

TRAFFIC TRIBUNAL RULES OF PROCEDURE

Rule 1. Scope of Rules and Mandatory Electronic Filing

(a) Scope of Rules. These rules govern the procedure in the traffic tribunal and in the municipal courts in all civil 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. These rules shall be known as the Traffic Tribunal Rules of Procedure and may be cited as Traffic Trib. R. P.

(b) Mandatory Electronic Filing. In accordance with Art. X of the Rhode Island Supreme Court Rules Governing Electronic Filing, electronic filing is mandatory for subsequent pleadings filed in a Traffic Tribunal case and in an appeal filed pursuant to Rule 21 by using the Rhode Island Judiciary’s (Judiciary) Electronic Filing System.

All parties are required to use the Judiciary’s Electronic Filing System except for incarcerated individuals or where a waiver is granted in accordance with Art. X, Rule 3(c). Self-represented litigants or authorized law enforcement agencies may electronically file documents in accordance with Art. X, Rule 3(b) but are not required to do so. The Traffic Trib. R. P. must be read in conjunction with Art. X, the Rhode Island Judiciary Rules of Practice Governing Public Access to Electronic Case Information, and the Rhode Island Judiciary User Guide for Electronic Filing.

(1) *Definitions.* For further definitions, see Art. X, Rule 1(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing.

(A) *Case Management System (CMS).* An electronic document repository database maintained and managed by the Judiciary and administered by the respective courts to track information used to manage the courts’ caseload, such as case numbers, party names and identifiers, attorneys for parties, titles of all documents filed in a case, and all scheduled events in a case.

(B) *Certificate of Service.* Where the Traffic Trib. R. P. requires service of a document to be certified by an attorney of record or a self-represented litigant, the following certification shall be used:

CERTIFICATE OF SERVICE

I hereby certify that, on the ___ day of _____, ___:

I filed and served this document through the electronic filing system on the following: _____. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary’s Electronic Filing System.

I served this document through the electronic filing system on the following: _____. The document electronically served is available for

viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I mailed or hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is _____ at the following _____ address

/s/NAME_____

- (C) *Electronic Filing System (EFS)*. An approved Judiciary-wide system for the filing and service of pleadings, motions, and other documents or information via electronic means such as the Internet, a court-authorized remote service provider, or through other remote means to and from the Judiciary's CMS.
- (D) *Filing*. Where the Traffic Trib. R. P. require a document to be filed in a Traffic Tribunal case, filing shall mean the electronic transmission of a document in electronic form to or from a court/clerk through the Judiciary's electronic filing system or scanned and filed into the Judiciary's CMS at the clerk's office.
- (E) *Notice*. Where the Traffic Trib. R. P. require notice to be given, notice shall mean electronic notice using the EFS unless stated otherwise.
- (F) *Registered User*. An individual or entity with an assigned username and password authorized by the Judiciary to access and utilize the EFS.
- (G) *Public Access Portal*. The point of entry for electronic access to case information from the Judiciary's database whether at the courthouse or remotely. The database is an electronic collection of court records displayed as a register of actions or docket sheet. The register of actions or docket sheet lists parties, case events, document filings, or other activities in a case set forth in chronological order.
- (H) *Service*. Where the Traffic Trib. R. P. require a document or information to be served, sent, delivered, or forwarded, the following shall be applicable:
 - (i) Subpoenas, complaints, petitions, or other documents that must be hand-delivered or served in person with a summons shall not be served electronically;
 - (ii) All other service or notice within a case shall be electronic using the EFS unless stated otherwise; and
 - (iii) All discovery on a case shall be electronically served using the EFS except when the discovery is of a type which does not lend itself to electronic service (either because it consists of non-conforming documents or is too voluminous), in which case conventional service shall be used.
- (I) *Signature*. Where the Traffic Trib. R. P. require an electronic signature on any document,

including the eCitation, the signature shall be reflected as /s/ NAME unless stated otherwise.

(2) *Electronic Filing of Documents.* When using the EFS:

- (A) When filing an appeal, any required documents, attachments, or exhibits shall be submitted individually as separate files within the same initial submission or filing;
- (B) All subsequent pleadings, motions, and other papers, shall be submitted individually with related documents submitted as separate files within the same submission or filing (for example, a motion and memorandum or other supporting attachments or exhibits filed in support of a motion); and
- (C) Categories of items such as bills, receipts, invoices, photographs, etc. may be submitted in one attachment.

For specific requirements, see the Traffic Tribunal's Electronic Filing System Guidelines.

