

**RHODE ISLAND TRAFFIC TRIBUNAL
RULES OF PROCEDURE**

I. Scope, Purpose and Construction

1. **Scope and applicability.** – These rules govern the procedure in the traffic tribunal and in the municipal courts in all civil ~~traffic~~ violations of the motor vehicle code and other violations assigned to those courts for adjudication pursuant to state law. When used in these rules, the term “court” shall mean the Rhode Island Traffic Tribunal or a municipal court, as may be appropriate.
2. **Purpose and construction.** – These rules are intended to provide for the just determination of every civil traffic violation proceeding ~~to which they apply and other violations assigned to the court for adjudication pursuant to state law.~~ They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay; they shall also be construed consistent with the fact that they constitute the rules for the adjudication of civil, not criminal, violations of the ~~traffic~~ motor vehicle code.

II. Preliminary Proceedings in ~~Civil Traffic Violation~~ Cases

3. **The summons.** – (a) The summons shall consists of a listing of the civil ~~traffic~~ violations of the motor vehicle code ~~traffic violations~~ alleged by the issuing officer and a requirement that the defendant appear in court on the date and time and at the place indicated thereon. For the purposes of these rules, the terms “ticket,” “citation,” and “summons” are synonymous and may be used interchangeably. The summons shall be on a form prescribed by the ~~Chief Judge of the District Court~~ chief magistrate of the traffic tribunal, subject to the approval of the Rhode Island Supreme Court.
 - (b) The summons shall be signed by the officer alleging that the facts contained therein are true, and served upon the ~~motorist~~ defendant in person or by mailing the summons to the defendant at his or her last known address, which shall be sufficient proof of actual notice in adjudications of civil violations of the motor vehicle code to justify the entry of a default judgment in all cases where the defendant fails to appear in court on the date and time and at the place indicated thereon. ~~The truth and validity of the facts supporting the charge(s) shall be sworn to before a notary public or other person authorized by law to administer oaths. The summons shall contain a date upon which the defendant must appear in court. The summons shall be signed by the motorist to acknowledge receipt.~~
 - (c) If the summons is one which may be paid administratively pursuant to law, the officer shall note the full amount of the fine[s] required to be paid thereon.
 - (d) A summons which provides the defendant and the court with adequate notice of the ~~offense-violation~~ being charged shall be sufficient if the ~~offense~~ violation is charged by using the name given to the ~~offense~~ violation by statute. The summons shall state for each count the official or customary citation of any statute ~~rule, regulation or other~~

~~provision of law that~~ the defendant is alleged ~~therein~~ to have violated. An error or omission in the summons shall not be grounds for dismissal of the ~~complaint~~ charged violation(s) or for reversal of a conviction if the error or omission did not mislead the defendant to his or her prejudice.

(e) The court may permit a summons to be amended at any time before ~~verdict or finding~~ adjudication of the violation(s) contained therein if no additional or different violation offense is charged and if substantial rights of the defendant are not prejudiced. With the consent of the defendant, a summons may be amended at any time before ~~verdict or finding~~ adjudication of the violation(s) contained therein if a different offense violation is charged and if the court finds such amendment to be in the interests of justice.

4. Joinder of violations offenses. – Two or more ~~offenses~~ violations may be charged in the same summons in a separate court for each ~~offense violation~~ if the offenses violations charged are based on the same act or transaction transaction or occurrence. The number of ~~offenses violations~~ charged on one or more summonses arising out of the same transaction or occurrence shall not ~~effect~~ affect the eligibility of the summonses to be paid administratively pursuant to Rule 5.

5. Administrative payment of summonses. – (a) Any summons which may be paid administratively pursuant to law may be paid ~~administratively~~ by mail or in person at the offices of the traffic tribunal or the ~~Municipal Court~~ municipal court within the time established by law as set forth on the summons.

(b) Administrative payment must be made in full.

(c) If payment is made by mail, it shall be deemed to have been sent on the date of postmark.

(d) Payment of the summons shall be deemed an admission of guilt to the civil offense-violation(s) charged in the summons.

6. Arraignment. – (a) Procedure. Except in cases wherein payment has been made administratively pursuant to Rule 5, all defendants shall appear before a judge or magistrate of the court for arraignment on the date and time ~~indicated~~ and at the place indicated on the summons. The police department or law enforcement agency which charged the summons shall be represented by a prosecution/prosecutor or law enforcement officer. ~~If a defendant appears without counsel, the court shall advise the defendant of his or her right to be represented by counsel. Because a defendant is before the court for a civil violation(s), the defendant is not entitled to appointed counsel but has the option to retain private counsel.~~

Arraignment shall be conducted in open court and shall consist of reading the summons to the defendant or stating to the defendant the substance of the charge(s) and calling on the defendant to plead thereto. The ~~judge/magistrate~~ judge or magistrate conducting the

arraignment shall notify ~~defendants~~ the defendant of § 31-41.1-7 of the general laws (the “good driving record” statute) ~~the “good driving record” statute.~~ Pleas shall be in the form prescribed by Rule 7 of these rules.

