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2 **IN THE MUNICIPAL COURT**  
3 **FOR THE CITY OF SILETZ**  
4 **COUNTY OF LINCOLN, STATE OF OREGON**

5 In the Matter of:

6 **VIOLATIONS BUREAU**                    )  
7    )  
8    )  
9    )  
10    )  
11    )

**MUNICIPAL JUDGE ORDER**  
**NO. 2023-01**

12 **IT HEREBY ORDERED:**

13 The Siletz Municipal Court hereby establishes a Violations Bureau and designates the clerk of the court to act as the violations clerk for the Violations Bureau.

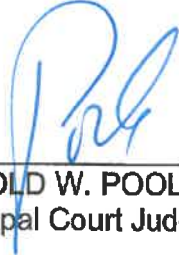
- 14 (1) The violations clerk shall serve under the direction and control of the court.
- 15 (2) The violations clerk may exercise authority over any traffic violation cited in this court.
- 16 (3) The violations clerk may accept:
- 17 a. Written appearance, waiver of trial, plea of no contest and payment of fine, costs, and assessments for violations that are subject to the authority of the violations clerk; or
  - 18 b. Payment of presumptive fine amounts for violations that are subject to the authority of the violations clerk.
- 19 (4) The most recent amounts of penalties to be imposed for first, second, and subsequent violations, designated by each violation, will be set forth in an attached schedule to this order.
- 20 a. The schedule shall be prominently posted in the place where penalties established under the schedule are paid.
  - 21 b. All amounts must be paid to, receipted by, and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.
- 22 (5) Any person charged with a violation within the authority of the violations clerk may:
- 23
- 24

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2 a. Upon signing an appearance, plea of no contest and waiver of trial, pay the  
3 clerk the penalty established for the violation charged, including any costs  
4 and assessments authorized by law.

5 b. Pay the clerk the presumptive fine amount established for the violation.  
6 Payment of the presumptive fine amount under this paragraph constitutes  
7 consent to the forfeiture of the presumptive fine amount and disposition of  
8 the violation by the clerk as provided by the rules of the court. Payment of  
9 the presumptive fine amount under this paragraph is not consent to  
10 forfeiture of the presumptive fine amount if the payment is accompanied by  
11 a plea of not guilty or a request for a hearing.

12 (6) A person who has been found guilty of, or who has signed a plea of no contest  
13 to, one or more previous offenses in the preceding 12 months within the  
14 jurisdiction of the court may nevertheless appear before the violations clerk but  
15 must pay an enhanced fine as specified in the most recent fine schedule.

16 IT IS SO ORDERED this 28 day of December 2023

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\_\_\_\_\_  
ARNOLD W. POOLE  
Municipal Court Judge

1  
2 **IN THE MUNICIPAL COURT**  
3 **FOR THE CITY OF SILETZ**  
4 **COUNTY OF LINCOLN, STATE OF OREGON**

5 In the Matter of:

6 **TRAFFIC SCHOOL DEFERRAL** ) **MUNICIPAL JUDGE ORDER**  
7 ) **NO. 2023-02**

8 The Siletz Municipal Court hereby establishes a Deferral Program for Traffic Offenders  
9 with a limited traffic conviction history. Those qualified offenders may take and  
10 successfully complete the **U-TURN 180** program and pay a fee equal to the presumptive  
11 fine for their offense to the City of Siletz. Once the program is completed and the  
12 payment is paid in full the traffic ticket will be dismissed. In order to qualify for the  
13 deferral program the offender must meet the following qualifications unless otherwise  
14 allowed by the judge:

- 15 (1) The offender must have no driving violations or criminal driving convictions  
16 during the previous 24-month period.
- 17 (2) The offender must plead "guilty" or "no contest" to the subject traffic offense.
- 18 (3) The offender must pay to the Siletz Municipal Court a fee equal to the  
19 presumptive fine for the traffic violation.
- 20 (4) Under ORS 153.090(7) the holder of a Commercial Driver's License may not  
21 participate in any diversion or deferral program such as U-TURN 180.

22 To qualify for a dismissal of the charge all payments and the U-TURN 180 class must be  
23 completed within 90 days of the plea unless the time period has been extended by the  
24 court.

IT IS SO ORDERED this 28 day of Dec 2023

  
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ARNOLD W. POOLE  
Municipal Court Judge

1  
2 **IN THE MUNICIPAL COURT**  
3 **FOR THE CITY OF SILETZ**  
4 **COUNTY OF LINCOLN, STATE OF OREGON**

5 In the Matter of:

6 **MUNICIPAL TRIAL COURT RULES** ) **MUNICIPAL JUDGE ORDER**  
7 ) **NO. 2023-03**  
8 )  
9 )

10 The Siletz Municipal Court hereby adopts the following sections of the 2022 State of  
11 Oregon Uniform Trial Court Rules, dated August 1, 2022, as the Rules of the Siletz  
12 Municipal Court:

13 1.060 through 1.140  
14 Chapter 2  
15 Chapter 3  
16 Chapter 4  
17 5.020 through 5.040  
18 5.100  
19 6.020 through 6.190  
20 7.010  
21 7.040 through 7.080  
22 Chapter 10  
23 Chapter 19

24 **IT IS SO ORDERED** this 28 day of Dec 2023.

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\_\_\_\_\_  
ARNOLD W. POOLE  
Municipal Court Judge

1  
2 **IN THE MUNICIPAL COURT**  
3 **FOR THE CITY OF SILETZ**  
4 **COUNTY OF LINCOLN, STATE OF OREGON**

5 In the Matter of:

6 **FAILURE TO CARRY PROOF** ) **MUNICIPAL JUDGE ORDER**  
7 **OF LIABILITY INSURANCE** ) **NO. 2023-04**  
8 )  
9 )

10 The Court Clerk or Court Clerk acting as the administrator of the Siletz Municipal Court  
11 Violations Bureau shall dismiss any charge under ORS 806.010-806.012 if:

- 12 1. Prior to the court appearance date and time listed on the citation,  
13 2. The person charged delivers to the clerk of the court proof of compliance with the  
14 financial responsibility requirements at the time of the charged violation.

