Americans with Disabilities Act. (*Source: MOS #6*)
8. Bench and Seating for Prosecutors and Defendants and Lawyers. The Judge’s bench shall be elevated from other seating in the Courtroom. The Prosecutor shall occupy a separate table and seating area away from the bench. The defendant (and defendant’s counsel) shall occupy another table and seating area away from the bench and separated from the table occupied by the Prosecutor. (*Source: MOS #8*)
9. Bailiff and Security. If this Court utilizes a Bailiff, then he or she shall be suitably dressed, but shall not wear clothing which in any way could cause the impression that the Bailiff is a part of the police department of the City or any other law enforcement unit. The police department shall provide security with uniformed personnel. (*Source: MOS #7*)
10. Rights in Court and Court Procedures – Information.

“Notice of Rights”. The form approved by the Missouri Supreme Court entitled “Notice of Rights for Defendant’s Appearing in Municipal Divisions” (“Notice of Rights”) shall be prominently displayed in the Court Office so that it can be read by persons outside the Clerk’s window or at the place that the Clerk transacts business with the public. SCR 37.04, Appendix C. (*Source:* *MOS #9*)

The Notice of Rights shall be made available as a handout to those appearing in the Courtroom. The Notice shall be included in the Court’s website as provided in these Rules. (*Source: MOS #9*)

***SEE PROCEDURE VII***

* 1. **Court Office Rules**.
1. **Maintenance of Records; Financial and Bookkeeping Duties of Clerk**. The Clerk shall maintain and preserve complete and accurate records, and shall abide by all provisions of COO #4, Part I – Administration of Municipal Division, Part A, General Administrative Procedures. The Clerk shall regularly review COO #4 to comply with all administrative procedures, local court rules, recordkeeping, and reporting requirements presented in COO #4, and all the financial bookkeeping and other requirements that are included in AT3 and AT4, including back-up of computer data and use of passwords as suggested in the AT. These Rules are intended to supplement, but not supplant, the requirements in COO #4, § 483 RSMo and in Court Operating Rules 2, 4 and 8. (*Source: AT3*)
2. **Website**. The Court shall manage its own website, which the Court shall maintain as part of the City’s website, or as a separate website that may be linked from the City’s website. The Court website shall continuously maintain up-to-date information, including the following:
3. address, court phone number, and hours of court;
4. courtroom procedures;
5. free on-line access to information regarding pending cases, outstanding warrants and scheduled municipal dockets, to the extent the court has access to court automation.
6. delayed payment and payment plans, including payment by electronic means;
7. community service;
8. Notice of Rights;

vii. Statement of Financial Condition, approved by the Missouri Supreme Court in SCR 69.01.

(*Source: MOS #6, MOS #9)*

1. **Electronic Payments or Payment by Mail**. The Court shall maintain a system so that payments may be made online or by mail for those cases, including “Minor Traffic Violations” as that term is defined in § 479.350(3) RSMo (“Minor Traffic Violations”), permitted by law to be paid out of Court without appearance, and for those cases in which a judgment has been entered and fine and costs are due. (*MOS #6*)

***SEE PROCEDURE VI***

1. **Violation Bureau**. The Court’s Violation Bureau Schedule of Fines and Costs shall process only those violations authorized under SCR 37.49(c). The Schedule shall be posted prominently on the wall outside the Court Office, or another appropriate place where fines are to be paid, so the public can clearly read the Schedule at all times. (*Source: SCR 37.49(d), AT2*)
2. **Separation of Functions-Clerks and Other Nonjudicial Personnel**.
3. Conflicts of Interest. The Clerk and all other nonjudicial personnel of this Court shall not perform any functions that constitute actual or apparent conflict of interest with the impartial performance of their judicial duties. Clerks of the Court may perform other functions for the City that do not conflict with judicial duties, but may not perform any work on behalf of the City police department nor the Prosecuting Attorney. The Clerks of the Court and other nonjudicial personnel when performing Court-related functions work solely under the direction and supervision of the Judge, the Circuit Court, and other appropriate officers of the judicial branch, as to the work being performed and the manner in which it shall be done. (*Source: MOS #7*)
4. The Judge, the Clerks, and other nonjudicial personnel shall report to the appropriate official any perceived informal pressure, formal discipline, firing or threats of non-retention or non-reappointment at the conclusion of term of office by any officer or administrator of the City designed to encourage or require the Court to operate in such a way as to maximize the municipal revenues of the Court, or to meet specified revenue targets. Notwithstanding, the Judge and Clerk may discuss with the City anticipated Court-related budget items each year to comply with Missouri law. (*Source: MOS #7*)
5. **Separate Filing Systems, Files and Work**. The Clerk shall follow guidance from the Presiding Circuit Judge, and the appointed court monitors, regarding separation of offices, files and duties between the Clerk’s Office and the and the Prosecuting Clerk’s Office. There shall be separate filing systems for the Clerk’s Court-related documents and Prosecutor-related documents. The Clerk and the Prosecutor’s Clerk shall communicate with one another to effectuate the separation of their offices, files and duties, in order to achieve the goal of separation of powers and the integrity of the judiciary as a separate and independent branch of government. The Clerk shall attend periodic educational meetings to assist in complying with this provision, and shall at all times be familiar with and abide by MOS #7 and other related rules. (*Source: MOS #7*)

**Chapter 2**

**GENERAL RULES OF PROCEDURE AND**

**DECORUM IN THIS COURT**

2.1 **Opening Procedure**.