(b) Default and/or dismissal. If the defendant or the prosecution shall fail to appear, ~~verdict~~ a dismissal or a judgment by default may enter ~~accordingly~~ pursuant to Rule 17.

7. **Pleas.** (a) A defendant may plead “guilty” or “not guilty” or seek a dismissal based on a good driving record. The court may refuse to accept a plea of guilty, and shall not accept such plea without first addressing the defendant personally and determining that the plea has been ~~is~~ made voluntarily and with understanding of the nature of the charge and the ~~sentence~~ judgment to be imposed. If a defendant refuses to plead or if the court refuses to accept a plea of guilty, the court shall enter a plea of not guilty. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea. Pleas shall be in the form prescribed by this Rule.

(b) Good driving record. The defendant may seek a dismissal based on a “good driving record” pursuant to the provisions of § 31-41.1-7 of the general laws. If the defendant is eligible, the court ~~may~~ shall, except for good cause shown dismiss the matter upon payment of costs. To qualify for a dismissal based on a good driving record, an out-of-state ~~motorists~~ defendant shall submit a copy of ~~the~~ his or her driving record obtained from ~~their~~ his or her registry of motor vehicles or other licensing authority, or other evidence satisfactory to the court.

8. **Pleadings and motions before trial.** – (a) Any defense or objection which is capable of determination without the trial of the general issues may be raised before trial by motion to dismiss or to grant appropriate relief, as provided in these rules. This includes motions pursuant to Rule 11 entitled “Discovery and inspection.”

(b) The motion shall be made no later than fourteen (14) days after ~~the plea is entered~~ arraignment, but the court may permit it to be made within a reasonable time thereafter.

(c) A motion before trial raising defenses or objections shall be determined before trial unless the court orders that it be deferred for determination at the trial of the general issue.

9. ~~Trial together of summonses~~ Joinder of summonses and parties. – The court may order two or more summonses to be tried together if the ~~offenses~~ violations could have been joined in a single summons or in the interests of judicial economy. The court may order two or more defendants to be tried together if they are alleged to have participated in the same ~~act or transaction~~ transaction or occurrence or ~~in the same series of acts or transactions constituting an offense or offenses~~ transactions or occurrences, or in the interests of judicial economy.

10. Depositions. – (a) Refusal cases. In cases where the ~~motorist~~ defendant has been charged with refusal to submit to a chemical test, the procedure for the taking of depositions set forth in Rules 29 and 30 of the District Court ~~Rules of Civil Procedure~~ Civil Rules shall ~~be followed~~ apply. All expenses shall be borne by the party noticing and taking the deposition unless upon motion, good cause is shown.

(b) ~~Other cases~~ All other cases. ~~In all other cases of extraordinary and manifest necessity, in order to prevent a failure of justice, the~~ The court at any time after the filing of the summons may upon motion of a party and good cause shown order that a witness's testimony be taken by deposition. In such cases, the procedure for the taking of depositions ~~in the district court~~ as set forth in Rules 29 and 30 of the District Court ~~Rules of Civil Procedure~~ Civil Rules shall ~~be followed~~ apply with all expenses borne by the ~~party movant~~ moving party.

11. Discovery and inspection. – (a) Defendant's statements. ~~Reports of examinations and tests: Police reports of examinations and tests~~ and statements showing that a person has been advised of his or her rights shall be made available to the defendant upon written request ~~by the defendant;~~ the attorney Attorney or prosecuting officer for the state, city, town or agency shall permit the defendant to inspect and copy or photograph said ~~statements and reports~~ reports and statements. A copy of the discovery request shall be provided to the Department of Attorney General.

(b) Other books, papers, documents, tangible objects or places. Upon motion of a defendant, the court may order the attorney for the state or prosecuting officer to permit the defendant to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof which are within the possession, custody or control of the state, city, town or agency upon a showing of materiality to the preparation of the defendant's defense and that the request is reasonable.

(c) Discovery by the state. If the court grants relief sought by the defendant under subdivision (b) of this rule, it may, upon motion of the state, city, town, or agency, condition its order by requiring that the defendant permit the state, city, town or agency, to inspect and copy or photograph scientific or medical reports, books, papers, documents, tangible objects, or copies or portions thereof, which the defendant intends to produce at the trial and which are within the defendant's possession, custody or control, upon a showing of materiality to the ~~preparation of the state's case~~ and that the request is reasonable.

