

RESOLUTION NO. 914

A RESOLUTION ADOPTING THE RULES OF THE STAYTON MUNICIPAL COURT

WHEREAS, the City of Stayton is re-establishing its Municipal Court and has amended the Stayton Municipal Code (SMC) Chapter 2.20 "Municipal Court" to provide the authority;

WHEREAS, SMC Chapter 2.20 directs the Municipal Judge to establish Rules for the Court to be approved and adopted by Resolution of the Stayton City Council; and,

WHEREAS, Jonathan A. Clark, Municipal Judge, presents his Rules, attached to this Resolution, as Exhibit A, seeking approval of them by the Council.

NOW THEREFORE, the City of Stayton Resolves that:

The Rules of the Stayton Municipal Court (Exhibit A) are hereby approved and adopted effective July 1, 2014.

This Resolution shall become effective upon adoption by the Stayton City Council.

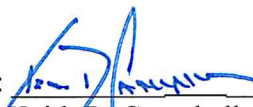
ADOPTED BY THE STAYTON CITY COUNCIL this ____ day of _____, 2014.

CITY OF STAYTON

Signed: 6-16, 2014

By: 
A. Scott Vigil, Mayor

Signed: 6-16, 2014

ATTEST: 
Keith D. Campbell, City Administrator

APPROVED AS TO FORM:


David A. Rhoten, City Attorney



Stayton Municipal Court Rules

Stayton Municipal Court Rules (SMCR)

Table of Contents

GENERAL INFORMATION REGARDING THE SMCR.....	1
Governing Laws and Code Pertaining to the General Powers of Oregon Municipal Courts	1
CHAPTER 1 – GENERAL PROVISIONS	2
1.010 SCOPE OF THESE RULES	2
1.020 AMENDMENT OF THESE RULES; EFFECTIVE DATE.....	2
1.030 TRANSITION TO THESE RULES	2
1.040 ENFORCEABILITY OF LOCAL PRACTICES	3
1.050 FORMAT AND LOCATION OF COURT RULES.....	3
1.060 SANCTIONS	3
1.070 RELIEF FROM APPLICATION OF COURT RULES	3
1.080 DEFINITIONS AND ABBREVIATIONS.....	4
1.090 TIME COMPUTATION.....	4
1.100 LOCATION OF COURT	4
1.110 FILING OF DOCUMENTS IN COURT.....	4
1.120 COURT WEBSITE.....	4
1.130 INFORMATION ON FREE OR LOW-COST LOCAL LEGAL SERVICES.....	5
CHAPTER 2 – STANDARDS FOR PLEADINGS AND DOCUMENTS	5
2.010 FORM OF DOCUMENTS	5
2.020 CERTIFICATE OF SERVICE	8
2.030 MATTERS UNDER ADVISEMENT MORE THAN 30 DAYS.....	9
2.040 COMMUNICATION WITH COURT.....	9
2.050 FILINGS FOR CONSOLIDATED CASES	9
2.060 AFFIDAVITS	9
CHAPTER 3 – DECORUM IN PROCEEDINGS.....	10
3.010 PROPER APPAREL.....	10
3.020 PROPER APPAREL FOR INCARCERATED WITNESSES AND DEFENDANTS APPEARING IN CRIMINAL PROCEEDINGS	10
3.030 MANNER OF ADDRESS	10
3.040 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES	10
3.050 PROPER POSITION OF PARTIES BEFORE COURT	10
3.060 DEFENDANT IN CRIMINAL TRIAL.....	11
3.070 PERSONS PERMITTED WITHIN BAR OF COURT	11
3.080 PROCEDURES FOR SWEARING WITNESSES.....	11
3.090 UNDUE RECOGNITION OR FAMILIARITY BY JUDGE.....	11
3.100 PROPER USE OF COURT CHAMBERS	11
3.110 CONFERENCES IN CHAMBERS.....	12
3.120 COMMUNICATION WITH JURORS	12
3.130 DISCLOSURE OF RELATED MATTERS WHEN SEEKING COURT ORDER.....	12

