

RULE 69 MUNICIPAL DIVISION

ST. LOUIS COUNTY CIRCUIT COURT OPERATIONS OF MUNICIPAL DIVISIONS

BACKGROUND

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

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any previous Municipal Court Orders delineated or identified as Court Operating Orders # 1, #2 or #3 which are now rescinded.

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

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

For purposes of clarity, this Rule organizes the “Minimum Operating Standards” into seven (7) separate parts (Rule 69.01-69.07).

PURPOSE OF RULE

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

REPEAL OF CURRENT LOCAL RULES

By adoption of this Rule 69 the Court *en banc* repeals existing Rule 69 also related to Municipal Divisions.

RULE 69.01 OPERATIONS OF MUNICIPAL DIVISIONS

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

A. Courtroom – Physical Requirements

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

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

B. Clerk's Office – General

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Provide a monthly list of cases with required detail within 10 days of the end of each month to the municipality. Section 479.080.1 R.S.Mo.
20. Adopt a written policy for reporting intoxication-related traffic offenses to the central repository and provide same to OSCA and the highway patrol. Sections 479.172.1 and 479.172.2 R.S.Mo. Court Operating Rule #4 shall suffice for this purpose.
21. Provide a semiannual disposition report of intoxication-related traffic offenses to the circuit court *en banc*. Section 479.172.3 R.S.Mo.
22. Maintain adequate documentation to support all adjustment transactions and ensure an independent review and approval of these transactions is performed and documented.
23. Maintain a change fund at an established amount and periodically count and reconcile the monies on hand to the authorized balance.
24. Maintain bond coverage for all personnel with access to municipal division monies.
25. Ensure all bond receipts are recorded and deposited timely and intact.
26. Develop procedures and maintain records to identify applicable violations and the associated fines and court cost revenues for purposes of the revenue calculations required by Section 479.359 R.S.Mo. *et seq.*, and provide this information to the city.

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

1. Administrator's and clerks of court and other nonjudicial personnel, when performing court-related functions, shall work solely under the direction and supervision of the municipal judge, the circuit clerk, or another officer of the judicial branch as to the work to be performed and the manner in which it is to be done.
2. Clerks of court and other nonjudicial personnel shall not perform any functions that could constitute an actual or apparent conflict of interest with the impartial performance of their judicial duties.
3. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government resulting from the performance of judicial duties in a manner that upholds the independence of the judiciary.
4. Judges, clerks of court, and other nonjudicial personnel shall not be subject to informal pressure, formal discipline, firing, or threats of non-retention or non-reappointment at the conclusion of a term of office by officers and administrators of the municipal government that are designed to encourage or require the court to operate in such a way as to maximize the municipal revenues derived from municipal division operations or to meet specified revenue

targets without regard to whether such goals or targets are communicated formally or informally to court personnel.

PART II. GENERAL COURTROOM PROCEDURES

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

1. Establish standardized procedures to assure that defendants are given advice of rights pursuant to Supreme Court Rules 37.47, 37.48, 37.50, and 37.358.

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

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

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

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

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

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

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

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

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

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

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

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

4. Only court costs (fees, miscellaneous charges, and surcharges as defined at Section 488.010 R.S.Mo.) authorized by state statute shall be assessed. The OSCA bench card on municipal court costs shall be used as a reference. Sections 479.260 .1, 479.360(5), and 488.012 R.S.Mo.; COR 21.01

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

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

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

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

1. Procedures shall be established for the judge to inquire of defendants and allow them to present evidence about their financial condition to assess their ability to pay and establishing payment requirements. The court shall ensure the indigency form provided by the Missouri Supreme Court is used in the determination of indigency. See Missouri Supreme Court Model Local Rule 69.01, Statement of Financial Condition attached.

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

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

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

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

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

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

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

OR

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

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

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

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

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

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

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

B. Bond Schedules. The municipal division shall ensure bond schedules be utilized only for persons arrested without a warrant and held no longer than twenty-four (24) hours pursuant to Sections 479.360.1(2) and 544.170.1 R.S.Mo.; Supreme Court Rule 37.17.

