

OREGON CITY MUNICIPAL COURT RULES
March 1, 2018

1.
GENERAL PROVISIONS

1.010 SCOPE OF THESE RULES

(1) Effective January 1, 2018, these rules apply uniformly to all proceedings in Oregon City Municipal Court except those proceedings and actions specified in Oregon City Municipal Code (https://library.municode.com/or/oregon_city/codes/code_of_ordinances) or proceedings and actions for which a limited application is specifically provided by these rules.

(2) These rules shall be construed so as to achieve consistency with Oregon Revised Statutes provisions and to promote the just, speedy and cost effective adjudication of every proceeding and action as well as the efficient use of judicial time and resources.

(3) Chapters 2-13 of the Oregon Uniform Trial Court Rules do not apply to violations and parking violations except proceedings that are subject to a federal bankruptcy stay (see UTCR 7.050)

3. These rules apply to attorneys and to persons representing themselves.

1.20 AMENDMENT OF THESE RULES; EFFECTIVE DATE

(1) The Oregon City Municipal Court Rules may be amended by order of the Municipal Judge.

(2) The effective date of any amendments to Oregon City Municipal Court Rules shall be 30 days from date signed, unless otherwise ordered by the Municipal Judge.

1.030 TRANSITION TO THESE RULES

On their effective date, these rules, and any amendments, shall apply to all actions and proceedings pending on or commenced after that date, except to the extent that, in the opinion of the court, application of the amendments in a particular action pending when these amendments take effect would not be feasible or would work injustice, in which event, the former procedures apply.

1.040 FORMAT AND LOCATION OF COURT RULES

Oregon City Municipal Court Rules must be numbered as closely as possible to and in the same chapter as related Uniform Trial Court Rules.
(<http://www.courts.oregon.gov/programs/utcr/pages/currentrules.aspx>)

1.050 SANCTIONS

(1) If a party or attorney fails to file a pleading or other document in the manner, form or time required by these rules, the court may strike the pleading or document or order some other remedy as justice requires.

(2) If a party or attorney is willfully and prejudicially resistant or refuses to comply with Oregon City Municipal Court Rules, the court, on its own motion or that of a party after the opportunity for a hearing, may do any of the following:

- a) Assess against the noncompliant party or attorney or both reasonable costs, expenses and attorney fees incurred by a party, attorney, or the court.
- b) Otherwise award reasonable costs, expenses and attorney fees incurred by a party, attorney or the court.
- c) Strike the offending pleading or other document.
- d) Such remedies as justice requires.

1.100 RELIEF FROM APPLICATION OF COURT RULES

A judge, for good cause shown, may grant a party relief from application of these rules if necessary to prevent hardship or injustice.

1.110 DEFINITIONS

As used in these rules:

- (1) "Party" means a litigant or the litigant's attorney.
- (2) "Court Manager" means the administrator of court personnel and procedures and, where appropriate, means court clerk.
- (3) "Days" mean calendar days, unless otherwise specified in these rules.

1.130 TIME COMPUTATION

ORCP 10 shall be followed in computing any time period prescribed by these rules. (https://www.oregonlegislature.gov/bills_laws/Pages/orcp.aspx)

1.160 FILING OF DOCUMENTS IN COURT

Filings are accepted at the Oregon City Municipal Court located at 320 Warner Milne Road, Oregon City, OR 97045. Filings delivered to a judge outside of a court proceeding, judge's staff, judge's mailbox, or chambers, are not considered filed until it is received by the

Court Manager or designee.

1.170 HOURS OF COURT OPERATION; WEBSITE

(1) Oregon City Municipal Court, located at 320 Warner Milne Road, Oregon City, Oregon 97045, is generally open to conduct business between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City holidays.

(2) Violations Bureau hours are generally 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding City holidays.

(3) Hours may be modified to conduct court business as ordered by the Municipal Judge.

(4) The website for the Municipal court is <https://www.orcity.org/municipalcourt>.

1.200 INFORMATION ON FREE OR LOW-COST LEGAL SERVICES

Information on free or low-costs legal services in Clackamas County and the Oregon City area can be found at the Oregon State Bar website (<http://www.osbar.org/public>).

2.

STANDARDS FOR PLEADINGS AND DOCUMENTS

2.010 FORM OF DOCUMENTS

The form of all documents, including pleadings and motions, except where a different procedure is specified by Oregon Revised Statutes, Oregon City Municipal Code or these rules, must be:

(1) Definitions:

a) "Document", as used in this rule, means every paper filed in any type of proceeding.

b) "Printed document" means documents wholly or partially printed.

(2) Size of documents:

a) All documents, except exhibits, must be prepared on letter-size (8 ½ x 11 inches), except that smaller size paper may be used for bench warrants, commitments, uniform citations and complaints and other documents otherwise designated by the court.

(3) Documents must be printed or typed:

a) All documents must be printed or typed; except that blanks in preprinted forms may be completed in handwriting and notations by the court manager or judge may be made in handwriting.

(4) Spacing, paging and numbered lines

- a) All pleadings, motions and requested instructions must be double-spaced and prepared on paper with numbered lines;
- b) All other documents may be single-spaced and the lines need not be numbered.
- c) On the first page of each pleading or similar document, not less than two inches or more than four inches at the top of the page shall be left blank.
- d) All documents, except exhibits, shall be prepared with at least a one-inch binding margin. The binding margin shall be at the edge of each sheet of paper in the document corresponding to the top of the first page printed on the sheet of paper. All documents containing printing on the back side of a sheet shall be printed in such a manner so that when the page is turned on the binding edge, print on the back side is oriented in the same direction as the print on the front side of the following sheet.

(5) Signature

- a) The name of the party or attorney signing any pleading or motion must be typed or printed immediately below the signature. All signatures must be dated.

(6) Attorney and litigant information

- a) All documents must include the author's name, address, telephone number, fax number, if any, and, if prepared by an attorney, the name, email address, and the Bar number of the author and the trial attorney assigned to try the case. Any document not bearing the name and Bar number of an attorney as the author or prepare of the document must bear or be accompanied by a certificate in substantially the form set out in Form 2.010.7 in the UTCR Appendix of Forms.

(7) Exhibits

- a) When an exhibit is appended to a filed document, each page of the exhibit must be identified by the word "Exhibit" or "Ex" to appear at the bottom right-hand side of the exhibit, followed by an Arabic numeral identifying the exhibit. Each page number of the exhibit must appear in Arabic numeral immediately below the exhibit number;
- b) e.g.: "Exhibit 2
(A) Page 10"
- c) Exhibits appended to a pleading may be incorporated by reference in a

later pleading.

(8) Information at bottom of each page

- a) The name of the document, and the page number expressed in Arabic numerals, must appear at the bottom right-hand side of each page of each document.

(9) Document title

- a) The title of each document filed with the court must include an identification of the filing party, such as “Defendant”. When there are multiple parties on a side, the party submitting the document must be suitably identified.
- b) The court case number must appear in the caption of every document. Every motion must show in the title the name of the pleading against which it is directed.
- c) When a document applies to more than one case number for the same party, all case numbers must be listed in the caption or attached as an addendum to the document.

