

**LOCAL RULES OF PROCEDURE  
AND  
RULES OF DECORUM  
FOR THE  
CIRCUIT COURT OF LAFAYETTE COUNTY,  
MISSOURI  
MUNICIPAL DIVISION OF ODESSA**

**EFFECTIVE JULY 1, 2018**

**LOCAL COURT RULES OF THE MUNICIPAL COURT OF THE CITY OF ODESSA,  
MISSOURI**

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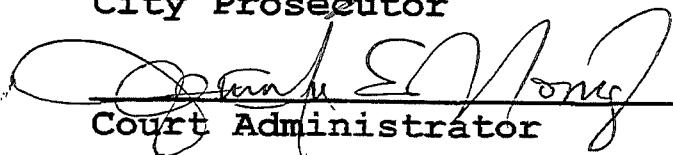
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Be it known that on the 1st of day of July, 2018, the Municipal Court of the City of Odessa, Missouri, has adopted its Local Rules of Procedure, in order to provide efficiency, uniformity, fairness and justice in conducting the business of the Court.

  
\_\_\_\_\_  
Municipal Judge

  
\_\_\_\_\_  
City Prosecutor

  
\_\_\_\_\_  
Court Administrator

Chapter 1  
GENERAL

1.1 **Objective**

These rules are promulgated to provide a uniform system for the fair, impartial and prompt disposition of matters properly before the Municipal Court of the City of Odessa, Missouri. They are to be interpreted consistently with this objective.

1.2 **Scope**

These rules govern cases filed in the Municipal Court of the City. They are promulgated pursuant to Rule 37 of the Missouri Supreme Court and to all statutory provisions of the State of Missouri and the mandates of the United States and Missouri Constitution. These rules apply to each attorney, to each Defendant representing himself/herself (hereinafter referred to as "Pro Se Defendant") in the Municipal Court of the City. Failure to comply with these rules may result in imposition of sanctions, including contempt and or a jail term where applicable and in accordance with State and Local Rules. The Local Rules of Procedure and Rules of Decorum for Municipal Court are effective **July 1, 2018**.

1.3 **Citation Form**

These rules shall be known as the Local Rules of Procedure and Rules of Decorum for Municipal Court of the City of ODESSA, Missouri.

1.4 **Organization**

Municipal Court in the City of Odessa, Missouri, has a specific geographical area of jurisdiction. The city of Odessa shall have its own jurisdiction within the city limits of Odessa.

1.5 **Calendar**

The Municipal Court will keep a docket of scheduled hearings and trials. A monthly docket may be available, upon request, to the public for each month's proceedings.

The appointed Judge(s) will generally be available as indicated by these rules and the calendar. However, when a Judge is on vacation, at a judicial or educational conference, or has medical or dental needs, or vacation scheduled, it is the policy of the Municipal Court to obtain an alternate appointed Judge, whenever possible, so that there will be no interruption in the work of the Court. An Order appointing an alternate appointed Judge will be filed as soon as is practicable with the agreeable alternate Judge assigned to hear the docket.

The municipal judge will be available at all times to rule promptly upon warrants, bail and conditions of pretrial release, and other matters, without undue delay. (MOS)

#### 1.6 Authority of Sitting Municipal Judges

The Municipal Court of City of Odessa is one Court. Each visiting Judge has all authority within the Court in which he/she is sitting and in the Odessa Municipal Court in general as does any Municipal Judge in the Circuit of Lafayette County.

#### 1.7 Hours of Operation

The Municipal Court office shall be open from 8:30 a.m. to 5:00 p.m. for walk-in payments and shall be open from 8:30 a.m. to 5:00 p.m. for all other business, except for City observed holidays or when the Court is otherwise closed by order of the Municipal Judge or City Manager. The Municipal Judge is "on call" 24 hours a day, 7 days a week, for emergency situations. The Court will be open until all pending matters on that day's docket are resolved.

On Court days, the check-in of Defendants shall begin at 1:00 p.m. and cases will be called on a first-come, first-served basis as much as is practical. Regular Court sessions will, as a rule, be scheduled for the third Tuesday of each month beginning at 1:30 p.m.

The arraignment of Defendants in the custody of the city's Jail will, as a rule, if circumstances dictate, be scheduled as soon as possible but no later than 24 hours for minor traffic violations and no later than 48 hours for all other ordinance violations. Such arraignments shall be by phone.

The Municipal Court shall also ratify Court Operating Orders 1, 2 and 3 to Obey Open Access pursuant to RSMo 479.060.1 and 479.360.1 (COO #1-3 - Appendix B)

#### 1.8 Ethics of Judges and Clerks

(A) The Judge shall follow all rules of the Code of Judicial Conduct, to include Rule 2 of the Missouri Rules of Court. Canons 1 through 4 as set out below.

1. Canon 1 - A Judge shall uphold and promote the Independence, Integrity and Impartiality of the judiciary and avoid impropriety and appearance of impropriety
2. Canon 2 - A Judge shall perform the duties of judicial office impartially, competently and diligently

3. Canon 3 - A Judge shall so conduct the Judge's extra judicial activities as to minimize the risk of conflict with judicial obligations
4. Canon 4 - A Judge or judicial candidate shall not engage in political or campaign activity inconsistent with the independence, integrity or impartiality of the judiciary.

(B) Each clerk shall be provided, and sign, the Clerk Compliance Agreement and the Code of Conduct for Municipal Division Personnel, Sup. Ct. Rule 37.04. (*Appendix D*)

1. Both, the Clerk Compliance Agreement and the Code of Conduct for Municipal Division Personnel as provided in Sup. Ct. Rule 37.04, Appendix D, shall apply to all full-time, part-time and temporary court system employees for municipal divisions, who are identified in the code as "court professionals."
2. All rules of the Codes of Conduct shall be strictly followed by all court personnel.

#### **1.9 Rights in Court**

(A) There shall be prominently displayed and provided to any individual a brochure named "Rights in Court". (*Your Rights & Duties - Appendix A*)

(B) A litigant's "Rights in Court" shall be displayed on a digital screen in the lobby of the court office or by such other display or signage as to ensure reasonable access to the information.

(C) The "Rights in Court" shall also be provided in Spanish, in paper and digital formats.

(*Sus Derechos Y Obligaciones - Appendix A*)

(D) The "Rights in Court" shall be provided in both English and Spanish on the Municipal Court's web page.