Officers of this Court (with the exception of the Judge) and all other participants shall promptly enter the Courtroom before the scheduled time for each Court session. Complete order and silence shall be observed.

Promptly upon the scheduled time for the Court session to begin, the Bailiff shall direct all persons to their seats and shall cause the Courtroom to come to order. As the Judge enters the Courtroom, the Bailiff or the Clerk shall state: “All Rise.”

While everyone is still standing, the Bailiff or Clerk shall announce:

“The Municipal Division of the Circuit Court of \_\_\_\_\_\_\_\_\_\_County, City of \_\_\_\_\_\_\_\_\_\_\_\_\_\_ is now in session, the Honorable Judge \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ presiding. There will be quiet in the Courtroom. No smoking, eating or drinking will be permitted. If you have a cellphone or pager, please turn it off at this time. You may be seated.”

During opening announcements, the Judge shall present an overview of the Notice of Rights and advise defendants that if they have a question about those rights, to ask them before they come before the Judge. The Judge shall refer specifically to the Notice of Rights form which shall be available as a handout to all defendants. All announcements by the Judge that are intended for the benefit of all present, shall be communicated adequately so as to be heard throughout the Courtroom, and to the extent possible, such announcements are also communicated to those waiting outside the Courtroom or otherwise made available to them when they come into the Courtroom. (*Source: MOS #*9)

***SEE PROCEDURE VII***

2.2 **Recess**.

When the Judge announces a recess, the Bailiff or Clerk shall state: “All Rise.” All shall remain standing until the Judge leaves the Courtroom, whereupon the Bailiff shall announce: “The Court is now in recess.”

In reconvening after a recess, the Bailiff or Clerk shall call the Courtroom to order and request everyone to rise as the Judge enters, and shall state: “Court is again in session. Please be seated.”

2.3 **General Rules of Decorum**.

In the Courtroom, there shall be:

1. no smoking, use of tobacco products, including snuff, chewing tobacco, vapor or e-cigarettes;
2. no eating of food, drinking of beverages, or chewing and/or popping of gum;
3. no inappropriate attire, including short shorts, tank tops, sleeveless shirts, low pants with undergarments showing, or inappropriate “message” shirts;
4. no audible cell phones, pagers, or other electronic devices;
5. no bottles, cups or beverage containers except water, pitchers and cups, or as otherwise permitted by the Judge, for use by officers of the Court;
6. no loud noises;
7. no propping of feet on tables or chairs;
8. no noise or talking that interferes with Court proceedings;
9. no animals except service animals;
10. no standing in the Courtroom, including in front of the Bailiff or in front of the bench, except when addressing the Court or by direction of the Judge, or as necessitated by the business of the Court;
11. no gestures, facial expressions, or sounds indicating approval or disapproval of a ruling of the Court or a comment of a witness;
12. no unattended children under 15 in the Courtroom;
13. no hats or head coverings, including scarves, bandanas or do-rags, worn in the Courtroom unless such items are religious in nature;
14. no person other than the Presiding Judge, a peace officer or a security guard employed by the City and on duty, who has a current appropriate license, shall possess a weapon in the Courtroom.

This Court may exclude children, even if attended, only after following the provisions of COO #4 listing those appropriate occasions in which children will be removed from the Courtroom. Unless ordered strictly in compliance with the provisions of COO #4, children may remain in the Courtroom with their parents, regardless of age.

The Judge, the attorneys, Clerks, courtroom Bailiffs and other officers of the Court will refer to and address other Court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names.

All officers of the Court should dress appropriately for Court sessions. Attorneys who are not dressed in attire that is customarily expected of officers of the Court, shall be asked to leave the Courtroom and return when dressed appropriately.

2.4 **Conduct – Judge, Attorneys and Municipal Division Personnel**.

1. Judge. At all times, the Judge shall abide by the Code of Judicial Conduct applicable to municipal divisions, and in particular, shall disclose any possible judicial conflicts prohibited by SCR 37.53(b). The Judge shall immediately recuse himself/herself in all instances when required to do so pursuant to SCR 37.53(b) and by all other applicable judicial ethics rules. (*Source: MOS #5*)

***SEE PROCEDURE V***

Each judge in this Court shall complete all annual required judicial CLE, including judicial ethics CLE, and file the CLE compliance form as required by rule. Each judge shall also complete and timely submit the required semi-annual official MOS certification form to the Presiding Circuit Judge. (*Source: MOS #5*)

1. Code of Conduct for Municipal Division Personnel. All full-time, part-time and temporary employees of the Court shall be familiar with and abide fully with the Code of Conduct. The Judge, Clerk, and all other clerks associated with the Court shall periodically review and together discuss the provisions of the Code of Conduct with the goal of substantial compliance.
2. Attorneys, Including the Prosecuting Attorney. Attorneys shall observe the letter and spirit of the Canons of Ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Judge.
3. Attorneys shall advise their clients and witnesses of this Court’s Rules of Decorum that may be applicable.
4. All objections, arguments, and other comments by attorneys shall be directed to the Judge and not to opposing attorneys.
5. Attorneys shall not approach the bench without leave of Court and shall not lean on the bench.