(10) Orders, Judgments or Writs

- a) The judge’s signature portion of any order, judgment or writ prepared for the court must appear on a page containing at least two lines of the text. Orders, judgments or writs embodying the ruling of a particular judge must have the name of the judge typed, stamped or printed under the signature line.
- b) If the order, judgment or writ is prepared by a party, the name and identity of the party submitting the order must appear therein, preceded by the words “submitted by”.
- c) Motions and orders may be submitted as a single document only if the motion is stipulated, subject to ex parte ruling, not contested or otherwise specifically allowed. Motion and order of dismissal, continuance, or to withdraw may be submitted as a single document. Any other motions must be submitted as a separate document from any proposed form of order deciding the motion. A motion submitted as a single document with an order may not be filed unless the order has been ruled upon and signed by a judge.
- d) When allowed to be submitted as a single document under paragraph c) of this subsection, motions and orders submitted as a single document must contain a double solid line across the page separating the motion portion of the document from the order portion. The caption of the document must be labeled “Motion xxxx and Order” in the upper

right-hand corner of the document. The full description of the motion must be included in the title. The order portion must be clearly labeled "Order" in the upper left-hand corner of the order portion of the document. A 2"x2" space must be provided below the double solid line in the upper right-hand corner of the order portion for the file/date stamp of the order. The order portions must be written as clearly and simply as possible. Where appropriate, the order must consist of only two check boxes as follows: one for allowed, the other for denied. Where such check boxes are used in the order portion, they must be placed above the standard date and signature lines.

e) If the order, judgment, writ or ruling of the court is encompassed in a letter opinion issued by a judge of the Oregon City Municipal Court, the words "Order, Judgment, Motion xxx Granted, or Motion xxx Denied, etc." shall be clearly and prominently displayed in bold-face above the salutation and again at the end of the letter above the standard date and signature line.

f) Handwritten order, judgment, writ or ruling of the court may be entered

(11) Citation of Oregon cases

a) In all matters submitted to the Oregon City Municipal Court, Oregon cases must be cited by reference to the Oregon Reports as (Name) vs. (Name), ___ Or ___ (year) or as State vs. (Name), Or App ___ (year); cases cited from Oregon City Municipal Court must be cited as City of Oregon City vs. (Name), case number _____.

(12) Notice of address, telephone number, or email address change

a) An attorney or unrepresented party whose address or telephone number changes must immediately mail or deliver notification of such change in the Oregon City Municipal Court, Court Manager and all other parties.

(13) Application to court forms

a) Forms created by Oregon City Municipal Court are not required to comply with the provisions of UTCR 2.010(4) or (8) where the Oregon City Municipal Court determines variation from those provisions will promote administrative convenience for the court or parties. Such forms and exact copies of such forms may be used and submitted to the Oregon City Municipal Court without challenge.

2.020 CERTIFICATE OF SERVICE

When a summons or other civil process is served by one other than a sheriff or deputy sheriff, the certificate of service must include the name, telephone number and address of the person who served the summons or process.

2.030 MATTERS UNDER ADVISEMENT MORE THAN 30 DAYS

- (1) If any judge or pro tem judge shall have any matter under advisement for a period of more than 30 days, it shall be the duty of all parties to call the matter to the court manager or designee's attention forthwith, in writing.
- (2) If the matter remains under advisement for 60 days, all parties are required to call the matter to the judge's attention forthwith, in writing, with copies to the presiding judge.

2.080 COMMUNICATION WITH COURT

- (1) Except as exempted by ORS, UTCR 2.100, or UTCR 2.110, when written communication is made to the court; copies must simultaneously be mailed or delivered to all other parties and indication made on the original of such mailing deliver.
- (2) All written communications to the court shall refer to the title of the case and the case number.

2.090 FILINGS FOR CONSOLIDATED CASES

Cases that are consolidated are consolidated for the purposes of hearing or trial only. All pleadings, memoranda, and other documents applicable to more than one file will be filed in each case under existing captions and case numbers unless otherwise ordered by the court. Unless otherwise ordered by the court, any document applicable to only a single file will be singly filed. It is the duty of counsel to provide the court administrator with sufficient documents to allow filings consistent with this rule or a court order pursuant to this rule.

2.120 AFFIDAVITS

Unless otherwise mandated by statute, an affidavit required by the UTCR need not be notarized, but it must be signed by the affiant and must include a sentence, in prominent letters, immediately above the signature of the affiant that states, as specified in ORCP 1E: "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

3. DECORUM IN PROCEEDINGS

3.010 PROPER APPAREL

- (1) All persons attending the court must be dressed so as not to detract from the dignity of court. Shorts, tank tops, and hats are not allowed in the courtroom. Members of the public may be excused from the courtroom.
- (2) When appearing in court, all attorneys and court officials' musts wear appropriate attire.

3.020 PROPER APPAREL FOR INCARCERATED WITNESSES AND DEFENDANTS APPEARING IN CRIMINAL PROCEEDINGS

Incarcerated witnesses and defendants appearing for trial must be dressed in neat, clean civilian clothing, unless otherwise ordered by the court.

3.030 MANNER OF ADDRESS

During trial, the litigants and litigants' attorneys must not address adult witnesses, jurors or opposing parties by their first names, and, except in voir dire, must not address jurors individually.

3.040 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES

Attorneys must advise their clients and witnesses of the formalities of the court and must encourage their cooperation. Unrepresented parties must similarly advise their witnesses and encourage their cooperation.

3.050 PROPER POSITION OF PARTIES BEFORE COURT

Parties must:

(1) rise from their positions at counsel table and remain standing while addressing the court or the jury, except during voir dire;

(2) not approach the bench except by permission;

(3) be allowed to move freely about the courtroom during trial unless otherwise instructed by the court.

3.060 DEFENDANT IN CRIMINAL TRIAL

During arraignment, plea and sentence, the defendant must stand unless otherwise permitted by the court.

3.070 PERSONS PERMITTED WITHIN BAR OF COURT

(1) Except as otherwise permitted by the court, during trial of any case or the presentation of any matter to the court, no persons, including members of litigants' families, shall be permitted within the bar of the courtroom, other than clients, attorneys, court personnel and witnesses when called to the stand.

(2) Unless specifically excluded by the court, during arraignment on criminal matters, a legal assistant, paralegal or third year certified law clerk may be permitted within the bar of the courtroom to assist the city attorney, assistant city attorney or defense attorney in facilitating the arraignment process and providing discovery.

3.080 PROCEDURES FOR SWEARING WITNESSES

The swearing of witnesses shall be conducted as a serious ceremony and not as a mere formality.

3.090 UNDUE RECOGNITION OR FAMILIARITY BY JUDGE

Judges shall refrain from showing undue recognition of or familiarity with any person in the courtroom.

3.100 PROPER USE OF COURT CHAMBERS

Except when court business is being conducted, parties must not congregate in the court's chambers or use facilities or the court's entryway between the chambers and the bench without the permission of the court.

3.110 CONFERENCES IN CHAMBERS

Conferences may be conducted in chambers and shall be conducted without litigants present unless required by the court, requested by a party or otherwise required.

3.120 COMMUNICATIONS WITH JURORS

(1) Except as necessary during trial, and except as provided in subsection (2), parties, witnesses or court employees must not initiate contact with any juror concerning any case which the juror was sworn to try.

(2) After a sufficient showing to the court and on order of the court, a party may have contact with a juror in the presence of the court and the opposing party when:

a) there is a reasonable ground to believe that there has been a mistake in the announcing or recording of a verdict; or

b) there is a reasonable ground to believe that a juror or the jury has been guilty of fraud or misconduct sufficient to justify setting aside or modifying the verdict or judgment.

3.130 DISCLOSURE OF RELATED MATTERS WHEN SEEKING COURT ORDER

When a party seeks to obtain an order from a judge, the party must inform that judge of any ruling, hearing or application for a ruling or hearing before any other judge that concerns the subject of the order requested.

