

Court Rules

IN THE MUNICIPAL COURT OF THE CITY OF EUGENE, LANE COUNTY, OREGON

IN THE MATTER OF RULES
OF THE MUNICIPAL COURT, CITY OF EUGENE,
LANE COUNTY, OREGON

IT IS HEREBY ORDERED that the following modifications of the rules of the Municipal Court of the City of Eugene, Lane County, Oregon, be, and the same are hereby adopted effective as of October 1, 2021.

CHAPTER 1 – General Provisions

1.010 SCOPE OF THESE RULES

- 1) These rules shall be construed so as to achieve consistency with statutory provisions and to promote the just, speedy and cost effective determination of every proceeding and action as well as the efficient use of judicial time and resources.
- 2) These rules apply to attorneys and to persons representing themselves in Eugene Municipal Court.

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 an injustice, in which event, the former rules or procedures apply.

1.090 SANCTIONS

- 1) For failure to file a pleading or other document in the manner, the form or within the time period required by these rules, the court may strike the pleading or document.
- 2) For willful and prejudicial resistance or refusal to comply with these rules, the court, on its own motion or on the motion of a party after opportunity for a hearing, may do any of the following:
 - a. Assess against the noncompliant party or attorney or both reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.
 - b. Otherwise award reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.
 - c. Strike the offending pleading, other document, or claim.
 - d. Treat as established an allegation or claim.

1.100 RELIEF FROM APPLICATION OF COURT RULES

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

1.110 DEFINITION

As used in these rules:

- 1) "Court contact information" means the following information about a person submitting a document: the person's name, a mailing address, a telephone number, and an email address and a facsimile transmission number, if any, sufficient to enable the court to communicate with the person and to enable any other party to the case to serve the person under EGM rule 2.080. Court contact information can be other than the person's actual address or telephone or fax number, such as a post office box or message number, provided that the court and adverse parties can contact the person with that information and perfect service on that party through that contact.
- 2) "Days" mean calendar days, unless otherwise specified in these rules.
- 3) "Defendant" or "Respondent" means any party against whom a claim for relief is asserted.
- 4) "Document" means any instrument filed or submitted in any type of proceeding, including any exhibit or attachment referred to in the instrument. Depending on the context, "document" may refer to an instrument in either paper or electronic form.
- 5) "Party" means a litigant or the litigant's attorney.
- 6) "Plaintiff" or "Petitioner" means any party asserting a claim for relief.
- 7) "Trial Court Administrator" means the court administrator, the administrative officer of the records section of the court, and where appropriate, the trial court clerk.

1.130 TIME COMPUTATION

ORCP 10 shall be followed in computing any time period prescribed by these rules. Court closures are included in ORCP 10(a).

1.160 FILING OF DOCUMENTS WITH COURTS

- 1) A document to be filed with the court, including any document submitted to a judge or judicial staff, is not considered filed until it is accepted by a judge or court staff designated by the trial court administrator to accept court filings.
- 2) Proposed orders and judgments awaiting judicial signature may be delivered to a judge or judicial staff as otherwise permitted or required under these rules.