(d) Protective orders. Upon a sufficient showing, the court may at any time order that the discovery or inspection be denied, restricted or deferred, or make such other order as is appropriate.

(e) Time of motions. A motion or written request under this rule ~~may~~ shall be made only within fourteen (14) days after arraignment or at such reasonable later time as the court may permit. The motion shall include all relief sought under this rule. A subsequent

motion may be made only upon a showing of cause why such motion would be in the interest of justice.

(f) Continuing duty to disclose; failure to comply; motion to compel. (i) If, subsequent to compliance with an order issued pursuant to this rule, and prior to or during trial, a party discovers additional material previously requested or ordered which is subject to discovery or inspection under the rule, the party shall promptly notify the other party's attorney or the court of the existence of the additional material. (ii) If at any time during the course of the proceeding it is brought to the attention of the court that a party has failed to comply with this rule ~~or with an order issued pursuant to this rule~~, the court may on motion order such party to permit the discovery or inspection of materials not previously disclosed, grant a continuance, or prohibit the party from introducing in evidence the material not disclosed, or it may enter such other order as it deems just under the circumstances.

12. Subpoena. – (a) For attendance of witnesses; form; issuance. Every subpoena shall be issued by the clerk of court or a notary public or other officer authorized by statute. The subpoena shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified.

(b) For production of documentary evidence and of objects. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein. The court, on motion made promptly, may quash or modify the subpoena if compliance would be unreasonable or oppressive. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit the books, papers, documents or objects or portions thereof to be inspected by the parties and their attorneys.

(c) Service. A subpoena may be served by the sheriff, by the sheriff's deputy, by a constable, or by any other person who is not a party and who is not less than ~~18~~ eighteen (18) years of age. Service of a subpoena shall be made by delivering a copy thereof to the person named and tendering to the person the fee for one day's attendance and the mileage allowed by law. When the subpoena is issued ~~in~~ on behalf of the state or an officer or agency thereof, fees and mileage need not be tendered.

(d) Place of service. A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the ~~state~~ State of Rhode Island.

13. Place of prosecution and trial. –(a) Traffic tribunal. ~~With regard to matters~~ Cases pending before the traffic tribunal ~~the prosecution and trial~~ shall be ~~had~~ adjudicated at a place designated by the ~~chief judge~~ chief magistrate.

(b) Municipal courts. ~~With regard to matters~~ Cases pending before a municipal court the prosecution and trial shall be adjudicated had at the place determined by state law or local ordinance.

14. Motion to transfer. – (a) ~~Traffic tribunal~~ Transfer to different session. For the convenience of the parties and witnesses, and in the interests of justice, the court upon motion of the defendant may transfer the proceeding as to the defendant to another session of the court held at a different place.

(b) ~~Municipal court. In the event of the inability of all judges of a municipal court to hear and decide a matter within the jurisdiction of that municipal court pursuant to Chapter 18 of Title 8, the matter shall be transferred to the traffic tribunal for further proceedings consistent with law.~~ Transfer from municipal court to traffic tribunal. If, a municipal court shall ascertain that all of the municipal judges are unable to hear and decide the matter within the jurisdiction of that municipal court pursuant to chapter 18 of title 8, it shall be the duty of the municipal court to order the transfer of the case, together with all the papers, documents, and records of testimony connected with the case, within five (5) days to the traffic tribunal. The traffic tribunal shall upon the transfer proceed to hear and decide the case in the same manner as if it had been instituted in that court in the first instance.

(c) Time of motion. A motion to transfer under these rules may be made at or before arraignment or at such other time as the court or these rules may prescribe.

III. Trial and Judgment in ~~Civil Traffic Violation~~ Cases

15. Trials. –(a) Opening statements and closing arguments. Opening statements shall be permitted; a time limit of ~~not less than five (5) minutes shall~~ may be set within the discretion of the trial judge or magistrate. Closing arguments shall also be permitted; a time limit may be set within the discretion of the trial judge or magistrate.

(b) ~~Evidence. Form and admissibility. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by statute or by these rules. All evidence shall be admitted which is admissible under the statutes of this state, or under the rules of evidence applied in the courts of this state. The competency of a witness to testify shall be determined in like manner.~~ Rules of evidence. In all adjudications of civil violations of the motor vehicle code, the Rhode Island Rules of Evidence shall govern all proceedings before the traffic tribunal and the municipal courts.