C. Warrants.

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

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

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

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

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

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

PART V. JUDGES’ QUALIFICATIONS, REGULATIONS and DUTIES

A. Qualifications.

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

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

3. A judge shall not have attained age of seventy-five (75) years. Section 479.020.7 R.S.Mo.

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

- a. Orientation course completed within 12 months after beginning service. Supreme Court Rule 18.05(d).

- b. Five (5) hours of judicial CLE completed annually. Supreme Court Rule 18.05(a).
- c. Two (2) hours of judicial ethics CLE completed annually. Supreme Court Rule 18.05(b).
- d. CLE compliance form is submitted to the circuit court presiding judge.
- e. If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.
- f. Instruction on laws related to intoxicated-related traffic offenses. Section 479.172.1 R.S.Mo.

B. Duties of Judge, Generally.

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

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

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

Municipal Division _____

Municipal Judge _____

Any Substitute or Provisional Judges _____

Address Where Municipal Division is Held _____

Dates and Times Where Municipal Division is Held _____

Municipal Division Telephone Number _____

Judge Contact Number _____

Judge Email _____

Court Clerk Email _____

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

- Judge has received instruction on laws related to intoxicate-related traffic offenses. Section 479.172.1 R.S.Mo.
- A written policy for reporting intoxication-related traffic offenses to the central repository has been adopted and provided to OSCA and the highway patrol. Section 479.172.1. and 2 R.S.Mo.
- A copy of this written policy for reporting intoxication-related offenses to the central repository has been provided to the presiding circuit judge.
- Warrants are signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. Supreme Court Rule 37.45.
- Judge complies with Supreme Court Rule 37.47: Initial Proceedings before the Judge, including:
 - Arraignment as soon as practicable if defendant has not satisfied conditions for release.
 - Judge shall inform the defendant of the:
 - Ordinance violation charged,
 - Right to retain counsel,
 - Right to request the appointment of counsel if defendant is indigent and there is a possibility of a jail sentence,
 - Right to remain silent,
 - Fact that anything that the defendant says may be used against him or her.
- Judge complies with Supreme Court Rule 37.48: Arraignment:
 - Arraignment shall be conducted in open court,
 - Judge reads the information to the defendant or states the substance of the charge.
 - Municipal division calls upon the Defendant to plead there to.
 - Defendant shall be afforded a reasonable time to examine the charge before defendant is called upon to plead.
- Judge complies with Supreme Court Rule 37.50: Right to Counsel:
 - If conviction for an ordinance violation could result in confinement, the judge advises the defendant of the right to counsel and willingness of the judge to appoint counsel to represent the defendant.
 - Upon a showing of indigency, judge appoints counsel to represent the defendant.

- Judge allows the defendant to proceed without counsel if the judge finds that the defendant has knowingly, voluntarily, and intelligently waived the right to counsel.
- If it appears during the proceedings that because of the gravity of the ordinance violation charged and other circumstances that failure to appoint counsel may result in injustice, the judge then appoints counsel. Judge gives said counsel reasonable time to prepare.
- Choose one of the following:
 - The court allows payments online and makes available free, online access to information about pending cases, outstanding warrants, and scheduled municipal division dockets. The municipal division website is _____.
 - OR
 - The municipal division is actively pursuing court automation for compliance with payments online and making free, online access to information about pending cases, outstanding warrants, and schedule of municipal division dockets is scheduled to be in place by _____ (estimated date).
- Courtroom facility is sufficient for the purpose of a courtroom.
- Courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties, and attorneys.
- The facility chosen for the municipal division takes into consideration the safety and comfort of the public, parties and lawyers.
- The facilities chosen shall uphold the integrity and independence of the judiciary as a separate branch of government.
- Following applicable law, the judge relinquishes jurisdiction over a case when a motion to disqualify, motion for jury trial, or motion for trial de novo is filed.
- When a case is transferred to circuit court, the transfer occurs within fifteen (15) days.
- Judge has certified substantial compliance with Section 479.360.1(1 to 10) R.S.Mo. and provided signed certification to the governing body in compliance with the state auditor’s rules and procedures. Section 479.360 .1 and 2 R.S.Mo. Additionally, the judge complies with the following provisions of Section 479.360.1 R.S.Mo.:
 - Procedures exist to prevent defendants from being held longer than forty-eight (48) hours on minor traffic violations and seventy-two (72) hours on other violations without being heard by a judge in person, by telephone, or via video conferencing.
 - The municipal division has made reasonable efforts to communicate to local law enforcement the twenty-four (24) hour rule: “Defendants in municipal custody shall not be held more than twenty-four hours without a warrant after arrest.” See also Section 544.1701.1, R.S.Mo.