(E) Any person charged with an offense that may involve confinement, shall be provided a copy of Waiver of Attorney.

1. The clerk(s) shall advise the defendant, if they wish to appear without an attorney they should sign the Waiver of Attorney. The Judge shall inquire as to their understanding of the document.
2. The clerk(s) or Judge shall also advise the defendant of their right to complete a form of Financial Determination and/or Application for Court Appointed Attorney.
  - a. The Prosecuting Attorney and Municipal Judge shall review the application and corresponding charge(s) to determine that a plea or finding of Guilty may result in incarceration.



- b. If, at any time during the proceeding, the Judge or Prosecutor shall determine that a sentence of confinement may be imposed, shall provide a Court Appointed Attorney, at the city's cost.
- c. The ruling on any Financial Determination or Application for Court Appointed attorney shall be made in writing on the correlating form. The clerk shall cause an entry of the same into the court's case management system.

(E) The opening announcements shall be made over the microphone so that the same shall be communicated adequately inside the courtroom as well as to those outside the courtroom.

Chapter 2  
Traffic and Ordinance Cases

2.1 **Filing Cases**

Municipal Court cases shall be filed at Odessa City Hall, located in Odessa, Missouri.

(A) 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.

2.2 **First Appearance**

Unless otherwise directed, Defendants will appear at the Municipal Court in which the case is filed, according to the date and location written on their citations or summonses.

Subsequent appearances will be as scheduled by the Court.

Payments may be made available through the online website, in person or by mail. Offenses payable without a required Court appearance will be listed on a Traffic Violations Bureau Schedule, signed by the Municipal Judge. (*Violations Bureau Schedule - Appendix B*)

2.3 **Setting Cases**

All "Not Guilty" pleas and settings by the Judge or on Prosecutor's recommendation or request, will be brought to trial as promptly as practicable in the Court in which the case is docketed. Municipal Court shall be responsible for setting hearings and trials in Court and for notices thereof.

Attorneys or Defendants may request that a case be reset or continued by motion, without an appearance.

Court Clerks are authorized to allow one (1) continuance per party; excluding Domestic Assault, cases where there has been a failure to appear or cases set for trial where required witnesses cannot be notified. All other continuances, including the above exclusions, must be approved and or granted by the Judge.

**1. Arraignment Docket**

Defendants may discuss their cases with a Prosecutor or Judge when pleading guilty to resolve the case, or reset the case for trial

A. Arraignment

- a. Arraignment shall be conducted in open court
  - b. The Judge shall read the information to the defendant or state the substance of the charge.
  - c. Municipal division shall call upon the defendant to plead there to.
  - d. Defendants shall be afforded a reasonable time to examine the charge before defendant is called upon to plea.
- B. Initial Proceedings before the Judge
- a. Arraignment as soon as practical if defendant has not satisfied conditions for release
  - b. Judge shall inform the defendant of the following;
    - i. Ordinance violation charged,
    - ii. Right to retain counsel,
    - iii. Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,
    - iv. Right to remain silent
    - v. Fact that anything that the defendant says may be used against him or her.

## **2. Trial Before the Court**

Attorneys and Defendants should not set a case for a trial before the Court unless the Defendant and the city intend to waive jury. All cases shall be tried when set unless a written motion for continuance is granted. One continuance, on behalf of the city or Prosecutor may be granted and one continuance on behalf of the Defendant may be granted.

## **3. Jury Trial**

When a Defendant pleads Not Guilty to a municipal violation they can request a jury trial if they have a right to a jury trial and the request is granted. The municipal Judge shall certify the case for assignment according to local Court rule and shall, within 15 days, be transferred to the Circuit Court without prepayment of fees. The Judge shall limit, or cease, their authority to act once a motion for jury trial is filed with the court and transferred to the Circuit Court. (*Jury Trial Certification - Appendix A*)

- 3.1 A request for jury trial is to be made by motion filed at least 10 days prior to the 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 shall promptly rule on the motion.
- 3.2 If the motion is sustained, the case is to be certified to the Presiding Judge for assignment to a Circuit Judge or a qualified Associate Circuit Judge who is available. The case

will be heard on the record in accordance with procedures applicable before Associate or Circuit Judges.

3.3 Provisions may be made for the assignment of cases within the circuit in lieu of action by the Presiding Judge.

3.4 If the Defendant files a written motion requesting waiver of a jury trial, and attaches a waiver of the right to a jury trial, the case may be remanded to the municipal division for trial.

#### 2.4 Plea of Guilty or Nolo Contendre

Defendants may enter a plea of "guilty" at any time, with or without a plea agreement. Municipal Court shall maintain a list of "standard" fines, or a Violations Bureau Schedule, for various offenses. Defendants may also elect to enter a plea of "guilty" or "guilty with an explanation" and address the Judge regarding punishment. (*Traffic Violations Bureau Schedule - Appendix B*)

No Contest or **Nolo Contendre** pleas are not allowed in **Missouri** Courts.

#### 2.5 Appointment of Counsel

Indigent Defendants, when charged with a fine-only offense, are not entitled to Court appointed attorneys, as a matter of law.

The Court shall designate one or more Court appointed attorneys, who shall be assigned cases in which the Prosecutor has represented to the Court, or the Court has determined, may result in incarceration upon conviction. The Court shall set reasonable fees for such Court appointed attorney services as per agreement with the Judge and other city officials, or Court order. (*Court Appointed Attorney Application - Appendix A*)

#### 2.6 Motions to Withdraw or Substitute

An attorney becomes attorney of record in a traffic or ordinance case by listing his or her name on pleadings or by setting or resetting the case or by fax. He or she remains attorney of record until relieved by written order of the Judge.

An attorney's motion to withdraw will be accepted by written motion. The motion must be served on the defendant before being considered by the court.

Motions to substitute counsel will be granted without hearing so long as the scheduling of plea or trial will not be delayed by the change in counsel.

Chapter 3  
Rules of Decorum

3.1 **Opening Procedure**

Immediately before the scheduled time for the first Court session on each day 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 Court clerk shall state: "All Rise".

While everyone is still standing, the bailiff or clerk shall announce: "Municipal Court of the City of Odessa, Missouri, is now in session, Judge William Piedimonte presiding. Please remove your hats, be seated, and maintain order".