(c) ~~Closing arguments. Closing arguments shall be permitted; a time limit of not less than five (5) minutes may be set within the discretion of the trial judge.~~

16. Motion to dismiss. –The court on motion of a defendant or of its own ~~motion~~ initiative shall, at the close of the evidence offered by the prosecution, order the dismissal of one or more ~~offenses~~ violations charged in the summons if the evidence is insufficient to sustain a ~~conviction of such offense or offenses~~ violation or violations to a standard of

clear and convincing evidence. If a defendant's motion to dismiss is not granted, the defendant may offer evidence without having reserved the right to offer such evidence.

17. Verdict Judgment. – (a) Burden of proof. The burden of proof shall be on the prosecution to a standard of clear and convincing evidence. ~~Verdict on the general issue shall be guilty or not guilty. Following an adjudication of the charged violation(s), a judgment shall enter on a separate document signed by the judge or magistrate that the defendant is “guilty” or “not guilty” of violating the motor vehicle code or applicable statute.~~

~~(b) Default. If a motorist shall fail to appear at trial and/or arraignment despite notice having been given, the case may be defaulted against the motorist. If the truth and validity of the allegations on the summons have been sworn to by the officer issuing same, or if testimony is given providing proof of facts supporting the validity of the summons, and the service of the notice has been established, a default judgment of guilty may enter against the defendant. The defendant's driving license and/or privileges shall be ordered suspended pending compliance with the sentence imposed. Judgment. All judgments shall be in writing. A judgment shall set forth the plea or adjudication and the sentence. If the defendant is found not guilty or the charge is dismissed, judgment shall be entered accordingly. The judgment shall be signed by the judge or magistrate.~~

~~(c) Dismissal. If the prosecution fails to appear for trial and/or arraignment, the matter may be dismissed. Default judgment. A default judgment may enter against the defendant upon his or her failure to appear at a trial and/or arraignment. A default judgment may enter upon proof that: (i) the officer issuing the summons consistent with the statutory requirements set forth in Rule 3(b) signed the summons, and (ii) a copy of the summons was served upon the defendant in person or by mailing to his or her last known address. Upon entry of a default judgment, the defendant's operator's license and/or privileges may be ordered suspended pending compliance with the judgment imposed in the discretion of the court.~~

~~(d) Dismissal. If the prosecution fails to appear for trial and/or arraignment, the matter may be dismissed.~~

18. Sentence and judgment. – (a) Sentence. Upon plea or ~~verdict~~ entry of a judgment of guilty, sentence shall be imposed without unreasonable delay. Before imposing sentence, the court shall afford counsel an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask the defendant if ~~the defendant~~ he or she wishes to make a statement in his or her own behalf and to present any information in mitigation of punishment.

~~(b) Notification of right to appeal. After imposing sentence the court should advise the defendant of his or her right to appeal to an appellate panel of the traffic tribunal.~~

~~(c) Judgment. All judgments shall be in writing. A judgment of conviction shall set forth the plea or judgment and sentence. If the defendant is found not guilty or the charge is~~

~~dismissed, judgment shall be entered accordingly. The judgment shall be signed by the judge.~~

~~(d)~~ (b) Withdrawal of plea. A motion to withdraw a plea of guilty may be made only before sentence is imposed.

19. Clerical mistakes. – Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party and after such notice, if any, as the court orders.

20. Relief from judgment or order. – ~~On motion and upon such terms as are just the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons: The court may, upon motion or on its own initiative, relieve a party or a party's legal representative from a judgment or order for the following reasons:~~

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence;
- (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or misconduct of an adverse party;
- (4) the judgment or order is void;
- (5) the judgment or order has been satisfied, released, or discharged ~~or a prior judgment upon which it is based has been reversed or otherwise vacated~~, or it is no longer equitable that the judgment or order should have prospective application; or
- (6) any other reason justifying relief from the operation of the judgment, ~~in whole or in part, or order, including that relief is warranted in the interests of justice.~~

The motion shall be made within a reasonable time, and not more than one year after the judgment or order ~~order, or proceeding~~ was entered ~~or taken~~. The filing of a motion under this rule does not, in the absence of further action by the court, affect the finality of a judgment or order or suspend its operation.

21. Appeals from decisions in civil traffic violation cases. – (a) Appeals panel. Any party aggrieved by a ~~sentence or~~ a judgment of a municipal court or the traffic tribunal following the adjudication of in a civil traffic violation of the motor vehicle code or other applicable statute may appeal ~~therefrom the judgment~~ to the appeals panel of the traffic tribunal. Appeal may be claimed by following the procedures established by the chief magistrate, including by filing a written notice of appeal on a the form(s) prescribed by the chief judge magistrate and, in the case of a defendant by submitting the appeal filing fee of twenty-five dollars (\$25.00). The filing fee is waived when an appeal is taken by the state, the municipality or other prosecuting authority. The notice of appeal shall contain a concise statement of the grounds therefor. Notice of appeal shall be filed within ten (10) days of the imposition of ~~sentence or~~ the judgment appealed from.