3.140 MOTION TO WITHDRAW, RESIGNATION (CHANGE), MOTION TO REQUEST SUBSTITUTION OF ATTORNEYS

(1) Except as provided in subsection (2), or unless relieved by the court, an attorney appointed by this court to represent an indigent defendant shall remain the attorney of record until a judgment or final determination is entered in the

appropriate record of this court.

(2) At any time, upon written motion and supporting affidavit of the client or the attorney of record, or in open court, for good cause shown, the client or attorney may seek to change, withdraw, resign or substitute attorneys when:

- a) There is a reasonable ground to believe an ethical conflict has arisen which has irretrievably broken the attorney-client relationship or compels the attorney to seek to resign;
- b) There is a reasonable ground to believe the client is no longer indigent and is capable of employing his/her own counsel.
- c) There is a reasonable ground to believe that the administration of justice and the rights of the client would be best served with new counsel; and
- d) The motion to withdraw is not made for the purpose of delay or to frustrate any prior case-related rulings of the court.

(3) Except as provided in subsection (4), an attorney who is retained and who files the initial appearance for a defendant, or who personally appears for a defendant at arraignment on an offense, is deemed to be that defendant's attorney of record, unless at that time the attorney otherwise notifies the court and the city attorney in open court that he/she is appearing on behalf of the actual attorney of record, and shall remain the attorney of record until a judgment or final determination is entered in the appropriate record of this court.

(4) At any time, upon written motion and supporting affidavit of the client or attorney of record, for good cause shown, the client or attorney may seek to change, withdraw, resign or substitution attorneys when:

- a) There is a reasonable ground to believe an ethical conflict has arisen which has irretrievably broken the attorney-client relationship or compels the attorney to seek to resign;
- b) There is a reasonable ground to believe the client is indigent and no longer capable of employing his/her own counsel.
- c) There is a reasonable ground for the client retaining new, substitute counsel of his/her choice.
- d) There is a reasonable ground to believe that the administration of justice and the rights of the client would be best served with new counsel.
- e) The motion must contain the name, address and telephone number of the party and the proposed new attorney, if known, and the date of any scheduled trial or hearing. The attorney's fax number and email address, if any, must also be included. It must be served on that party

and the city attorney; and
f) The motion to withdraw is not made for the purpose of delay or to frustrate any prior case-related rulings of the court.

(5) When an attorney or defendant seeks to obtain an order allowing withdrawal, resignation, change or substitution of counsel from this court, the moving party must inform the court of any ruling, hearing or application for a ruling before any other judge that concerns the subject of the order requested. The presiding judge of this court shall have final authority.

(6) When an attorney or defendant seeks to obtain an order allowing withdrawal, resignation, change or substitution of counsel less than 30 days before trial, the motion shall be presented to the presiding judge for final ruling.

3.150 NO REACTION TO JURY VERDICT

After the jury returns a verdict, all persons present in the courtroom must remain seated until the jury has left the room and must refrain from visibly or audibly reacting to the verdict in a manner which disrupts the dignity of the courtroom.

3.160 EXPLANATION OF PROCEEDINGS TO JURORS

In jury cases, after sustaining a dismissal of the case before verdict, the judge, in dismissing the jury, should, without discussion of the facts, briefly explain the procedure and why a verdict was unnecessary.

3.180 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT

(1) Public Access Coverage Defined. As used in this rule:

- a) "Public access coverage" means coverage by means of any public access coverage equipment.
- b) "Public access coverage equipment" means any of the following in the possession of a person other than the court or the court's staff; television Equipment; still photography equipment; audio, video or other electronic recording equipment.

(2) Courtrooms. Upon request or on the court's own motion, after notice to all parties, public access coverage shall be allowed in any courtroom, except as provided under this rule.

- a) All news media personnel must receive permission in advance to take photographs, films, or audio or video recordings in areas under the court's control and supervision.
- b) Requests for media access shall be made to the court manager at least 30 minutes prior to routine trials or hearings and by 3:00 p.m. of the preceding

day for major trials.

- c) Persons who are not members of the news media may not take films, photographs, or audio or video recordings of court proceedings without special approval from a judge.

(3) There shall be no media or public access coverage of the following:

- a) Proceedings in chambers.
- b) Any notes or conversations intended to be private, including but not limited to, counsel and judges at the bench and conferences involving counsel and their clients.
- c) Voir dire.
- d) Any juror anywhere during the course of the trial in which he or she sits.
- e) Recesses.

(4) Limitations on denial of public access coverage in courtrooms: A judge may deny a request for or terminate public access coverage only if the judge makes findings of fact on the record setting forth substantial reasons for the denial. The judge may prohibit public access coverage if there is a reasonable likelihood of any of the following:

- a) The public access coverage would interfere with the rights of the parties to a fair trial or would affect the presentation of evidence or outcome of the trial.
- b) Any cost or increased burden resulting from the public access coverage would interfere with the efficient administration of justice.

(5) A judge may summarily prohibit public access coverage of a particular witness only if the judge finds on the record that public access coverage would endanger the welfare of the witness or materially hamper the witness' testimony.

(6) Equipment and personnel for public access coverage: The court may limit the location of public access coverage, equipment. One pool video camera and one pool still camera and one pool tape recorder shall be permitted.

- a) No public access device shall be operated by more than one person.
- b) No person shall use public access coverage equipment that interferes or distracts from proceedings in the courtroom.
- c) The video camera must be mounted on a tripod or other device installed in the courtroom. The tripod or other device must not be moved while the

proceedings are in session. Video equipment must be screened where practicable or located and operated as directed by the court.

d) No artificial lighting devices of any kind shall be allowed.

e) Any pooling arrangement required by limitations on equipment and personnel imposed by the judge or by this rule must be the sole responsibility of the persons seeking public access coverage, without calling upon the judge to mediate any disputes involved therein.

(7) A judge may impose other restrictions or limitations necessary to preserve the solemnity, decorum, and dignity of the court and to protect the parties, witnesses, and jurors.

(8) Nothing in this rule is intended to limit the court's contempt powers.

(9) Nothing in this rule is intended to limit waiver as provided in ORS 44.510-44.540.

3.182 USE OF CELL PHONES AND OTHER PERSONAL DATA AND COMMUNICATION DEVICES WHICH HAVE AUDIO RECORDING, PHOTOGRAPHIC OR ANY OTHER VISUAL, AUDIO OR IMAGE RECORDING OR REPRODUCTION CAPABILITY

(1) Cell phones and other personal data or communication devices which have audio recording, photographic or any other visual or image recording or reproduction capability:

a) constitute public access coverage equipment as defined in 3.180 above;

b) such devices may be used in a facility occupied by the court only as provided by UTCR 3.180 and this rule

c) must be turned off when entering any courtroom in any facility occupied by the court and must not be turned on for any use in a courtroom without complying with UTCR 3.180 and this rule.

(2) Cell phones or other telecommunication devices may be used in areas outside of a courtroom, as defined in UTCR 3.180 in a facility occupied by the court without violating this rule, provided that such use is restricted to the transmission of the user's oral communication only and does not involve any operation or use of the devices audio recording, photographic or any other visual or image recording or reproduction capability.

(3) In addition to any other consequence permitted under law or court rules, violators of this rule are subject to being ordered by the court to delete from the device any audio recording, photographic or any other visual or image recording or reproduction made in a court facility.