- Confinement to coerce payment of fines and costs is utilized only if found in contempt of court after compliance with Supreme Court Rule 37.65.
 - The municipal division inquires of defendants and allows them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due.
 - The courtroom is open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys.
 - Alternative payment plans are utilized. See also Supreme Court Rule 37.65(a)(1)(2).
 - Community service is utilized with no fee assessed to the defendant.
 - For minor traffic violations, procedures exist for electronic payment or payment by mail.
- Court provides to the municipality adequate information for the municipality to determine excessive calculations to the state auditor.
 - If judge is a lawyer, complete Section A. If judge is non-lawyer, complete Section B.

Section A

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

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

Section B

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

- Course of instruction administered by the MJEC within six months after selection. Supreme Court Rule 18.04; Section 479.020 R.S.Mo.
- Five (5) hours of judicial CLE annually. Supreme Court Rule 18.05(a).
- Two (2) hours of judicial ethics CLE annually. Supreme Court Rule 18.05(b).
- CLE compliance form is submitted to the circuit court presiding judge.
- If substitute/provisional judges preside, names and CLE compliance forms have been provided to the circuit court presiding judge.

- Judge has read the Supreme Court’s “Minimum Operating Standards for Missouri Courts: Municipal Divisions” and substantially complies with the remaining Minimum operating standards.
- Judge has attached to this certification the following:
 - Semiannual disposition report of intoxication-related traffic offenses provided to the circuit court *en banc*,
 - Substantial compliance certification with Section 479.360.1(1 to 10) R.S.Mo.
 - CLE compliance forms.

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

Date

Signature

RULE 69.02

REGISTRATION OF MUNICIPAL JUDGES

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

RULE 69.03

JURY TRIALS – MUNICIPAL DIVISION

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

(2) Pursuant to Supreme Court Rule 37.61, all requests for trial by jury shall be made by written motion signed by the defendant, and shall be filed with the municipal division at least ten (10) calendar days prior to the scheduled trial date in accordance with Missouri Supreme Court Rule. Upon receipt of any such motion, the municipal division shall promptly set the motion for hearing. It shall be the responsibility of the pro se defendant or counsel for defendant to provide all paperwork to the court including fingerprint cards where required by statute upon filing his/her request for certification of a case.

(3) 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 the Municipal Division for correction and proper submission.

(4) Any charge that requires fingerprinting shall be completed prior to the file being transferred to the Clerk of the Circuit Court. The judge may rule on the motion, but 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 the Court's Order for Fingerprinting shall result in the denial, without prejudice, of the motion.

(5) Upon certification of the case to the Associate division any outstanding warrants on any case being certified for jury trial shall be recalled by the municipality prior to transfer to the Clerk's office.

(6) Upon receipt of the municipal division's filing by the Clerk of the Circuit Court, clerk procedures in the Court Clerk Handbook should be followed. In instances that the case has been filed by using the police issued citation as the charging document, the case shall include only one (1) charge per case unless the second charge is a seatbelt violation. When the case is filed by formal information it may include more than one (1) charge per count. The Clerk's office shall notify all parties of the scheduled court date by electronic filing for attorneys or regular mail for *pro se* defendants.