(b) Appeal to the sixth division of the district court. Any party aggrieved by a ~~decision~~ final written judgment or order of the appeals panel may appeal therefrom to the sixth division of the district court. An appeal may be claimed by filing a written notice of appeal on a form prescribed by the chief judge of the district court and, in the case of a defendant by submitting to the district court the appeal filing fee of twenty-five dollars (\$25.00) in accordance with G.L. § 31-41.1-9. The filing fee is waived when an appeal is taken by the state, the municipality or other prosecuting authority. The notice of appeal shall contain a concise statement of the grounds therefor. Notice of appeal shall be filed within ten (10) days after of the imposition entry of sentence or the appellate final written judgment or order appealed from.

(c) In forma pauperis. ~~In appropriate cases, a defendant shall be permitted to proceed in forma pauperis.~~ The court may, upon motion, allow the defendant to proceed in forma pauperis.

(d) Record on appeal. Except as otherwise provided in subsection (e), the original papers and exhibits filed in the court during trial and the transcript of proceedings or electronic sound recording thereof, if any, shall constitute the record on appeal of all sentences or judgments imposed in the adjudication of civil violations of the motor vehicle code and other applicable statutes.

(e) Statement of proceedings when no recording or recording unable to be transcribed. If no recording of the proceedings at a hearing or trial was made, or if the recording or portions thereof are unable to be transcribed, the parties, may by agreement, prepare a statement of the proceedings from the best possible means, including by personal recollection of the hearing or trial. In no event shall an appeal be heard by the appeals panel without the presentation of a transcript of the testimony of the hearing or trial by the appellant or by the submission of a stipulated statement of proceedings as required by this section. If the parties are unable to agree by stipulation as to a statement of the proceedings, the matter shall be remanded to conduct a new proceeding.

IV. Post-Judgment Proceedings

22. Collection Execution and enforcement of judgments. — ~~Collection of judgments shall generally follow the course of civil practice in the district court as enumerated in rule 69 of the district court rules of civil procedure including execution, supplementary proceedings, the issuance of decree for installment payments, trustee process, and contempt proceedings to the extent applicable.~~ (a) The enforcement of a final judgment for the imposition of fines or costs served upon a defendant shall, upon expiration of the applicable appeal period, constitute a writ of execution.

(b) Exhaustion of appellate remedies. No citation shall be issued and served upon the defendant until a final judgment adverse to the defendant has been entered.

(c) Issuance of citation in supplementary proceedings. If the judgment rendered against the defendant has not been satisfied, in whole or in part, the judgment debtor shall appear

before the court at the time and place named on the citation to show cause why an examination into his or her circumstances should not be made and a decree be entered ordering him or her to pay such judgment in full or by installment.

(d) Service. The citation shall be served upon the judgment debtor in person or by leaving a copy of the citation at the last and usual place of residence of the debtor with a person of suitable age. Pursuant to § 8-8.2-5 of the general laws, service shall be made by a traffic tribunal security officer when acting as a constable, or a duly authorized clerk designated by the Chief Magistrate provided that such service occurs at the site of the proceeding.

(e) Failure to appear by debtor. If the judgment debtor upon whom a citation has been served fails to appear in response thereto, a civil body attachment may be issued for such debtor in the manner set forth in § 9-17-7 of the general laws.

(f) Installment payments. If, following a hearing, the court finds that the judgment debtor is unable to pay the judgment in full, the judge or magistrate may enter an order fixing the amount, frequency, and manner of periodic payments until the judgment is paid in full.

(g) Failure to comply with installment plan by debtor. If a judgment debtor has failed to comply with an installment payment order, the debtor upon notice in accordance with subsection (d) herein, shall appear before the court at a time and place named and show cause for his or her non-compliance. A civil body attachment may be issued in the manner set forth in § 9-17-7 of the general laws for a debtor who fails to appear to show cause for non-compliance.

V. General Provisions

23. Presence of the defendant. – (a) Right to presence. The defendant shall be present at the arraignment and at the imposition of sentence, except as otherwise provided by statute or by these rules. The defendant shall be present at every stage of the trial, except that the defendant may be excluded from the proceedings if, after appropriate warning, the defendant persists in conducting himself or herself in a manner so disorderly, disruptive, and disrespectful of the court that the trial cannot be carried on with the defendant in the courtroom.