3.2 **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, where upon 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: "Please be seated".

3.3 **Opening Procedure**

All officers of the Court (except the Judge) and all other participants shall promptly enter the Courtroom before the scheduled time for each Court session. When the bailiff or clerk calls the Court to order, complete order should be observed.

In the Courtroom there shall be:

- (a) No smoking, use of tobacco products, including snuff, chewing tobacco, vapor or e-cigarettes;
- (b) No eating of food, drinking of beverages, or chewing and/or popping of gum;
- (c) No inappropriate attire, including shorts, tank tops, sleeveless shirts, low pants with undergarments showing, or inappropriate "message" shirts;
- (d) No audible cell phones, pagers, or other electronic devices
- (e) No bottles, cups or beverage containers except Court water, pitchers and cups, or as otherwise permitted by the Judge;
- (f) No loud noises;
- (g) No propping of feet on tables or chairs;
- (h) No noise or talking that interferes with Court proceedings;
- (i) No animals except service animals
- (j) No standing in the Courtroom, particularly 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;

- (k) No gestures, facial expressions, or sounds indicating approval or disapproval of a ruling of the Court or a comment of a witness;
- (l) No unattended children in the Courtroom;
- (m) No hats or head coverings, including scarves, bandanas or do-rags, worn in the Courtroom unless such items are religious in nature;
- (n) 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 Courthouse.

The Judge, the attorneys, 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.

### 3.4 Attorneys

Attorneys should observe the letter and spirit of all 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.

- (a) Attorneys should advise their clients and witnesses of Local Rules of Decorum that may be applicable
- (b) All objections, arguments, and other comments by counsel shall be directed to the Judge and not to opposing counsel.
- (c) Attorneys should not approach the bench without leave of Court and must never lean on the bench
- (d) Attorneys should anticipate any need to move furniture, appliances or easels, and should make advanced arrangements with the Court. Tables should not be moved during Court sessions unless approved by the Court.

### 3.5 Media - Broadcast - Cameras in the Courtroom

Court Operating Rule 16 allows for broadcasting, televising, recording or taking of photographs in all judicial circuits in this state. This rule applies to the Municipal Courts as divisions of the circuit Courts.

Broadcasting, televising, recording, and photographing will be permitted in the Courtroom under the following conditions:

- a) Permission first shall have been expressly granted by the Judge, who may prescribe such conditions of coverage as provided for in this Court Operating Rule No. 16, including the manner in which objections may be raised under Court Operating Rule No. 16.03(c).

- b) Media coverage of a proceeding shall not be permitted if the Judge concludes that under the circumstances of the particular proceeding such coverage would materially interfere with the rights of the parties to a fair trial.
- c) Media coverage is prohibited of any Court proceeding that, under Missouri law, is required to be held in private. Further, no coverage shall be permitted in any case where a juvenile is a party or a witness. Notwithstanding the foregoing, the news media, if permitted by the Judge, may record and photograph a juvenile who is being prosecuted as an adult in a criminal proceeding.
- d) Media coverage of prospective jurors, jurors, and jury selection is prohibited.
- e) There shall be no audio pickup or broadcast of conferences in a Court proceeding between attorneys and their clients, between co-counsel, between counsel and the Judge held at the bench or in chambers, or between Judges in an appellate proceeding.
- f) There shall be no focusing on nor photographing of materials on counsel tables; however, the media will be given access during periods of recess to exhibits that have been introduced and received into evidence, absent objection from counsel in the proceedings.
- g) The quantity and types of equipment permitted in the Courtroom shall be subject to the discretion of the Judge within the guidelines set out in this Court Operating Rule No. 16.
- h) Notwithstanding the provisions of any of the guidelines set out in this Court Operating Rule No. 16, the Judge, upon application of the media coordinator, may permit the use of equipment or techniques at variance therewith if the application for variance is included in the advance notice of coverage. Such variances may be allowed by the Judge without advance application or notice if all counsel and parties consent to it. Ruling upon any variance application shall be in the sole discretion of the Judge.
- i) If media coverage of a proceeding is granted, members of the media shall not record interviews for broadcast in the hallways immediately adjacent to the entrances to the Courtroom. Photographing through the windows or open doors of the Courtroom is prohibited.
- j) The Judge may, as to any or all media participants, limit or terminate photographic or electronic media coverage at any time during the proceedings if the Judge finds:
  - 1) that these guidelines or rules imposed by the Judge have been violated or
  - 2) that substantial rights of individual participants or rights to a fair trial may be prejudiced by such manner of coverage if it is allowed to continue.
- k) The privilege of photographic and electronic coverage provided for by this Court Operating Rule No. 16 may be

exercised only by persons or organizations that are part of the news media or educational television.

- l) There may be media coverage of investitive or ceremonial proceedings at variance with the provisions of this Court Operating Rule No. 16 in the discretion of the presiding Judge or Judges.
- m) No media coverage shall be permitted in criminal proceedings until the Defendant is represented by counsel or has waived such representation.

*(TECHNICAL SPECIFICATIONS MAY BE FOUND IN COR 16 - CAMERAS IN THE COURTROOM - Appendix C; Motions/Orders regarding Media Coverage - Appendix A)*

### **3.6 Conduct Required of All Attorneys and Pro Se Defendants**

- (a) *Pro se* Defendants (Defendants acting as their own attorney) shall conform their behavior to all provisions of the Canons of Ethics applicable to licensed Attorneys.
- (b) All parties shall be prompted in arriving for Court and attending to Court business. Attorneys, Defendants represented by Attorneys and *pro se* Defendants shall be on time. The city shall not be required to make an announcement for trial on a case where the Defendant failed to answer the docket call personally. The Defendant shall appear as required by law. All witnesses shall be present at docket call.
- (c) Once an individual has entered the Courtroom and appeared before the Court, whether Defendant, attorney or witness, on the case in which he is involved, he/she shall not leave the Courtroom without obtaining permission from the Judge.
- (d) During trial or hearing, any objections, arguments and comments shall be directed to the Court and not to the opposing counsel or to *pro se* Defendant(s). Any objections raised during a hearing or trial shall be supported by a legal basis for such objection. Argument upon an objection will not be entertained except with the permission of the Court.
- (e) During trial or any hearing, attorneys and *pro se* Defendants shall remain in or at the "bench" area at all times.
- (f) Attorneys (and *pro se* Defendants) shall not approach the Bench except after requesting and receiving permission from the Judge.