(7) The municipal prosecutor and *pro se* defendant or counsel for defendant are expected to communicate with one another and make good faith efforts to reach a disposition prior to the initial docket setting.

(8) The *pro se* defendant and/or counsel for defendant must appear at the initial appearance. Failure to appear by the *pro se* defendant or counsel for defendant may result in a warrant being issued for a defendant's arrest or the case being set for trial.

(9) If resolution of the case has not been reached by the parties at the initial appearance in the Associate division, pre-trial and trial dates shall be set at that initial appearance. Parties shall be expected to present exclusionary dates to the court at the initial appearance. A case may be continued upon good cause shown.

(10) In any case before the Associate division, the Circuit Court may assess costs and fines against the defendant as provided by law. A cost bill shall be made available by the Clerk's office. A record of the final disposition shall be sent back to the municipal division with original jurisdiction.

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

(12) Pursuant to Supreme Court Rule 37.61(f), once the case has been accepted by the Associate Division as a certified case, a case may be remanded to the municipal division, if the defendant files a written motion so requesting and attaches thereto a waiver of the right to a jury trial. Cases certified for a jury trial pursuant to Local Court Rule 69.03 are deemed waived by (1) failure to appear at trial, or (2) by filing with the clerk written consent in person or by attorney, or (3) by oral consent in court, entered in the minutes, or (4) by proceeding to trial without objection.

RULE 69.04

TRIAL *DE NOVO* – MUNICIPAL DIVISION

(1) Where authorized by law, the defendant may request a trial *de novo*. If no application for trial *de novo* is filed with the municipal division within ten (10) days after the date of the judgment, the right for trial *de novo* shall be deemed waived and the municipal division shall execute the judgment and sentence.

(2) Pursuant to Supreme Court Rule 37.71, all requests for trial *de novo* shall be made by written motion, and shall be filed with the municipal division no longer than ten (10) calendar days from the entry of judgment.

(3) Pursuant to Supreme Court Rule 37.72, the filing of an application for trial *de novo* or review shall suspend the execution of the judgment of the municipal division. If the applicant for trial *de novo* withdraws the application, or if before commencement of trial, the court enters a finding that the applicant has abandoned the trial *de novo*, the case shall be remanded to the municipal division for execution of judgment. Upon receipt of any such motion, the municipal division shall promptly set the motion for hearing. The defendant must appear at the scheduled hearing.

(4) If the motion is sustained, pursuant to Supreme Court Rule 37.73, the municipal division clerk shall transmit to the Clerk of the Circuit Court within fifteen (15) calendar days from the granting of the motion a certified copy of all papers filed in the case, including any bond paperwork, any cash or other property given as security upon any such bond, and fingerprint cards. 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, shall be corrected by the municipal division clerk. The failure of the municipal division clerk to transmit the record shall not affect the defendant's trial *de novo*.

(5) Upon receipt of the municipal division clerk's filing to the Clerk of the Circuit Court, clerk procedures in the Court Clerk Handbook should be followed. In instances that the case has been filed by using the police issued citation as the charging document, the case shall include only one (1) charge per case unless the second charge is a seat belt violation. When the case is filed by formal information, it may include more than one (1) charge per count. The Clerk's office shall notify all parties of the scheduled court date by electronic filing for attorneys or paper mail for *pro se* defendants.

(6) The municipal prosecutor and *pro se* defendant or counsel for defendant are expected to communicate and make good faith efforts to reach a disposition prior to the initial docket setting.

(7) The *pro se* defendant and/or counsel for defendant must appear at the initial appearance. Failure to appear by the *pro se* defendant or counsel for defendant may result in a warrant being issued for a defendant's arrest or the case being set for trial.

(8) Pre-trial and trial dates shall be set at the initial appearance if a resolution of the case has not been reached by the parties. Parties shall be expected to present exclusionary dates to the court at the initial appearance.

