

## **RULES FOR THE FIRST JUDICIAL DISTRICT, STATE OF WISCONSIN, OCTOBER 2000**

### **PART 8. RULES OF THE MUNICIPAL COURT OF THE CITY OF MILWAUKEE**

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#### **I. PRIMARY RESPONSIBILITY**

##### **801. DEFINITION**

An action in Municipal Court for violation of a Municipal ordinance, or violation of a resolution or bylaw, if the resolution or bylaw is authorized by statute, is a civil action, and the forfeiture or penalty imposed by an ordinance in the City of Milwaukee may be collected in an action in the name of the municipality.

#### **II. COURT RULES**

##### **816. INTAKE AND TRIAL ROTATION**

1. The intake and trial duties shall be rotated in accordance with a schedule approved by the Presiding Judge and the Chief Judge.
2. All initial appearances shall be before the judge assigned to intake duty when the first appearance was scheduled, unless otherwise directed by a municipal judge or by the Chief Judge.
3. When a defendant, defense attorney, or city attorney requests an initial date appearance court date that is different from the scheduled date, the initial appearance must be rescheduled before the branch in which the case was originally scheduled. Any exception requires agreement between the judges involved.
4. All warrants issued as a result of a defendant failing to appear at trial, with the exception of warrants issued on operating while intoxicated (OWI) and on .10% blood alcohol concentration (BAC) cases, will be returned to whatever branch presiding in intake court. This procedure will cover all outstanding warrants, as well as any warrants that will be issued in the future.
5. The Court Administrator will be responsible for equally distributing summons and complaints issued by the city attorney via a tab method.

##### **817. COURT APPEARANCE BY IN-CUSTODY DEFENDANTS**

1. This section is adopted to fulfill the requirement of Sec. 800.01(b), Wis. Stats. It applies to defendants who are in custody of a law enforcement officer and who are scheduled for court appearance via the interactive video system.
2. If a defendant has a physical disability such as hearing, seeing and/or speaking that will make communication via video difficult for either the defendant or the judge or both, the defendant shall be brought personally before the judge, unless an interpreter is made available and both the defendant and the interpreter can be heard and seen via video during the proceedings.
3. If the judge has reason to believe that the defendant is mentally incompetent, Municipal Court procedures relating to appointment of a guardian ad litem shall apply.

4. The in-custody calendar shall be prepared by the law enforcement officer with custody of the defendants in accordance with the directions of the court, and provided to the court staff in time for preparation of the physical and computer case files as necessary.
5. The video proceeding shall be as follows:
  1. The judge shall ask the defendant to state his/her name and address.
  2. The judge shall order judgement, adjournment, program referral, extension of time to pay, or other action.
  3. Judicial notices, referral notices, adjournment slips or other notices as required by judicial action shall be given personally to the defendant.
6. The courtroom shall have a video monitor that enables the public to hear and see the proceedings as conducted in the area where the defendant is physically located.
7. The courtroom shall have a video monitor that enables the judge to hear and see a clear image of the defendant and to hear a clear transmission of the defendant's (or his/her interpreter's) voice.
8. The video appearance area where the defendant is physically located shall have a video monitor that enables the defendant to see a clear image of the judge and the courtroom, and to hear a clear transmission of the judge's voice.

#### **819. TRANSFER OF CASES WITHIN THE MUNICIPAL COURT**

If a judge deems it necessary to transfer a case that is ready for trial for the convenience of the litigants, and/or the speedy resolution of the case, the case shall be transferred to a branch that is prepared to try the case on the day of the transfer.

#### **820. SUBSTITUTION OF MUNICIPAL JUDGE**

1. In cases specified in Sec. 800.02(1), Wis. Stat., a person charged with a violation may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed no later than seven (7) days after the initial appearance in person or by the attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of "not guilty".
2. Except as provided in Sub. D, no person may file more than one such written request in any one action.
3. When a request for substitution of judge is granted, the case shall be referred to the Chief Court Administrator's office. The Administrator shall determine to which municipal court judge the case shall be transferred by lot, using a random tab system. The case shall be immediately assigned to the municipal judge so tabbed. The municipal Chief Court Administrator shall notify, in writing, the District Court Administrator, the judge who was substituted, and the judge to whom the case is assigned.
4. If, upon an appeal from a judgment or order, or upon a writ of error, the appellate court orders a new trial, or reverses or modifies the judgment or order in a manner such that further proceedings in the municipal court are necessary, the person charged with a violation may file a request under Sub. A within twenty (20) days after the entry of the judgment or decision of the appellate court, whether or not another request was filed prior to the time the appeal or writ of error was taken.