### **3.7 Entry of Plea**

A plea of "not guilty" may be filed with the clerk of the Court on or before the Court date on the citation or summons.

The plea may be made in person, electronically, by mail or by telephone to the clerk, Prosecutor or Municipal Judge.



### 3.8 Request for Assistance

A motion or a request for an interpreter for hard of hearing 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 done at the time a plea is entered or as soon as practical thereafter as a party becomes aware of the need for interpreter services.

*(Municipal Clerk Manual - Rules for Interpreters/Translators/Certifications - Appendix C)*

### 3.9 Oath of Interpreter

#### **Oath (Section 476.803, RSMo)**

An interpreter shall take an oath that he or she will make a true interpretation to the party or witness in a language that the party or witness understands and that he or she will make a true interpretation of the party or witness' answers to questions to the attorney, court, or jury, in the English language, with his or her best skill and judgment. The interpreter shall not give explanations or legal advice or express personal opinions. The following is a sample oath which may be used when swearing in foreign language interpreters:

"Do you solemnly swear you will interpret accurately, completely and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Code of Professional Conduct for Interpreters, follow all official guidelines established by this court for legal interpreting and translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?"

*(Oath for Interpreters/Translators/Certifications - Appendix A)*

### 3.10 Visual/Audio Aids

Any parties seeking to use video or audio aids must provide their own necessary equipment and provide that request in writing to the clerk or Prosecutor.

Chapter 4  
Notice

4.1 **Responsibility**

After proper notification by the Police Department, Court, Judge or any other Court authorized personnel, it is the responsibility of all persons with business before the Court to determine the date, time and nature of each setting of the case(s) and to update or notify the Clerk of the Court of any change(s) of address or telephone number of the Defendant or of counsel for the Defendant.

4.2 **Notice**

Notice of the date, time and nature of each setting shall be given initially by a police officer or other authorized police personnel or the Court to each party in writing by the citation, bond or summons or letter, in person or by mail, addressed to the last known address of a party and counsel for the party if applicable. A copy of each notice shall be marked and dated as sent in the computer and filed in the Court's file.

4.3 **Verbal Representations**

Reliance by any party upon verbal representation from any Court personnel or a police officer or a detention officer concerning any matters shall not be binding as grounds for continuance, setting aside a warrant or any other relief.

Chapter 5  
Motions

5.1 **Motions for Continuance**

Motions for continuance require reasonable basis in fact and will not be granted for purposes of delay, but only to ensure that justice is done. (*Rules for continuances - Court Operating Orders #3 - Appendix B*)

5.2 **Forum**

A Motion for Continuance, verbally or in writing, shall be presented to the same Court where the case is set to be heard. In all cases, the ruling or granting of the Continuance shall be at the discretion of the Judge, or as allowed by the Clerk(s) or by the Prosecuting Attorney where the case is set to be heard. The clerk shall note in the Court file who requested the continuance, the date of the request and date to which the case is continued and the clerk so granting the continuance for a first time continuance.

5.3 **Denied Continuance**

If a Defendant's Motion for Continuance, in writing or verbally, is denied the case will proceed to trial, plea or other disposition.

5.4 **Motions to Withdraw**

Any attorney who makes an appearance on behalf of a Defendant or represents to the Court that he/she is the attorney of record for a party shall continue to be considered by the Court as the attorney of record for that Defendant until a Motion to Withdraw as Counsel is filed by that attorney and is granted by the Court. Such attorney shall file a written Entry of Appearance.

- (a) A Motion may be made without a hearing if the Defendant has given his written consent to the Attorney to withdraw. It shall be made in writing to the Court with a copy going to the defendant and the prosecuting attorney and said motion shall be filed in the case file. Defendant's consent for withdrawal, shall be in writing and filed with the Motion to withdraw. If there is no consent, a hearing on the motion shall be scheduled for the next available court date after the filing of the motion. The Motion shall be served on the defendant by the attorney requesting leave to withdraw by 1<sup>st</sup> class mail at the last known address of the Defendant with a notice when the motion shall be heard.

Municipal Judge shall rule upon the motion at the time of hearing and the ruling shall be entered on the case file and computer.

- (b) If there is currently an attorney of record and another attorney wishes to enter as attorney, the Court will require a written Motion to Withdraw from the original attorney before allowing the substitution of Counsel and the ruling and substitution shall be entered on the case file and computer.

Chapter 6  
Transfer of Cases/Docket or Bench Exchange

6.1 **Change of Judge**

A change of Judge in a particular case may occur in one of two ways:

1. the Judge disqualifies himself/herself; or
2. an application is filed by a party in the case.

In either case, the Judge shall limit, or cease, their authority to act once a motion to disqualify is filed except to transfer the case to the presiding Judge or other Judge as required by the Rules.

6.2 **Disqualification by Judge**

The Judge must disqualify himself/herself if the Defendant is a relative or if the Judge has an interest in or has been counsel in the case. If a Municipal Judge is absent, sick or disqualified from acting, the Presiding Judge has given administrative authority to designate a special Municipal Judge by following the guidelines set out in **Section 479.230, RSMo.**; - Dec. 2016 Administrative Order #2016-1201 Section 479.230, RSMo - Appendix C)

The Presiding Judge may appoint any other Municipal Judge within the Circuit or a competent, eligible Judge to act as a special interim Municipal Judge during a period of absence, sickness or disqualification upon request by the Municipal Judge. The Municipal Judge may, by written directive, delegate authority to the Municipal Court Administrator or Court Clerk to notify and request the Presiding Judge of the Circuit Court to designate a special Municipal Judge. (*Disqualification and Change of Judge - Rule 37.53 - Appendix C*)

6.3 **Written Application for Change of Judge**

Any party to a case may file a written application for a change of Judge. The application need not allege or prove any reason for the change. The application need not be verified and may be signed by any party or an attorney for any party.

The application shall 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 citation is issued less than 10 days before hearing.), 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, whichever is earlier. However, the clerk should accept all pleadings/applications regarding change of Judge regardless

of the timeliness of filing, right to file, etc. The Judge will determine if the party qualifies for a Change of Judge.