15 If such proof is not provided before the court appearance, then the citation shall proceed  
16 as with any other violation.

17 **IT IS SO ORDERED** this 28 day of Dec 2023.

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19 \_\_\_\_\_  
20 **ARNOLD W. POOLE**  
21 **Municipal Court Judge**

# CITY of SILETZ MUNICIPAL COURT

## COURT RULES

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# Siletz Municipal Court Court Rules

## CHAPTER 1 – General Provisions

### 1.010 SCOPE OF THESE RULES

- 1) These rules shall be construed 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) To follow the purpose of these rules is the same as the purpose of Chapter 743, Oregon Laws 1971,
  - a. To ensure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the correction and rehabilitation of those convicted, and their confinement when required in the interests of public protection.
  - b. To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests.
  - c. To give fair warning of the nature of the conduct declared to constitute an offense and of the sentences authorized upon conviction.
  - d. To define the act or omission and the accompanying mental state that constitute each offense and limit the condemnation of conduct as criminal when it is without fault.
  - e. To differentiate on reasonable grounds between serious and minor offenses.
  - f. To prescribe penalties which are proportionate to the seriousness of offenses, and which permit recognition of differences in rehabilitation possibilities among individual offenders.
  - g. To safeguard offenders against excessive, disproportionate, or arbitrary punishment.
- 3) These rules apply to attorneys and to people representing themselves in Siletz Municipal Court.

### **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 the opportunity for a hearing, may do any of the following:
  - a. Assess against the non-compliant 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, other documents, or claim.
  - d. Treat as established an allegation or claim.

### **1.117 COURT WEBSITE**

The City of Siletz Municipal Court Website is:  
<https://www.cityofsiletz.org/government>

### **1.120 TIMES OF COURT SESSIONS.**

The Court sessions may be held as follows:

- 1) Traffic arraignments and special hearings shall be scheduled at 11:00 a.m. generally the last Thursday of the month, except holidays.
- 2) The court may schedule trials and hearings at other times as required by statute or the Municipal Code. A trial, hearing, or any other matter may be specially set by the court in the interests of justice or, with the approval of the court, by the agreement of the parties.

### **1.130 COMMUNICATION WITH THE 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.

## **1.140 RELIEF FROM APPLICATION OF COURT RULES**

Relief from the 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.

## **CHAPTER 2 – Violations Bureau**

### **2.010 AUTHORITY**

By **Municipal Judge Order (2023-01)**, the Court has established a Traffic Court Violations Bureau ("Bureau"), which shall operate as provided in this Chapter 2, where all code sections are intended to be read together. The Court Administrator, Municipal Court Clerk, and Deputy Municipal Court Clerk, when applicable, are violations clerk and deputy violations clerks, respectively (and collectively "Court Clerks"), and have been delegated the authority provided in these rules, subject to the supervision of this court.

### **2.030 ELIGIBILITY AND EXCEPTIONS MAKING INELIGIBLE**

All traffic offenses, upon the defendant's election to pursue "Option 1" in the manner provided on the reverse of the complaint and summons (or any court form which may be used in its place), and parking violations, may be disposed of by the Bureau.

### **2.040 DEFERRAL**

The Bureau may offer on-line traffic school as explained in Chapter 6 of these rules. If the offender completes the on-line traffic school and paid all deferral fees, then the Bureau will dismiss the citation.

### **2.060 REDUCTION OF FINES**

The Bureau may impose the specified fine, instead of the Presumptive Fine, as set forth in the "Violations Bureau Fine and Assessment Schedule," as follows:

- 1) Upon entry of a plea of "guilty" or "no contest."
- 2) By conduct indicating a clear and unambiguous intent to enter a plea of "no contest," including submission of an appropriate payment by mail or online pursuant to "Option 1" on the summons and complaint, unless the submission is accompanied by a "not guilty" plea.
- 3) The Bureau shall impose the specified fines, including a mandatory state and county assessment, or as otherwise discovered in an applicable ORS provision.

## 2.070 EFFECT OF PAYMENT TO BUREAU

Payment of the Presumptive Fine constitutes consent to the forfeiture of such payment to the Bureau and entry of a finding of “guilty,” except when accompanied by a not guilty plea, a request for a hearing, or a letter of explanation or mitigation.

## 2.090 INITIAL PAYMENT PLAN

- 1) The Bureau shall endeavor to obtain immediate payment of fines, but may, in the alternative, extend the time for payment in monthly installments, but in such case, a payment plan shall be executed (“Initial Payment Plan”).
- 2) The Bureau shall use discretion in allowing time for payment, but the minimum monthly payment amount is set at \$25 per month. If this is an issue, the defendant shall be scheduled to appear before the court.
- 3) If the court has not received a payment by the date specified in the payment plan unless there has been prior communication of the lateness prior to the due date, the Bureau shall order the appearance of the defendant at the next scheduled court date, giving notice that the defendant’s driver’s license may be suspended if the defendant fails to appear.

## 2.110 RESOLUTION BY MAIL

The Bureau may reduce fines for “no contest” pleas received by mail with a letter of explanation or mitigation as provided in the Schedule. Any reductions shall be based on a review of the defendant’s driving record as provided therein. The Bureau may, in its discretion, forward a citation with a letter of explanation or mitigation to the Court for review before entry of a fine or other disposition.

## 2.120 OPTION TO APPEAR BEFORE THE JUDGE

Any defendant who seeks a fine reduction greater than that provided by the Schedule may apply to the court in person at arraignment or trial or in writing. If a request for a reduction is based on compliance, satisfactory proof thereof shall be submitted in writing or by digital means acceptable to the court.