#### **821. DISQUALIFICATION OF MUNICIPAL JUDGE**

If a judge deems it necessary to disqualify himself/herself from a case, he/she shall state the reasons for disqualification. The action shall then be processed under Rule 820 C. 822. ADJOURNMENTS  
Adjournment or postponement of cases may be granted only by the authority of the judge. Each adjournment or postponement of a case shall be to a day and time certain.

#### **824. ILLNESS, ABSENCE, OR VACANCY; PENDING ACTION TRIABLE BY COURT WHICH RECEIVES PAPERS; CONTINUANCE ON VACANCY AND NOTICE OF TRIAL**

1. If any municipal judge is to be temporarily absent, or sick or disabled, the municipal judge may, by written order filed in the court and with the Chief Judge of the Judicial Administrative District for approval, designate another municipal judge of the county to perform his/her duties for a single period not to exceed thirty (30) days.
2. If any municipal judge is incompetent, unable, or fails to act, or in the event of a vacancy, Sec. 751.03(5), Wis. Stats., applies. The parties and their attorneys shall be notified of the transfer to another municipal judge prior to trial. The municipal judge to whom the case transferred may issue execution upon, or give a certified transcript of, any unsatisfied judgment appearing in the docket.
3. Each judge shall notify the Chief Court Administrator promptly when such judge intends to be absent from court duties. Absence of more than one day shall be reported in writing. Conflicts because of absences shall be resolved by the Chief Judge.

#### **825. TEMPORARY RESERVE JUDGE: SERVICE**

1. In this action, "temporary reserve judge" means a judge for a municipal court for any municipality within the Judicial Administrative District appointed by the Chief Judge of that District to perform such specified duties on a day-by-day basis as the Chief Judge may direct.
2. Eligibility. Any of the following persons may serve as a temporary reserve judge:
  1. A person who has served a total of eight or more years as a municipal judge.
  2. A person who has served four or more years as a municipal judge and who was not defeated at the most recent time he/she sought election to judicial office.
3. Compensation. Temporary reserve judges shall receive compensation in an amount agreed to by contract between the municipality and the temporary reserve judge. The judge may not serve until the contract is entered into and the judge has complied with Sec. 755.03, Wis. Stats.
4. Training. All persons serving as temporary reserve judges are subject to Sec. 755.03, Wis Stats.

#### **826. VACATION AND EDUCATION**

1. Vacation. Pursuant to Supreme Court Rules, a judge shall take no more than five weeks, or 25 work days, vacation per year.
2. Education. Each judge shall take no more than two weeks, or 10 work days, for judicial education purposes each year.

#### **828. MOTION PRACTICE**

1. Consolidation of Cases, General.
  1. If a defendant has more than one matter pending, he/she may request consolidation by a motion to the court.

2. If the motion for consolidation is granted, the case will be automatically consolidated before the judge before whom the matter with the lowest-numbered case is pending, unless the judge with the lowest-numbered case determines that such consolidation shall not occur.
2. A motion for discovery shall be made in writing and filed in person by the defendant or by an attorney with the court within thirty (30) days of initial appearance.
3. Motions for discovery and motions to reopen shall be served on the City at least five (5) days prior to the hearing date, unless the court orders otherwise.
4. Hearings on motions for discovery and motions to reopen shall be scheduled on the motion calendar.

### **830. SCHEDULING CONFLICTS**

Notwithstanding the lowest-numbered case file, if an attorney has more than one matter scheduled for the same day, but before different judges, the action which was scheduled earliest shall have precedence over the others.

### **831. WAIVER OF JURY FEES OR APPEAL FEES**

All requests for waiver of jury fees or of appeal fees shall be made in writing to the Chief Judge, on a form available at the municipal court, at the time of filing the jury or appeal demand.

### **832. PRE-TRIAL**

1. A judge may order a defendant to appear before the court for a pre-trial conference with the prosecutor.
2. The pre-trial conference shall be scheduled to occur no later than sixty (60) days from the entry of a plea.
3. If a defendant ordered to a pre-trial conference fails to appear on the scheduled date and time, a default judgment may be taken against him/her.

### **833. GUARDIAN AD LITEM**

1. When the court has reason to believe that a defendant is mentally incompetent, the court shall, whenever possible, arrange for an in-court conference between the defendant and the prosecutor for a decision as to whether the City will continue to prosecute or will move to dismiss the case.
2. If the City decides to prosecute a case against a defendant that the court has reason to believe is mentally incompetent, the court shall appoint a guardian ad litem for the defendant.
3. A judge may order a competency evaluation of a defendant at the recommendation of the guardian ad litem.
4. The guardian ad litem shall consult the records of the court or of its agents to assist in locating the defendant and obtaining pertinent personal and medical information.