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. (*Disqualification and Change of Judge - Rule 37.53 - Appendix C*)

If a Municipal Judge is designated to hear the case, the case will be heard in the municipality where the original case was designated to be heard.

If an Associate Circuit Judge or a Circuit Judge is assigned to hear the case, the Judge will determine the location of the trial.

If the trial is to be heard in the Associate Circuit Division of the county:

- (a) The clerk shall transfer the original case record to the Associate Circuit Court (the Municipal Division shall keep a copy of the record in the Municipal Court)
  - 1a. The filing/application and ruling shall be marked on the case file and in the computer
  - 2a. After disposition, the case record should be returned to the Municipal Division for final processing. It may be necessary for the Municipal Court to request the disposition from the Circuit Clerk's office. Any monetary imposition shall be imposed and the monies paid shall be divided according to the Rules then in place. The Municipal Clerk shall made a notation in the file as to the final disposition of all final monetary payments.

Chapter 7  
Off-Docket Procedures

7.1 **Off Docket Procedures**

Off Docket cases are cases not set on that particular day's docket. This shall include any cases where there is an active or open warrant.

7.2 **Files**

Defendants and their Attorneys, as well as members of the news media, shall have access to Court files during regular hours of the Municipal Court, as well as during hours when a Court docket is in session. Clerks shall not release imaged documents to anyone except Court personnel, licensed attorneys or their staff, the Defendant, or the news media unless the documents are released pursuant to the Missouri Sunshine Law, RSMo. Ch 610, or some other legal means pursuant to Court Operating Rule 2 and 4 and other relevant law. Records within the Courtroom shall not be removed from the Courtroom except by authorization of the Judge or Prosecutor. (*Missouri Sunshine Law, RSMo. - Appendix C; COR 2 - Appendix C*)

- (a) Access to CLOSED records that are defined as CONFIDENTIAL or "CLOSED" records are to be maintained in a manner making them inaccessible to the general-public. The records are accessible only to the Defendant, Court personnel, and specific agencies for specific purposes. (*Record Keeping Procedures - Ch 5 MCM - Appendix C*)
- (b) Any request for CLOSED records granted to authorized persons per Ch. 610 shall be kept on file in the Court Clerk's office.
- (c) Any request for CLOSED records by an unauthorized person shall be submitted in writing.

1c. The Clerk shall not advise the person the record is confidential.

2c. The Clerk shall not determine if the requesting person is legally entitled to inspect the record. Such determination shall be made by the Judge. If, however, a person offers proof of identity and is authorized to see the record or has a signed notarized release from the person of record, the Clerk may allow the record to be viewed and copied.

3c. The Clerk, upon making a determination of a record release, shall make a computer entry regarding the application being filed and the Judge's ruling shall be noted in the file. (*Inspection of Closed Record - Appendix A*)

Chapter 8  
Pretrial Settings

8.1 **Entry of Not Guilty Plea**

A plea of Not Guilty may be timely entered by mail or in person at: Odessa Municipal Court.

- (a) In preparing for trial, the Prosecutor, the Defendant, or the Defendant's attorney may want to summon witnesses to testify.
- (b) A subpoena is the process served on a witness requiring appearance and testimony in a case. A **subpoena duces tecum** commands the person not only to appear but also to produce the books, papers, documents, or tangible things designated in the subpoena.  
(Subpoena - Appendix A)

8.2 **Issuance**

A subpoena shall be issued by the Judge or the clerk of the Court and must state the name of the Court and the title of the proceedings and command the person to attend and give testimony at the time and place specified or provide the name and telephone number of a person who can direct the witness of the time and place of his appearance. A subpoena signed by the Judge or clerk, but otherwise blank, may be issued to a party requesting it who shall fill in the blanks before it is served. Any person who, without good cause does not obey a subpoena, may be subject to contempt of Court proceedings. (Subpoena - Appendix A; Subpoena Duces Tecum - Rule 37.55 -Appendix C)

8.3 **Service**

A subpoena may be served by any peace officer or by any person who is not a party and who is not less than eighteen (18) years old. A subpoena may be served any place in the state. A subpoena may be mailed, first class mail, to the last known address on file. The Court will not consider a subpoena so mailed as being subject to contempt if the witness does not appear.

- (a) Witness fees and mileage do not need to be collected upon service of the subpoena. Service shall be by reading or delivering a copy to the person being summoned. The offer to read or deliver the subpoena to a person refusing to hear or receive the subpoena shall be sufficient service.
- (b) Once a witness is subpoenaed before the Court, he shall appear from time to time as requested until the case is disposed or he is finally discharged by the Court.
- (c) For any case in which the safety of the witness or a party may be at issue, the address of such witness or party may be redacted so a confidential record is recorded in the Court's computer.



8.4 **RETURN**

- (a) Every officer to whom a subpoena is delivered for service shall make a return in writing as to the time, place and manner of service and shall sign the return.
- (b) Service may be made by someone other than an officer, providing the person is not a party and is not less than eighteen (18) years of age. If service is made by a person other than an officer, the person serving the subpoena shall make affidavit as to the time, place and manner of service. (*Supreme Court Rule 37.55 - Appendix C*)

8.5 **FEES**

- (a) Fees for witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and are to be taxed as other costs in the case. Section 491.280 RSMo. Allows fees for witnesses as follows (*Sections 479.160, 488.012, 491.280, and 491.420 RSMo. - Appendix C*):
  - (1) The rate for in-state witnesses is twenty-five dollars (\$25.00) per day plus a mileage allowance as provided in Section 33.095 RSMo. The mileage rate is forty-five and one half cents (\$0.455).
  - (2) The rate for out-of-state witnesses is fifteen dollars (\$15.00) per day plus ten cents (\$0.10) per mile.

Chapter 9  
Trial Settings

9.1 **Case Settings**

A Defendant or Defense Counsel may request that the case be set for trial, in writing, by phone or in person.

9.2 **Pleading and Motions Before Trials**

(a) Pleadings shall be the information plea thereto.

(b) Motion Raising Defenses and Objections

1. Any defense or objection that is capable of determination without trial of the general issue may be raised before trial by motion
2. Defenses and objections based on defects in the institution of the prosecution or in the information other than it fails to show jurisdiction in the Court or to change an ordinance violation 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 provided constitutes a waiver thereof, but the Court for cause shown may grant relief from the waiver.