2.5 **Appearance Required of All Attorneys, *Pro Se* Defendants and Witnesses**.

Prompt Appearance Required by Parties Attending Court. All parties shall be prompt in attending to all Court business and shall be in Court in time for announcements. The Prosecutor and defendant shall appear as required by law. All witnesses subpoenaed shall be present for trials.

2.6 **Interpreters, Visual Aids and Audio Aids**.

A motion or a request for an interpreter for hearing-impaired parties pursuant to the Americans with Disabilities Act, or a request for a foreign language interpreter pursuant to Title VI of the Civil Rights Act of 1964, shall be moved or requested as soon as practicable, but no later than when a plea is entered. Any parties seeking to use video or audio aids must provide their own necessary equipment and provide that request in writing to this Court.

**CHAPTER 3**

**PRE-TRIAL RELEASE AND BOND POLICY**

3.1 **Pre-Trial Release Policy**

1. General Pre-Trial Release.

No person detained or charged with an ordinance violation from the City shall be held more than 24 hours under any circumstances without a warrant having been issued for the person’s arrest. (*Source: MOS #1*)

This Court has adopted Procedure I, attached to these Rules and a true copy of such Procedure shall be on file with the City police department confirming that defendant in municipal custody shall not be held more than 24 hours unless they have been charged by the City, and held by a warrant to answer to such offense. (*Source: MOS #1 and § 544.170.1 RSMo*)

The procedure set forth in attached Procedure I shall further be discussed periodically among the Court, the Prosecuting Attorney and members of the police department, so that strict adherence to the law shall be observed and communication between Court officials and the police department is always open.

**SEE PROCEDURE I**

This Court shall not require a bond on any charge for which a warrant has not been issued. Notwithstanding that bond schedules are authorized by SCR 37.17, this Court does not utilize a bond schedule. Bonds, if used, shall be set solely by the Judge in individual cases, when appropriate and necessary, in accordance with Rule 37, the MOS, and these Rules.

1. Applications for a Bond.

In accordance with provisions of Rule 37, in particular Rule 37.15, and upon oral or written application by a police officer or other public official or from the Prosecuting Attorney, the Judge shall consider sufficient facts to show probable cause that an ordinance violation has been committed, and whether or not there are reasonable grounds for the Judge to believe that the defendant will not appear upon the summons, or a showing has been made that the person poses a danger to a crime victim, the community or any other person.

The Judge will determine the least restrictive bond conditions necessary to assure the defendant will appear at a future court date, or to protect crime victims, the community and other persons. The Judge shall issue specific written orders stating the conditions of release imposed and the conditions shall be given to the defendant by means of an approved form or approved bond form. (*Source: MOS #1*)

***SEE PROCEDURE I***

**CHAPTER 4**

**GENERAL RULES REGARDING TRAFFIC**

**AND ORDINANCE CASES**

4.1 **Filing Cases**.

Informations shall be signed by the Prosecuting Attorney, and shall be filed for each ordinance violation to be prosecuted. The Clerk shall be responsible to see that the Prosecuting Attorney has signed all tickets and informations before filing the same with the Court, and that the Prosecuting Attorney reviews and approves in writing all amended and dismissed tickets and other charges. (*Source: AT2 and AT3*)

4.2 **First Appearance; Waiver of Appearance; Payments Other Than in Court Office; Information to Accused at Time of Stop**.

1. Appearance. Unless otherwise directed, defendants shall appear in the Court on the date and time written on the citation or summons. Subsequent appearances will be as scheduled by this Court.
2. Waiver of Appearance. Defendants who wish to plead guilty to those violations permitted by SCR 37.49(c) to be paid out of Court in the Violations Bureau shall not be required to appear in this Court. (*Source: MOS #6*)
3. Payments by Website, in Person or Mail – Information to Persons Charged with Traffic Violations. Eligible payments may be made through the Court website, in person or by mail. Offenses payable without a Court appearance shall be listed on the Violations Bureau Schedule. The Clerk shall communicate with the police department to assure that traffic officers shall, with each traffic stop, provide persons charged with a written schedule of fines in the Violation Bureau, instructions on how to pay by mail, online or in person, and include payment envelopes. The Clerk shall also prepare a documents to be given by the police department to alleged traffic violators to include information regarding community service, traffic school, payment plans, submission of Statement of Financial Condition, and all information required by this Rule to be on the website of the Court. (*Source: MOS #6 and AT2*)

4.3 **Setting Cases**.