(9) In any case, the Circuit Court may assess costs and fines against the defendant as provided by law. A cost bill shall be made available to the defendant by the Clerk's office. A record of the final disposition shall be sent back to the municipal division with original jurisdiction.

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

RULE 69.05 DISQUALIFICATION OF JUDGE

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

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

(3) In a municipality that has appointed a provisional judge to hear and determine cases in those situations when the sitting municipal judge is unable to hear and determine a case, the provisional judge shall be immediately assigned to hear and determine the case from which the sitting municipal judge has been disqualified. The Municipal Judge is excused from informing the Presiding Judge of his or her disqualification when the appointed provisional judge is assigned to a case upon disqualification of the sitting judge.

RULE 69.06 AGREEMENT TO SHARE MUNICIPAL COURTROOM

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

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

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

RULE 69.07**INCORPORATION OF OPERATING RULE #4**

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

Attachment #1

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

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

MUNICIPAL DIVISION – THE CITY OF _____

MUNICIPAL DIVISION OPERATING ORDER #4

Including Eight Local Court Rule provisions

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

Effective Date –September 12, 2018

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

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

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

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

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

PART I – ADMINISTRATION OF MUNICIPAL DIVISION

A. General Administrative Procedures.

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

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

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

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

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

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

B. Applicable Local Circuit Court Rules.

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

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

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

3. Municipal Ordinance Violations – Special Rule. Fines and costs assessed on a “Municipal Ordinance Violation” (as defined by law) shall not exceed the mandatory maximum schedule set forth by statute. The Court Administrator shall clearly mark the Division files, to report any previous relevant violations of “Municipal Ordinance Violations” so that the Court may not impose a fine in an amount which exceeds the mandatory maximum schedule. (*Source: §§479.350(4) and 479.353(1)(b) R.S.Mo.*)
4. Segregation of Duties. The Court Administrator shall abide by MOS #7 and, as applicable, take all steps necessary to segregate the duties of the Prosecuting Attorney and law enforcement from that of the Court Administrator. The Court Administrator and the Prosecuting Attorney’s Clerk shall cause there to be separate filing systems for prosecutor-related documents and communications, from those documents and communications under the authority of the Court Administrator.
5. Hours of Court Administrator’s Office. The Court Administrator shall communicate regularly with the Division and with the City so that the Court Administrator’s office is open and accessible to the public for the required number of hours per week, or the Court Administrator is available, all in accordance with MOS #8.
6. Confidential and Closed Records.
 - a. Identify Records. The Court Administrator shall identify all Division records that contain confidential information and maintain all confidential records in accordance with those procedures set forth in Chapter 5 of the then current Clerk Manual. The Court Administrator shall permit closed records to be inspected by the defendants, courts, and those agencies as are set forth in Section 610.120 R.S.Mo. The Court Administrator shall identify all Court records (including docket entries for cases that have been nolle prossed, dismissed, Substance Abuse Traffic Offender Program (“*SATOP*”), or the defendant found not guilty) that contain confidential information. The Court Administrator, on behalf of the Judge, shall request the city provide adequate and secure file cabinets for the retention of confidential records and closed files. The Court Administrator shall comply with laws regarding confidentiality of identifying information contained in Court documents regarding victims of sexual or domestic assault, or stalking. (*Source: §§595.226, 610.105 and 610.120 R.S.Mo.; Section 5.1 of Clerk Manual.*)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Reporting to OSCA.

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

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

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

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

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

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

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

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

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

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

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

Dispositions that must be reported to the MSHP are:

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

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

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

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

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

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

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

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

The Court Administrator shall prepare a report twice annually, by June 30th and December 31st, which shall include, but shall not be limited to, the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed or pending in that Division. The Division shall submit said report to the Circuit Court *en banc*. The report shall include the six-month period beginning January 1st and ending June 30th and the six-month period beginning July 1st and ending December 31st of each year. The report shall be submitted to the Circuit Court *en*

banc no later than sixty (60) days following the end of the reporting period. The Judge shall attach the same report to the Presiding Judge in accordance with I.C.7. of this Order by January 1st of the year, recognizing that there is no sixty (60) day period to submit the report following the end of the reporting period as there is for the report to the Circuit Court *en banc*. (Source: §479.172.3 R.S.Mo.; MOS; Section 1.4 of Clerk Manual.)