(4) In facilities occupied by the court, public access coverage in areas outside of the

courtroom is permitted **only** with prior approval of the Presiding Judge. Facilities include, but are not limited to the courtroom, jury room, clerk's office/lobby, hallway, judge's chambers, or any location where the court conducts its proceedings. Requests to conduct public access coverage in such areas may be made in writing to the Presiding Judge at any time during the business day.

(5) Cell phones and other personal data or communication devices which have text transmission, audio recording, photographic, or any other visual or image recording or reproduction capability constitute public access coverage equipment. Such devices may not be used in a court facility except by prior approval of the presiding judge. However, cell phones or other personal communication device may be used in areas outside of the courtroom except such use is **restricted to oral or written communication only and does not involve any operation or use of the device's audio recording, photographic or any other visual or image recording or reproduction capability.**

(6) Cell phones and other personal data or communication devices are not allowed inside the courtroom, or, in the alternative, such devices must be turned off and placed on a table for such purposes in the courtroom.

(7) In addition to any other consequences permitted under law or court rules, violators of this rule are subject to being ordered by the Court to delete from the device any audio recording, photographic or any other visual or image recording or reproduction made in a court facility.

4. PROCEEDINGS IN CRIMINAL CASES

4.010 TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

(1) Motions for pretrial rules on matters subject to ORS 135.037 and ORS 135.805 to 135.873 must be filed in writing not less than 21 days before trial or within 7 days after arraignment, whichever is later, unless a different time is permitted by the court for good cause shown.

(2) No hearing will be set for a motion, until the motion has been filed with the court.

(3) Unless for good cause shown, in order to facilitate compliance with subsection (1), the city attorney and defendant's counsel shall provide discovery to the defendant, or defendant's counsel if represented, in all criminal matters in accordance with ORS 135.085 and 135.835, et seq.

(4) It shall be the responsibility of the court to provide discovery to both defense counsel and the city attorney's office in all court-initiated probation violation matters. Discovery will be provided at arraignment or as otherwise directed by the court.

4.030 PROCEDURE FOR ORDER OF TRANSPORTATION

- (1) Any motion that a person held in custody be transported from the place of confinement to a designated place must be accompanied by a separate proposed court order directing the officer to transport the person to and from the designated place at the appointed time.
- (2) All proposed orders of transportation must contain the dates and times on which the person in custody is to appear at the designated place and is to be returned to the place of confinement, the exact location of the designated place and, if the person in custody is to appear as a witness in a court proceeding, the caption and number of the case. A person in custody appearing as a witness must be returned to the place of confinement only after execution of an order of release signed by the judge presiding over the court proceedings.

4.050 ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES

- (1) There must be oral argument if requested by the moving party in the caption of the motion or by a responding party in the caption of the response, except that the court is not required to grant oral argument on a motion to postpone trial. The first paragraph of the motion or response must include an estimate of the time required for argument.
- (2) Counsel for either the city or the defense may request that a motion not requiring testimony be heard by telecommunication. The following apply to a request for oral argument by telecommunication:
 - a) A request must be in the caption of the motion or response. If oral argument by telecommunication is requested, the first paragraph of the motion or response must include the names and telephone numbers of all parties served with the request, a statement whether the office of the requesting person is more than 25 miles from the courthouse, the position of the opposing counsel, and, if the defendant has waived in writing the right to appear at the hearing.
 - b) A request by counsel for defense must be granted if counsel for defendant represents that the defendant agrees to the procedure and provides a signed waiver of personal appearance and if counsel for the defendant is located more than 25 miles from the the courthouse.
 - c) A request by the city must be granted if both parties agree and counsel for the defense provides a written waiver from the defendant.
- (3) "Telecommunication" must be by telephone or other electronic device that permits all participants to hear and speak with each other.

4.060 MOTION TO SUPPRESS EVIDENCE

(1) All motions to suppress evidence:

- a) Must make reference to any constitutional provision, state, local rule, rule, case or other authority upon which it is based; and
- b) Must be accompanied by the moving party's brief which must reasonably apprise the court and the adverse party of the arguments and authorities relied upon.

(2) Any response to a motion to suppress:

- a) Together with opposing affidavits, if any, upon which it is based must be in writing and must be served and filed not more than 7 days after the motion to suppress has been filed, unless otherwise designated by the court.
- b) Must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement to the extent to which it is not opposed; and
- c) Must make specific reference to any affidavits relied on and must be accompanied by an opposition brief which must reasonably apprise the court and moving party of the arguments and authorities relied upon.

(3) When averments in an affidavit are made upon information and belief, the affidavit must indicate the basis thereof.

(4) Failure to file a written response shall not preclude a hearing on the merits.

4.070 DISMISSAL OF CHARGES FOLLOWING SUCCESSFUL COMPLETION OF DIVERSION

For any charge dismissed based upon successful completion of diversion for driving under the influence of intoxicants, city attorney diversion, or any other diversion program, the dismissing instrument must state the basis for dismissal.

4.080 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

The court may conduct an appearance in a criminal proceeding by the following types of simultaneous electronic transmission, as defined in ORS 131.045, if the transmission complies with the requirements of ORS 131.045, 135.030, 135.360, 135.767, 137.040 and 134.545:

- (1) Telephone;
- (2) Video conference; and

(3) Internet.

6. TRIALS

6.011 CONFERENCES/SETTLEMENT CONFERENCES IN CRIMINAL CASES

In any criminal proceedings the parties may request the court schedule a settlement conference to consider:

- (1) Simplification of the issues;
- (2) The possibility of obtaining stipulations as to the admissibility of certain documents, exhibits or related matters;
- (3) The possible settlement of the case; and
- (4) Such other matters as may aid in the disposition of the case.

6.015 SUBMISSION AND COPIES OF MOTIONS, BRIEFS, MEMORANDA, AND POINTS AND AUTHORITIES; COPIES TO BE DESIGNATED TRIAL COURT COPY

- (1) A copy of a motion, brief or memoranda shall be submitted directly to the judge scheduled to hear the matter.
- (2) The copy of the motion and all supporting documentation for the use of the judge shall be designated "TRIAL COURT COPY".
- (3) Copies shall identify the name of the judge hearing the motion, the time of the hearing, the date of the hearing or the show cause assignment date.
- (4) Jury instructions, verdict forms, trial memorandums, and similar materials shall be submitted directly to the judge scheduled to hear the matter prior to jury selection or swearing of first witness in a bench trial.
- (5) Motions in limine shall be submitted to the court at the pretrial conference or at such other time as designated by the court at the time the defendant's not guilty plea was entered.

6.020 COURT NOTIFICATION ON SETTLEMENT OR CHANGE OF PLEA

- (1) In criminal cases, the parties must notify the court immediately of any decision that a case will be dismissed or a change of plea entered.
- (2) In all criminal jury trial cases, the parties must immediately notify the court of a decision to settle, dismiss, change plea, or otherwise resolve a case. After receipt of a signed waiver of jury trial and notice to enter the plea and sentence, the court may release the jury panel summoned for trial, require the defendant

to appear as scheduled for trial to enter the plea and sentence, or authorize the defendant to appear on a different date and time upon signing a new hearing notice.

- (3) If the parties to a jury trial fail to notify, pursuant to (2) above, the court of a settlement before 4:00 p.m. of the last judicial day preceding a jury trial, or if the case settles after 4:00 p.m. of such day, the court may assess on one or both parties or their attorneys the per diem fees of bringing in the jury panel for that particular trial.
- (4) In criminal cases, motion to dismiss a pending matter shall be in writing, must note the basis for the motion with particularity, and whether the requested dismissal is with or without prejudice.
- (5) In criminal cases, if there are any pretrial motions or contested hearings on the matter, the motion to dismiss shall be presented to the judge who heard the motion, or the presiding judge if the pro tem judge who heard the motion is no longer serving as a pro tem, or is otherwise not available.