3.140	MOTION TO WITHDRAW, RESIGN, CHANGE, OR SUBSTITUTE ATTORNEYS.....	12
3.150	NO REACTION TO JURY VERDICT	14
3.160	EXPLANATION OF PROCEEDINGS TO JURORS.....	14
3.170	MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS.....	14
3.180	USE 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	16
CHAPTER 4 – PROCEEDINGS IN CRIMINAL CASES		16
4.010	TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES	17
4.020	PROCEDURE FOR ORDER OF TRANSPORTATION.....	17
4.030	ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES.....	17
4.040	MOTION TO SUPPRESS EVIDENCE	18
4.050	DISMISSAL OF CHARGES FOLLOWING SUCCESSFUL COMPLETION OF DIVERSION.....	19
4.060	APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION	19
CHAPTER 5 - RESERVED FOR FUTURE USE.....		19
CHAPTER 6 – TRIALS		19
6.010	CONFERENCES/SETTLEMENT CONFERENCES IN CRIMINAL CASES	19
6.020	SUBMISSION AND COPIES OF MOTIONS, BRIEFS, MEMORANDA, AND POINTS AND AUTHORITIES; COPIES TO BE DESIGNATED TRIAL COURT COPY.....	20
6.030	COURT NOTIFICATION ON SETTLEMENT OR CHANGE OF PLEA	20
6.040	PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS	21
6.050	POSTPONEMENT OF TRIAL	21
6.060	RESOLVING SCHEDULING CONFLICTS.....	22
6.070	SUBMISSION OF TRIAL MEMORANDA	23
6.080	SELECTION OF THE JURY	23
6.090	PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS.....	23
6.100	JURY INSTRUCTIONS.....	24
6.110	MARKING EXHIBITS	24
6.120	EX PARTE MATTERS	25
6.130	EXAMINATION OF WITNESSES	25
6.140	RECORDING OF TESTIMONY	25
6.150	DISPOSITION OF EXHIBITS.....	25
6.160	WEAPONS AND DANGEROUS INSTRUMENTS IN THE COURTROOM.....	25
6.170	WEAPONS AND HAZARDOUS SUBSTANCES IN COURT FACILITIES	26
CHAPTER 7 – CASE MANAGEMENT AND CALENDARING.....		26
7.010	PLEAS, NEGOTIATIONS, DISCOVERY AND TRIAL DATES IN CRIMINAL CASES	26
7.020	COMPLEX CASES	27
7.030	NOTIFY COURT OF SETTLEMENTS AND OTHER MATTERS.....	27
7.040	AMERICANS WITH DISABILITIES ACT (ADA) ACCOMODATION	27

7.050	FOREIGN LANGUAGE INTERPRETERS	28
7.060	INTERPRETERS' REQUESTS FOR INFORMATION	28
CHAPTERS 8 THROUGH 15 RESERVED FOR LATER USE.....		28
CHAPTER 16 – VIOLATIONS		29
16.010	ATTORNEYS– Violation Cases	29
16.020	TRIALS BY AFFIDAVIT	29
16.030	ARRAIGNMENT AND ARRAIGNMENT APPEARANCE OPTIONS	29
16.040	VIOLATIONS BUREAU	30
16.050	NOTICE OF REPRESENTATION BY ATTORNEY	30
16.060	POSTPONEMENTS	31
16.070	SETTING ASIDE DEFAULT JUDGMENTS	31
16.080	DIVERSION, DEFERRED SENTENCE, ALTERNATIVE DISPOSITION.....	31
16.090	PRETRIAL MOTIONS AND DEMURRERS	32
CHAPTER 17 –PARKING VIOLATIONS		33
17.010	PARKING CITATIONS – DEFENDANT’S APPEARANCE	33
17.020	DISMISSAL OF A PARKING CITATION BEFORE TRIAL.....	33
17.030	TOWING AND IMPOUNDMENTS.....	35
17.040	NOTICE OF REPRESENTATION BY AN ATTORNEY	35
17.050	POSTPONEMENTS AND OTHER MOTIONS.....	35
17.060	HEARING PROCEDURE IN PARKING CITATION CASES.....	36
17.070	FAILURE TO APPEAR	36
CHAPTER 18 RESERVED FOR LATER USE.....		36
CHAPTER 19 – CONTEMPT PROCEEDINGS		37
19.010	SCOPE, CONSTRUCTION, APPLICATION	37
19.020	INITIATING INSTRUMENT REQUIREMENTS	37
19.030	ALLOWING REMEDIAL SANCTIONS	37
19.040	APPLICABILITY OF ORCP AND OTHER UTCR.....	37
CHAPTER 20 THROUGH 21 – RESERVED FOR FUTURE USE		38
CHAPTER 22 – COURT-APPOINTED ATTORNEY BILLINGS.....		38
22.010	COURT-APPOINTED ATTORNEY BILLINGS.....	38
APPENDIX 1 - Defendant’s Waiver of Oral Testimony.....		1
APPENDIX 2 - Defendant’s Affidavit		3

GENERAL INFORMATION REGARDING THE SMCR

Governing Laws and Code Pertaining to the General Powers of Oregon Municipal Courts

Stayton Municipal Code (SMC) authorizes the Municipal Judge to adopt rules which facilitate “the prompt and orderly conduct” of court business. The Stayton Municipal Court Rules (SMCR) are issued under that authority and are binding on all court participants unless waived by the Court for good cause.