3. The motion shall be made before the plea is entered, but the Judge may permit it to be made within a reasonable time thereafter.
4. 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.
5. 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.

9.3 **Motions to Suppress**

Requests that evidence be suppressed shall be raised by motion before trial; however, the Court in the exercise of discretion may entertain a motion to suppress evidence at any time during trial.

#### 9.4 Trials - Issues of Fact

- (a) All trials of ordinance violations shall be held in open Court in an orderly manner according to law.
- (b) 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.

#### 9.5 Order of Trial

The order of trial in 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 shall conclude the argument. Each party may waive the right to argument.
- (i) The Judge pronounces judgment.

#### 9.6 Right of Defendant or Defendant's Spouse Not 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.

Chapter 10  
Trial De Novo

A Trial de Novo is a new trial held as though it had not been tried before. A municipal case heard in the associate division not heard on the record, may be reheard on the record before a circuit judge. Upon filing of Motion for Trial de Novo, in writing, the Judge shall cease his authority to act in the case.

**10.1 Right to a Trial de Novo**

In any case tried before a municipal Judge who is not licensed to practice law in Missouri, the defendant shall have a right to a Trial de Novo before a Circuit or Associate Circuit Judge, even if the defendant pled guilty. In any case tried before a municipal Judge who is a licensed attorney in Missouri, the defendant shall have the right of a Trial de Novo, unless there has been a plea of guilty or the case has been tried before a jury. An application for Trial de Novo shall not be granted after the defendant has satisfied any part of the penalty and costs of the judgment. (*Section 479.200 RSMo - Appendix C; Trial De Novo Information Sheet - Appendix A*)

**10.2 Filing**

An application for Trial de Novo must be filed within 10 days of the entry of judgment. The application for Trial de Novo must be filed with the municipal court clerk. No judge may order an extension of time for filing the application. (*Supreme Court Rule 37.71 - Appendix C; Application for Trial De Novo - Appendix A, Bond for Trial De Novo - Appendix A*)

The statutory Trial de Novo fee shall be waived if the defendant qualifies as indigent pursuant to the qualifications listed on the Statement of Financial Condition

The Clerk shall transfer the original case record to the Associate Circuit Court, along with any fees paid and the application within 15 days.

**10.3 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. (*Supreme Court Rule 37.72 - Appendix C*)

NOTE: If the application for Trial de Novo is withdrawn, or if before the trial, the court enters a finding that the applicant abandoned the Trial de Novo, the case shall be remanded to the municipal division for execution of judgment.

#### 10.4 Disposition of Case

When forwarding the case record, the municipal clerk should request the court handling the Trial de Novo to inform the municipal division of the case disposition. This is particularly important if the Trial de Novo disposition requires the municipal court record closed under Chapter 610 RSMo; i.e., if the case was dismissed or the defendant was found not guilty.

The municipal clerk should verify the receiving court is aware of the standard court costs charged by the municipal division. Any fines and court costs collected by another court after the Trial de Novo will be returned to the municipal division.

#### 10.5 Record to be Transmitted

Within 15 days, the municipal clerk shall forward to the circuit clerk or associate division clerk (on assignment or as designated by local court rule), the following:

- 1) The application for Trial de Novo
- 2) The certified record and all related documents, including the original, signed citation or Information;
- 3) The \$30.00 Trial de Novo fee or affidavit of indegency; per case basis;
- 4) Any bond given as security in the case; and
- 5) Documentation of the Municipal's standard court costs and any additional costs incurred on the case up to the time the municipal division disposed of the case.

*(Supreme Court Rule 37.73 - Appendix C)*

#### 10.6 Withdrawal of Application for Trial de Novo

The filing of a request for Trial de Novo shall suspend the execution of the judgment in the municipal division. If the defendant withdraws the request for Trial de Novo, or if before the trial begins, the court enters a finding that the defendant abandoned the Trial de Novo, the case shall be remanded to the municipal division for execution of judgment. *(Supreme Court Rule 37.72 - Appendix C)*

Chapter 11  
Fines, Court Costs and Fees

**11.1 Payment Plans**

- (A) Upon application of the Defendant or Defendant's counsel, the Court will use its best efforts to conduct a fact-finding inquiry into the determination of the applicability of a payment plan, on a case-by-case basis. The Court may have an outside agency assist in such determination. In cases where a payment plan is deemed appropriate, the Court will fashion the payment plan to suit each case.
- (B) A defendant shall be allowed to complete and present, to the Municipal Judge or clerk, a Statement of Financial Condition to determine their ability to pay

The Court shall utilize the Traffic Violation's Bureau Payment Schedule, signed by the Municipal Judge, or its successor, except that, in the case where the Judge approves a payment plan different than the adopted by the Traffic Violation's Bureau Payment Schedule, or as agreed between the Prosecutor and Defendant or Defendant's counsel.

**11.2 Delayed Payments**

- (A) 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: (1) Grant the Defendant a specified period of time within which to pay the fine in full, or (2) Provide for the payment of the fine on an installment basis under such terms and conditions as the Judge may deem appropriate. (*Agreement to Pay - Appendix A*)
- (B) The payment plan may be arranged by the Judge, and may require, from time to time, a recalculation of the original terms of the payment agreement.
- (C) 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. (*Payment Plan Policy - Appendix B*)

**11.3 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 his or her inability to pay fines and/or costs. Notwithstanding, the Court may arrest and sentence a person to confinement, if found to be in contempt after strict compliance by the

court with the due process procedures in Rule 37.65 or its successor rule.

An attorney shall be appointed on any case where the Prosecutor or the Court has determined that the failure to pay may result in incarceration upon being found in contempt.

#### **11.4 Alternative Community Service**

The Court may order alternative community service as a condition of probation, as a sentencing option or in lieu of a fine or imprisonment or both. No fees shall be assessed for utilizing Community Service to satisfy a judgment.

A defendant is eligible to satisfy fines, court costs and fees assessed by the Court if the Defendant can prove indigence. In order to prove indigence, the Defendant must submit to the Court a Statement of Financial Condition form and the Court may consider a finding of indigence. (*Financial Determination of Indigency - Appendix A*)

If a prior payment plan cannot be followed and a re-structure of payments cannot be met, the Defendant must submit to the Court a Stay of Payment form and the Court may consider a finding of indigence. (*Stay of Payment; - Appendix A*)

#### **11.5 Probation Fee Assessment**

If probation fees are assessed it shall be Pursuant to RSMo 549.525.2, 559.604 and 559.607.