(3) *Clerk Review; Acceptance/Rejection Procedure:* Following submission, the Traffic Tribunal shall timely review the electronically filed document(s) and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted document(s) shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Article X, Rule 5(b) of the Rhode Island Supreme Court Rules Governing Electronic Filing. In accordance with Article X, Rule 5(c), grounds for the rejection of a document submitted to the EFS in the Traffic Tribunal are limited in scope as follows:

- (A) Pleadings filed without a conventional signature where required;
- (B) Appeals filed without the required documents as set forth in the Traffic Tribunal's Electronic Filing System Guidelines;
- (C) Pleadings not filed in accordance with Rule 1(b)(2);
- (D) Depositions not filed in accordance with Rule 10(c);
- (E) Documents, including any required documents, attachments, or exhibits, scanned in the wrong orientation, e.g., upside down or backwards;
- (F) Documents scanned and filed that are unreadable or illegible;
- (G) Documents filed in a fillable portable document format (PDF);
- (H) The document filed does not match the selected filing code type;
- (I) The document is filed into the wrong case;
- (J) The document contains the wrong or incomplete case caption;

- (K) The document is filed with no case identification;
- (L) The document was improperly scanned or uploaded;

- (M) The party name, party address, or document name exceeds the number of allotted characters in the EFS;

- (N) The filer added a party or participant that is not configured in the CMS or does not match the information in the case;

- (O) A payment processing error occurred; and/or

- (P) A technical submission error occurred.

Rule 2. Purpose and Construction

These rules are intended to provide for the just determination of every civil traffic violation proceeding 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 motor vehicle code and other statutes within the court's jurisdiction, hereinafter referred to as the "law."

Rule 3. The Summons

(a) Content. The summons shall consist of a listing of the civil 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," "eCitation," and "summons" are synonymous and may be used interchangeably. The content and form of the summons and eCitation shall be prescribed by the chief magistrate of the traffic tribunal, subject to the approval of the Rhode Island Supreme Court.

(b) Signature and Service. The summons shall be signed by the issuing officer alleging that the facts contained therein are true, and served upon the defendant in person or by mailing the summons to the defendant as set forth in Rule 33, which shall be sufficient proof of actual notice in adjudications of civil violations of the motor vehicle code or other applicable statute 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.

(c) Mandatory Hearing and Administrative Payments. The issuing officer shall note on the summons whether the violation requires a hearing or is one which may be eligible to be paid administratively pursuant to law. If eligible for administrative payment, the officer shall also note on the summons the full amount of the fine[s] required to be paid.

(d) Notice of Violation. A summons which provides the defendant and the court with

adequate notice of the violation being charged shall be sufficient if the violation is charged by using the name given to the violation by statute. The summons shall state for each count the official or customary citation of any statute that the defendant is alleged to have violated. An error or omission in the summons shall not be grounds for a reduction in the fine owed, for dismissal of the 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) Amendment of the Summons. A summons may be amended by leave of court, by written consent of the adverse party, or at hearing; and leave shall be freely given when justice so requires.

Rule 4. Joinder of Violations

Two (2) or more violations may be charged in the same summons in a separate count for each violation if the violations charged are based on the same transaction or occurrence. The number of violations charged on one (1) or more summonses arising out of the same transaction or occurrence shall not affect the eligibility of the summonses to be paid administratively pursuant to Rule 5.

Rule 5. Payment of Summonses

(a) Administrative Payments. Administrative payments are payments pursuant to summonses which are eligible to be made by mail, online for traffic tribunal summonses only, or in person without the defendant having to appear in court. Any fines which may be paid administratively pursuant to law shall be paid to the traffic tribunal or the municipal court no later than seven (7) days before the court hearing date as set forth on the summons.

- (1) *Payment in Full.* Administrative payments shall be made in full. The fine shall be paid in full to the court no later than seven (7) days before the court hearing date as set forth on the summons to avoid appearing at the court hearing.
- (2) *Payment by Mail.* If payment is made by mail, it shall be received by the court not later than seven (7) days before the court hearing date as set forth on the summons to avoid appearing at the court hearing.
- (3) *Online Payments for Traffic Tribunal Summonses.* For traffic tribunal summonses only, online payments are available twenty-four (24) hours a day, seven (7) days a week on the Rhode Island Judiciary's website at www.courts.ri.gov by selecting "Online Payments" on the home page, except when the system is unavailable due to scheduled or other maintenance. Payments made online shall be received by the traffic tribunal no later than seven (7) days before the court hearing date as set forth on the summons to avoid appearing at the court hearing.
- (4) *Admission of Guilt.* Administrative payment of the summons shall be deemed an admission of guilt to the civil violation(s) charged in the summons.