Pursuant to Oregon Revised Statutes (ORS), courts have seven powers to aid in the administration of Court justice and proceedings. Accordingly:

Every court of justice has power:

- (1) To preserve and enforce order in its immediate presence.
- (2) To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority.
- (3) To provide for the orderly conduct of proceedings before it or its officers.
- (4) To compel obedience to its judgments, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein.
- (5) To control, in furtherance of justice, the conduct of its ministerial officers and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto.
- (6) To compel the attendance of persons to testify in an action, suit or proceeding pending therein, in the cases and manner provided by statute.
- (7) To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

CHAPTER 1 – GENERAL PROVISIONS

1.010 SCOPE OF THESE RULES

- (1) Effective July 1, 2014, these rules apply uniformly to all proceedings in Stayton Municipal Court except those proceedings and actions specified in SMCR 1.010(3) 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 ORS and SMC 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) These rules apply to attorneys and to persons representing themselves.

1.020 AMENDMENT OF THESE RULES; EFFECTIVE DATE

- (1) The SMCR may be amended by order of the Stayton Municipal Judge.
- (2) Proposed amendments to the SMCR will be posted on the City of Stayton website and in a public place in the courthouse. Changes to the SMCR will be presented for approval to the Stayton City Council by a Resolution.
- (3) If the Municipal Judge deems an emergency change to rules is needed due to public or court safety, the Municipal Judge may make the amendments, post them, and present them to Council at the next City Council meeting along with the reason for the emergency amendment.
- (4) The Court Clerk or designee shall serve as the SMCR Reporter and may correct typographical errors, grammatical errors, and inaccurate website addresses if the correction does not change the substance of the rule. The Court Clerk shall give appropriate notice of corrections to the public.

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 the amendments take effect would not be feasible or would work injustice, in which event, the former procedures apply.

1.040 ENFORCEABILITY OF LOCAL PRACTICES

When any local practice of the Stayton Municipal Court is not contained in its adopted court rules, the court may not enforce such local practice or impose any sanction therefore, unless the court has first afforded the party or attorney a reasonable opportunity to cure the violation by complying with the local practice.

1.050 FORMAT AND LOCATION OF COURT RULES

- (1) The SMCR will be numbered according the discretion of the Court.
- (2) Rules will be maintained pursuant to SMC.

1.060 SANCTIONS

- (1) If a party or attorney fails to file a pleading or other document in the manner, form or the 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 SMCR, the court, on its own motion or that of a party, may do any of the following:
 - a. Assess against the noncompliant party or attorney or both reasonable costs, expenses and attorney's fees incurred by a party, attorney or the court.
 - b. Otherwise award reasonable costs, expenses and attorney's fees incurred by a party, attorney or the court.
 - c. Strike the offending pleading or other document.
 - d. Such remedies as justice requires
- (3) The court may schedule a hearing prior to making an order under section 2 above. If the court makes a ruling without a hearing, the sanctioned party shall be entitled to review of the court's order by hearing upon request. If the sanction is not substantially changed, the court may make an additional award under section 2.

1.070 RELIEF FROM APPLICATION OF COURT RULES

Relief from application of these rules in an individual case may be given by the court on good cause shown if necessary to prevent hardship or injustice.

1.080 DEFINITIONS AND ABBREVIATIONS

As used in these rules:

- (1) Party means a litigant or the litigant’s attorney.
- (2) Court Clerk means the court administrator, the administrative officer of the records section of the court, and where appropriate any designee of the Court.
- (3) City Attorney means any attorney providing City Attorney services to the City or any attorney appointed for prosecution of offenses in this court, as required by the context.
- (4) Days mean calendar days, unless otherwise specified in these rules.
- (5) SMC means Stayton Municipal Code.
- (6) SMCR means Stayton Municipal Court Rules.
- (7) ORS means Oregon Revised Statutes.
- (8) ORCP means Oregon Rules of Civil Procedure.
- (9) UTCR means Uniform Trial Court Rules.
- (10) SLR means Supplemental Local Rules of Marion County.

1.090 TIME COMPUTATION

[ORCP 10](#) shall be followed in computing any time period prescribed by these rules.

1.100 LOCATION OF COURT

The Stayton Municipal Court is located at 260 N 2nd Ave, Stayton, Oregon. The Court hours will be posted by the City.