All “Not Guilty” pleas will be scheduled for trial as promptly as practicable. The Judge is responsible for setting hearings and trials in Court. A plea of “not guilty” may be filed with the Clerk on or before the court date on the citation or summons, and may be made in person or by mail, to the Court and the Prosecutor. The Court shall allow such pleas electronically if approved by the Judge.

The Clerk is herein authorized to permit one continuance per party, excluding cases where there has been a failure to appear, or when the case has already been set for trial. All other continuances shall be approved and/or granted only by the Judge.

1. Arraignment Docket.

Arraignment shall be conducted in open court. The Judge shall read the information to the defendant, or state the substance of the charge and call upon the defendant to plead. Each defendant in this Court will be afforded reasonable time to examine the charge before defendant is called upon to plead. (*Source: SCR 37.48*)

1. Procedures Regarding Defendant’s Rights When Appearing Under Warrant.

This Court shall follow those procedures set forth in SCR 37.47 when a person arrested under a warrant for an ordinance violation is brought before the Court. As set forth more fully in Section 6.4 of these Rules, defendants shall have the right to present evidence of their financial condition assessing their ability to pay and establish payment requirements. Defendants shall be given the right to request alternative payment plans when appropriate, community service when appropriate, appointment of counsel when required under Rule 37.47.

***SEE PROCEDURE III***

1. Trial Before This Court.

Defendants who plead not guilty and request a trial in the Court thereby acknowledge that there are no juries authorized in the municipal divisions, and are waiving the defendant’s right to a jury by requesting the trial be in this Court. A case once set for trial shall not be continued without authority of the Judge. When defendant has no counsel, this Court shall, in those cases in which a jail sentence may be imposed, utilize a written “Waiver of Counsel” form substantially in the form of Form 37.C, SCR 37.58(d).

1. Certification for Jury Trial.

When a defendant pleads not guilty to a municipal violation, defendant may request a jury trial. A request for jury trial is to be made by motion filed at least 10 days prior to any scheduled trial date. If the designation of trial date occurs less than 10 days before trial, the application may be filed at any time prior to trial. The Judge relinquishes jurisdiction over the case once the request is filed. If the defendant requests a jury trial, the case shall be transferred to the Circuit Court without prepayment of fees. The following procedures shall be followed by the Clerk once a motion for jury trial is filed:

1. Pursuant to Rule 37.61, all requests for trial by jury shall be made by written motion signed by the defendant, and shall be filed with this Court at least 10 calendar days prior to the scheduled trial date in accordance with Missouri Supreme Court Rule. Upon receipt of any such motion, this Court shall promptly set the motion for hearing. It shall be the responsibility of the defendant or defendant’s counsel to provide all paperwork to this Court including fingerprint cards were required by statute upon filing this request for certification of a case.
2. If the motion is sustained, a certified copy of all papers filed in the case, including any bond paperwork, and any cash or other property given as security upon any such bond, and fingerprint cards shall be filed with the Clerk of the Circuit Court within fifteen (15) calendar days from the granting of the motion. The filing shall include the filing memorandum provided by the Clerk of the Circuit Court. Any missing or omitted documents including fingerprint cards where required by law will result in the filing being returned to this Court for correction and proper submission.
3. Any charge that requires fingerprinting shall require that the fingerprinting be completed prior to the file being transferred to the Clerk of the Circuit Court. The Judge may rule on the motion, but any ruling shall include the requirement for fingerprinting to be completed prior to the transfer of the court file. Failure on the part of the defendant to comply with this Court’s Order for Fingerprinting shall result in the denial, without prejudice, of the motion.
4. Upon certification of the case to the Associate division any outstanding warrants on any case being certified for jury trial shall be recalled prior to transfer to the Circuit Clerk’s office. At the time of the certification if the municipality desires that a new warrant be issued by the Associate Division, it shall be the responsibility of the municipal Prosecuting Attorney to petition for such a warrant.
5. This Court shall follow any additional rules set forth in Local Court Rule 69.3 regarding procedures required with respect for a jury trial.

4.4 **Plea of Guilty and Punishment**.

Defendants may enter a plea of “guilty” at any time, with or without a plea agreement. The “Waiver of Counsel” shall be signed in cases in which the Judge may impose a jail sentence. Defendants shall have the right to address the Judge regarding punishment, including any explanation which may or may not affect any sentence.

Defendants’ options after a plea of guilty (or finding of guilty) are set forth in Chapter 6 of these Rules regarding presenting evidence of financial conditions, payment alternatives, community service and other matters described in that Chapter.

***SEE PROCEDURE III***

4.5 **Appointment of Counsel**.