## 2.130 ADDITIONAL AUTHORITY OF VIOLATIONS BUREAU

In addition to those duties and powers established by ORS 153.800, the Violations Bureau is hereby authorized to:

- 1) Dismiss traffic citations for improper display of expired registration stickers (ORS 803.560(b)) upon proof that valid stickers were obtained within thirty days of the date of expiration. Citations for expired registration stickers may be dismissed upon proof that valid stickers were obtained no later than thirty days of the date of expiration, **provided the defendant pays the appropriate court costs.**

- 2) Dismiss traffic citations for failure to carry proof of insurance (ORS 806.012), when prior to the day of arraignment, the defendant provides proof that there was in force a valid liability insurance policy at the time of issuance of the citation.
- 3) Dismiss the following violations upon proof that the defendant was in compliance on the date of the alleged violation: Unlawful parking in space reserved for persons with disabilities (ORS 811.615) and Driving uninsured (ORS 806.010), provided the defendant pays the appropriate court costs.
- 4) The Bureau may, at its discretion, refer any matters to the Court for review if there is any question about the validity of the proof of compliance submitted by the defendant.

### **2.310 FAILURE TO CARRY PROOF OF LIABILITY INSURANCE**

- 1) This court has ordered by **Municipal Judge Order 2023-04**, that the Violations Bureau shall dismiss any charge under ORS 806.010 – 806.012 if:
  - a. Prior to the court appearance date and time listed on the citation,
  - b. The defendant delivers to the clerk of the court proof of compliance with the financial responsibility requirements at the time of the charged violation.
- 2) If the defendant does not provide proof before the court appearance but delivers proof that the defendant complied with the financial responsibility within 30 days of the date of the charged violation, then the court may dismiss the charge and only impose a court fee.

### **2.320 NO LIMITATION ON JUDGE'S AUTHORITY**

- 1) Nothing in this Chapter is intended to limit the authority of a judge to impose a greater or lesser amount of financial obligation in an individual case where allowed by law.
- 2) Nothing in this Chapter is intended to limit the ability of the court to adopt local orders or procedures requiring the personal appearance of defendants or by all defendants in specified categories of offenses in accordance with ORS 153.061(6).

## **Chapter 3 – Procedures for Violations**

### **3.010 VIOLATIONS**

Whether by trial or by plea, the decision made by this court regarding the outcome of a violation will be determined by application of ORS Chapter 153.

### **3.020 FINES**

Fines imposed by this court will be in accordance with the current version of ORS 153.019 for the presumptive fine, ORS 153.018 for the maximum fine, and ORS 153.021 for the minimum fine.

- 1) Notwithstanding subsection (1) of ORS 153.021, the court may waive payment of the minimum fine described in this section, in whole or in part, if the court determines that requiring payment of the minimum fine would be inconsistent with justice in the case.
  - a. In making its determination under this subsection, the court shall consider:
    - i. The financial resources of the defendant and the burden that payment of the minimum fine would impose, with due regard to the other obligations of the defendant; and
    - ii. The extent to which that burden could be alleviated by allowing the defendant to pay the fine in installments or subject to other conditions set by the court.
  - b. This section does not affect the way the court imposes or reduces monetary obligations other than fines.

### **3.030 CITATIONS**

In cases where the City elects to use the Uniform Traffic Citation ("UTC"), no more than two individual parties and a related business may be named on one citation. All named parties must reside or do business at the address stated on the citation. Additional parties may be named on one or more separate citations.

### **3.040 ISSUING CITATIONS**

- 1) Under the authority of ORS 153.042, an enforcement officer may issue a violation citation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer and the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation, or
  - a. When the police officer has probable cause to believe an offense has occurred based on a description of the vehicle or other information received from a police officer who observed the traffic violation, or
  - b. Under ORS 810.436(4), when a police officer at the scene of a traffic accident has reasonable grounds, based upon the police officer's personal investigation, to believe that a person involved in the accident has committed a traffic offense in connection with the accident, the police officer may issue to the person a citation for that offense. The authority

under this subsection is in addition to any other authority to issue a citation for a traffic offense.

### **3.050 REINSTATEMENT OF DRIVING PRIVILEGES AFTER FTA SUSPENSION**

- 1) When a suspension is due to Failure to Appear on a Citation, the Court shall issue a notice, in compliance with ORS 809.220, to the Oregon Department of Transportation Division of Drivers and Motor Vehicle Services (DMV) to reinstate the person's suspended driving privileges resulting from the original notice if any of the following occur:
  - 2) The fine for the offense is paid or
    - a. The defendant has begun making payments.
  - 3) The court finds the defendant not guilty or orders a dismissal of the case.
  - 4) The court determines that the person's suspended driving privileges should be reinstated for good cause.

### **3.060 FAILURE TO ADHERE TO PAYMENT PLAN**

- 1) If a defendant fails to timely comply with all provisions of a payment agreement, the entire balance owing shall be payable immediately, provided this is consistent with the terms of the payment plan. After expiration of 60 days from the missed payment, the entire amount may be collected internally or through referral to a private collections company; and
- 2) If a defendant fails to timely comply with all provisions of a payment agreement, the Bureau will order the defendant to appear before the court at the next scheduled court date, giving notice that failure to appear may result in the defendant's driver's license being suspended
- 3) If the defendant fails to appear at the next scheduled court date, after receiving notice that failure to appear may result in the defendant's driver's license being suspended, the Bureau will send notice to the Oregon DMV of the defendant's license suspension without further notice.
- 4) If the defendant fails to appear after the court issued an order that requires the defendant to appear and show cause why the defendant should not be held in contempt. If the defendant is served and fails to appear at the time specified in the show cause order, the court may issue an arrest warrant under ORS 153.064, for the defendant for the purpose of bringing the defendant before the court.
  - (a) The show cause order may be mailed to the defendant by certified mail, return receipt requested. If service cannot be accomplished by mail, the defendant must be personally served.



- 5) Applications for exceptions to this rule may be presented to the Court for consideration.