1.110 FILING OF DOCUMENTS IN COURT

Filings are accepted at the Stayton Municipal Court located at 260 N 2nd Ave, Stayton, Oregon. Filings delivered to a judge outside of a court proceeding, judge’s staff, judge’s mailbox, or chambers are not considered filed until received by the Court Clerk or designee at the courthouse.

1.120 COURT WEBSITE

This section reserved for addition.

1.130 INFORMATION ON FREE OR LOW-COST LOCAL LEGAL SERVICES

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

CHAPTER 2 – STANDARDS FOR PLEADINGS AND DOCUMENTS

2.010 FORM OF DOCUMENTS

The court shall accept all forms of documents from unrepresented litigants in which the intent and meaning are clear. The court may instruct an unrepresented party to follow these rules, and thereafter upon failure to follow such rules, the court may impose those sanctions according to SMCR1.060. Prior to requiring compliance with these standards the court shall determine that imposing such standards do not work a hardship on the party. The form of all documents, including pleadings and motions, except where a different procedure is specified by ORS, SMC or rule, 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) paper, 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 Clerk or Court 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, e-mail 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 preparer 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"
 - c) "Page 10"
 - d) 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 Municipal 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.
 - d) 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 xxxxxx 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.” The order portions must be written as clearly and simply as possible. Where appropriate, the order must contain two check boxes as follows: one for allowed, the other for denied. Below this the order must contain appropriate lined space labeled “Additional Record.” The check boxes and Additional Record must be placed above the date and signature lines provided for the court.
 - e) If the order, judgment, writ or ruling of the court is encompassed in a letter opinion issued by the Judge of the Stayton Municipal Court, the words

“Order, Judgment, Motion Granted, or Motion 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) A hand-written order, judgment, writ or ruling of the court may be entered in any criminal, violation, infraction, or parking violation decision in the Stayton Municipal Court so long as the case number, citation, or summons number and defendant’s name is clearly displayed and the words “Order, Motion xxx Granted, or Motion xxx Denied, etc.” shall be clearly and prominently displayed above the date and signature line.
- (11) Citation of Oregon Cases
- a) In all matters submitted to the Stayton Municipal Court, Oregon cases must be cited by reference to the Oregon Reports as Blank v. Blank, _____ Or _____ (year) or as State v. Blank, ____ Or App _____ (year); cases cited from Stayton Municipal Court must be cited as City of Stayton v. Blank, case number YYYY- _____-CR.
- (12) Notice of Address, Telephonic Number, or Email Address Change
- a) An attorney or unrepresented party whose address or telephonic number changes must immediately mail or deliver notification of such change to the Stayton Municipal Court, Court Administrator and all other parties to the case.
- (13) Application to Court Forms
- a) Forms created by the Stayton Municipal Court are not required to comply with the provisions of UTCR 2.010(4) or (8) where the Stayton 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 Stayton Municipal Court without challenge.

2.020 CERTIFICATE OF SERVICE

When a summons or other civil process is served by one other than a sheriff, deputy sheriff, or other qualified person, 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 the Municipal 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 Clerk 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 acting judge.

2.040 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 communication to the court shall refer to the title of the case and the case number.

2.050 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.

2.060 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 is in substantially the same form as the sentence for declaration under penalty of perjury as specified in ORCP 1 E.

CHAPTER 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. Members of the public not dressed in accordance with this rule may be excused from the courtroom.
- (2) When appearing in court, all attorneys and court officials must 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. Judges shall, in their discretion, choose and administer an oath which communicates the seriousness of testifying, communicates the witness's moral duty to testify truthfully, and offers the witness the opportunity to "swear, promise or affirm" their agreement with the oath given.

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 the facilities or the court's entryway between the chambers and the bench without the permission of the court. This rule does not apply, and other rules are not in effect, when an appropriate City official has provided community access to the courthouse for non-court business.

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 and allowed by the court, or otherwise required.

3.120 COMMUNICATION 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. The judge trying the case and court employees may provide procedural information to jurors as necessary for the efficient progress of the trial.
- (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 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, RESIGN, CHANGE, OR SUBSTITUTE ATTORNEYS

- (1) Except as provided in subsection (2), 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 the Court's own motion, or 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 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 purposes of delay or to frustrate any prior case-related rulings of the court.
- (3) Except as provided in subsection 2, 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, for good cause shown, the Court may substitute one court-appointed attorney for another, or end an appointment made for indigency if the client no longer qualifies for court appointed counsel on the grounds of indigency.
- (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 Municipal Judge 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 thirty (30) days before trial, the motion shall be presented to the Municipal Judge for final ruling.
- (7) Substitution of one attorney for another in the same law firm shall be made by oral motion at the time of appearance. The court shall grant this motion unless such change works a hardship on any other party. Such substitution shall not be considered grounds for a continuance when made at the time of appearance.