1.161 ELECTRONIC FILING OF COURT DOCUMENTS

- 1) As used in this rule:
 - a. “Electronic citation” means a violation complaint or a criminal complaint electronically filed in Eugene Municipal Court by a filing agency pursuant to ORS 153.770 or ORS 133.073.
 - b. “Filing agency” means a law enforcement agency, City Prosecutor, Defense attorney, or a parking enforcement agency filing an electronic citation.
 - c. “Electronic filing” includes all documents received via email, fax, or through some other electronic means approved by the Court Administrator.
 - d. “Court Administrator” means the court administrator for the municipal court.
- 2) Requests for authorization to use electronic citations must be submitted to the Court Administrator.
- 3) The Court Administrator will establish appropriate conditions and procedures to be followed by a court and its partners in an electronic filing program to assure that the process for electronic filings can be accommodated by the court’s systems and computer technology.
- 4) The transmission of information and images as provided in this rule must be tested and fully comply with the system requirements for electronically uploading documents to the Eugene Municipal Court information systems.
- 5) A filing agency must satisfy all the following requirements when filing an electronic document in municipal court:
 - a. For a violation complaint, the electronic citation information must include all of the information required by ORS 153.770(2)(a).
 - b. For a criminal complaint, the electronic citation information must include all of the information required by ORS 133.073(2)(a).
 - c. A criminal citation with a form of complaint must not be filed until after the City Prosecutor has conducted the review required by ORS 133.069(2).
 - d. A criminal citation or complaint must not combine a Driving Under the Influence of Intoxicants with any other charge.
 - e. The agency must transmit to the court an image of the electronic citation for public inspection under ORS 153.770(2)(c) and ORS 133.073(2)(c).
 - f. For all notices and motions the document shall comply with Eugene Municipal Court Rules.

- g. All electronic citations must contain a unique identification number for the law enforcement or parking enforcement officer issuing the citation, the officer's name, the officer's eSignature, and the identity of the agency employing the officer.
 - h. The filing agency must number the electronic citation using a number series approved by the court administrator.
 - i. The filing agency must assign to the citation a unique number that does not duplicate the number on any electronic citation previously filed by the filing agency.
 - j. The agency must transmit to the court an image of the electronic citation for public inspection under ORS 153.770(2)(c) and ORS 133.073(2)(c).
- 6) Subject to the restrictions under ORS 133.066(4) and (5) regarding the types of offenses that can be included in an electronic document, an electronic citation may contain up to ten offenses on a single document, for the same defendant and incident.
- 7) All electronic documents are deemed filed at the time the information of the citation is entered in the register of the court. Documents received after 4 pm on a Municipal Court business day will be file stamped with the following business day's date.
- 8) The party filing documents electronically is responsible for ensuring the document was received and filed in a timely manner and according to pertinent deadlines. The court is not responsible to provide acknowledgements for documents sent electronically.
- 9) The court may scan uniform traffic citations filed in paper format, along with any supporting documentation and correspondence, and reformat them to an electronic record.
- 10) The court may issue judicial decisions and signatures electronically and may affix a judge's signature by electronic means.
- 11) Documents that are electronically filed or manually scanned - including those to which additional information, judicial orders, judgments, and judicial signatures have been added are the original and legal court record.
- 12) All electronic filings sent via email must be sent to EugeneMunicipalCourt@ci.eugene.or.us or faxed to 541-682-5417. Documents sent to other email addresses will not be accepted.
- 13) Any filing requiring a filing fee (i.e. motions to set aside) will not be accepted via electronic filing.

14) Electronic documents over 20 pages in length shall not be submitted electronically. Page count includes the motion and all attachments.

1.171 COURT WEB SITE

The City of Eugene Municipal Court website is <https://www.eugene-or.gov/117/Municipal-Court>.

1.172 INCLEMENT WEATHER

The court is rarely closed due to inclement weather. In the event of inclement weather, some functions or proceedings may be cancelled or postponed. The City Manager may close City operations or offices if conditions are severe. Please check the City of Eugene Municipal Court website for up to date information regarding court closures.

In the event of a closure, the court will set matters over two weeks. Individuals must appear within that two week period to avoid further consequences. In the event conditions are hazardous, but no closure has been announced, individuals must call the court to request a matter be set-over.

1.200 INFORMATION ON FREE OR LOW-COST LOCAL LEGAL SERVICES

Eugene Municipal Court shall post in a conspicuous location information, including the telephone numbers, of any free or low-cost legal services and other relevant services locally available and the nature of those services.

CHAPTER 2 - Standards for Pleadings and Documents

2.010 FORM OF DOCUMENTS

Except where a different form is specified by statute or rule, the form of any document, including pleadings and motions, filed in any type of proceeding must be in the form as prescribed in this rule.

1) "Printed document," as used in this rule, means any document wholly or partially printed.