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

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

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

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

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

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

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

Addresses and facsimile numbers where copies shall be sent are:

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

Missouri State Highway Patrol
Criminal Justice Information Services Division
P.O. Box 9500
Jefferson City, Missouri 65102
Email: mshpcjis@mshp.dps.mo.gov

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

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

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

permitted. Division costs shall not be assessed against indigent defendants, as per law. (Source: §479.353(4)(5) R.S.Mo.; MOS #4.)

(c) The Division shall be in compliance with the then current statutes regarding community service utilization and its costs or fees. (Source: §479.360.1 R.S.Mo.; MOS #2 and #4.)

(d) The Court Administrator shall have present at all times in the courtroom sufficient copies of procedural forms so as to allow defendants to present evidence of their financial condition in assessing their ability to pay, and for the Division to establish payment plans. The Court Administrator shall have other forms as available from OSCA to comply with requirements by law. (Source: §479.360.1 R.S.Mo.; SCR 37.65; MOS #2.)

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

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

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

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

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

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

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

3. Receipts for Payment of Fines, Division Costs and Surcharges. The Court Administrator shall issue a pre-numbered receipt for all collections and provide such a receipt to the payer if payment is made in person, and retain a duplicate copy of the receipt in the receipt book or maintain the receipt in an approved automated system. In the event that the automated system is unavailable, manual receipts shall be issued and the payment shall be accounted for immediately following the restoration of the automated system. If payment is made by mail, the Court Administrator shall file the original copy of the receipt with the case file

information, or maintain the original receipt in a pre-numbered receipt book or approved automated system cross-referenced with the docket entry, unless the payer requests the receipt be returned by mail, and provides a self-addressed, stamped envelope. (Source: COR 4.53 and Section 4.5 of Clerk Manual.)

4. Electronic Payments. The Court Administrator shall communicate with the City to create an appropriate system to allow court payments online and further, to make available free, online access to information about pending cases, outstanding warrants and scheduled Division dockets. (Source: MOS #6.)
5. General Compliance with Recommended Accounting Procedures for Municipal Divisions; Deposit of Fines, Costs, Surcharges and Bonds to be placed into Applicable Accounts.
 - (a) The Court Administrator shall follow those recommended accounting procedures for municipal divisions as set forth in Section 4.5 of the Clerk Manual. The Court Administrator shall cooperate with the City to comply with the provisions of law limiting the percentage of revenue from Municipal Ordinance Violations and Minor Traffic Violations for reporting purposes. (Source: §479.359 R.S.Mo.)
 - (b) The Court Administrator shall deposit all fines, costs, surcharges and bonds collected in the Division's or City's bank accounts on a daily basis, or when the amount on hand reaches \$100.00, if not on a daily basis. The Court Administrator shall, to the extent possible, work jointly with the City to effectuate all deposits by delivery of same for deposit by police officers or other city personnel. The Court Administrator shall cause specific surcharges, including, but not limited to, CVC, POST, LETF, police recoupment, and, if applicable, domestic violence and inmate security surcharges, to be placed as separate line items or in separate accounts and to be remitted to the proper entity or account no less than monthly. (Source: COR 21; Section 4.5 of Clerk Manual; MOS "Open Records and Other Recordkeeping Matters" and "Financial and Bookkeeping" provisions.)
6. Fidelity Bonds. The Court Administrator shall request the City to maintain fidelity bonds, in an amount established by the City, in consultation with its auditors, covering the Court Administrator and all other personnel who handle collection or deposit of fines, court costs and surcharges related to the Division. The Court Administrator shall obtain a copy of the declaration sheets of any such bonds obtained by the City to keep in the Division permanent files. (Source: Section 4.5 of Clerk Manual; MOS "Financial and Bookkeeping" provisions.)