Court records shall continue to reflect the original attorney as the attorney of record until written notice of the motion and order is provided by an attorney or delegate from the firm at issue.

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.

3.170 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

- (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 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 request 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 Administrator at least 30 minutes prior to routine trials or hearings and by 3:00 PM 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 the Court.
- (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 judge 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. The Court may deny a request for or terminate public access coverage only after making findings of fact on the record setting forth substantial reasons for the denial. The Court 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) The Court 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 may 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 court room.
 - c) The video camera must be mounted on a tripod or other device or 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 Court or by these rules must be the sole responsibility of the persons seeking public access coverage, without calling upon the judge to mediate any disputes involved therein.
- (7) The Court 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 these rules is intended to limit the court's contempt powers.

3.180 USE 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

- (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 used in these rules; and
 - b) 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 permission of the Court.
- (2) Cell phones or other telecommunication devices may be used in areas outside of a courtroom 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 device's 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.

CHAPTER 4 – PROCEEDINGS IN CRIMINAL CASES

4.010 TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

- (1) Motions for pretrial rulings 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 135.805 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.

4.020 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 proceeding.

4.030 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 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 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.

4.040 *MOTION TO SUPPRESS EVIDENCE*

- (1) All motions to suppress evidence:
 - a) Must make reference to any constitutional provision, statute, SMC, 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 adequate reasonably to 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.

4.050 *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.

4.060 *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 137.545:

- (1) Telephone;
- (2) Video conference; and
- (3) Internet.

CHAPTER 5 - RESERVED FOR FUTURE USE

CHAPTER 6 – TRIALS

6.010 *CONFERENCES/SETTLEMENT CONFERENCES IN CRIMINAL CASES*

In any criminal proceeding the parties may request the court to 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.

6.020 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 if it has been set.
- (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 Pre-trial conference or at such other time as designated by the court at the time the defendant’s not guilty plea was entered.

6.030 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 of intent to plea, the court may release the jury panel summoned for the 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) the court of a settlement before 12:00 p.m. (noon) of the last judicial day preceding a jury trial, or if the case settles after 12:00 p.m. (noon) 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 were any pre-trial 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.

6.040 *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 communicating with others outside a courtroom by transmission of sound or images, including, but not limited to cell phones and pagers) taken into a courtroom by any person shall be turned off upon entering the courtroom and shall remain off until after the person has departed from the courtroom.
- (4) See 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.

6.050 *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 required by subsection (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
- (4) The motion may be decided by a summary determination without a hearing.

6.060 *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, the 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.

6.070 SUBMISSION OF TRIAL MEMORANDA

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

6.080 SELECTION OF THE JURY

- (1) A trial jury in the Stayton Municipal Court shall consist of six (6) persons, sworn to try and to determine the questions of fact, selected and drawn as provided in SMC.
- (2) Both the defendant and the City are entitled to three peremptory challenges. Peremptory challenges shall be made by secret ballot. The defendant may challenge one juror, and then the City may challenge one juror. After each challenge, the jury panel shall be filled with a juror passed for cause. A party may refuse to exercise a challenge. Subsequently, that party may only challenge such additional jurors as may have been called following that party's refusal.
- (3) Challenges for cause shall be presented to the Court. There shall be no limit to challenges for cause, and the number of challenges for cause shall have no impact on the number of peremptory challenges available under these rules. Challenges for cause shall be decided in the Court's discretion. The Court may dismiss a juror for cause on the Court's own motion.
- (4) All six of the jurors sworn to try the cause must concur to render a verdict.

6.090 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

- (1) All requested jury instructions and verdict forms 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 SMCR 6.090(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.

6.100 JURY INSTRUCTIONS

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

6.110 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 through 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 large 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; on 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) The parties must submit to the court at the time of trial a list of premarked exhibits.
- (3) Exhibits not available at the commencement of trial, exhibits not reasonably anticipated to be used and exhibits intended for impeachment purposes need not be premarked.

6.120 EX PARTE MATTERS

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

6.130 EXAMINATION OF WITNESSES

Except for good cause shown, no more than one attorney for each party shall examine a witness or present argument on an issue.

6.140 RECORDING OF TESTIMONY

When good cause is shown, the court may authorize a court reporter to record testimony during a trial, at the requesting party's expense or as authorized by the court.

6.150 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, if exhibits have not been returned to the parties, notice 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.