6.027 PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS

- (1) Unless otherwise permitted by the judge presiding over the trial, personal communication devices (any electronic or other equipment capable of communicating with others outside a jury room, including but not limited to cell phones and pagers) are not allowed in a jury room during jury deliberations.
- (2) After a jury has been instructed and charged to commence deliberations the courtroom clerk will collect all such devices and retain them in a secure place during deliberations.
- (3) Unless otherwise permitted by the judge presiding over the proceeding, personal communication devices (any electronic or other equipment capable of communication with others outside a courtroom by transmission of sound or images, including but not limited to cell phones and pagers) are not allowed in the courtroom.
- (4) See 3.180 and 3.182 regarding the operation of cell phones and other personal data and communication devices which have audio recording, photographic or any other visual or image recording or reproduction capability.

6.030 POSTPONEMENT OF TRIAL

- (1) A request to postpone a trial must be by written motion, unless otherwise allowed by the court.
- (2) A motion to postpone a trial must be signed by the attorney of record and

contain a certificate stating that counsel has advised the client of the request and must set forth:

- a) The date scheduled for trial,
- b) The reason for the requested postponement,
- c) The dates previously set for trial,
- d) The date of each previous postponement,
- e) Whether the opposing counsel objects to the requested postponement, and
- f) Whether a specific waiver of speedy trial rights has been previously made.

(3) If the motion to postpone is based upon a conflicting proceeding in another court, it must set forth, in addition to the information require by (2) of this section:

- a) The name of the court in which the conflict exists,
- b) The date of the conflict,
- c) The date on which the other proceeding is to begin,
- d) The case number and the date of filing of the conflicting case,
- e) The date on which the conflicting case was set for trial, and
- f) The information required by these rules 6.040(2).

(4) The motion may be decided by a summary determination without a hearing.

6.040 RESOLVING SCHEDULING CONFLICTS

(1) When a party is scheduled to appear in more than one court at the same time, and has been unable to obtain a postponement in one of the courts, this scheduling conflict will be resolved by the presiding judges of the affected courts on motion of the affected party in both courts.

(2) In resolving scheduling conflicts, the following must be considered:

- a) Statutory preference;
- b) The custodial status of a criminal defendant;
- c) The filing date of the case;

- d) The dates on which the courts sent notices of the trial date;
- e) The relative complexity of the cases;
- f) The availability of competent, prepared substitute counsel; and
- g) The inconvenience to the parties, the witnesses or the court.

6.050 SUBMISSION OF TRIAL MEMORANDA

Trial memoranda, if any, must be filed with the court manager, and copies must be delivered concurrently to the court and to opposing parties.

6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

- (1) All requested jury instructions and verdict form must be in writing and delivered concurrently to the trial judge and to opposing parties.
- (2) The original and one copy of the requested jury instructions and verdict forms must be submitted to the court.
- (3) Requested instructions may include any Uniform Oregon Jury Instruction by reference only to its instruction number and title: such as "Instruction No. 70-04-Lookout". If the uniform instruction contains blanks or alternative choices, the appropriate material to complete the instruction must be supplied in the request.
- (4) Requested jury instructions, including references to Uniform Oregon Jury Instructions, must be prepared as follows:
 - a) Requested uniform instructions must be identified in accordance with these rules, 6.060(3).
 - b) Instructions, including uniform instructions, must be numbered consecutively, beginning with the number "1" for the first requested instruction.
 - c) Except for requested uniform instructions, not more than one proposed instruction must appear on each sheet of paper.
 - d) If any requested jury instruction requires more than one page to be set out, each of the pages must be numbered at the lower left-hand corner; the number must contain the consecutively assigned requested jury instruction number provided pursuant to subparagraph (b) of this paragraph, followed by a hyphen, followed by the consecutive number for each page.
 - e) The designation of the party requesting the instruction must be typed on

each page.

f) Below each requested instruction must be a statement citing the statute, decision or other legal authority which supports the requested instruction.

(5) The court must inform the parties before argument of the instructions that it proposes to give.

(6) Proposed verdict forms must be prepared without the name of the attorney or the firm or reference to the city attorney's office and must be submitted at commencement of trial and as otherwise allowed by the court.

6.070 JURY INSTRUCTIONS

No identifying information relating to the parties or any other extraneous material, including authorities, shall appear on submitted jury instructions.

6.080 MARKING EXHIBITS

(1) Before the commencement of the trial, parties must mark all exhibits in the following manner:

a) Plaintiff's exhibits must be marked consecutively from 1-99.

b) Defendant's exhibits must be marked consecutively from 101 through 199.

c) On request, the court must assign additional blocks of numbers.

d) In cases involving multiple parties or larger number of exhibits, the city attorney shall use 1-99; the first named defendant shall use 101-199; the second named defendant shall use 201-299, and so on. If the parties cannot reach agreement, or the number system cannot accommodate the parties, then the court may direct the parties to use any other numbering system not inconsistent with the intent of this section.

(2) Upon request, the court manager shall provide a party with appropriate stamps, label or tags for exhibit marking.

(3) The parties must submit to the court at the time of trial a list of pre-marked exhibits.

(4) Exhibits not available at the commencement of trial, exhibits not reasonably anticipated to be used and exhibits intended for impeachment purposes need not be pre-marked.

6.085 EX PARTE MATTERS

Ex parte matters may be presented as designated by the court.

6.100 RECORDING OF TESTIMONY

Except as provided in Oregon City Municipal Code 1.20.010 - 1.24.250:

1. The party requesting the recording of any proceeding shall submit a Notice of Intent to Record Proceedings no later than ten (10) days before the scheduled Court date.
2. Recording shall be by audio-only or by stenographic means;
3. Requesting party shall pay all costs of recording said proceedings;
4. No recording or any part thereof may be used by any party during the proceedings, unless previously agreed to between the parties;
5. No recording or any part thereof may be designated the official record of the proceeding, unless previously agreed to between the parties;
6. In the event a transcript is made of said proceedings, a certified copy shall be provided to the Court without cost;
7. In the event a transcript is made of said proceedings, the adverse party shall be immediately notified and a certified copy shall be provided to the adverse party, if requested, for the cost of making the copy.

6.120 DISPOSITION OF EXHIBITS

Unless otherwise ordered, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case or appeal. After disposition of the case, exhibits not returned to the parties shall be sent to the parties of record that, unless they withdraw their respective exhibits within 30 days, the exhibits will be disposed of by the court.

6.150 WEAPONS AND DANGEROUS INSTRUMENTS IN THE COURTROOM

If a party intends to offer into evidence any weapons or other hazardous materials at an evidentiary hearing or trial, before bringing the items into the courtroom, the party must:

(1) For weapons:

- a) All firearms, BB guns and pellet guns intended to be offered in evidence must be unloaded and either rendered inoperable or have a trigger guard installed.
- b) Guns and ammunition must be kept separate at all times.
- c) Knives, scissors, and any other sharp objects that could penetrate the skin must be sealed in puncture proof containers, provided with secure and

protective sheaths, or otherwise rendered harmless.

(2) For other hazardous materials:

- a) Hypodermic needles must be provided with covers over needle points and sealed in a transparent puncture proof bag.
- b) An unbreakable, transparent tub that locks on one end must be provided or safe handling and viewing of chemicals, pharmaceuticals, and biological substances.