1. Fine Only Offenses – No Court-Appointed Counsel. Subject to current Missouri Supreme Court Rules, including its Benchard, the Court will not appoint an attorney for an indigent defendant who is charged with a fine-only offense, or one in which the Prosecutor has represented to the Court that the Prosecutor’s Office will not ask the Court to sentence a defendant to jail if convicted.
2. When Counsel Shall be Appointed. The Court shall designate one or more Court-appointed attorneys, who have been assigned cases in which the Prosecutor has represented to the Court, or the Judge has determined, may result in incarceration upon conviction. The Court shall appoint such attorneys in accordance with Court policies made from time to time in accordance with compensation arrangements with the City. Nothing in this provisions shall prevent a defendant from executing a “Waiver of Counsel” form after determining to proceed without counsel.

4.6 **Change of Judge**.

1. Jurisdiction is Relinquished. The Judge shall relinquish jurisdiction on the case once a motion for change of judge is granted.
2. When there is a Provisional Judge Available. If a Provisional Judge is available to hear the case, the case will be heard by said judge.
3. When there is no Provisional Judge Available. If there is no Provisional Judge available, or if it is proper that no judges of this Court shall hear the case, then the clerk shall provide notice to the Presiding Judge of the Circuit Court to request assignment of a special judge to hear the case.
4. Clerk’s Procedures When Motion is filed in this Court.
5. Date file stamp the motion for a change of judge.
6. Make a docket entry indicating the motion or application for change of judge was filed and the date of filing.
7. Forward the motion or application to the judge and set the case for hearing.
8. Serve all parties by regular mail with copies of the motion or application and notice of the time of the hearing.
9. Make appropriate docket entries indicating copies of the motion or application and notice of hearing were mailed to all parties.
10. If the motion is granted by the Judge, and no provisional judge is available, notify the presiding judge and request assignment of a judge to hear the case.

vii. Note on the case record the name of the judge and the action taken to have a new judge assigned. Once a judge is assigned, record the assignment and date on the case record.

viii. Serve all parties by regular mail with copies of the order, if issued.

4.7 **Motions**.

1. Motions for Continuance. Motions for continuances, after the first such continuance has been granted, shall require reasonable basis in fact and shall not be granted for purposes of delay, but rather to ensure that justice is done.
2. Motions to Withdraw. Any attorney who has previously made an appearance on behalf of a defendant, shall continue to be considered by this Court as the attorney of record for that defendant, until and unless a motion to withdraw as counsel shall be filed by that attorney, with appropriate letter of notification to the defendant, and such motion is granted by this Court.
3. Other Motions. Motions as authorized under Rule 37 may be taken up by the Judge as soon as practicable after being brought to the Judge’s attention.

**Chapter 5**

**TRIAL PROCEDURES, TRIAL DE NOVO**

5.1 **Pleadings**.

 Pleadings shall be the information and the plea to the charge.

5.2 **Trial Order**.

Trials in this Court shall follow the procedures required in SCR 37.62.

5.3 **Trial de Novo**.

 Upon the filing of timely motion for trial de novo, the Judge shall cease his/her authority to act on the case unless and until the case has been remanded to this Court. (*Source: MOS #5*)

1. Right to a Trial de Novo. The right to a trial de novo shall be in accordance with SCR 37, and shall be filed within the time frame set forth in that Rule. The Judge shall not order an extension of time upon filing for the application. The statutory trial de novo fee shall be waived if the defendant is determined to be indigent pursuant to the qualifications set forth on the Supreme Court approved form, Statement of Financial Condition. The Clerk shall transfer to the associate circuit court, along with any fees paid and the application within 15 days. (*SCR 37.71*)(*Source: MOS #5*)
2. Stay of Execution. The timely filing of an application for trial de novo or review shall suspend the execution of the judgment of this Court. *(SCR 37.72)*
3. Record to be Transmitted. Within 15 days, the Clerk shall forward forward to the Circuit Clerk, the following:
4. Date file stamp the application for trial de novo with the date the application is received.
5. Collect a $30.00 application fee and issue a receipt to the party, unless the defendant has completed an affidavit of indigency.
6. Make a notation or entry on the backer sheet of the Trial de Novo filed, using the File Stamp Date and the filing date.
7. Make a notation of deletion of the case disposition, any probation or other program recorded, and any sentence on the back sheet.
8. Prepare and maintain a copy of the case record.
9. Forward the following to the circuit clerk:
10. the application for trial de novo.
11. the certified record and all related documents, including the original, signed citation, or information.
12. the $30.00 trial de novo fee or if applicable, an affidavit of indigency.
13. any bond given as security in the case.
14. a copy of the fee sheet, cost bill, or documentation indicating the municipal court costs assessed with the original disposition.
15. a request to the circuit clerk to advise this Court on disposition if the case is required to be closed pursuant to § 610.105 RSMo and to inform this Court of the amount of fine and costs assessed by the circuit court.

vii.The Clerk shall maintain a procedure so as to communicate case information to and from the circuit/associate division to this Court.

 The Clerk shall be regularly in contact with the circuit/associate division clerk on the outcome of the trial de novo.

viii.If the violation is point assessable, forward to DOR form 4704. Request for Record Revision to stay the points

ix. Upon notification from the circuit court of the disposition of the case, add or adjust court costs on the municipal court’s case to agree with the municipal cots assessed by the circuit court at disposition.