6.160 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 notify the court of the presence and intended use of such item and leave the same outside

the courthouse until the court instructs the party on the method and place to be used as storage prior to submission to the court. And, 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.

An unbreakable, transparent tube that locks on one end must be provided for safe handling and viewing of chemicals, pharmaceuticals, and biological substances.

6.170 WEAPONS AND HAZARDOUS SUBSTANCES IN COURT FACILITIES

Unless otherwise ordered by the court, no person except a law enforcement officer shall possess in a court facility a firearm, knife, device, or hazardous substance capable of inflicting death or physical injury.

CHAPTER 7 – CASE MANAGEMENT AND CALENDARING

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

- (1) At the time of arraignment, the court may either accept a not guilty plea and set a trial date or 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 (2), trial counsel must jointly report the following:
 - a) Whether jury trial is requested;
 - b) The probable length of trial;
 - c) The need for a pretrial hearing;
 - d) 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.

7.020 *COMPLEX CASES*

- (1) Any party in a case may apply to the Court 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, 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 Court 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 Court.

7.030 *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.

**7.040 *AMERICANS WITH DISABILITIES ACT (ADA)
ACCOMODATION***

- (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 four-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.

7.050 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 four-day advance notice.
- (2) Notification to the court must include:
 - a) The name of the person needing an interpreter;
 - 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; and
 - g) The language to be interpreted.

7.060 INTERPRETERS' REQUESTS FOR INFORMATION

If requested by a neutral court interpreter, parties in criminal cases shall provide a list of specialized terminology expected to be used in the proceeding in which the interpreter will be providing services. The list shall be provided prior to the commencement of the proceeding. The list shall be kept confidential by the interpreter and is not discoverable.

CHAPTERS 8 THROUGH 15 RESERVED FOR LATER USE

CHAPTER 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 the Chief of Police and must be filed with the Court Clerk in writing no later than 5 days before trial, unless otherwise allowed for good cause.

16.020 TRIALS BY AFFIDAVIT

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

- (1) When offender's place of residence is greater than 100 miles from the Stayton Municipal Court.
- (2) Use Waiver and Affidavit forms in Appendix 1 and 2.
- (3) The waiver and affidavit must be received before the summons date on the citation.
- (4) The Court Clerk shall post procedures for the trial by affidavit on its website, as approved by the Court.
- (5) Trials by affidavit for violations, including parking tickets, shall apply to citations filed with the court beginning thirty (30) days after the Court Clerk posts the procedures approved by the Court.

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 prior to the arraignment date.

- c) The defendant may enter a written plea of not guilty and request that the matter be set for court trial. Any defendant electing to proceed under this subsection 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. 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 Clerk 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, and SMC 2.20.090 the Stayton Municipal Court has the authority to establish a Violations Bureau by Judicial Order. Once issued, a copy of the Judicial Order can be obtained at the Court or from the Court Clerk.
- (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 ATTORNEY

- (1) If the defendant is represented by counsel for purposes of a first appearance on

the violation, the attorney may 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 on or 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 and the Chief of Police must be filed at least five (5) court days prior to the date of the trial.

16.060 POSTPONEMENTS

Court Trials

The request for a postponement of a court trial must be made to the Court, in writing and must be received more than 7 days prior to the scheduled trial date. The request must demonstrate good cause for 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. All witnesses must be notified by the parties of the postponement.

16.070 SETTING ASIDE DEFAULT JUDGMENTS

Except for good cause shown, a defendant against whom a default judgment is entered may request relief from the default judgment, within a reasonable time, not to exceed one year.

16.080 DIVERSION, DEFERRED SENTENCE, ALTERNATIVE DISPOSITION

- (3) The Stayton Municipal Court has established a traffic diversion program, effective with the adoption of these rules. Persons cited are eligible when the following criteria are met:
 - (a) The citation was issued for an offense which occurred after the effective date of these court rules.
 - (b) The offender has not had any moving violations or traffic crimes (including DUII) in the past five (5) years in any state.
 - (c) The offender has not attended or participated in a court-ordered traffic school

within the past ten years in any state; this includes in-person and on-line programs.