6.180 WEAPONS AND HAZARDOUS SUBSTANCES IN COURT

(1) Pursuant to OR 166.370, no person, other than as authorized under OR 166.370(2)(b) shall intentionally possess a weapon (loaded or unloaded firearm or any other instrument used as a dangerous weapon as defined in OR 166.360(2), which includes but is not limited to the court facility (as defined in OR 166.360(2) which includes but is not limited to the courtroom, jury room, clerk's office, or judge's chambers, located at Municipal Courthouse, 320 Warner Milne Road, Oregon City, Oregon. This prohibition shall also apply to individuals with a "conceal and carry" permit.

(2) Pursuant to OR 166.370(2)(B), the judge, court staff, a sheriff or the sheriff's deputies, a police officer, parole and probation officers, bailiffs, other duly appointed peace officers or a corrections officer while acting within the scope of employment and any person who receives written authorization from the Presiding Judge of this Court may possess weapons including but not limited to a loaded or unloaded firearm, mace, tear gas, pepper mace or similar instrument, baton, electrical stun gun or similar instrument or nightstick or similar instrument while in a court facility covered by this Order unless otherwise ordered by this court within a court facility as defined in ORS 166.360 including but not limited to the courtroom, jury room, clerk's office, hallway, lobby or judge's chambers of the Oregon City Municipal Court. In addition, a weapon which has been or is intended to be offered as evidence in a hearing or trial, may be possessed by the Court, a member of the court's staff, an attorney, a witness or a juror and, if the weapon is a firearm, the firearm is not to be loaded and it is to have a trigger lock in place.

(3) Oregon City police officers or any other law enforcement officer, or person acting under authority of the Municipal Court while acting within the scope of employment shall enforce UTCR 6.180 by every lawful means, including search of an individual's person and carried items and seizure of weapons and hazardous substances, to prevent any person from entering or being within any court facility with any items proscribed from possession in a court facility by UTCR 6.180. In carrying out any search under this order, law enforcement officers, including bailiffs, shall not examine the written content of any document encountered solely through such search.

(4) Any person entering any court facility as defined in this order shall submit to a search of their person and a search of their bags, briefcases, valises, and hand-carried items

for the purposes of insuring compliance with UTCR 6.180. Refusal of a person to submit to a search as provided by this order shall result in removal of the person from the court facility.

**7.
CASE MANAGEMENT AND CALENDARING**

7.010 PLEAS, NEGOTIATIONS, DISCOVERY AND TRIAL DATES IN CRIMINAL CASES

- (1) At the time of arraignment, the court shall set a date for entry of plea in accordance with subsection (2) of this section.
- (2) Plea agreements, negotiations, discovery, and investigations must be concluded by a date as set by the court which is:
 - a) For defendants in custody, not less than 21 days after arraignment but, in any event, not later than 21 days prior to the trial date; and
 - b) For defendants who are not in custody, not less than 35 days after arraignment, but not later than the 35th day prior to the trial date.
- (3) Not later than the date set pursuant to subsection (1), trial counsel must report the following:
 - a) Whether jury trial is requested;
 - b) The probable length of trial;
 - c) Any other matter affecting the case.
- (4) Relief from the dates set pursuant to subsection (2) of this rule shall be granted for good cause shown.

7.030 COMPLEX CASES

- (1) Any party in a case may apply to the presiding judge to have the matter designated as a “complex case”.
- (2) The criteria used for designation as a “complex case” may include, but are not limited to the following: the number of parties involved in the complexity of the legal issues, the expected extent and difficulty of discovery, the number of pending charges, and the anticipated length of trial.
- (3) The presiding judge may assign any matter designated a “complex case” to a specific judge who shall thereafter have full or partial responsibility for the case as determined by the presiding judge.

7.040 NOTIFY COURT OF SETTLEMENTS AND OTHER MATTERS

The parties shall report immediately to the court any resolution of any matter scheduled on the court's docket.

7.060 AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATION

(1) If special accommodation under the ADA is needed for an individual in a court proceeding, the party needing accommodation for the individual must notify the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the 4 day advance notice.

(2) Notification to the court must provide:

- a) The name of the person needing accommodation;
- b) The case number;
- c) Charges (if applicable);
- d) The nature of the proceeding;
- e) The person's status in the proceeding;
- f) The time, date and estimated length of the proceeding;
- g) The type of disability needing accommodation; and
- h) The type of accommodation, interpreter, or auxiliary aid needed or preferred.

(3) Animals are not allowed in the courtroom unless they are bona fide service animals.

7.070 FOREIGN LANGUAGE INTERPRETERS

(1) If a foreign language interpreter is needed for a court proceeding, the party in need of an interpreter must notify the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the 4 day advance notice.

(2) Notification to the court must include:

- a) The name of the person needing an interpreter;
- b) The case number;
- c) The charges (if applicable);
- d) The nature of the proceeding;

- e) The person's status in the proceeding;
- f) The time, date and estimated length of the proceeding; and
- g) The language to be interpreted.

16. VIOLATIONS

16.010 ATTORNEYS - Violation Cases

A defendant, who intends to be represented by an attorney at a traffic or violation trial, must provide notification of such intention together with proof of service on the city attorney and must be filed with the clerk of the court in writing no later than 14 days before trial, unless otherwise allowed for good cause. The attorney must personally appear at time of trial.

16.020 TRIALS BY AFFIDAVIT

Pursuant to ORS 153.080, the Oregon City Municipal Court will allow trial by affidavit under the following conditions:

- (1) When defendant's place of residence is greater than 50 miles, or other good cause shown, from Oregon City Municipal Court.
- (2) When defendant will NOT be represented by an attorney.
- (3) Use Waiver and Affidavit forms in Appendix 1 and 2.
- (4) The Waiver and Affidavit must be received before the appearance date on the citation.

16.030 ARRAIGNMENT AND ARRAIGNMENT APPEARANCE OPTIONS

- (1) Prior to any arraignment date specified on the summons, the defendant may exercise one of the following options to dispose of the case:
 - a) The defendant may file a written plea of no contest and pay the presumptive fine amount on the summons by mailing the written plea and a check or money order for the fine to the court. The plea and payment must reach the court on or before the arraignment date.
 - b) The defendant may enter a written plea of no contest and submit a written explanation of the incident in mitigation of the penalty and/or request a reduction based on driving record. A check or money order for the amount indicated on the summons must be included. The letter and plea must reach the court on or before the arraignment date.
 - c) The defendant may enter a plea of not guilty and request that the

matter be set for court trial. Any defendant electing to proceed under this section must verify his or her residence address and current mailing address. Defendants may request a court trial either in writing, mailed to the court, or in person. The request must be received on, or prior to, the arraignment date. As set forth in 16.165 below, a default judgment which exceeds the presumptive fine amount set on the citation may be imposed against a defendant who requests a court trial but fails to appear in court for such proceeding.

- (2) At the date and time set for arraignment on the summons, the defendant may appear in person, or by counsel, and may enter a plea of no contest or not guilty.
 - a) If the defendant enters a plea of no contest, an explanation or statement may be given in mitigation of the offense charged.
 - b) If the defendant enters a plea of not guilty, a court trial will be scheduled. Subject to the availability of court staff, the defendant or counsel must remain to sign for the trial appearance. When court staffing levels are insufficient due to temporary absences or illness, the court manager may allow for written mailing of court trial notices after receiving verification of the defendant's current mailing and residential address. The defendant or counsel must contact the court if a trial notice and court date is not received within four weeks of the arraignment.