1. Withdrawal of Application for Trial de Novo. If the defendant withdraws the request for trial de novo, or if before the trial begins, the circuit court enters a finding that the defendant abandoned the trial de novo, the case shall be remanded to this Court for execution of judgment. *(SCR 37.72)*

**CHAPTER 6**

**FINES, COURT COSTS, FEES, PAYMENT**

**PLANS, PROBATION, COMPLIANCE WITH THE**

**MINIMUM OPERATING STANDARDS**

6.1 **Maximum Fines**.

1. General. This Court shall not fine any person more than the maximum fine set forth in City Ordinance or by State statute, whichever is less. (*Source: MOS #4*)
2. Special Rule for Minor Traffic Violations. Minor Traffic Violations, defined in § 479.350(3) RSMo shall not be assessed fine and cost in excess of $225.00. (*Source: § 479.353(1)(a) and MOS #4*)
3. Municipal Ordinance Violations. Municipal ordinance violations, as defined in § *479.350(4) RSMo (“Municipal Ordinance Violations”),* committedwithin a 12 month period beginning with the first violation shall not be assessed a fine and cost exceeding those set forth by law as follows:
4. $200.00 1st violation
5. $275.00 2nd violation
6. $350.00 3rd violation
7. $450.00 4th and subsequent offenses

(*Source: §479.353(1)(b) RSMo*)

The Prosecuting Clerk shall maintain adequate records and shall advise the Prosecutor of the number, if any, of prior violations by the defendant related to Municipal Ordinance Violations within the previous 12 month period, and the Judge shall be made aware of any violations after a plea of guilty for purposes of sentencing. (*Source: MOS #4*)

6.2 **Court Costs**

The City’s court costs shall be assessed only by authority of City Ordinance and as specifically authorized by State statute. The current OSCA Benchcard on municipal court costs shall be used as a reference. Court costs shall not be assessed for any case that has been dismissed, or when a determination of indigency has been determined, based upon standards set by the Missouri Supreme Court, including Statement of Financial Condition. (*Source: MOS #4*)

6.3 **Payments by Mail, in Person or by Electronic Means**

1. The Court shall accept payment by mail, in person, or by electronic means, for all offenses listed on the Violations Bureau Schedule as approved and signed by the Judge. If an offense is not listed on the Court’s adopted Violations Bureau Schedule, but there has been a judgment entered by the Judge, including a fine and costs assessment, and in addition when the defendant has signed the approved installment or delayed payment agreement form, the payment shall be accepted by mail, in person, or by electronic means.
2. Plea Agreements. Irrespective of the nature of the original or amended offense charged, if pursuant to a plea agreement reached between a defendant (and/or a defendant’s lawyer, if applicable) and the City Prosecutor, and approved by the Judge, such payment shall be accepted in person, by mail, or by electronic means.

***SEE PROCEDURE VI***

6.4 **Payment Plans, Delay in Payment, Order to Show Cause**

1. Stay of Execution Procedure. The Judge shall inquire of each defendant about that defendant’s ability to pay. Defendants shall be allowed the right to present evidence about their financial condition and assessing their ability to pay to establish payment requirements. The Court shall utilize the Supreme Court approved Statement of Financial Condition form to determine indigency. When a fine is assessed, and it appears to the Judge that the defendant does not have 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:
2. Grant the defendant a specified period of time within which to pay the fine in full; or
3. Provide for the payment of the fine on an installment basis under such terms and conditions as the Judge may deem appropriate; or
4. Utilize community service with no fee assessed to the defendant.

(*Source: MOS #2 and SCR 37.65*)

***SEE PROCEDURE III***

1. Procedures in SCR 37.65 – Order to Show Cause, Default, Confinement.

This Court shall utilize the procedures set forth in SCR 37.65 for due process procedures when there has been a failure to appear on a show cause order, or default in the payment of a fine. This Court shall not deviate from the provisions of that Rule.

6.5 **Community Service**.

The Court shall have available community service plans, which may be utilized as a condition of probation, as a sentencing option, or in lieu of a fine or jail sentence or both. No fees shall be assessed to a defendant for utilizing community service, including its use to satisfy a judgment. (*Source: MOS #2*)

The Clerk shall develop and maintain a list of local nonprofit organizations, including 501(c)(3) organizations, and that list shall be available to all defendants for which the Judge has authorized community service. If the City shall provide community service as an option, the Clerk shall direct the defendant to the proper party at the City for performance of community service, if authorized by the Judge. (*Source: MOS #2*)

6.6 **No Detention or Arrest Due to Inability to Pay**.

No defendant shall be arrested or detained for any length of time solely on the basis of defendant’s inability to pay fines and/or costs. Notwithstanding, the Court may order the arrest of the defendant if found in contempt of court after the Judge has complied with the provisions of SCR 37.65, as set forth in Section 6.4 of these Rules. (*Source: MOS #1*)

6.7 **Credit for Time Served to Satisfy Fines, Court Costs and Fees**.