E. **Surety Bonds and Confinement.**

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

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

2. Cash Bond Schedule. Any cash bond schedule approved by the Judge shall provide for procedures to comply with law. Such procedures shall include, but not limited to the following:
 - (a) Procedures to prevent defendants from being held longer than 48 hours on Minor Traffic Violations and 72 hours on other violations without being heard by the Judge in person, by telephone or via video conferencing.
 - (b) Procedures for the Court Administrator and others requiring reasonable efforts to communicate to the city police department the “24 hour Rule,” as described in Section 544.170.1 R.S.Mo., relating to the right to review of conditions for release when no “conditions for release” have been imposed.
 - (c) Procedures for the Court Administrator to communicate with the Judge and with the city police that there shall be no confinement to coerce payment of fines and costs, except after compliance with SCR 37.65.

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

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

F. Warrants.

1. The Court Administrator shall follow those procedures and guidelines concerning warrants as directed by the Judge, and in compliance with MOS #1. The Court Administrator shall ensure that warrants are signed only by the Judge, unless the exception of a specific warrant ordered by a Judge shall be signed by the Court

Administrator is applicable. The Court Administrator shall ensure that when a case is dismissed by the prosecuting attorney or otherwise finally resolved, or when the circumstances that justified issuance of a warrant no longer exist, that the Judge is informed to cancel any outstanding warrants in that case as soon as practicable. (Source: SCR 37.45.)

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

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

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

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

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

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

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

PART II – ORDERS REGARDING OPEN DIVISION AND EXCEPTIONS

A. General Rule.

1. **Division Shall be Open to the Public.** The Division courtroom shall be open to the public of all ages and large enough to reasonably accommodate the public, parties and attorneys. The Court Administrator and Judge should take reasonable steps if it appears that longer hours or additional court dates are required to meet this provision. (*Source: §479.360.1 R.S.Mo.; MOS #8.*)
2. **Opening of Division Doors.** Division personnel shall open the doors to the courtroom at least one hour prior to the commencement of the Division's docket, unless a different order of the Division shall specify otherwise.
3. **No Refusal of Entry.** Division personnel shall not refuse entry by any person, whether defendant or other person, except and unless such person shall be in violation of any published dress code, is acting in an inappropriate manner, or if such entrance would violate the Fire Code. Division personnel shall have the right to ask persons entering the courtroom if they are a defendant or visitor, but only for purposes of directing where to sit, or to mark a name off the docket. Division personnel shall have the right to check purses, camera bags, and similar items.
4. The Division's website and general correspondence shall not state that certain persons are prevented from attending any session of Division, except that there may be reference stating that those not in compliance with any published dress code adopted by the Division will not be admitted.

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

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

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

alcohol and/or drugs, that person shall be, if a defendant, asked for his or her name and then be asked to leave the courtroom. The defendant shall be asked to remain outside the courtroom for determination by the Division whether to continue the matter or take other action. If the affected person is not a defendant or witness in a trial, that person shall be removed from the courtroom.

3. Appropriate Attire. When a person who desires to enter the courtroom does not meet any published dress code adopted by the Division, Division personnel shall require that said person leave the courtroom until such time as the person is appropriately dressed to meet the Code, or the Judge may continue the case upon request of the Prosecuting Attorney or defendant.
4. Overcrowding in Violation of the Fire Code. In the event of large attendance, bailiffs, police officers and other Division personnel shall count the persons present in the courtroom and shall limit access so as not to be in violation of the Fire Code. The number of persons who may be present in the courtroom without violation of the Fire Code is _____.