- (5) *Administrative Payment Incorrectly Marked on the Summons.* If the issuing officer incorrectly notes on the summons that the offense is eligible to be paid administratively but requires a mandatory hearing, the court shall send a notice to the defendant with a court hearing date.
- (6) *Fine Amount Incorrectly Marked on the Summons.* If the issuing officer incorrectly notes the fine amount on the summons and the defendant pays the incorrect fine amount, the court shall send a notice to the defendant as to the amount of underpayment and the time frame within which the defendant must pay the balance or appear in court or the amount of overpayment. If the defendant appears in court, the judicial officer shall adjust the fine amount on the summons for the court record.

(b) Payments After a Court Hearing. Payment is due immediately following the disposition of the case. If payment is not made in full, the court shall set a date for a court hearing for a determination of the defendant's ability to pay. If the defendant fails to appear at the ability to pay hearing, the court may suspend the license and/or registration and/or issue a civil body attachment in the manner set forth in G.L. 1956 § 8-8.2-3.

- (1) *Periodic Payments.* If, following an adjudication and a hearing, the court finds that the defendant or judgment debtor is unable to pay the judgment in full, the judicial officer may enter an order fixing the amount, frequency, and manner of periodic payments until the judgment is paid in full. Payment shall be received by the date certain set by the court or the defendant must appear in court, unless otherwise ordered by the court.
- (2) *Failure to Comply with Periodic Plan by the Judgment Debtor.* If a judgment debtor has failed to comply with a periodic payment order or if the court finds willful failure on the part of the judgment debtor to pay a fine previously imposed, the court may suspend the license and/or registration and/or issue a civil body attachment in the manner set forth in G.L. 1956 § 8-8.2-3 for a judgment debtor who fails to appear.

Rule 6. First Appearance

(a) Procedure. Except in cases wherein payment has been made administratively pursuant to Rule 5, all defendants shall appear before a judicial officer (defined as a judge or a magistrate of the court) for the first appearance on the date and time and at the place indicated on the summons. The police department or law enforcement agency which charged the summons shall be represented by a prosecutor or law enforcement officer. 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.

The first appearance shall be conducted in open court, recorded, 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 judicial officer conducting the first appearance shall notify the defendant of G.L. 1956 § 31-41.1-7 (the "good driving record" statute).

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

Rule 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 made voluntarily and with understanding of the nature of the charge and the 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 and the case will be placed on the trial calendar. 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 G.L. 1956 § 31-41.1-7. If the defendant is eligible, the court shall, except for good cause shown dismiss the matter upon payment of any mandatory costs or fees. To qualify for a dismissal based on a good driving record, an out-of-state defendant shall submit a copy of his or her driving record obtained from his or her registry of motor vehicles or other licensing authority, or other evidence satisfactory to the court.

Rule 8. Pleadings and Motions Before Trial

(a) Defenses and Objections. 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) Time. The motion shall be made no later than fourteen (14) days after the first appearance, but the court may permit it to be made within a reasonable time thereafter.

(c) Determination. 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.

Rule 9. Joinder of Summonses and Parties

The court may order two (2) or more summonses to be tried together if the violations could have been joined in a single summons or in the interests of judicial economy. The court may order two (2) or more defendants to be tried together if they are alleged to have participated in the same transaction or occurrence or series of transactions or occurrences, or in the interests of judicial economy.

Rule 10. Depositions

(a) Refusal Cases. In cases where the 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 Civil Rules shall apply. All expenses shall be borne by the party noticing and taking the deposition unless upon motion, good cause is shown.

(b) All Other Cases. 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 as set forth in Rules 29 and 30 of the District Court Civil Rules shall apply with all expenses borne by the moving party.

(c) Filing. Depositions shall not be filed with the court until they are used in the proceeding or the court orders their filing.

Rule 11. Discovery and Inspection

(a) Defendant's Statements. Police reports of examinations and tests and statements showing that the defendant has been advised of the defendant's rights shall be made available to the defendant upon written request; the attorney or prosecuting officer for the state, city, town, or agency shall permit the defendant to inspect and copy or photograph said reports and statements.

(b) Other Books, Papers, Documents, Tangible Objects, or Places. Upon motion of the 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 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 shall be made only within fourteen (14) days after the first appearance 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.