2) Size of Documents

All documents, except exhibits, must be prepared in a manner that, if printed, would be letter-size (8-1/2 x 11 inches), except that smaller sizes may be used for bench warrants, commitments, uniform citations and complaints and other documents otherwise designated by the court.

3) Spacing, Paging and Numbered Lines

- a. All pleadings and motions must be double-spaced and prepared 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, two inches at the top of the page shall be left blank.
- d. All documents, except exhibits, shall be prepared with a one-inch margin on each side.

4) Party Signatures and Electronic Court signatures

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.

5) Attorney or Litigant Information

All documents must include the author's court contact information under EGM rule 1.110 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.

6) 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 numerals immediately below the exhibit number;
e.g.: "Exhibit 2
Page 10"
- b. Exhibits appended to a pleading may be incorporated by reference in a later pleading.

7) Information at Bottom of Each Page

The name of the document and the page number, must appear at the bottom left-hand side of each page of each document.

8) Caption

- a. Each document submitted to the court for filing must include a caption located near the top of the first page that identifies the following:
 - (i) Eugene Municipal Court;
 - (ii) The names of the parties;
 - (iii) An identification of the parties' roles;
 - (iv) The court case number; and
 - (v) A document title that identifies the document being filed, for example, "Complaint," or "Motion for Stay." Except for the complaint or petition initiating the case, or the initial answer or response, the document title must identify the filing party, for example, "Defendant's Motion to

Suppress.” When there are multiple parties on a side, the document title must suitably identify the party submitting the document, for example, “City’s Motion for Stay” or “Defendant _____’s Motion to Suppress.”

- b. Every motion directed at a pleading must show in the document title the name of the pleading against which it is directed.
- c. In addition to the authority to decline to receive or file a document under ORCP 9E, a document may be returned to the party who submitted it for failure to comply with Eugene Municipal Court Rules.

9) Orders, Judgments and 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 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 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 xxxxxxxxxx and Order" in the upper right-hand corner of the document. The full description of the motion must be included in the title. A 2-inch by 2-inch space must be provided above the caption for the file/date stamp of the motion. The order portion must be clearly labeled "Order" in the upper left-hand corner of the order portion of the document. A 2-inch by 2-inch 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.
- d. Order portions must be written as clearly and simply as possible. Where appropriate, the order must consist of 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 signature date and signature lines. Both check box provisions shall contain sufficient additional space for the court to add conditions, limitations to, or reasons for the court’s order.

10) Citations

In all matters submitted to the Municipal Court, a party shall use the citation practices set out in the most current version of the Oregon Appellate Court’s style manual, or the Harvard Law Review Association’s, The Blue Book - A Uniform System of Citation, when the Oregon Appellate Court Style Manual does not apply.

11) Notice of Address and Telephone Number Change

An attorney or unrepresented party whose email, mailing address or telephone number, changes must immediately mail or deliver notification of such change to the court administrator and all other parties.

12) Use of Recycled Paper

Eugene Municipal Court strongly encourages the use of recycled paper and strongly recommends that all original pleadings, motions, requested instructions, copies, and service copies be on recycled paper having the highest available content of postconsumer waste.

2.020 CERTIFICATE OF SERVICE

- 1) A certificate of service must include:
 - a. If the opposing party was served by facsimile pursuant to ORCP 9 F, the telephone number at which the party was served.
 - b. If the opposing party was served by email pursuant to ORCP 9 G, the email address at which the party was served.
 - c. If the opposing party was served by any other means, the physical address or postal address at which the party was served, as applicable.
- 2) 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.

2.080 COMMUNICATION WITH COURT

- 1) Except as exempted by statute, when written communication is made to the court, copies thereof must simultaneously be mailed or delivered to all other parties and indication made on the original of mailing or delivery.
- 2) All written communication to the court shall refer to the title of the cause and the case number.