The Judge may allow credit for time served in any jail facility, but no credit for time served shall be allowed for Minor Traffic Violations and Municipal Ordinance Violations as each is defined by statute, or for parking or seat belt violations that authorize only fines, not jail time, if convicted. The credit for time served shall satisfy fines, court costs and fees to the extent allowed by the Judge. Defendants who are found guilty, or who plead guilty, may receive credit for time served at the rate to be determined on a case-by-case basis, and to be applied to the fine, court costs and any fees owed.

6.8 **Granting of Probation, Probation Fees**.

1. Defendants in General. Probation fees shall be assessed only in compliance with MOS #2 and Missouri authorizing statutes cited in that standard. The Judge shall consider all factors exempting a probationer from part of all of any standard monthly probation fees authorized by statute. The Court shall advise defendants of the right to request individualized consideration of exemption from paying probation fees and surcharges under relevant statutes. (*Source: MOS #2*)
2. Indigent Defendants. The Judge shall not make the granting of probation conditional upon the payment of anything other than authorized fees, nor deny probation because of the inability of a defendant determined to be indigent to pay authorized probation fees and surcharges. (*Source: MOS #3*)

**CHAPTER 7**

**FAILURE TO APPEAR, SUMMONS, WARRANTS,**

**PROCEDURES REQUIRED BY MOS**

7.1 **Failure to Appear on Initial Court Date or a Courtesy Continuance**

1. When Defendant Fails to Appear – Summons to be Issued. A summons shall be issued on all cases in which the defendant fails to appear on the initial assigned court date, or on a subsequent court date after one courtesy letter to the defendant has been sent, and defendant fails to appear at that next scheduled court date as set in the courtesy letter. The Judge shall solely determine whether or not to send the courtesy letter.
2. Summons. The summons shall include all contents that are included in SCR 37.42.

7.2 **When Defendant Fails to Appear After Issuance of Summons**

The Judge shall review the case to determine if:

1. Sufficient facts are stated to show probable cause that an ordinance violation has been committed, and the Court thereafter finds there are reasonable grounds for the Judge to believe that the defendant will not appear upon the summons, or that there has been a showing that the accused poses a danger to the victim or the community or any other person. (*Source: SCR 37.43(b) and MOS #1*)
2. If the Judge so finds, an order for the court to issue a warrant for the arrest of the defendant will be entered on the case file, including the amount of any bond set by the Judge. (*Source: SCR 37.43*)
3. Warrants shall be signed ONLY by the Judge unless the exception of a SPECIFIC warrant ordered by the Judge to be signed by the Clerk is applicable. (*Source: SCR 37.45(b)(6) and MOS #1*)
4. Appearance Under Warrant Before the Judge. When a person is brought before the Judge after a warrant has been issued, the Judge shall inform the defendant each of his/her rights as are specifically listed in SCR 37.47(b).

7.3 **Notification to Judge When Defendant is Taken Into Custody on Warrant**

Court staff shall notify the Judge as soon as possible, but not more than 24 hours after a defendant has been taken into custody on a warrant. No defendant shall be held longer than 48 hours on warrants issued after Minor Traffic Violations, and no longer than 72 hours on other violations, without being heard by a judge of this Court in person, by telephone, or via video conferencing. (*Source: MOS #1*)

***SEE PROCEDURE I***

7.4 **Dismissal – Recall Warrant**

1. When Case Is Dismissed By Prosecutor Or Otherwise Resolved – Warrant Recalled. 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 order the Clerk to cause the recall and cancel any outstanding warrants in that case as soon practicable. (*Source: MOS #1*)

***SEE PROCEDURE II***

1. Order to Cancel Warrant. Upon receipt of the Judge’s order to recall warrant, the Clerk shall cause to be issued an order to cancel warrant and shall forward without delay such order by hand delivery or fax to the police department for cancellation. (*Source: MOS #1*)

***SEE PROCEDURE II***

7.5 **No Additional Charge**

No additional charge of Failure to Appear shall be issued on a Minor Traffic Violation as is defined in § 479.350(3) RSMo. (*Source: MOS #1*)

**CHAPTER 8**

**CONFINEMENT, WHEN, AND COLLECTION OF FINE WHEN DEFENDANT IS IN DEFAULT**

8.1 **Minor Traffic and Municipal Ordinance Violations - Restrictions**

No person shall be sentenced to confinement on “Minor Traffic Violations” as defined in in § 479.350(3) RSMo or “Municipal Ordinance Violations” as defined in in § 479.350(4) RSMo”. There shall be an exception to the foregoing when the defendant been found guilty or pleads guilty of a Minor Traffic Violation which involves alcohol or controlled substances, endangering the health and welfare of others, including eluding or giving false information to the law enforcement officer. (*Source MOS #1*)

8.2 **When Judge May Sentence Defendant to Confinement**.