#### **11.6 Credit for Time Served to Satisfy Fines, Court Costs and Fees**

In the event a Judge allows credit for time served, excluding Minor Traffic Violations and Municipal Ordinance Violations as defined in 479.350(3) & (4), to satisfy fines, court costs and fees, unless otherwise ordered, a Defendant who is found guilty shall receive credit for time served to be at a rate to be determined on a case-by-case basis to be applied to the fine, court costs and fees owed. In no case shall the credit for time served exceed the balance owed in a case. (479.350(3) & (4); *Definition Minor Traffic Violations and Municipal Ordinance Violations - RSMo - Appendix C*)

#### **11.7 Granting of Probation**

The Municipal Judge shall not condition an indigent defendant's access to a judicial hearing or granting of probation upon prepayment of fines/fees.

### **11.8 Court Costs**

- (A) The Municipal Judge will assess and the court clerk is authorized to collect ONLY Court costs, fees, miscellaneous charges and surcharges as defined in RSMo 488.010.
- (B) Court costs shall not be assessed where any case has been dismissed.
- (C) Fines and Court costs shall not be assessed where a finding of indigency has been determined.

### **11.9 Maximum Fines & Costs**

- (A) Minor Traffic Violations, as defined by State Law, shall not be assessed fines and costs exceeding \$225.00

### **11.10 Online Payments and Access**

- (A) The municipal court will accept any payment by mail, in person, or online, for all offenses listed on the approved Traffic Violations Bureau Schedule signed by the Municipal Judge
- (B) The municipal court will accept any payment by mail, in person, or online, for all offenses placed on a signed payment agreement.
  - 1. If the offense is not listed on the adopted Traffic Violations Bureau Schedule but has had a guilty judgment entered by the Judge, including a fine and costs assessment, and has signed the approved Payment Agreement form, the payment(s) shall be accepted by mail, in person, or online.
- (C) Regardless of the original or amended offense charged, a payment on any plea agreement(s) reached between an attorney, a defendant and the City Prosecutor shall be accepted in person, by mail, or online.
  - 1. Unless, such agreement or fines and costs are in conflict with the statutory requirements set out in RSMo 479.350 and section 11.9 of these Local Rules of Procedure. (*Plea Agreements Reached Prior to Statutory Changes - Appendix B*)
    - (a) Where such agreement, or fine and costs, have been submitted the court shall cause the payment to be withheld until further review, and direction, by the Municipal Judge.

### **11.11 Online Access to Information**

- (A) The court has available, to each defendant or attorney, free online access to information about pending cases, outstanding warrants and their scheduled court dates.



- (B) The court has available, to each defendant or attorney, online access to process payments.
- (C) Online access to payments and information is located through a link on the City of Odessa's website on the Municipal Court page.
  - 1. The link shall also be listed on each citation issued
  - 2. The link shall be prominently posted at the court office

CHAPTER 12  
FAILURE TO APPEAR, SUMMONS, WARRANT

**12.1 FAILURE TO APPEAR**

A summons shall be issued in all cases when the defendant fails to appear on the first initial assigned court date.

(A) The summons shall:

- (a) Be in writing and in the name of the prosecuting county or municipality;
- (b) State the name of the person summoned and the address, if known;
- (c) Describe the ordinance violation charged;
- (d) Be signed by a judge or by a clerk of the court when directed by a judge; and
- (e) Command the person to appear before the court at a stated time and place in response thereto.

(B) Upon failure to appear after issuance of a Summons, the Judge shall review the case to determine if:

- (a) Sufficient facts are stated to show probable cause that an ordinance violation has been committed, and
- (b) There have been reasonable grounds for the court to believe that the defendant did not appear upon the summons.

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 bond set. Warrants are signed ONLY by Judge.

- (c) Warrants will reflect the terms of bond in all cases.  
*(Conditions to Bond Set Order - Appendix B)*

(C) No additional Charge is issued for Failure to Appear on a Minor Traffic or Municipal Ordinance Violation as defined by State Law.

CHAPTER 13  
BOND POLICY & SCHEDULE

**13.1 BOND POLICY**

- (A) Any person confined for any ordinance violation shall be entitled to be released from custody pending trial. The bond schedule shall be utilized only for persons arrested without a warrant and shall be held **NO LONGER THAN 24 HOURS**. (*Bond Policy - Appendix B, Bond Schedule (Order) - Appendix B*)
- (B) The defendant shall be released upon their own recognizance on his/her written promise to appear at all Court Proceedings; unless paragraph (a) or (b) applies.

The defendant shall be immediately released upon his/her written promise to appear at a later date, unless the police officer or the city prosecutor presents sworn evidence the court that:

*(Supreme Court Rule 37.15 - Appendix C)*

- a. The defendant's promise to appear alone is not sufficiently reasonable to assure the appearance of that person, or
- b. The person poses an immediate danger to a crime victim, the community, or any other person.

**13.2 MINOR TRAFFIC AND MUNICIPAL ORDINANCE VIOLATIONS**

A. Minor Traffic and Municipal Ordinance violations as defined by State Law shall be set as ROR immediately, and shall be released upon his/her written promise to appear at a later date; unless the offense(s) involve alcohol or controlled substance, endangering the health or welfare of others, eluding or giving false information to a law enforcement officer.

**13.3 BOND CONDITIONS**

- (A) Upon oral or written application by a peace officer or city prosecutor the court will consider the factors listed in Mo. S. Ct. Rule 37.15(d) to determine whether above paragraphs (a) or (b) should apply and if so, the court will then determine the least restrictive bond condition(s) that are necessary to assure the defendant's presence at future court proceedings or to protect crime victims, the community, or any other person. The Court will then issue a written order 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.

#### **13.4 Duty Judge**

- (A) The municipal judge shall be available at all times to rule promptly upon warrants, bail and conditions of pre-trial release and other matters without undue delay.
- (B) The municipal judge will be available for hearings in person, by phone or video every 72 hours, or as necessary, for any persons unable to post bond as set or to review previously imposed conditions of release
- (C) The warrant application, submitted by the police officer or prosecuting attorney supporting paragraph, (a) or (b) above, shall show an order to issue the warrant and upon that written, signed order by the Judge, and shall be attached to the signed warrant application.