2.090 FILINGS FOR MULTIPLE CASES

- 1) Cases that are consolidated are consolidated for purposes of hearing or trial only.
- 2) A party filing any pleading, memorandum, or other document applicable to more than one case must file the document in each case using existing case numbers and captions unless otherwise ordered by the court.
- 3) Unless otherwise ordered by the court, a party filing a document applicable to only one case must file only in that case.

2.120 AFFIDAVITS

Unless otherwise mandated by statute, a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E, may be used in lieu of an affidavit required or allowed by these rules.

2.140 APPLICATION FOR WAIVER OR DEFERRAL OF FEES OR COURT COSTS

- 1) The court must segregate an application for waiver or deferral of fees or court costs filed under ORS 21.698 from documents that are subject to public inspection. Public inspection of an application for waiver or deferral of fees or court costs is prohibited except as authorized by this rule or other provision of law.
- 2) Access and Confidentiality
 - a. A party may inspect an application described in subsection (1) that was filed by that party.
 - b. No other party to a proceeding may inspect an application described in subsection (1) filed by another party.
 - c. This rule does not limit a person's legal right to inspect an application described in subsection (1) as otherwise allowed by ORS 21.698 or other provision of law.
 - d. Eugene Municipal Court personnel may have access to an application described in subsection (1) when required for court business.

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. A person may wear a religiously-required head covering unless the court orders otherwise. Members of the public not dressed in accordance with this rule may be removed from the courtroom.
- 2) When appearing in court, all attorneys and court officials must wear appropriate attire, defined by Lane County Supplemental Local Rule 3.011

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. Civilian attire is not required for non-trial appearances 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, unless otherwise ordered by the court

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; and
- 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

Except as otherwise permitted by the court, during the 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.

3.080 PROCEDURE FOR SWEARING WITNESSES

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

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.

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 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 that 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 opposing parties when:
 - a. There is reasonable ground to believe that there has been a mistake in the announcing or recording of a verdict; or
 - b. There is 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 the 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 SUBSTITUTION OF ATTORNEYS

- 1) For a notice of substitution made pursuant to ORS 9.380 must contain the court contact information of the party and of the new attorney, if one is being substituted, and the date of any scheduled trial or hearing. It must be served on that party and the opposing party's attorney. If no attorney has appeared for the opposing party, the application must be served on the opposing party. A notice of substitution of attorney must be promptly filed.
- 2) The attorney who files the initial appearance for a party, or who personally appears for a party at arraignment on an offense, is deemed to be that party's attorney-of-record, unless at that time the attorney otherwise notifies the court and opposing party(ies) in open court or complies with subsection (1).
- 3) When an attorney is employed or appointed to appear in an already pending case, the attorney must immediately notify the court and the opposing party in writing. That attorney shall be deemed to be the attorney-of-record unless that attorney otherwise notifies the court.

3.141 RESIGNATION AND MOTION TO WITHDRAW OF ATTORNEYS

- 1) In criminal cases, application for withdrawal or discharge of counsel shall be heard in open court, after notice to opposing counsel and with the defendant present unless the defendant's whereabouts are unknown.
- 2) A motion to withdraw by defense counsel in a criminal case shall begin with a reference to the trial date or a statement that the case has not been set for trial. The motion must contain the court contact information of the party. Upon filing a motion to withdraw, it shall be the responsibility of the defense counsel to have the matter

placed upon the court docket, if different from an appearance already set. A notice of withdrawal or termination must be promptly filed.

3.142 ATTORNEY OF RECORD IN PENDING CASES

When one attorney is substituted for another, the filed and served notice of substitution is sufficient to change the attorney of record.

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.

3.181 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 must be made to the Trial Judge or designated court staff by 1:00 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 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.
 - f. Lobby area.
 - g. Upstairs and downstairs foyer area.
- 4) 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.