### **835. TRIAL: PROOF OF CONVICTION**

The standard of proof for conviction of any person charged with violation of any municipal ordinance, by law, or resolution specified in Sec. 300.02 (1) Wis. Stats., shall be evidence that is clear, satisfactory, and convincing.

### **837. RULES OF EVIDENCE**

Municipal courts shall be bound by the rules of evidence specified in Chapters 901 to 911, , Wis. Stats.

### **839. SETTING OF CALENDARS**

Each Judge shall be responsible for setting his/her judicial calendar.

### **842. RECORDING OF PROCEEDINGS**

1. Every proceeding in which testimony is taken under oath in a municipal court shall be recorded by electronic means for purposes of appeal.
2. Notwithstanding Sub. A, a municipal court is not a court of record.

### **843. FILING PAPERS (EFFECTIVE 10/31/00)**

1. The filing of pleadings and other papers with the court shall be made by filing them at the office of the court at 951 North James Lovell Street, Milwaukee, Wisconsin 53233.
2. The filings of pleadings and other court papers may be performed by facsimile transmission to the office of the court. Papers filed by facsimile transmission will be considered filed when transmitted except papers filed by facsimile transmission completed after 4:30 p.m., Monday through Friday or during weekends and holidays shall be considered filed the next business day.
3. When papers are filed by facsimile transmission, additional copies are not required to be filed with the court.

### **844. WITHDRAWAL AND CONTROL OF FILES AND RECORDS**

1. No file, document, or paper may be taken from offices of the court for the use outside of the court premises without permission of the Chief Court Administrator, or unless authorized by a judge, in writing, on a form prescribed by the Chief Court Administrator.
2. All case files should be returned to the filing section on a daily basis.
  1. When cases are laid over to the following day, an appropriate "out card" will be filled out for the filing section.
  2. A tag date will be set by the judge when action on cases is delayed beyond one working day.

### **850. RULES OF DECORUM**

1. Court shall be formally opened each day upon which court business is transacted, by either the bailiff or the court clerk.
2. As the judge enters the courtroom, the bailiff or court clerk shall require all present to stand. When the judge has ascended the bench, the bailiff or clerk shall say: "The Municipal Court for the City of Milwaukee, Branch \_\_\_\_\_, the Honorable \_\_\_\_\_presiding, is now in session. Everyone should please be seated and remain quiet during the court session."
3. In recessing, the bailiff or clerk shall announce: "The Court is now in recess. Court shall resume at \_\_\_\_\_ o'clock."
4. At all times while court is in session, the national flag shall be displayed close to the bench on a standard to the right of the judge.
5. Lawyers shall not lean upon the bench or engage the court in a manner depreciative of the dignity of the proceedings as viewed by the public.

6. Unless otherwise permitted by the court, lawyers shall examine witnesses from a standing or seated position at counsel table, except when handling exhibits. If a lectern is provided by the court, examination may be either from said position at counsel table or from the lectern. A lawyer shall not crowd a witness in examining him/her.
7. Lawyers, during trial, shall not exhibit familiarity with witnesses or opposing counsel; and, generally, use of first names alone shall be avoided.
8. All lawyers and court officers shall wear proper attire while in attendance upon the court, provided that judicial discretion may be exercised in extreme situations.
9. The administration of oaths to witnesses should be an impressive ceremony, and not a mere formality.
10. Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
11. The defendant shall stand with his/her attorney, before the bench, at the time of arraignment and at the time of passing sentence.
12. The judge shall, pursuant to Sec. 755.17, Wis. Stats., be properly attired in a robe or other suitable clothing when officially presiding in court.
13. The courtroom for a municipal judge shall be provided by the municipality. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court.

### **III. ADMINISTRATION**

#### **852. PRESIDING JUDGE**

1. The Presiding Judge of the Municipal Court shall be appointed by the Chief Judge from among the municipal judges, for a renewable term of two years, commencing with August 1 of the year of the appointment. If the Presiding Judge leaves the Municipal Court or otherwise removes himself/herself from the position before the two-year term expires, the Chief Judge shall appoint an acting Presiding Judge for the balance of the term.
2. The Presiding Judge shall appoint the Chief Court Administrator, with confirmation by the Common Council, for a renewable term of three years.
3. The Presiding Judge, in consultation with the other judges and the Chief Court Administrator, unless otherwise provided by ordinance or law, and with the approval of the Chief Judge of the District, shall:
  1. Establish judicial policy and guidelines.
  2. Establish and promulgate written judicial work and rotation schedules.
  3. Articulate requests for budgetary appropriations, staff, and equipment for the maintenance of the court, and appear at budget hearings before the Common Council or committees thereof when requested, or when he/she deems appropriate.
  4. Supervise the expenditure of funds allocated for judicial purposes.
  5. Make recommendations to the Chief Judge for the orderly and efficient administration of justice.