- (1) *Continuing Duty to Disclose.* 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, the self-represented litigant, or the court of the existence of the additional material.
- (2) *Failure to Comply.* 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, 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.

Rule 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 a duly authorized officer in accordance with Title 9, Chapter 5 (Writs, Summons, and Process) of the Rhode Island General Laws or by any other person who is not a party and who is not less than 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 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 of Rhode Island.

Rule 13. Place of Prosecution and Trial

(a) Traffic Tribunal. Cases pending before the traffic tribunal shall be adjudicated at a place designated by the chief magistrate.

(b) Municipal Courts. Cases pending before a municipal court shall be adjudicated at the place determined by state law or local ordinance.

Rule 14. Motion to Transfer

(a) 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) 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. Upon the transfer, the traffic tribunal shall 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 the first appearance or at such other time as the court or these rules may prescribe.

Rule 15. Trials

(a) Opening Statements and Closing Arguments. Opening statements shall be permitted; a time limit may be set within the discretion of the judicial officer. Closing arguments shall also be permitted; a time limit may be set within the discretion of the judicial officer.

(b) Rules of Evidence. In all adjudications of civil violations before the traffic tribunal and the municipal courts, the Rhode Island Rules of Evidence shall apply.

Rule 16. Motion to Dismiss

The court, on motion of a defendant or of its own initiative, shall at the close of the evidence offered by the prosecution order the dismissal of one (1) or more violations charged in the summons if the evidence is insufficient to sustain such 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.

Rule 17. Judgment

(a) Burden of Proof. The burden of proof shall be on the prosecution to a standard of clear and convincing evidence. Following an adjudication of the charged violation(s), a judgment shall enter on a separate document signed by the judicial officer that the defendant is "guilty" or "not guilty" of violating the motor vehicle code or other applicable statute.

(b) 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 judicial officer.

(c) Default Judgment. A default judgment may enter against the defendant upon the defendant's failure to appear at a trial and/or the first appearance. A default judgment may enter upon proof that:

- (1) The officer issued the summons consistent with the statutory requirements as set forth in Rule 3(b); and
- (2) 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 the first appearance, the matter may be dismissed.

Rule 18. Sentence

(a) Entry of a Judgment of Guilty. Upon plea or 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 wishes to make a statement in the defendant's own behalf and to present any information in mitigation of punishment.

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

Rule 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.

Rule 20. Relief from Judgment or Order

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:

- (a)** Mistake, inadvertence, surprise, or excusable neglect;
- (b)** Newly discovered evidence;
- (c)** Fraud, misrepresentation, or misconduct of an adverse party;
- (d)** The judgment or order is void;

(e) The judgment or order has been satisfied, released, or discharged, or the judgment or order is no longer equitable that the judgment or order should have prospective application; or

(f) Any other reason justifying relief from the operation of the judgment, or order, including that relief is warranted in the interests of justice.

The motion shall be made within a reasonable time, and for reasons (a), (b), and (c) not more than one (1) year after the judgment or order was entered. 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.

Rule 21. Appeals

(a) **Appeals Panel.** Any party aggrieved by a judgment of a municipal court or the traffic tribunal following the adjudication of a civil violation of the motor vehicle code or other applicable statute may appeal the judgment to the appeals panel of the traffic tribunal. An appeal may be claimed by following the procedures established by the chief magistrate, including filing a written Notice of Appeal on a form prescribed by the chief magistrate and by submitting the appeal filing fee established by statute together with any applicable technology surcharges. The most current version of the Notice of Appeal--Appeals Panel is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms. 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. A Notice of Appeal shall be filed within ten (10) days of the imposition of the judgment appealed from.

(b) **Appeal to the Sixth Division of the District Court.** Any party aggrieved by a final written judgment or order of the appeals panel may appeal therefrom to the sixth division of the district court. In accordance with G.L. 1956 § 31-41.1-9, an appeal may be claimed by filing a written Notice of Appeal on a form prescribed by the chief magistrate and by submitting to the traffic tribunal the appeal filing fee established by statute together with any applicable technology surcharges. The most current version of the Notice of Appeal--District Court is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms. 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. A Notice of Appeal shall be filed within ten (10) days of the entry of sentence or the final written judgment or order appealed from.

(c) **In Forma Pauperis.** The court may, upon motion, allow the defendant to proceed in forma pauperis. For specific requirements, see the Traffic Tribunal's Electronic Filing System Guidelines.

(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, 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.