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

3.182 PERSONAL COMMUNICATIONS DEVICES

- 1) Definition: For the purposes of this rule, personal communication devices include, but are not limited to: cellular telephones, laptop computers, and tablets
- 2) Limitations of Use:
 - a. Courtrooms: Unless permitted by the judge presiding over the proceeding, personal communication devices must be turned off while in a courtroom.
 - b. Common Areas Outside Courtrooms: Personal communication devices may be turned on when not in a courtroom, however, such devices shall not be used to record, receive, or transmit video images, pictures, or audio at any time when inside the courthouse.
 - c. Jurors: Unless permitted by the judge presiding over the trial, members of a seated jury shall not possess personal communication devices in the courtroom or jury deliberation room. After the jury is seated, the courtroom clerk will collect all devices and retain them in a secure location. The devices will be returned to jurors for the duration of the noon recess and other recesses as allowed by the judge, and at the conclusion of each day's proceedings.

CHAPTER 4 - Proceedings in Criminal Cases

4.010 TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

To the extent applicable to matters within the jurisdiction of the Eugene Municipal Court, 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 the arraignment, whichever is later, unless a different time is permitted by the court for good cause shown.

4.031 PROCEDURE FOR ORDER OF TRANSPORTATION

- 1) Defense counsel will work with court staff to ensure appropriate protocols are observed between the defendant and jurors and/or witnesses.
- 2) Defense counsel is responsible for ensuring their client has proper attire for court. The defendant will be transported in proper attire for their court appearance.
- 3) Lunch for the defendant is provided by the jail. Defense counsel will coordinate to ensure a lunch is sent with the defendant at the time of transport.

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 a response. The first paragraph of the motion or response must include an estimate of the time required for argument.

4.051 MOTIONS AND DEMURRERS IN CRIMINAL CASES

Motions in criminal cases shall be accompanied by a proposed order.

4.060 MOTION TO SUPPRESS EVIDENCE

- 1) All motions to suppress evidence:
 - a. Will not be heard by the court unless made in advance of trial, in writing and accompanied by a statement of authorities, or as otherwise allowed by the court;
 - b. Must cite any constitutional provision, statute, rule, case, or other authority upon which it is based; and
 - c. Must include in the motion document the moving party's brief, which must sufficiently apprise the court and the adverse party of the arguments 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, absent a showing of good cause, not more than 7 days after the motion to suppress has been filed;
 - b. Must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement of 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.

4.070 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 or other diversion program, the dismissing instrument must state the basis for the 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 137.545:

- a. Telephone;
- b. Video; and
- c. Internet.

4.081 VIRTUAL APPEARANCES

The court may conduct virtual appearances for all court proceedings. A party may submit a request to the court for a virtual appearance, confirming the individual has access to the appropriate hardware and software to appear virtually and by serving the request on opposing counsel with an opportunity to be heard in any contested proceeding. Virtual appearances require:

- a. All parties to provide the court with a valid email address
- b. Current mailing address and phone number
- c. Filing all relevant documents and anticipated exhibit lists, with attached exhibits, for the appearance with the court in advance of the hearing in conformance with court rule 6.080
- d. Inform the court of any witnesses needing to be present, prior to the court appearance;
- e. Parties are responsible for forwarding meeting invites to witnesses
- f. All other court rules apply (eg courtroom decorum)
- g. Review required online materials

4.100 CRIME VICTIMS' RIGHTS – PROSECUTOR'S NOTIFICATION AND CRIME VICTIMS' RIGHTS VIOLATION CLAIM

- 1) To allege a violation of a right granted by Article I, section 42 or 43, of the Oregon Constitution, a victim may file a claim in substantially the form set out by the court. The claim must be filed with the Eugene Municipal court clerk. Forms are located on the court's website.
- 2) If an allegation of a violation of a right granted by a judge is filed with the court, the prosecuting attorney must file a notification of a compliance as provided in ORS 147.510 when a claim is filed with the court.

CHAPTER 6 -- TRIALS

6.001 JURY TRIALS

Jury trials will proceed as scheduled unless the court has granted a written motion to continue or as otherwise ordered by the court. Jury trial status reports are shall be submitted the week prior to trial, on Wednesday by 10 am.