### **3.070 DEFAULT JUDGMENT**

- 1) If the defendant does not appear for an arraignment or other first appearance within the time allowed, the Court may enter a default judgment based on the complaint pursuant to ORS 153.102(1) and impose the Presumptive Fine for each violation plus court costs; and
- 2) The Court may also order the defendant to appear at the next scheduled court date, giving notice that their driver's license may be suspended if the defendant fails to appear, so that the court can inform the defendant of the default judgment and arrange for payment of fines, execution of a payment plan, and to hear any mitigating circumstances for the earlier non-appearance at arraignment or other first appearance.
- 3) If the defendant does not appear at the next scheduled court date, then the court clerk shall send notice in compliance with ORS 809.220 to the Department of Transportation to suspend the defendant's Oregon Driver's License for failure to appear.

### **3.080 ACTIONS ON FAILURE TO APPEAR: COLLECTIONS.**

When a defendant has missed one or more payments as agreed in a payment plan, the Court Clerk may utilize the Extended Payment Plan Form ("Plan"), and Order to Appear – Show Cause – for Non-Payment ("Order"), at any time, as follows:

- 1) If a defendant fails to timely comply with all provisions of a payment agreement, has failed to make one or more payments due as described in a payment plan, or has failed to pay a partial payment after approval of the Court prior to the due date, the Court shall mail both the approved Plan and Order for each case that has an unpaid balance where less than 10 years has elapsed from the date of occurrence of the violation, traffic or other offense (in contrast to, and distinguished from, the date of the judgment).
- 2) The Order will require an appearance in court on the next regularly scheduled court date, but no appearance is required if the approved Extended Payment Plan is signed and returned to the court, with the actual first payment of \$25, on or prior to the scheduled court date where an appearance is required.
- 3) The Court will determine the last known address of a defendant, which shall be used to mail the Plan and Order to the person owing money to the court. The last known address shall be the last address for the defendant in the City's records, unless additional research, at the Violation Bureau's discretion, as time permits,

by searching the internet, public records, or common knowledge, identifies a more current address for the defendant.

- 4) If a person fails to appear on time for the scheduled court date, then the Court shall send notice to the Oregon Department of Motor Vehicles (DMV) to suspend the person's driver's license under ORS 809.220. No license suspension shall be sent, pursuant to ORS 809.416, for any pedestrian, parking, or bicycle offenses.
- 5) If the Court is contacted by a person after a license is suspended, the Violations Bureau is not authorized to send notice to ODMV to reinstate a license, without scheduling a court hearing, unless all money owed to the City, on all cases, has been paid in full.
- 6) When contacted by a person owing money to the court, the Court may agree to accept a partial payment, but not less than \$25 that month, for a payment owing under a payment plan. The Court Clerk is authorized to do this for no more than two monthly payments in a calendar year. If more than two partial payments are requested, a defendant has the option to be put on the docket at the next regularly scheduled court hearing.

## **Chapter 4 - Procedures for Trials and Other Contested Hearings**

### **4.020 CASES TO BE SET FOR TRIAL**

Consistent with ORS 153.070, if a Defendant appears and requests a trial, and if the trial is required by law, or if the trial is required by the Court under ORS 153.070, then the Court shall set a date, time, and place for trial.

### **4.030 TIME AND PLACE OF TRIAL**

Unless otherwise ordered by the Court, all trials shall be held at the Court Facilities during the Court's regular hours of operation, as detailed in other Rules of this Court.

### **4.040 NOTICE OF TRIAL**

- 1) Notice to Defendant: Consistent with ORS 153.073, unless the Defendant waives such notice in writing, the Court shall mail to or otherwise provide the Defendant written notice of the date, time, and place of the trial not less than five calendar days before the date set for the trial.
- 2) Suspension Warning: Consistent with ORS 153.073, the written notice of trial provided to Defendant shall contain a warning to Defendant that, if the Citation is a traffic violation or is for a violation of ORS 471.430 (relating to the purchase of or

sale of alcohol by minors), Defendant's driving privileges are subject to suspension under ORS 809.220 if Defendant fails to appear at the trial.

- 3) The Court shall also provide notice of the date, time, and place of the trial to the relevant law enforcement officer(s).

#### **4.050 PRE-TRIAL DISCOVERY**

- 1) **Court Supervision of Discovery:** The Court will supervise discovery to the extent necessary to ensure that discovery proceeds properly and expeditiously.
- 2) **Discovery Request:** A request for disclosure of discovery must be in writing and must be delivered to the party from whom discovery is sought.
- 3) **Timing of Discovery Request:** For cases set for an in-person trial, a discovery request must be received by the party from whom discovery is requested not less than 21 days prior to the date set for trial. For cases set for trial by affidavit, a discovery request must be received by the party from whom discovery is requested not less than 21 days prior to the due date for submission of affidavits.
- 4) **Response to Discovery Request:** When a party receives a written request for discovery, the party that received the request shall disclose the document described in ORS 135.815 - 135.835, as applicable, within fourteen (14) days of receipt of the discovery request. As used herein and pursuant to ORS 135.805(2), "disclose" mean "to afford the adverse party an opportunity to inspect or copy the material."
- 5) **Court Receipt of Discovery Request:** If the Court receives a written request for discovery from any party, the Court shall forward the request to all opposing parties. The Court shall retain a copy of any discovery request in the Court's file pending completion of the Trial of the matter.
- 6) **Where to make a Discovery Request:** If a Defendant is represented by an attorney, that attorney will contact the City Attorney directly to request discovery. If a Defendant is not represented by an attorney, the Discovery Request form, attached to this Rule, should be submitted by the Defendant to the Court Clerk at City Hall to request discovery in a case pending before the Court. The Court Clerk will then scan and send the form to both the City Attorney and the Records Supervisor at the Police Department (as applicable) via email. The Records Supervisor at the Police Department will email the discovery to the City Attorney and Court Clerk within ten (10) days of the Court Clerk's receipt of the Discovery Request form. The Court Clerk will assist the City Attorney in gathering the discovery requested. The City Attorney will disclose the discovery that is requested in the Discovery Request form to the Defendant, within 14 days of receipt of the discovery request.
- 7) Pursuant to ORS 153.076, the pre-trial discovery rules in ORS 135.805 - 135.873 apply in violation proceedings.