(b) Motion to waive presence ~~Waiver of presence~~. A defendant who is represented by counsel may apply to the court for an order to waive his or her right to be present by filing a waiver thereof presence at the arraignment, at every stage of trial, and the imposition of sentence. A motion to relieve a defendant from the requirement that he or she be present shall be in writing unless the court permits it to be made orally. Said motion shall be filed no later than five (5) days prior to arraignment, trial, or sentencing.

(c) Corporate defendants. A corporation shall appear by counsel for all purposes, ~~except that if a corporation that has assets under one million dollars (\$1,000,000) and is a close~~

~~corporation as set forth in § 7-1.1-51 of the General Laws, then that corporation may designate a representative to pay or arrange for payment of potential fines not in excess of five hundred dollars (\$500). However, where the potential fines are not in excess of five hundred dollars (\$500.00), the corporation may elect to appear through an officer or agent upon proof that said officer or agent has been an employee of the corporation for at least one (1) year and is authorized to pay potential fines or arrange for the payment of fines. A designation pursuant to this subdivision shall be filed with the Traffic Tribunal. No person shall be designated pursuant to this subdivision who is not an owner, officer, or who has not been an employee of the corporation for longer than one (1) year.~~

24. [Reserved].

25. Time. – (a) Computation. In computing any period of time prescribed or allowed by these rules, by order of court or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a holiday.

(b) When, by these rules or by a notice given thereunder or by order of court, an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (i) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by previous order; or (ii) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(c) For motions, affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five (5) days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not later than one (1) day before the hearing, unless the court permits them to be served at some later time.

(d) Additional time after service by mail. Whenever a party has the right or is required to do some act ~~or take some proceedings~~ within a prescribed period after the service of a notice or other paper upon him or her and the notice or paper is served upon him or her by mail, one (1) day shall be added to the prescribed period.

26-25. Motions. – An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing unless the court permits it to be made orally. It shall state with particularity the grounds upon which it is made and shall set forth the relief or order sought. It may be supported by affidavit. ~~The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.~~

27-26. Dismissal. – (a) By ~~prosecution~~ prosecuting officer or attorney for state, agency, or municipality. The ~~prosecution~~ prosecuting officer or the attorney for the state, agency, or municipality may dismiss a summons and the prosecution shall thereupon terminate, however, a summons that charges a motorist under R.I.G.L. § 31-27-2.1 alone, or any count of a summons that charges a motorist under R.I.G.L. § 31-27-2.1 may be dismissed in accordance with § 42-9-4 only after notice to the attorney for the state. The dismissal shall be in writing, either on the customary judgment form or on a separate writing. It shall be dated and signed; the name of the person dismissing the summons shall be printed legibly beneath the signature. A dismissal pursuant to this rule may not be filed during the trial without the consent of the defendant.

(b) By the court. If a defendant is subjected to unreasonable and prejudicial delay in bringing a summons to trial, a motion to dismiss may be heard and granted if it is found to be meritorious ~~and in the interests of justice.~~ If a prosecutorial agency is subjected to prejudicial delay in bringing a summons to trial due to the abusive or dilatory actions of a defendant, a motion for the entry of default judgment may be heard and granted if it is found to be meritorious and in the interests of justice. The court on its own initiative may dismiss the summons in the interests of justice.

(c) Dismissal following trial. No summons shall be dismissed pursuant to subsection (a) of this rule following the adjudication of a violation of the motor vehicle code.

28. 27. Service and filing of papers. – (a) ~~Service;~~ Service. When required. Written motions ~~other than those which are heard ex parte,~~ written notices and similar papers shall be served upon each of the parties.

(b) ~~Service;~~ Service. How made. Whenever under these rules or by an order of the court service is required or permitted to be made upon a party represented by ~~an attorney counsel,~~ the service shall be made upon ~~the attorney counsel~~ unless service upon the party himself or herself is ordered by the court. Service upon counsel ~~the attorney~~ or upon a party shall be made in the manner provided in civil actions.

(c) Notice of orders. Immediately upon the entry of an order made on a written motion subsequent to arraignment and which is not issued orally from the bench, the clerk shall mail to each party a notice thereof and shall make a note in the docket of the mailing.

(d) ~~Filing;~~ Filing; No proof of service required. All papers required to be served shall be filed with the court either before service or within a reasonable time thereafter. Such filing by a party or party's counsel shall constitute a representation by him or her that a copy of the paper has been or will be served upon each of the other parties as required by subdivision (a) of this rule. No further proof of service is required unless an adverse party raises a question of notice. In such instances, the affidavit of the person making service shall be prima facie evidence.