6.012 SETTLEMENT CONFERENCES

Any party may request a settlement conference by contacting the court to request an available date on the docket, in advance of the trial date. Early requests are encouraged. The settlement conference judge shall not act as trial judge, unless agreed to by the parties.

6.020 COURT NOTIFICATION ON SETTLEMENT OR CHANGE OF PLEA

The City must notify the court immediately of any decision that a case will be dismissed and file a motion to dismiss as soon as practical thereafter. The parties shall report immediately to the court any resolution of any matter scheduled on the court's trial or evidentiary hearing docket.

6.030 POSTPONEMENT OF TRIAL

- 1) A request to postpone a trial must be by motion.
- 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. Whether a party is in custody;
 - e. The date of each previous postponement; and
 - f. Whether any parties to the proceeding object to the requested postponement.

- 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; and
 - e. The date on which the conflicting case was set for trial.
- 4) The motion may be decided by a summary determination without a hearing.

6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

- 1) A party must file any requested jury instruction or verdict form. The party must also submit a copy of the jury instructions and verdict forms to the trial judge in the manner and time specified by the judge.
- 2) All requested jury instructions and verdict forms must be in writing and served on the opposing party.
- 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 EGM Court Rule 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 page.
 - 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.
 - g. Any special instruction that is requested shall be filed in advance of the trial with a statement of authorities, and served on the opposing party or opposing counsel.
- 5) The court must inform the parties before argument of the instructions that it proposes to give.
 - 6) Proposed verdict forms and written interrogatories, if any, must be prepared without the name of the attorney or the name of the firm 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 or other evidentiary hearing, 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 numbers of exhibits, the parties shall agree on the assignment of the numbers. If the parties cannot reach agreement, or if for any reason 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 administrator shall provide a party with appropriate stamps, labels or tags for exhibit marking.
- 3) The parties must submit to the court at the time of trial a list of premarked 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 premarked.

6.081 EXHIBITS - AUDIO AND VIDEO RECORDINGS

The proponent of any audio or video exhibit shall be responsible for arranging for playback equipment, with footage counter when required, for use during the trial or other proceeding. Approval is required to use audio and video recordings. See rule 3.050 for information on seeking approval for recordings of court sessions.

6.100 EXAMINATION OF WITNESSES AND ARGUMENT

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

6.120 DISPOSITION OF EXHIBITS

- 1) Unless otherwise ordered, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Such counsel must sign an acknowledgment of receipt for the exhibits returned. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case unless the exhibits are returned to the trial court pursuant to subsections (2) or (3) of this rule. Both documentary and nondocumentary exhibits submitted by parties not represented by counsel shall be retained by the trial court, subject to subsection (4) of this rule.
- 2) Exhibits not returned to the parties shall be processed as follows:
 - a. Such exhibits shall be retained by the trial court until the appeal period has elapsed and there is a final disposition of the case.
 - b. After final disposition of the case, a 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.
- 3) Nothing contained in this rule shall prevent parties to any matter before the court from seeking the release or return of exhibits before the times specified in this rule.
- 4) Exhibits in the court's custody shall not be removed from the trial court administrator's control except by stipulation or by order of the court.
- 5) For purposes of this rule, "documentary exhibits" include text documents, photos and maps, if not oversized, and audio and video tapes. An oversized document is one larger than standard letter size or legal size.

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

6.160 CONTROLLED SUBSTANCES IN THE COURTROOM

- 1) Unless otherwise ordered by the court, only a representative sample of controlled substances shall be brought into the courtroom to be presented as evidence. Such sample must have been placed in a see-through, heat-sealed container prior to coming into the custody of the court and must not be opened except by order of the court. The remainder may be presented by photograph, videotape, or may be available for viewing by the jury in some secure setting.
- 2) At all times between the receipt of the controlled substances and the return of controlled substances to the submitting party under rule 6.120 or destruction or transmittal of the controlled substances to the appellate courts, the controlled substances shall be in the court's evidence locker in the custody and possession of a member of the court staff or in the custody of such appropriate law enforcement agency as the court orders.