- (d) Unless on the offender's motion granted for good cause shown, or on the court's own motion, the following are excluded from the traffic diversion program:
 - i) Violations occurring in a school zone, work zone, or safety corridor
 - ii) Violations involving an accident; and
 - iii) Violations of the open container and careless driving laws.
 - (e) The offender has no other pending motor vehicle citation(s) in this or any other court.
 - (f) The offender pleads no contest to the traffic offense.
 - (g) The offender pays the fine set by the court for the offense.
 - (h) The offender attends, completes, and provides proof of completion of a court mandated traffic safety program.
 - (i) The offender receives no motor vehicle citations within the next 180 days.
- (2) Successful completion of the traffic diversion 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.
 - (3) There will be no extensions for this program without order of the Municipal Judge.
 - (4) If the Court determines that a defendant was not eligible for the program, the court shall revoke the diversion and impose the full presumptive fine. The court may refer the case to the City Attorney's office or designee for criminal prosecution.

16.090 *PRETRIAL MOTIONS AND DEMURRERS*

The rules 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 officer with a supporting memo advising the court whether the violation has been served a new citation or if no intent to recite.

- (2) A motion to dismiss a violation citation, which is not a 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 Certificate of Service showing the Chief of Police has been served with a copy of the motion.

CHAPTER 17 –PARKING VIOLATIONS

17.010 *PARKING CITATIONS – DEFENDANT’S APPEARANCE*

- (1) A person receiving a parking citation issued pursuant to SMC, 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 14th day after the issuance of the citation.
 - b) Request a court hearing by personally appearing before the court, or sending a written request received by the court, on or before the 14th day after the issuance of the parking citation.
- (2) An Order for impoundment of a vehicle pursuant to SMC, may be issued pursuant to SMCR 17.030 if the defendant does not appear in a manner indicated in this rule.

17.020 *DISMISSAL OF A PARKING CITATION BEFORE TRIAL*

- (1) The 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 Oregon Department of Motor Vehicles (“DMV”) 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 SMCR 17.020(4), 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 DMV ;
- e) No violation is indicated on the parking citation;
- f) 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 Stayton Police Department;
- g) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. Routine, scheduled court appearances, such as grand jury proceedings, motion hearings, or trials, shall not constitute “government business of such urgency that the driver was prevented from complying with parking regulations.”
- h) The court received a written request for dismissal of the citation from the issuing officer explaining the specific error in the issuance of the parking citation, together with the approval of the citing officer’s supervisor; or
- i) The exemption or privilege in ORS 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 unless the zone allows parking for only 30 minutes or less; or
 - ii. Parking in a disabled zone pursuant to ORS 811.615(1)(a); or
 - iii. Disabled zone parking offense cited under SMC _____ 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) The Court may dismiss the parking citations listed in SMCR 17.020(1) by signing a list containing the license numbers of the vehicles and the reasons for the dismissals
- (3) The Court Clerk as authorized by the Court.
- (4) When a parking citation is subject to dismissal under SMCR 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 DMV 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.
- (5) In all cases, the Court 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 any other 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 five days before the date of trial. The notification must certify that a copy has been delivered to the Chief of Police and City Attorney's office.

17.050 POSTPONEMENTS AND OTHER MOTIONS

- (1) When requested at least five 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 pleas set out in SMCR 17.010. The Court

will notify the police officers, the parking enforcement officers and volunteers and the City Attorney, as 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 SMCR 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 14 days, the court may, after written notice to the named defendant at the address maintained in the records of DMV, enter a default judgment against the defendant. Judgments may be assigned to an external resource for collection. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.

CHAPTER 18 RESERVED FOR LATER USE

CHAPTER 19 – CONTEMPT PROCEEDINGS

19.010 SCOPE, CONSTRUCTION, APPLICATION

- (1) The rules in this Chapter govern contempt proceedings under ORS 33.015 – 33.155 and SMC 2.20.060 and are intended to promote efficient and fair resolution of contempt proceedings. The rules in this Chapter will be changed only by action of the Stayton Municipal Judge.
- (2) The rules in this Chapter do not preclude the Court from exercising its 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 33.055 (remedial) or ORS 33.065 (punitive) 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 ORS 33.155. Except as otherwise provided in this chapter:

- a) Oregon Rules of Civil Procedure (ORCP) and Oregon Rules of Appellate Procedure (ORAP) apply respectively to original contempt proceedings for remedial sanctions under ORS 33.055;
 - b) UTCR and ORAP that govern criminal proceedings apply respectively to original contempt proceedings for punitive sanctions under ORS 33.065.
- (2) 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 responsive 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 at such time as the court becomes a court of record, on the record, or both.