#### **4.070 APPEARANCE BY TELEPHONE OR ELECTRONICALLY**

- 1) As used herein, the term "telecommunication" means communication by telephone or other electronic device that permits all participants to hear and speak with each other.
- 2) Any party may request to appear at trial via telecommunication. Such request must be in writing and must be received by the Court no fewer than seven (7) days prior to the trial at which the party requests appearance via telecommunication, rather than in person. The party requesting telecommunication appearance shall simultaneously serve a copy of the request on all other parties. The written request shall include the telephone number and email address for the party requesting telecommunication.
- 3) The Court will generally approve requests for telecommunication if the request is based upon the party's illness, or personal or family emergency, or if the party requesting a telephone appearance (or the party's witness, if applicable) resides more than 50 miles from the Court.
- 4) If the Court allows telecommunication, the party requesting telecommunication shall initiate the telecommunication and shall bear any expenses of telecommunication.

#### **4.090 CONDUCT OF TRIAL**

Consistent with ORS 153.076:

- 1) Violation proceedings will be tried by the Court sitting without a jury.
- 2) Plaintiff or Complainant shall bear the burden of proving the charged violation by a preponderance of the evidence.
- 3) The Defendant shall not be required to be a witness during the trial.
- 4) No defense counsel shall be provided at public expense.
- 5) The City Attorney may be present in the courtroom, aid in preparing evidence and obtaining witnesses, but, except upon good cause shown to the Court, shall not appear in violation proceedings unless counsel for the Defendant appears. The Court shall ensure that the City Attorney is given timely notice if defense counsel is to appear at Trial.

#### **4.091 ROLE OF PEACE OFFICER**

Notwithstanding ORS 9.160 and 9.320, in any trial of a violation, whether created by ordinance or statute, in which a city attorney or district attorney does not appear, the peace officer who issued the citation for the offense may present evidence, examine, and cross-examine witnesses and make arguments relating to:

- (1) The application of statutes and rules to the facts in the case;
- (2) The literal meaning of the statutes or rules at issue in the case.
- (3) The admissibility of evidence; and
- (4) Proper procedures to be used in the trial.

#### **4.100 CONTEMPT OF COURT**

The Court is authorized to find persons before it to be in contempt of court and may apply sanctions. The Oregon Uniform Trial Court Rules (UTCR) Chapter 19, adopted pursuant to ORS 33.145 by the Oregon Supreme Court, applies to all contempt proceedings in this Court and may be cited as provided in UTCR 1.070.

#### **4.110 TRIAL FORMAT**

Except where circumstances require otherwise, a Trial will adhere to the following format:

- 1) Pre-trial motions, if any.
- 2) Opening statements or remarks, if any.
- 3) Presentation of prosecution witness(es), including direct examination, cross-examination by Defendant, additional direct presentation or examination, additional cross-examination.
- 4) Presentation of defense witnesses, including direct examination, cross-examination by the prosecution, additional presentation or examination, and additional cross-examination.
- 5) Closing statements or arguments.
- 6) Except for matters taken under advisement by the Court, the announcement of ruling and verdict.

#### **4.120 QUESTIONS FROM THE COURT**

During a Trial, the Judge may take an active role in questioning witnesses to ensure clarity in the proceeding and to ensure that substantial justice will be done.

#### **4.140 DISPOSITION OF EXHIBITS**

- 1) Generally, all exhibits shall be returned to the party that presented the exhibit at the conclusion of the trial.
- 2) If the Court takes the matter under advisement and retains any exhibits for that purpose, then upon entry of the Court's disposition of the matter, the Court shall notify the party that presented the exhibits, in writing to the party's last known address, that the party may contact the Court to make arrangements for the return of the exhibits and that any exhibits remaining with the Court after 30 days after the mailing of the notice shall be destroyed.
- 3) If any exhibits are inadvertently left in the custody or control of the Court, the Court shall notify the party who presented the exhibit, in writing to the party's last known address, that the party may contact the Court to make arrangements for the return of the exhibits and that any exhibit remaining with the Court after 30 days after the mailing of the notice shall be destroyed.

#### **4.140 CONTESTED HEARINGS**

Except where the context requires otherwise, contested hearings shall be conducted using the same format used for trials.

#### **4.190 HAZARDOUS SUBSTANCES IN COURT**

- 1) If a party intends to offer into evidence any hazardous substance at an evidentiary hearing or trial, the party must file a motion no later than 28 days prior to the hearing or trial seeking an order from the Court regulating the handling, use, and disposition of the hazardous substance.
- 2) "Hazardous substance" in this rule is defined as any substance listed or hereafter added to the Department of Transportation Hazardous Substances List and the Oregon State Police List of Chemicals and Precursors for Methamphetamine Production, or any other hazardous substance designated by Court rule.
- 3) The Court, at its discretion, may issue an order concerning any of the following matters:
  - a. View by telecommunication and/or photograph in lieu of transportation of the hazardous substance to the Courtroom;
  - b. Appointment of a custodian.
  - c. Appointment of a disposition expert.
  - d. Appointment of a medical expert.

- e. The amount to be transported or viewed.
  - f. The container in which the hazardous substance is to be stored.
  - g. The location and duration of handling and storage of the hazardous substance.
  - h. The disposition of the hazardous substance; and
  - i. Other matters intended by the Court to safeguard the public and the evidentiary record.
- 4) Failure to file a timely motion under subsection 1 of this rule may be grounds for excluding any hazardous substance from the courtroom

#### **4.220 CONTROLLED SUBSTANCES IN THE COURT**

- 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, or 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 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.