(e) Filing with the court defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge or magistrate may permit the papers to be filed with him or her, in which event he or she shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(f) Effect of failure to file. If any party to an action fails to file within five (5) days after the service of any of the papers required by this rule to be filed, the court, on motion of any party or of its own initiative, may order the papers to be filed forthwith, and if the order ~~be~~ is not obeyed, the court may order them to be regarded as stricken and their service to be of no effect.

29. ~~29.~~ 28. Appearance, withdrawal, and excusal of counsel attorneys. – (a) Appearance. ~~(1) In General. The attorney Counsel~~ for a defendant in a case before a municipal court or the traffic tribunal ~~a civil traffic violation action~~ shall forthwith file his or her appearance in writing with the clerk of the court wherein the action is pending. ~~(2) Out of State Counsel. No person, who is not an attorney and counselor of the Supreme Court of the State of Rhode Island, shall be permitted to act as attorney or counselor for any party in any proceeding, hearing or trial in the Traffic Tribunal unless granted leave to do so by the Traffic Tribunal or by the Supreme Court. Unless the Traffic Tribunal or the Supreme Court permits otherwise, any attorney who is granted such leave to practice before the Traffic Tribunal shall not engage in any proceeding, hearing, or trial therein unless there is present in the courtroom for the duration of the proceeding, hearing, or trial a member of the bar of Rhode Island who shall be prepared to continue with the proceeding, hearing or trial in the absence of counsel who has been so granted leave. Subject to the limitations and exceptions set forth in Article II, Rule 9 of the Supreme Court Rules for the Admission of Attorneys and Others to Practice Law, leave shall be granted by the Traffic Tribunal in its discretion upon a miscellaneous petition signed by the petitioner in a form approved by the court [Exhibit 9 A], supported by certifications of the attorney seeking admission pro hac vice and of Rhode Island associate counsel [Exhibit 9 B], and assented to by the party being represented in a client certification [Exhibit 9 C]. If the charged violation is a refusal to submit to a chemical test pursuant to § 31-27-2.1 of the general laws, counsel shall send a copy of his or her entry of appearance to the Office of the Attorney General.~~

(b) Withdrawal. (i) ~~(1)~~ By motion. ~~An attorney Counsel~~ who has filed an entry of appearance ~~appeared~~ on behalf of any defendant in a civil traffic violation pending ~~action~~ may not withdraw unless he or she first obtains the consent of the court. All withdrawals shall be upon motion with notice to the defendant and the attorney for the state or prosecuting officer. A motion to withdraw shall not be granted unless ~~the attorney who seeks to withdraw shall append~~ counsel appends to his or her motion the last known address of his or her client, which shall be the official address to which notices may be sent. A motion to withdraw shall be accompanied by an affidavit setting forth facts showing the military status of the defendant. If it appears that the defendant is in the military service of the United States, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto, the motion shall not be granted unless the

defendant consents thereto in writing or another attorney appears ~~of record~~ as counsel of record at the time of such withdrawal. (ii) ~~(2)~~ By stipulation. Where a defendant for whom ~~an attorney counsel~~ has filed an entry of appearance is desirous of substituting new counsel, a stipulation may be entered ~~pursuant to~~ in which the first counsel withdraws his or her entry and replacement counsel enters his or her appearance. Such a stipulation shall not be entered where the substitution of counsel shall be cited by the defendant as justification for delay of proceedings.

(c) Excusal. ~~No attorney~~ Counsel shall not be excused from attendance ~~upon the traffic tribunal~~ except upon application to the ~~Chief Judge~~ chief magistrate or the administrative judge or magistrate in the absence of the ~~Chief Judge~~ chief magistrate, and such excuse from attendance shall be granted on such terms and conditions as the court may set. In case of the sudden illness of ~~an attorney counsel~~, or ~~the attorney's counsel's~~ absence from a hearing for some other imperative and unforeseen cause, a judge or magistrate shall take such action, without notice, as shall appear reasonable ~~in~~ under the circumstances.

30. 29. Courts and clerks. – (a) Traffic tribunal always open; Clerk's ~~Office~~ office. Subject to law or by order of the Rhode Island Supreme Court, the ~~Traffic Tribunal~~ traffic tribunal shall be deemed always open for the purpose of filing any proper paper, of issuing and returning process and of making motions and orders. The clerk's office with the clerk or deputy or an assistant in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays. Cases may be assigned for trial on any day, Monday through Friday, of each week of the year except that no cases shall be assigned to a legal holiday or such other days as the ~~Chief Judge~~ chief magistrate shall set.