CHAPTER 14  
CONFINEMENT

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

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.

**14.2 Failure to pay fines and costs - Response to Non-Payment**

No person shall be confined to coerce payment of fines and costs unless found in contempt of court after compliance with the following (Rule 37.65)

- (a) 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:
  - (1) Grant the defendant a specified period of time within which to pay the fine in full, or
  - (2) Provide for the payment of the fine on an installment basis under such terms and conditions as the judge may deem appropriate.
- (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.
  - (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.
  - (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.

(e) 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.

#### **14.3 Dismissal - Recall Warrant**

(A) When a case is dismissed by the prosecuting attorney or resolved, or when the circumstances that justified issuance of a warrant no longer exist, the judge shall order the clerk to recall and cancel any outstanding warrants in that case as soon as is practicable.

(B) The clerk shall cause to be issued an Order to Recall and Cancel Warrant. Such signed order shall be completed immediately upon notification of any dismissal or disposed status and shall forward such order to the Communications center for cancellation.

1. The order shall be signed by the Judge
2. The order shall be faxed or hand delivered immediately to the Communications Center
3. The clerk shall follow up to ensure that proof of cancellation and a signed copy of the Order to Recall and Cancel has been returned by a Communications officer.
4. A copy of the signed Order to Recall and Cancel shall be placed in the case file

CHAPTER 15  
REPORTING

**15.1 Minimum Operating Standards**

(A) The Municipal Judge, substitute or provisional Judge shall certify and submit the court's Minimum Operating Standards report form to the Presiding Judge of the Lafayette County Circuit Court.

(B) The Report shall be submitted, to the Presiding Judge of the Lafayette County Circuit Court, on January 1 and July 1 of each year.

**15.2 State Auditor's Certificate (SAC 10)**

(A) The clerk shall create and the Municipal Judge shall certify substantial compliance with Section 479.360.1 (1-10).

(B) The certification shall be signed and submitted to the Finance Department in accordance with State Auditor's rules and procedures pursuant to RSMo 479.360.1 and 479.360.2; including the following:

- (1) Defendants in custody pursuant to an initial arrest warrant issued by a municipal court have an opportunity to be heard by a judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight hours on minor traffic or municipal ordinance violations and not later than seventy-two hours on other violations and, if not given that opportunity, are released;
- (2) Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest;
- (3) Defendants are not detained in order to coerce payment of fines and costs unless found to be in contempt after strict compliance by the court with the due process procedures mandated by Missouri supreme court rule 37.65 or its successor rule;
- (4) The municipal court has established procedures to allow indigent defendants to present evidence of their financial condition and takes such evidence into account if determining fines and costs and establishing related payment requirements;
- (5) The municipal court only assesses fines and costs as authorized by law;
- (6) No additional charge shall be issued for the failure to appear for a minor traffic or municipal ordinance violations;
- (7) The municipal court conducts proceedings in a courtroom that is open to the public and large enough to reasonably accommodate the public, parties, and attorneys;
- (8) The municipal court makes use of alternative payment plans;

- (9) The municipal court makes use of community service alternatives for which no associated costs are charged to the defendant; and
- (10) The municipal court has adopted an electronic payment system or payment by mail for the payment of minor traffic violations.

### **15.3 Report to city council**

The municipal judge shall cause to be prepared within the first 15 days of every month a report indicating the following:

- (1) Name of the defendant, if said defendant was found guilty;
- (2) The fine assessed in each individual case;
- (3) The amount of cost assessed in each individual case;
- (4) The term of imprisonment in each individual case;
- (5) Where applicable, the amount of fine remaining to be paid and arrangements for payment by the defendant; and
- (6) Whether said case has been appealed

### **15.4 REPORTING TO OFFICE OF STATE COURTS ADMINISTRATOR**

The clerk shall report case information to the Office of State Courts Administrator (OSCA) on a monthly basis. The report is due by the 15<sup>th</sup> day of each month with data from the previous month. The report shall be reported on the Municipal Division Summary Reporting Form, generated from the court's case management system.

### **15.5 REPORTING INTOXICATION-RELATED TRAFFIC OFFENSES TO THE CIRCUIT COURT EN BANC**

(A) The municipal clerk shall submit a report every 6 months stating the total number and disposition of report shall be compiled twice annually, for the periods ending June 30 and December 31, and shall be submitted to the circuit court en banc no later than 60 days following the last day of the reporting period.

(B) The Court Administrator shall send the intoxication-related traffic offense case activity reports to the Presiding Judge no later than August 29 for the January to June reporting period and no later than February 28 for the July to December reporting period.

(C) Unless instructed by the circuit court to provide additional information or to report in a different manner, use the "Municipal division Summary Reporting Form", generated from the court's case management system, that is submitted monthly to OSCA to meet the bi-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 judge of the circuit.

**15.6 REPORTING INTOXICATION-RELATED TRAFFIC OFFENSE POLICY TO OSCA AND MSHP**

The Municipal Court shall create a written policy to ensure all required intoxication-related traffic offense information is reported to the criminal history repository in a timely manner. The policy must be filed with the central repository and the Office of State Courts Administrator. (*Municipal Court Operating Order #1 - Appendix B*)

**15.7 REPORTING TO THE MISSOURI DEPARTMENT OF REVENUE**

The Municipal Court shall report case disposition information on moving traffic violations, alcohol and drug-related traffic offenses, including suspended imposition of sentence's (SIS); all convictions while driving a commercial motor vehicle, including commercial drivers' license holders driving a personal vehicle, to the Missouri Department of Revenue (DOR). DOR shall receive this information within 7 days of disposition; this **DOES NOT** include the 10 day timeframe for filing a trial de novo.

*(Record of Conviction Reporting - Appendix C)*

**15.8 FINGERPRINT REPORTING TO THE MISSOURI STATE HIGHWAY PATROL**

The Municipal Court shall report all filings and dispositions involving violations of sections 577.010 through 577.023 RSMo, or violations of county or municipal ordinances involving alcohol or drug related driving offenses to the Missouri State Highway Patrol within 30 days of case disposition. Dispositions must be reported using the Offense Cycle Number (OCN) from the Missouri State Criminal Fingerprint Card, which is completed by the arresting agency at the time of the arrest or when ordered by the court.