#### **4.230 WITNESS HANDLING OF CONTROLLED, HAZARDOUS, OR INFECTIOUS SUBSTANCES AND CHEMICALS**

All parties must advise the court advised if any controlled, hazardous, or infectious substances or chemicals to be handled during a trial present danger and must be provided instructions on safe handling, including providing protective devices, if necessary.

#### **4.330 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 the evidence must be unloaded and either rendered inoperable or have a trigger guard installed.
  - b. Guns and ammunition must be kept always separate.
  - 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.

## **Chapter 5 – Delay of Arraignments, Trials, and Hearings**

### **5.010 ARRAIGNMENTS**

Upon request by the defendant in any traffic violation, the Court clerk may reset a scheduled arraignment to a date not later than one month following the original date on the face of the citation.

### **5.020 TRIALS**

Trials may be reset upon the following additional conditions:

- 1) First reset: The court clerk shall reset a first trial setting upon request of either party, provided the request is made by telephone, in person, or in writing no later than three court business days prior to the trial date, and further provided that the appropriate security amount has been posted. For trials set on a Tuesday, the request shall be made no later than 5:00 p.m. on the preceding Tuesday.
- 2) Second reset: Requests for a second reset of trial must be timely filed in conformance with subsection (1) of this rule above. The court may grant the request if the written submission demonstrates reasonable grounds for the party's inability to appear at the scheduled time, subject to the provisions of rule 4.110. A matter set over for trial after a second setting shall be set for trial on a date certain, as provided in rule 4.080.



- 3) Set-overs on Short Notice: Set-over requests submitted fewer than three court business days prior to the trial date shall be denied except on a showing of:
  - a. Serious illness or injury of a party, attorney, or pivotal witness.
  - b. Medical emergency or funeral of a family member or close friend of a party, attorney, or essential witness.
  - c. Calendaring errors by court personnel; or,
  - d. Other factors which could not have reasonably been anticipated until at or near the time the motion was made.

### **5.030 NON-ATTORNEY HEARINGS**

Cases set for non-attorney hearings are subject to the same policies as those stated in rules 4.020, 4.080, and 4.110.

### **5.050 ATTORNEY TRIALS OR HEARINGS**

In cases where the defendant and the City are represented by attorneys, the attorney requesting a reset shall provide timely notice thereof to the opposing attorney. All requests for a reset of a trial date or hearing shall be made in conformity with UTCR 6.030. Scheduling conflicts shall be resolved by the court pursuant to the standards set forth in UTCR 6.040.

### **5.080 DATE CERTAIN SETTINGS**

A third trial setting, and any subsequent setting, shall be deemed a "date certain" for purposes of these rules.

- 1) Attorney trials: Immediately after a trial has been reset for the second or subsequent time by either party, the court clerk shall send a proposed trial date by email, mail, or facsimile transmission to the attorneys of record. If either party objects to the proposed trial date, that party shall file a written statement of objection no later than 14 days after the notice of the trial date has been sent by the court clerk. Taking into consideration the previously scheduled dates of the court, the statement shall include an alternative trial date that has been accepted by the opposing party. Upon receipt of the written objection, the court clerk shall set the trial for the alternate date accepted by both parties, provided that the court can accommodate that date. No resets shall be permitted in the absence of a timely written objection in accordance with this paragraph.
- 2) Resets of date-certain cases: No reset of a date-certain case shall be permitted unless the moving party can demonstrate one or more circumstances as set forth in subsection (3) of rule 4.020.

### **5.110 FACTORS UNLIKELY TO RESULT IN POSTPONMENT**

Factors that are unlikely to result in postponement of a second, date-certain or subsequent trial setting include, but are not limited to, the following:

- 1) Failure to complete discovery.

- 2) Failure to timely locate, schedule or subpoena witnesses.
- 3) Interference with vacations or training programs scheduled after a subpoena or trial setting notice has been issued.
- 4) Failure to adequately prepare for trial; and
- 5) Factors that were known or should have been anticipated but were not brought to the court's attention until shortly before trial.

#### **5.140 RELIEF FROM DEFAULT JUDGMENTS**

- 1) A request for relief from a default judgment in civil and traffic cases must be submitted in writing.
- 2) The written request must show "that the failure of the defendant to appear was due to mistake, inadvertence, surprise or excusable neglect," as provided by ORS 153.105.
- 3) As further provided by ORS 153.105, a motion for relief must be made by the defendant within a reasonable time, and in no event may such a motion be made more than one year after entry of judgment.
- 4) If a motion for relief from a default judgment is allowed, the matter shall be set for trial or arraignment as appropriate.

#### **5.150 PRESUMPTIVE FINES.**

Any defendant seeking to set over an arraignment for longer than two weeks, or a trial or contested-case hearing, shall post a presumptive fine in accordance with the Schedule.

## **Chapter 6 - Deferral**

### **6.010 TRAFFIC SCHOOL PROGRAM**

In the interest of promoting traffic safety and compliance with state and municipal laws, the Court has established the Traffic Deferral Program (hereinafter "deferral") in **Municipal Judge Order 2023-02**, described below. Participation in the deferral program is subject to the following conditions:

- 1) Any Court clerk may authorize deferral for eligible defendants under rule 5.020. Any questions concerning the eligibility of a particular defendant may be referred to the judge for resolution. Upon satisfactory completion of all conditions of deferral, any Court clerk will dismiss the citation.
- 2) To be eligible for deferral, a defendant must enter a plea of "no contest." A defendant found "guilty" at trial may participate in deferral if the defendant is otherwise eligible and allowed by the judge.