(b) Calendars. The calendar of cases to be heard will be posted at each hearing site on the day of hearing.

(c) Time of calendars. The judge or magistrate of the court, or ~~his/her~~ his or her clerk, shall call each day's calendar at 9:00 ~~A.M.~~ a.m., or at other such times as the ~~Chief Judge~~ chief magistrate may set.

(d) Cancellation of calendars. If a day's calendars are cancelled due to inclement weather or other unforeseen circumstance, all cases on said calendars shall be reassigned ~~to the next day when the court shall be open for business and shall be called at the same time as originally established~~ by the chief magistrate.

31. 30. Appeals panel. – The ~~Chief Judge of the District Court~~ chief magistrate shall establish an ~~appellate~~ appeals panel consisting of three (3) or more judges or magistrates of the traffic tribunal and shall designate a presiding ~~officer~~ judge or magistrate for each panel so appointed.

32. 31. Review of administrative action. – (a) Mode of review. When a statute provides for review by the traffic tribunal of any action by a governmental agency,

department, ~~board, commission~~, or officer, whether by appeal or petition or otherwise, proceedings for such review shall be instituted by filing a complaint with the ~~tribunal~~ court. The complaint shall include a concise statement of the grounds upon which the plaintiff claims he or she is entitled to relief, and shall demand the relief to which the plaintiff believes himself or herself entitled. No responsive pleading need be filed unless required by statute or by order of the ~~tribunal~~ court.

(b) Time limits; Notice. The time within which review may be sought shall be provided by law. A copy of the complaint shall be served upon the governmental agency, department, ~~board, commission~~ or officer, and upon all other parties to the proceeding to be reviewed in the manner provided by Rule ~~28~~ 27.

(c) Trial or hearing. These rules, so far as they are applicable, shall govern the review proceedings. The judgment of the court shall affirm, reverse, or modify the decision under review as provided by law.

(d) Review by appeals panel. Appeal may be taken from any judgment of the court in any action ~~shall be taken~~ to the appeals panel in the manner provided by these rules.

33. 32. Refusal to submit to chemical test cases. – (a) General procedure. The adjudication of summonses which include charges brought for violation of § 31-27-2.1 of the general laws may follow the procedure established by these rules except that arraignment in ~~refusal~~ such cases shall be scheduled no later than two (2) calendar weeks after the date the summons ~~citation~~ was issued. ~~The judicial~~ Judicial review of the officer's report for the possible suspension of the defendant's driver's license shall be conducted at the arraignment on said charge. No case over which the traffic tribunal has jurisdiction which alleges a violation of § 31-27-2.1 of the general laws and is scheduled for initial arraignment shall be continued more than once and in no event more than two (2) weeks beyond the scheduled date without the consent of the chief magistrate or his or her designee.

~~(b) Provisional procedures: Motion to prevent or stay license suspension. Pending the implementation of the procedures enumerated in subdivision (a) of this rule, the traffic tribunal may continue to follow the procedure for refusal cases in effect at the time of the promulgation of these rules, except that all refusal cases where no arraignment shall have been held shall be scheduled for trial within thirty (30) days after the date the citation was issued. Any motion by a defendant to prevent or stay the entry of an order of license suspension shall be made pursuant to Rule 26 Rule 25 and shall be made with notice to the department of the attorney general office of the attorney general except where delay for purposes of notice would result in immediate and manifest injustice.~~

(c) Consolidation of probable cause charges. All other charges that are brought arising out of the same ~~incident~~ transaction or occurrence that constitute the probable cause for the request that the defendant submit to ~~the~~ a chemical test shall be brought before the traffic tribunal together with the ~~charge pursuant to section 31-27-2.1~~ charged violation of § 31-27.2.1 of the general laws.

34. 33. Notice. – Whenever, pursuant to these rules, notice of a future court date is provided to a defendant, it shall be provided in hand whenever possible. Whenever service in hand is not possible, it shall be provided by regular mail to any address given to the ~~tribunal court~~ by the defendant during the case. In the absence of such a previously provided address, notice shall be sent to the address submitted by the defendant ~~motorist~~ to the registry division of motor vehicles pursuant to the duty imposed by § 31-10-32 of the general laws.

35. 34. Effective date. – These rules shall take effect when approved by the Rhode Island Supreme Court. They govern the adjudications of all civil ~~traffic violation proceedings~~ violations of the motor vehicle code and other violations assigned to the court for adjudication pursuant to state law thereafter commenced and, so far as just and practicable, all proceedings then pending.

36. 35. Title. – These rules may be known and cited as the Traffic Tribunal Rules of Procedure and may be cited as Traffic Trib. R. P.