16.040 VIOLATIONS BUREAU

- (1) Pursuant to ORS 153.800, the Oregon City Municipal Court has established a violations bureau.
- (2) If the cited person appears personally, a form which records the person's appearance and contains a waiver of trial and plea of no contest shall be signed and filed with the court pursuant to ORS 153.800(5)(a).
- (3) The fine and applicable assessment(s) shall be paid immediately and in full, unless the court approves a payment plan.

16.050 NOTICE OF REPRESENTATION BY AN ATTORNEY

- (1) If the defendant is represented by counsel for purposes of a first appearance on the violation, the attorney must file with the court a notice of representation and enter a plea on behalf of the defendant. The notice and plea must be signed by the attorney and the signed original notice must be filed prior to the date of the first appearance set on the summons.
- (2) If a defendant is to be represented by an attorney at trial on a violation, and a notice of representation has not been filed previously, notification in writing of such representation together with proof of service on the city attorney must be

filed at least 14 days prior to the date of the trial.

16.060 POSTPONEMENTS

Court trials: The request for postponement of a court trial must be made to the court, in writing and must be received more than 10 days prior to the scheduled trial date. The request must demonstrate good cause of the request in order to be granted.

Notice: When the court grants a postponement, the court will notify all parties of the action. If the postponement is granted in open court, parties personally present are deemed notified. Any witnesses must be notified by the parties of the postponement.

16.070 SETTING ASIDE DEFAULT JUDGMENTS

(1) For good cause shown, a defendant against whom a default judgment is entered may request relief from the default judgment within a reasonable time by using the request to set aside set forth in the Appendix of Forms.

(2) The defendant requesting such relief must use the form in Appendix of Forms.

16.080 DIVERSIONS, DEFERRED SENTENCES, ALTERNATIVE DISPOSITIONS

Oregon City Municipal Court offers a traffic deferral program, if the offender meets the following requirements:

(1) Must not have had any moving violations or traffic crimes (including DUII) in the past five years in any state.

(2) Must not have attended or participated in a court ordered traffic safety program or school within the past five years in any state; this includes any on-line program.

(3) Must appear personally before the court or violations bureau to sign the appropriate paper work and referral forms

(4) The following are excluded from a traffic deferral program:

a) Violations occurring in a school zone, work zone, or safety corridor

b) Speed racing

c) Speeding in excess of 100 miles per hour

(5) Must have no other pending motor vehicle citation in this or any other court

(6) Agree to plead no contest to the traffic offense

(7) Agree to pay a deferral fee for the offense

(8) Agree to attend and complete the court mandated traffic safety program as ordered by the court

(9) Receive no motor vehicle citations within the next 120 days

Successful completion of the traffic safety program will result in a dismissal of the moving violation. Non-completion of the traffic diversion program will result in a conviction of the offense and the full presumptive fine will be imposed.

There will be no extensions allowed for this program.

If the court determines that a defendant was not eligible for the program, the court shall revoke the deferral and impose the full presumptive fine. The court may refer the case to the City attorney for criminal prosecution.

Teen Offender Program: __

Oregon City Municipal Court offers a traffic deferral program for teens, if the offender meets the following requirements:

- (1) Must be under the age of 18 years and still attending school.
- (2) Must not have had any moving violations or traffic crimes (including DUII) in any state
- (3) Must not have attended or participated in a court ordered traffic safety program or traffic school; this includes any on-line program.
- (4) Must appear personally before the court to sign the appropriate paper work and referral forms
- (5) Must attend traffic safety class on the date ordered by the court and return to court on date ordered by the court to report on topics learned in class
- (6) At date scheduled to return must appear with specified donations to a charity to be designated by the court
- (7) The following are excluded from a traffic deferral program:
 - a) Violations occurring in a school zone, work zone, safety corridor or CDL.
 - b) Speed racing
 - c) Speeding in excess of 100 miles per hour
 - d) Commercial Driver's License

- (8) Must have no other pending motor vehicle citation in this or any other court
- (9) Agree to plead no contest to the traffic offense
- (10) Receive no motor vehicle citations within the next 120 days

Successful completion of the teen traffic safety program will result in a dismissal of the moving violation. Non-completion of the traffic diversion program will result in a conviction of the offense and the full presumptive fine will be imposed.

There will be no extensions allowed for this program.

If the court determines that a defendant was not eligible for the program, the court shall revoke the deferral and impose the full presumptive fine. The court may refer the case to the City attorney for criminal prosecution.

16.690 PRETRIAL MOTIONS AND DEMURRERS

The rules contained in chapter 4 regarding pretrial motions and demurrers in criminal cases shall apply to violations with respect to any pretrial motion or demurrer applicable by law in a violation case.

- (1) A motion to dismiss a violation citation, which is not a part of a criminal proceeding, that is based upon officer error (i.e., cited defendant to the wrong court), may be submitted by the city officer with a supporting memo advising the court whether the the violator has been served a new citation or, if there is no intent to recite.
- (2) A motion to dismiss a violation, which is not part of a criminal proceeding, unless otherwise allowed by the court, must state the basis for the motion with particularity and, if being made by anyone other than the issuing officer, must include:
 - a) A certificate of service showing the officer has been served with a copy of the motion
 - b) A certificate of service is not required if the citing officer is no longer employed by the City of Oregon City.

17. PARKING VIOLATIONS

17.010 PARKING CITATIONS - DEFENDANT'S APPEARANCE

- (1) Pursuant to Or 153.800, the Oregon City Municipal Court has established a parking bureau.
- (1) A person receiving a parking citation issued pursuant Oregon City Municipal Code has two options to appear:

a) Plead no contest by paying in full the bail indicated on the citation, either by mailing or personally delivering the payment, together with the citation. All pleas and payments must be received before the 10th day after issuance of the citation.

b) Request a court hearing in writing or by personally appearing before the court on or before the 10th day after the issuance of the parking citation.

17.020 DISMISSAL OF A PARKING CITATION BEFORE TRIAL

(1) The presiding judge, or any pro tem judge of this court, may dismiss parking citations without the appearance of the defendant in the following instances:

a) The parking citation was issued prior to release of title interest and transfer of possession of the vehicle to the new owner, but the new owner is named as the defendant on the notice of delinquency. However, the new owner's failure to submit an application for title to the Department of Transportation within 30 days of the transferor's release of interest shall not be grounds for summary dismissal of the citation and an appearance shall be required.

b) The parking citation was issued subsequent to the release of title interest and transfer of possession to the new owner but the named defendant on the notice of delinquency is the prior owner. A prior owner who provides documentation described in 17.025(3) below shall not be subject to liability under this chapter for the parking of the vehicle by another person.

c) There was no vehicle license number or other registration number written on the citation;

d) The vehicle license number written on the citation does not correspond to the vehicle registration information filed with the Motor Vehicles Division;

e) The meter at which an overtime parking citation was issued was defective after or while defendant's vehicle was parked, according to the Parking Services staff;

f) No violation is indicated on the parking citation.

g) The parking citation was issued to a vehicle that was reported to the police as stolen within 24 hours of the date and time listed on the citation or was issued on a date when the status of the vehicle remained listed as stolen, and a stolen report was on file with the Oregon City Police Department.

h) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. The driver must follow the prescribed City process. Routine, scheduled court appearances, such as grand jury proceedings, motion

hearings or trial, shall not constitute “government business of such urgency” that the driver was prevented from complying with parking regulations.