## **6.020 ELIGIBILITY**

Unless otherwise allowed by the Court, eligible defendants include:

- 1) If a person has not been convicted of a moving violation, in the previous two years, from the date of the request to enter the program.
  - a. For purposes of this rule, the term "moving violation" means any violation of vehicle laws, including traffic crimes, that is committed by the driver of a vehicle while the vehicle is in motion. Parking violations, equipment violations, or paperwork violations relating to insurance, registration, and licensing shall be considered "nonmoving" violations.
- 2) If a person has not participated in any Court-ordered traffic deferral program, in the previous two years, or as otherwise determined by the Judge, from the date of the offense; and
- 3) All persons are eligible, regardless of age, if all other requirements are met.

## **6.030 INELIGIBILITY**

The following defendants are not eligible for deferral:

- 1) Any holder of a commercial driver's license, pursuant to ORS 153.090(7).
- 2) Defendants charged with violations occurring in school safety zones.

## **6.050 REQUIREMENTS**

Defendants entering a deferral program shall be provided with a handout containing information and requirements for the specific program in which they are enrolled.

Defendants shall complete the following deferral requirements:

- 1) Enter a Plea:
  - a. Enter a guilty or no-contest plea; and
- 2) Pay Fine amount(s):
  - a. Pay the Presumptive Fine amount for the Class Violation for each charge on the ticket(s).
  - b. Full payment of this fee shall be completed no later than 90 days from the date of execution of the deferral agreement, with no extensions permitted under any circumstances.

- 3) Defendants must complete a Traffic Safety Education Class ("Class") as follows:
  - a. Pay Class fees:
    - a. Participants must complete and pay all fees for a class approved in advance by the Court no later than 90 days after entering deferral.
  - b. Complete Class:
    - a. It is the responsibility of each deferral participant to contact the approved Class and make arrangements to attend and pay the appropriate fee within the time permitted by the Court. Each participant shall be responsible for ensuring that a certificate of completion for the Class is filed with the Court no later than 90 days after execution of a deferral agreement, with no extensions permitted under any circumstances.
- 4) Court may impose additional conditions:
  - a. As appropriate, the Court may impose additional conditions of deferral, including a requirement that a participant not receive any additional convictions for traffic offenses for a specified period.

#### **6.067 FAILURE TO COMPLY WITH DEFERRAL**

If a participant fails to complete all requirements of deferral within 90 days, the Court may take one or more of the following steps without further notice:

- 1) Convert the fine based on the class of the violation into a conviction.
- 2) Send the record of the conviction to the Oregon Department of Motor Vehicles for entry on the defendant's driving record.
- 3) Order the Defendant back to court and suspend the participant's driving privileges for failure to appear if applicable.
- 4) Add a collection fee of up to 25% to any unpaid balance.
- 5) Refer the case to a collection agency.
- 6) Pursue any additional remedies that may be available under Oregon law.

### **Chapter 7 - Etiquette and Decorum in Courtroom**

#### **7.010 PROPER APPAREL**

All persons attending the Court must be dressed so as not to detract from the dignity of the Court. Remove hats upon entering the courtroom. 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.

### **7.020 MANNER OF ADDRESS**

- 1) Stand when addressing the Court. Please advise the judge or clerk if you have a disability that would make this difficult.
- 2) Be polite and courteous to the judge, to Court personnel, and to those around you.
- 3) Only one person at a time may speak during a Court proceeding. Speak clearly and loudly. The large room can absorb sound, making it difficult to hear soft-spoken voices. Speaking clearly and loudly ensures that the Court hears all the testimony and evidence presented.
- 4) During the 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.
- 5) Do not use foul language or curse in the courtroom.

### **7.030 DISRUPTIVE BEHAVIOR**

Disruptive behavior such as talking, laughing, shouting, or creating other loud disturbances will not be tolerated. Offenders may be removed from the building and the judge may hold violators in contempt of Court. Mild-toned conversations may be conducted in the lobby outside the courtroom.

### **7.050 PROPER POSITION OF PARTIES BEFORE COURT**

Parties must:

- 1) Generally, address the Court from a table in front of the judge.
- 2) Rise from their positions at the counsel table and remain standing while addressing the court or the jury, except during voir dire.
- 3) Not approach the bench except by permission; and
- 4) Be allowed to move freely about the courtroom during trial unless otherwise instructed by the court.

### **7.070 ELECTRONICS**

Cellular phones and other electronic devices should be muted or turned off. The unapproved use of cell phones and other electronic devices is not allowed in the courtroom.

### **7.080 CHILDREN IN THE COURTROOM**

Children may be present in the courtroom; however, if they disturb the proceedings, you may be requested to remove them. The Court does not provide childcare services.

### **7.110 NO FOOD, DRINK, TABACCO**

No smoking, food, or drink is allowed in the courtroom. No gum or tobacco chewing is allowed in the courtroom.

### **7.130 NO WEAPONS**

Weapons are prohibited in the courtroom, except those carried by sworn law enforcement officers on duty or as outlined in RULE 3.330.

### **7.150 ADVICE TO CLIENTS AND WITNESSES ON 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.

## **Chapter 8 – Trial by Affidavit**

### **8.010 PROCEDURES FOR TESTIMONY AND TRIAL BY AFFIDAVIT.**

In any trial of a traffic violation, the Court may admit as evidence the affidavit of a witness instead of taking the testimony of the witness orally and in Court, subject to ORS 153.080 and the following rules and procedures that shall apply to the use of affidavits:

- 1) The affidavit shall be submitted using the approved form of the Siletz Municipal Court. No other form of the affidavit will be accepted by the Court.
- 2) Testimony by affidavit shall be allowed upon receiving a signed statement from the defendant waiving the right to have the testimony presented orally in court. The filing of an affidavit under this rule shall not be deemed to constitute a waiver of trial unless the affidavit specifically so states, pursuant to ORS 153.080(1)(d).