6. Preside over regularly-scheduled meetings of the judges of the municipal court, the Chief Court Administrator, and such other persons as are deemed appropriate.
7. Approve the form of papers, documents, process, and pleadings filed with the court.
8. 8. Perform such other duties as may be, from time to time, assigned by the Chief Judge.

#### **853. PART-TIME MUNICIPAL COURT COMMISSIONERS: SELECTION (eff. 4/12/00)**

1. Applicable statutes and ordinances: Wis. Stats. Sec. 755.19 and Chapter 315 of the Milwaukee Code of Ordinances.
2. Announcement/Request for Names. The position is advertised in the Milwaukee Journal Sentinel, Daily Reporter, in major newspapers serving minorities, in State Bar of Wisconsin news publications, in the Milwaukee Bar Association newsletter and through other appropriate communications sources such as the Association of Women Lawyers, the Wisconsin Hispanic Lawyers Association and the Wisconsin Association of Minority Attorneys. All applications are returned to the Office of the Presiding Judge.
3. Selection. Upon receipt of the applications, the Presiding Judge shall designate staff to review the applications and identify applicants who have not satisfactorily documented that they meet the minimum qualifications for the position, and may also direct staff to make any necessary inquiries to determine eligibility of applicants. An interview panel consisting of the three judges of the court shall establish a list of applicants to be interviewed from the list of eligible applicants. The interview panel shall conduct oral interviews with the applicants individually. The interview shall include, without limitation, questions concerning demeanor and knowledge of law. Upon completion of the interviews, the panel shall evaluate the merits of the applicants with a final decision to be made by the Presiding Judge after consulting the other judges on the panel.
4. Appointment. The Presiding Judge may appoint from among the names, may decide upon further interviews of the candidates or may reject the list and request that new applicants be sought. Appointment to the position, made after consultation with the other judges on the panel, and the compensation for the position rests with the Presiding Judge. Upon appointment, the person appointed shall take the oath of office prior to commencement of duties and such oath shall be filed in the Office of the Presiding Judge. If a further opening occurs within a reasonable amount of time, the Presiding Judge, at his/her discretion, may appoint a person from the list of previously recommended candidates instead of requesting the process to be started over. A new list of eligible persons shall be requested if one of the following exists:
  1. There is not an existing list of eligible persons for the specific position.
  2. The current list of eligible persons is more than two years old or is determined to be not sufficiently diverse.
  3. The job description is in need of modification.
  4. The Presiding Judge determines that such a request is appropriate for any other reason.
  5. Compensation. All compensation matters shall be in the sole discretion of the Presiding Judge, subject to all applicable city ordinances, union agreements and city civil service rules.

#### **854. CHIEF COURT ADMINISTRATOR**

1. The Chief Court Administrator shall be appointed by the Presiding Judge and confirmed by the Common Council for a renewable term of three years.

2. The Chief Court Administrator, in addition to the duties prescribed by ordinance, statute, or case law, shall, in cooperation with the Presiding Judge:
  1. Administer the non-judicial services of the court.
  2. Hire, assign, train, and discipline staff, and perform such other personnel management duties required to meet civil service and labor contract requirements.
  3. Initiate and implement procedures for the effective and efficient operation of the court.
  4. Develop budget requests necessary for the maintenance and operation of the court, appear at budget hearings as needed, and implement the approved budget.
  5. Present the needs of the court to the appropriate agencies of the City, County, and State.
  6. File requests for appropriations or requisitions for the court, and approve all invoices for the same; keep a record of such requisitions and expenditures; and make any necessary budget adjustments.
  7. Secure the services of substitute judges.
  8. Prepare management information on revenues, expenditures, case adjudication, and court operations.
  9. Provide statistics on each branch of the court to each judge and to the Chief Judge of the District.
  10. Prepare and deliver to the appropriate authority for execution all orders and process of the court.
  11. Maintain liaison with Mayor's office, the Common Council, City Attorney, law enforcement agencies, and such other offices and agencies necessary for proper administration of the Chief Court Administrator's office and the court.

**856. Conflicts of an administrative, judicial, or procedural nature may be referred to the Chief Judge for resolution.**

*Last reviewed on Sept. 27, 2023*