- I) The court received a written request for dismissal of the citation from the issuing officer or Parking Enforcement Officer explaining the specific error in the issuance of the parking citation, together with the approval of the citing officer’s supervisor, or
 - j) The exemption or privilege in OR 811.635 for the holder of a disabled person parking permit is applicable to the type of parking offense cited and the registered owner or other recipient of the ticket provides proof to the clerk of the court of a valid disabled person parking permit at the time of the violation. This includes:
 - I. Overtime tickets, or tickets for parking in a metered space without paying, unless the zone allows parking for only 30 minutes or less; or
 - ii. Parking in a disabled zone pursuant to OR 811.615(1)(a); or
 - iii. Disabled zone parking offense cited under Oregon City Municipal Code if a disabled person was being transported; or
 - k) A parking citation was issued for unlawful use or misuse of a disabled person parking permit for parking in a manner that would otherwise be a privilege for a permit holder and the registered owner or other recipient of the ticket provides proof to the clerk of the court of renewal of an expired disabled parking permit.
- (2) When a parking citation is subject to dismissal under rule 17.020(1)(a) or (b) above, the person receiving the notice of citation must bring the parking citation(s) and relevant documents relating to the transfer of the vehicle, including title, bill of sale or contract and vehicle registration if available to the court. Proof that the prior owner notified the Department of Transportation of the transfer of the vehicle as required by Oregon law, together with proof of delivery of possession of the vehicle and assignment of title to a transferee, shall exempt the prior owner from liability for the parking of the vehicle by another person, provided the date of issuance of the parking citation is subsequent to the date of transfer of the vehicle reported by the prior owner.
- (3) In all cases, the presiding judge or court manager may order a hearing to prevent abuse of the summary dismissal proceedings.

17.030 TOWING AND IMPOUNDMENTS

The court may order a vehicle towed if the registered owner or another person has not paid the bail or fine.

17.040 NOTICE OF REPRESENTATION BY AN ATTORNEY

An attorney representing a person in a parking citation case must notify the court in writing of the representation at least ten days before the date of trial. The notification must certify that a copy has been delivered to the city prosecutor's office.

17.050 POSTPONEMENTS AND OTHER MOTIONS

- (1) When requested at least ten days prior to the scheduled trial date for a parking citation, a person may obtain a single postponement of the court hearing. Such requests may be made in writing or by appearing personally at the court. The person making the request must state a reason for the postponement.
- (2) At any time before the trial date, the person cited, whether or not represented by counsel, may withdraw a not guilty plea or remove the case from the court docket by following the procedure for mail please set out in 17.010 above. The court will notify the police officers, parking enforcement officers and city attorney when appropriate.
- (3) A person whose car has been ordered impounded by the court may appear personally at the court and request that the matter be placed on the docket for hearing.

17.060 HEARING PROCEDURE IN PARKING CITATION CASES

- (1) In trial, the judge may take an active role in questioning the witnesses to insure substantial justice will be done.
- (2) Jury trials are not permitted in parking citation cases.
- (3) Parking citations issued against a particular defendant's vehicle may be consolidated for trial only at the discretion of the court.

17.070 FAILURE TO APPEAR

The registered owner of a vehicle for which a parking citation is issued, is required to appear, as described in 17.010 above, on the cited offense. If the registered owner of a vehicle for which a parking citation has been issued, or any other person, fails to appear to answer the citation within ten days, the court may, after notice to the named defendant, enter a default judgment against the defendant. Citations may be assigned to a collection agency for collection of any fines due. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.

19. CONTEMPT PROCEEDINGS

19.010 SCOPE, CONSTRUCTION, APPLICATION

- (1) The rules in this chapter govern contempt proceedings under ORS 33.015-33.155 and are intended to promote efficient and fair resolution of contempt proceedings. The rules in this chapter will be changed only by the action of the judge of this court.
- (2) The rules in this chapter do not preclude judges from exercising their inherent authority in contempt proceedings over matters not covered by rule or statute, so long as that exercise fosters efficient and fair resolution of the matter.

19.020 INITIATING INSTRUMENT REQUIREMENTS

- (1) In addition to any other requirements for initiating instruments, the initiating instrument in a contempt proceeding under ORS 31.055 (remedial) or ORS 31.065 (remedial) must state:
 - a) The maximum sanction(s) that the party seeks;
 - b) Whether the party seeks a sanction of confinement; and
 - c) As to each sanction sought, whether plaintiff considers the sanction remedial or punitive.

- (2) Maximum penalty imposed:

The court shall not impose a sanction greater than the sanction sought. A punitive sanction is presumed greater than a remedial sanction. A punitive sanction of confinement is presumed greater than other punitive sanctions. A remedial sanction of confinement is presumed greater than other remedial sanctions.

19.030 ALLOWING REMEDIAL SANCTIONS

Rules that apply to allowing remedial sanctions in a proceeding for only remedial sanctions under ORS 33.055 also apply to allowing remedial sanctions in a proceeding for punitive sanctions under ORS 33.065.

19.040 APPLICABILITY OF ORCP AND OTHER UTCR

- (1) To the extent rules in the chapter are inconsistent with other applicable rules; the rules in this chapter govern contempt proceedings under ORS 33.015 to OR 33.155.
- (2) Except as otherwise provided in this chapter:
 - a) Oregon Rules of Civil Procedure (ORCA) and Oregon Rules of Appellate Procedure (ORAP) apply respectively to original contempt proceedings for remedial sanctions under OR 33.055;
 - b) UTCR and ORAP that govern criminal proceedings apply respectively to original contempt proceedings for punitive sanctions under OR 33.065.

(3) On its own motion or that of a party in a contempt proceeding for remedial sanctions, the court may determine that a specific rule of procedure would not foster the fair and efficient resolution of the contempt proceeding.

a) When the court makes that determination, it may modify the specific rule or adopt a different rule for all or part of the proceeding, so long as the modified or new rule fosters the fair and efficient resolution of the proceeding. Under this rule, the court may increase or decrease time limits or may limit or exclude responsible pleadings, or both, and may also modify other rule provisions.

b) The court must give all parties to the proceeding notice that describes the modified or new rule. The notice must be in writing or on the record or both.

21.

FILING AND SERVICE BY ELECTRONIC MEANS

21.010 FILING OF DIGITIZED DOCUMENTS

Electronic filings of uniform citations (OR 153.770):

(2) A law enforcement officer may file a complaint with the Court by electronic means, without an actual signature of the officer, in lieu of using a written uniform citation. Law enforcement officers who file complaints will be deemed to certify to the complaint and will continue to have the same rights, responsibilities and liabilities in relation to those complaints as to complaints that are certified by an actual signature,

(3) Any law enforcement agency, other agency or person authorized by law to issue, serve and file citations for violation offenses that uses electronic means to process and file such citations may file in this Court an electronic citation or a printed version of the electronic citation that meets the following specifications:

(a) The paper upon which the citation is printed is no larger than 8.5x11 inches in size if a printed version of the electronic citation is being filed.

(b) The information electronically filed includes all information required on a uniform citation adopted by the Supreme Court under OR 1.525, or as required under OR 810.425 for parking ordinance violations.

(c) The complaint filed electronically is verifiable as being filed by a specific law enforcement officer.

(d) The complaint is filed with either an electronic or actual signature of the law enforcement officer.

(4) Members of the public can obtain copies of and review complaints that are

electronically filed and maintained by the Court in the same manner as for complaints filed on paper.