CHAPTER 20 THROUGH 21 – RESERVED FOR FUTURE USE

CHAPTER 22 – COURT-APPOINTED ATTORNEY BILLINGS

22.010 COURT-APPOINTED ATTORNEY BILLINGS

- (1) Appointed counsel is compensated pursuant to SMC. As in SMC certain expenses need preauthorization before expenses are incurred. Appointed counsel is responsible for all reasonable and necessary expenses that are ordinary and related to the preparation and presentation of the case.
- (2) The Municipal Court is sustained by appropriated funds by City Council through the City’s budget process. If the court believes appropriated funds will not be sufficient to sustain the Court’s operation the court will seek additional funding through a supplemental request to City Council. If City Council does not appropriate sufficient funds, the court will fashion a remedy that is fair and

- equitable among all appointed counsel. The court will reasonably consult with appointed counsel regarding funding shortages.
- (3) Billing of all services shall be submitted upon completion of a case. For all cases in which services are completed, appointed counsel must submit payment requests to the court within 60 days of the date the court enters in the register of actions:
 - a) an order allowing or requiring counsel to withdraw; or
 - b) final judgment
 - (4) When services to the client are suspended because the client enters into a program or agreement which delays final adjudication, counsel may submit payment requests to the court within 90 days.
 - (5) When the client fails to appear or the court issues a warrant, counsel may bill no earlier than 21 days but no later than 90 days from the date the person fails to appear or issues a warrant.
 - (6) Billing packets will include the following:
 - a) Affidavit and form of Order for Compensation
 - b) Supporting documentation which includes:
 - i) Date of event
 - ii) Description of event
 - iii) Hours/time for task or partial hour
 - iv) Rates for attorney's fees and support
 - v) Additional expenses
 - vi) Extended billing amount per line item
 - vii) Total amount billed
 - (5) Billing will be printed and legible. Total time billed divided among several defendants on a pro rata basis for a court appearance and shall not exceed the actual time in court, nor shall double billing for an activity be submitted.
 - (6) As a general policy the court will not pay interim requests for attorney fees and expenses except as authorized by the judge.
 - (7) Counsel may not bill for matters on appeal at circuit court, except for the purposes of perfecting the appeal. Circuit court will appoint counsel if defendant qualifies for such counsel.

- (8) The court will return requests submitted late unless counsel submits a written explanation showing good cause to excuse delay. The judge will review the written explanation and approve or disallow payment based upon the reason.
- (9) Out-of-Court attorney/client communication which requires interpreter services should be billed directly to the court by the interpreter using the prescribed form as back-up to the billing, except as otherwise authorized by the court.

APPENDIX 1 - Defendant's Waiver of Oral Testimony

**IN THE MUNICIPAL COURT OF THE CITY OF STAYTON
COUNTY OF MARION, STATE OF OREGON**

City of Stayton)	DEFENDANT'S WAIVER OF ORAL
)	TESTIMONY (Trial by Affidavit)
Plaintiff)	
V)	Case/Citation # _____
_____)	
Defendant)	

I have pled **NOT GUILTY** and I hereby waive my rights to have testimony presented in open Court and authorize testimony to be in the form of an affidavit. I realize by signing this waiver that the officer may file an affidavit and not appear in Court. I also realize that I need not appear in person, but may appear by affidavit.

I further state my intentions as follows:

- I waive my right to be present at a hearing and declare that I will submit to the Court my affidavit containing my testimony and affidavits of witnesses, if any, to the Court within thirty (30) days of today's date, and if I fail to submit said affidavit within thirty (30) days, I authorize the Court to decide whether I am guilty or not guilty based upon the contents of my file. I understand the Court will also consider the officer's affidavit in deciding whether I am guilty or not guilty.

- I do not waive my right to be present at a hearing and request that I be notified of the date and time of hearing. I waive my right to have the officer testimony presented orally in court.

I CERTIFY THAT I HAVE READ THE ABOVE AND WAIVE MY RIGHT TO HAVE TESTIMONY PRESENTED IN OPEN COURT. I REQUEST THAT THIS MATTER BE DECIDED AS STATED ABOVE.

Dated: _____

_____	Signature	Print Name
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Mailing Address	City, State, Zip Code
IN THE MUNICIPAL COURT OF THE CITY OF STAYTON COUNTY OF MARION, STATE OF OREGON	
_____ Stayton, Oregon 97383	

City of Stayton)	DEFENDANT'S AFFIDAVIT
)	(Trial by Affidavit)
Plaintiff)	
V)	Case/Citation # _____
_____)	
Defendant)	

APPENDIX 2 - Defendant's Affidavit

I recognize that the foregoing is offered to the court as my testimony in this matter, that it is to be used by the judge to render a decision and enter a judgment, and that it is therefore subject to the penalties for perjury. By signature below, I swear, promise or affirm that my statement above is the truth.

Signature: _____

Print Name: _____

Mailing Address: _____

City, State, Zip: _____

Subscribed and sworn before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____