- 3) An election of trial by affidavit shall not preclude oral testimony and argument by the opposing party.
- 4) If a party is appearing at trial by affidavit and is represented by an attorney, the City Attorney will appear on behalf of the City.
- 5) Testimony by affidavit under this rule shall not be subject to objection as hearsay, pursuant to ORS 153.080(1)(c).
- 6) Nothing in this Section shall require the defendant or any witness to waive the right to appear if other testimony is introduced by affidavit, as provided by ORS 153.080(1)(e).
- 7) Each affidavit shall contain a section notifying the defendant of the waiver of trial. Upon request by a defendant, the Court shall provide a form designated "Trial by Affidavit" containing the following statement:

"I agree that by filing this affidavit, I understand that I am giving up ("waiving") my right to present my oral testimony in court at trial. I am asking the Court to decide whether I am guilty or not guilty of the above violation(s) based on this affidavit and other evidence submitted to the Court. I further understand that I am giving up my right to question or cross-examine the police officer and other witnesses who testify, whether in court or by affidavit."
- 8) The procedure for admitting testimony by affidavit shall be as follows:
  - a. A witness affidavit must be provided to the Court at or before the time set for trial.
  - b. At such point in the trial as that testimony would be offered, the Court will read the affidavit out loud.
  - c. Parties may ask that the affidavit be re-read.
- 9) If a defendant fails to file an affidavit within the time permitted by the Court, a default judgment may be entered. If a law enforcement officer fails to file an affidavit within the time permitted by the Court, the citation shall be dismissed.
- 10) Both parties shall be notified in writing of the results of each trial by affidavit.

## **Chapter 9 – Electronic Citations, Filings, and Signatures**

### **9.010 ELECTRONIC FILING REQUIREMENTS**

To process citations efficiently filed by electronic means and other electronic filings, the following standards will apply under the authority of ORS 153.770:

- 1) A law enforcement officer or a person authorized to enforce parking ordinance violations may file a complaint with the Court by electronic means, without an actual signature of the officer, in lieu of using a written uniform citation. Law enforcement officers who file complaints under this rule will be deemed to certify the complaint and will continue to have the same rights, responsibilities, and liabilities in relation to those complaints as to complaints that are certified by an actual signature.
- 2) The information electronically filed must include all information required on a uniform citation adopted by the Oregon Supreme Court under ORS 1.525, or as required under ORS 221.333 and 810.425 for parking ordinance violations.
- 3) The complaint filed electronically shall be verifiable as being filed by a specific law enforcement officer or, for parking ordinance violations, by a person authorized to enforce such violations.
- 4) Members of the public can obtain copies of and review complaints that are electronically filed and maintained under this Section in the same manner as for complaints filed on paper.
- 5) A case is considered "filed" in this Court when the charging instrument is physically or electronically filed. All court filings after the original filing shall use the court case number.
- 6) Definitions:
  - a. *"Electronic"*: A general term that applies to any of the following: email, facsimile ("fax"), telephonic, text, scan, e-printed, e-filed. When a more specific term is used (such as "fax"), then that specific type of electronic designation exclusively applies.
  - b. *"Filing"*: The process whereby a document becomes a court record. A document is deemed "filed" when it physically received or electronically transmitted to and received by the Court.
- 7) The Court will not accept filings by telephone or texting. E-mail and fax transmissions will be accepted. However, a fax transmission will not be accepted if the judge or Court staff determines that the received fax is not of sufficient quality to be read or understood. All risks relating to the quality of any fax and its receipt by the Court in readable form shall be borne solely by the party attempting to file by fax.



- 8) The Uniform Electronic Transactions Act, ORS 84.001 - 84.061, is hereby incorporated by reference into this Section. A filing with an electronic signature will be accepted if, as provided by ORS 84.004(8), it is associated with a record and executed or adopted by a person with the intent to sign the record.

## **Chapter 10 – Non-English Language Translation**

### **10.010 TRANSLATORS**

The use of a translator for non-English speakers appearing before the Court is permitted as follows:

- 1) The court It is the responsibility of the non-English speaking party, or his/her attorney, to notify the Court of interpreter service needs. Interpreter requests must be made no later than four judicial days in advance of the proceeding. Schedule changes or cancellations must be communicated to the Court by the non-English speaking party, or his attorney, promptly.
- 2) If a foreign language interpreter is needed for a Court proceeding, 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.
- 3) 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.
  - g. the language to be interpreted.

## **Chapter 11 – Compliance with Americans with Disabilities Act**

### **11.010 ADA PUBLIC NOTICE**

The Americans with Disabilities Act (ADA) prohibits discrimination against any qualified individual with a disability. The City of Siletz does not permit discrimination against any

individual based on physical or mental disability in accessing the judicial programs. In accordance with the ADA, if necessary, the Siletz Municipal Court will provide reasonable modifications and or accommodations to access all programs and services to qualified individuals with disabilities. If you need assistance, have questions, or need additional information, please contact the court clerk well in advance of your scheduled appearance.

### **11.020 REQUESTING ACCOMODATION**

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 two judicial days in advance of the proceeding. For good cause shown, the Court may waive the two-day notice.

Notification to the court must provide:

- 1) The name of the person needing accommodation.
- 2) The person's status in the proceeding.
- 3) The type of disability needing accommodation; and
- 4) The type of accommodation, aural interpreter, or auxiliary aid needed or preferred.

## **Chapter 12 – Former Court Rules**

### **12.010 APPLICABILITY**

The above Rules supersede and replace any rules or general orders previously adopted by and for this Court. These Rules shall be construed to achieve consistency with statutory provisions and to promote the just, speedy, and inexpensive determination of every proceeding and action as well as the efficient use of judicial time and resources.

### **12.040 UNIFORM TRIAL COURT AND SUPPLEMENTAL CIRCUIT COURT RULES**

1. For the convenience of parties and their attorneys, the Siletz Municipal Court has adopted the Oregon Uniform Trial Court Rules (UTCRC) in **Municipal Judge Order 2023-03**.
2. By this rule the court adopts the Supplemental Local Rules of the Lincoln County Circuit Court, except to the extent that this Court's Rules are inconsistent with any of those Rules.