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

5. Children. Subject to the right of the public of all ages to attend Division sessions, the Division may limit the presence of children unaccompanied by an adult. This shall not apply to persons under the age of seventeen (17) who are present in the courtroom as a defendant. For children sixteen (16) and under, the Division shall be open except as follows:
 - (a) When a child becomes noisy or will not remain seated, the parents or guardians of that child will be asked to remove said child or children. The bailiff or police officer shall record the name of the defendant associated with the child, and ask that the defendant and children remain in the hallway or outside the courtroom until their name is called on the docket. At such time as the defendant's name is called, the bailiff shall summon the family, including children, who may then enter the courtroom for purposes of arraignment or other business with the Division.
 - (b) The Division may exclude children if the nature of a matter being heard may be, in the Division's discretion, inappropriate for children.

(Source: §§476.170, 479.060, 479.360 and 479.060 R.S.Mo.; MOS #8.)

- C. Closing of the Courtroom. Other than closure to those persons as set forth in Sections B.1 – 5, if the Judge, Prosecuting Attorney or defendant, desires to close the courtroom during any particular motion or trial, the Judge shall will conduct a brief hearing on

whether to enter an order to close the proceedings and shall be guided by the following Sections:

1. The proponent of closure must present a showing of a compelling interest for such closure. The Judge shall balance the public's right of access with the interest identified by the proponent of closure and shall determine whether the interest identified by the proponent is such that closure of the courtroom is essential to preserve the interest under the circumstances.
2. Anyone present in the courtroom when the closure motion is made, shall be given an opportunity to object to the closure.
3. The proposed method for curtailing open access shall be in the least restrictive means available for protecting the interest identified by the proponent of closure.
4. The order shall be no broader in its application or duration than necessary to serve its purpose.

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

- D. **Retention of Rights.** The Judge retains the right to post and enforce additional rules of conduct in order to maintain the integrity and decorum of the courtroom, not to conflict with MOS #8.

PART III – OTHER GENERAL RULES

A. **Fax and Electronic Memoranda.**

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

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

- C. **Access required by ADA.** Pursuant to the American with Disabilities Act, this Division shall provide, based on expressed needs, auxiliary aids or services to interpret any

proceeding for a person who is deaf or hard of hearing. This requirement applies to a person who is a party, juror, witness, spectator, or a juvenile whose parent, guardian or foster parent is deaf or hard of hearing if the juvenile is brought to any proceeding. (*Source: §§476.750-476.766 R.S.Mo.*)

SO ORDERED:

DATE _____

Judge, City of _____



SUPREME COURT OF MISSOURI

en banc

September 19, 2016 as Amended December 14, 2016

In re: MODEL LOCAL RULE 69.01 - DETERMINING INDIGENT STATUS IN MUNICIPAL DIVISION CASES

ORDER

1. The Court hereby approves for distribution the following model local rule:

69.1 DETERMINATION OF INDIGENT STATUS

(a) A person seeking permission to proceed as an indigent in a municipal division case shall submit to the court the following “Statement of Financial Condition.”

STATEMENT OF FINANCIAL CONDITION

Name: _____ Case Number: _____

Address: _____

Your Age and Date of Birth: _____

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

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

If you answered “No,” why not? _____

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

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

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

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

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

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

Take home pay for the month including overtime and bonuses: __ Social security income (including social security disability): _____

Workers' compensation income: _____

Unemployment income: _____

Retirement income: _____

All other income: _____

Total: _____

6) How many people live in your household? _____

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

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

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

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

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

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

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

Applicant

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

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

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

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

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

1 household person:	\$1,238
2 household person:	\$1,669
3 household person:	\$2,100
4 household person:	\$2,531
5 household person:	\$2,963
6 household person:	\$3,394
7 household person:	\$3,826
8 household person:	\$4,259

[Add \$433 for each additional person]

2. The state courts administrator shall provide copies of this order to every presiding circuit court judge and such other persons as the administrator deems appropriate.
3. It is ordered that notice of this order be published in the Journal of the Missouri Bar.
4. It is ordered that this order be published in the South Western Reporter.

Day – to – Day

PATRICIA BRECKENRIDGE
Chief Justice