6.170 JUROR HANDLING OF CONTROLLED, HAZARDOUS, OR INFECTIOUS SUBSTANCES AND CHEMICALS

Jurors must be advised if any controlled substance, hazardous, or infectious substances or chemicals to be handled in the jury room present a danger and must be provided instructions on safe handling, including providing protective devices, if necessary.

6.180 WEAPONS AND HAZARDOUS SUBSTANCES IN THE 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.

6.190 EVIDENCE SUBMITTED IN AN ELECTRONIC FORMAT

- 1) Any exhibit or testimony to be presented to the court in an electronic format shall be compatible with the court's electronic equipment.
- 2) Prior to trial or hearing, a party intending to offer electronic evidence must make sure it is in a format compatible with the court's equipment. A party is responsible for the cost, if any, incurred by the court as a result of the party's use of the court's electronic equipment or in repairing the court's electronic equipment as a result of a party's use of it.

- 3) Parties may use their own equipment to present electronic evidence. However, parties using their own equipment may need to make their equipment available to the court, opposing parties, and the jury.
- 4) It is a party's responsibility to provide any technical support needed in presenting the party's evidence and in making its evidence compatible with the court's electronic equipment or in using the party's own equipment.

6.215 HEARING OF POST-TRIAL MOTIONS

All motions for new trial, for judgment notwithstanding a verdict, and other post-trial motions and objections shall be heard by the judge before whom the cause was tried, at a time to be set by that judge.

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 the matter for a status hearing or set a date for entry of a plea.

7.060 AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATION

- 1) If an accommodation under the ADA is needed for an individual in a court proceeding and the matter is not already being addressed by the court, the party needing accommodation for the individual must notify the court in the manner required by 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.

7.070 FOREIGN LANGUAGE INTERPRETERS

- 1) If a foreign language interpreter is needed for a court proceeding and the matter is not already being addressed by the court, the party in need of an interpreter must notify the court in the manner required by 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.

7.080 INTERPRETERS' REQUESTS FOR INFORMATION

If requested by a neutral court interpreter, parties 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.

7.015 CRIMINAL CASE SCHEDULING

When scheduling any matter, other than a trial, parties are required to notify the court if the proceeding will take more than one hour.

Chapter 16 – Traffic, Boating, and Violations

16.001 VIOLATIONS BUREAU

By general order the Court has established a Violations Bureau for the disposition of all traffic, weighmaster, boating, park and recreation, pedestrian, and parking violations.

16.002 VIOLATION CASES - ATTORNEYS

If a defendant is to be represented by an attorney at trial of a traffic, boating or other violation case, timely notification in writing of such intention together with proof of service on the City Prosecutor must be filed with the clerk of the court.

16.003 PRETRIAL MOTIONS

The rules contained in Chapter 4, shall apply to violations with respect to any pretrial motions applicable by law in a violation case.

16.005 TRIAL BY AFFIDAVIT OR DECLARATION UNDER PENALTY OF PERJURY - VIOLATIONS

- 1) Testimony in violation cases may be allowed by declaration under penalty of perjury, after defendant has filed with the Court a waiver signed by defendant to the following effect:

“I agree that the Court may consider testimony of any witness by declaration under penalty of perjury.”
- 2) Defendant may also waive the right to an oral hearing by adding to the waiver, signed by defendant, a provision to the following effect:

“I give up my right to an oral hearing or to be present at any oral hearing and the Court may decide this case on the basis of any written or oral testimony received by the Court in my absence.”
- 3) The Court shall make available a waiver form consistent with this rule.
- 4) Any party to a Trial by Affidavit or Declaration is limited to one witness declaration in addition to the party's own declaration.
- 5) A judge may require a sworn affidavit that a party is unable to appear virtually.

Dated this 30th day of September, 2021.

Greg Gill Municipal Court Judge