A Judge may sentence a defendant to confinement after failure to pay a fine, but only after the Judge has strictly followed the due process procedures set forth in SCR 37.65.

8.3 **Collection of Fine When Defendant is in Default**.

Upon default in the payment of a fine or any installment thereof, the fine may be collected by any means authorized by law for the enforcement of money judgments. (*Source: SCR 37.65*)

**Chapter 9**

**PROCEDURES MANDATED BY SCR 37.04(A),**

**MINIMUM OPERATING STANDARDS**

9.1 **Introduction**.

This Court has identified nine separate “procedures” (as that term is used in the MOS) which are required by the MOS to “exist,” and are referenced in MOS #1 through #9 or in AT1 through AT4. This Chapter first lists each of those specific procedures numbered I through IX for ease of identification.

Procedures I through IX are attached as exhibits to these Rules. They are so attached because these procedures are particular to this Court, and it is anticipated that in the future, circumstances may dictate amendments or changes to one or more of the these procedures to be in accordance with case law, or new rules or standards. The Judge may replace the language of procedures in these Rules when appropriate.

The following are the required procedures as identified in the MOS and AT.

9.2 **Procedures**.

**MOS Required Procedure I**

*“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.” (Source: MOS #1)*

***THIS COURT’S PROCEDURE I IS ATTACHED***

**MOS Required Procedure II**

*“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 warrant no longer exist, the Judge recalls and cancels any outstanding warrants in the case as soon as practicable.”*

*“The municipal division has ensure that the recall and cancellation of outstanding warrants is communicated to law enforcement by the clerk without delay.” (Source: MOS #1)*

***THIS COURT’S PROCEDURE II IS ATTACHED***

**MOS Required Procedure III**

*“Procedures exist to inquire of defendants and allow them to present evidence about their financial condition in assessing their ability to pay and establish a payment requirements.”* (*Source: MOS #2*)

***THIS COURT’S PROCEDURE III IS ATTACHED***

**MOS Required Procedure IV**

*“Stay of execution procedures exist for defendants to pay fines and costs within a specified period of time or to make installment payments. See attached Procedure.”*

***THIS COURT’S PROCEDURE IV IS ATTACHED***

**MOS Required Procedure V**

*“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.”*

***THIS COURT’S PROCEDURE V IS ATTACHED***

**MOS Required Procedure VI**

*“Procedures exist for electronic payments or payments by mail.”* (*Source: MOS #6*)*.*

***THIS COURT’S PROCEDURE VI IS ATTACHED***

**MOS Required Procedure VII**

*“Standardized procedures exist to assure that defendants are given advice of rights pursuant to SCR Rules 37.47, 37.48, 37.50, and 37.58.” (Source MOS #9)*

***THIS COURT’S PROCEDURE VII IS ATTACHED***

**MOS Required Procedure VIII**

*“This Court 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, § 479.080.3 RSMo)” (Source: AT3)*

***THIS COURT’S PROCEDURE VIII IS ATTACHED***

**MOS Required Procedure IX**

*The Court has developed procedures to ensure the monthly distributions are properly calculated and distributed timely.* (*Source: AT4*)

*The Court has established procedures to routinely generate and review the accrued cost list for accuracy and properly following up on all amounts due.* (*Source: AT4*)

*The Court has developed procedures and records to identify applicable violations and associated fines and court costs revenues for the purpose of revenue calculation required by statute and the Court provides this information to the City.* (*Source: AT4*)

***THIS COURT’S PROCEDURE IX IS ATTACHED***

**PROCEDURE I**

**PROCEDURE II**

**PROCEDURE III**

**PROCEDURE IV**

**PROCEDURE V**

**General**. The Judge shall recuse himself/herself when the Judge is related to any defendant, or when the Judge has an interest in the case, or the Judge previously has been counsel in the case.

In the event that the prosecuting attorney of the City also regularly serves as a judge in another municipal division in this county, before whom the Judge of this City regularly acts as a prosecuting attorney, the Judge shall recuse himself from all appropriate cases. (*Source: SCR 37.53(b) and MOS #5*). The Judge shall notify the Clerk that in the event that the situation described in this paragraph is present, that he/she will recuse from participating in any such cases. (*Source: MOS #5*)

**PROCEDURE VI**

This Court’s procedures for electronic payments are set forth in detail in Chapter 1, Section 1.5(c) and in Chapter 6, Section 6.3(a).

The link for access to the Court’s online payment system is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

See also attached \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**PROCEDURE VII**

This Court shall utilize the Notice of Rights for Defendants Appearing in Municipal Divisions, which is found in SCR 37.04, Appendix C. This notice shall be available to defendants as follows:

A. sufficient copies shall be available in the Court office for any defendant who comes to the Court office on business;

B. on the Court’s website;

C. in the Courtroom on court dates;

D. given to defendants when stopped for traffic violations by the police department;

E. reviewed in the Judge’s opening announcement as discussed in Section 2.1 of these Rules.

**PROCEDURE VIII**

**PROCEDURE IX**