The appellant shall be responsible for obtaining a written transcript of the hearing(s) that formed the basis for the judgment being appealed. Policies and procedures regarding the ordering, payment, and delivery of transcripts shall be promulgated by the Administrative Office of State Courts. The most current version of a Request for Recording form is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(e) Record on Transmission. The record on appeal, including the transcript necessary for the determination of the appeal, shall be transmitted to the Traffic Tribunal within forty-five (45) days after the filing of the notice of appeal unless the time is extended by an order entered under subdivision (f) of this rule.

(f) Extension of Time for Transmission of the Record. The Traffic Tribunal may extend the time for transmitting the record. The request for extension must be made within the time originally prescribed or within an extension previously granted, and the Traffic Tribunal shall not extend the time to a day more than sixty (60) days from the date of filing of the first notice of appeal.

(g) Orders for Dismissal. From the time of the filing of notice of appeal, the Traffic Tribunal shall have jurisdiction to supervise the course of said appeal and to promulgate orders of dismissal of appeal for failure to comply with these rules, either upon motion of a party or upon the court's own motion.

(h) 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.

Rule 22. Execution and Enforcement of Judgments

(a) Enforcement of Final Judgment. 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 the

judgment debtor's circumstances should not be made and a decree be entered ordering the judgment debtor to pay such judgment in full or by periodic payments.

(d) Service. The citation shall be served upon the judgment debtor in person or by leaving a copy of the citation at the individual's dwelling house or usual place of residence of the judgment debtor with a person of suitable age and discretion residing therein, at least six (6) days before the date of appearance named in the citation. Pursuant to G.L. 1956 § 8-8.2-5, in person 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. All other service of all process shall be made by a duly authorized officer in accordance with Title 9, Chapter 5 (Writs, Summons, and Process) of the Rhode Island General Laws.

(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 the judgment debtor in the manner set forth in G.L. 1956 § 8-8.2-3.

Rule 23. Presence of the Defendant

(a) Right to Presence. The defendant shall be present at the first appearance 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. A defendant who is represented by an attorney may apply to the court for an order to waive the defendant's presence at the first appearance, at every stage of trial, and the imposition of sentence. A motion to relieve a defendant from the requirement that the defendant 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 the first appearance, trial, or sentencing.

(c) Corporate Defendants. A corporation or other business entity shall appear by counsel for all purposes, however, where the potential fines are not in excess of five hundred dollars (\$500.00), the corporation or other business entity may elect to appear through an officer or agent upon proof that the officer or agent has been an employee of the corporation or other business entity for at least one (1) year and is authorized to appear on behalf of the corporation or other business entity and to pay potential fines or arrange for the payment of fines.

Rule 24. 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 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) Enlargement. 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;

- (1) 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
- (2) 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 no later than three (3) days before the hearing, unless the court permits them to be served at some later time.

(d) Additional Time After Electronic Service or Service by Mail. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party electronically or by mail, one (1) day shall be added to the prescribed period.

Rule 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.

Rule 26. Termination of Prosecution or Dismissal

(a) By Prosecuting Officer or Attorney for State, Agency, or Municipality. The prosecuting officer or the attorney for the state, agency, or municipality may terminate the prosecution of a summons, however, a summons that charges a motorist under G.L. 1956 § 31-27-2.1 alone, or any count of a summons that charges a motorist under G.L. 1956 § 31-27-2.1 may be terminated in accordance with G.L. 1956 § 42-9-4 only after notice to the attorney for the state. The termination 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 terminating the prosecution shall be printed legibly beneath the signature. A termination 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. The court on its own initiative may dismiss the summons in the interests of justice.

(c) Dismissal Following Trial. No summons shall be terminated pursuant to subsection (a) of this rule following the adjudication of a violation of the law.

Rule 27. Service and Filing of Papers

(a) Service: When Required. Written motions, written notices, and similar papers shall be served upon each of the parties.

(b) Making Service.

- (1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon an attorney unless the court orders service upon the party.
- (2) For attorneys and self-represented litigants who are Registered Users, service is made electronically using the EFS.
- (3) For incarcerated individuals, attorneys who are granted a waiver pursuant to Art. X, Rule 3(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing, and self-represented litigants who do not elect to electronically file pursuant to Art. X, Rule 3(b), service under subdivision (a) is made by:

(A) Delivering a copy to the person served by:

- (i) Handing it to the person;
- (ii) Leaving it at the person's office with a clerk or other person in charge or if no one is in charge, leaving it in a conspicuous place in the office; or
- (iii) Leaving it at the person's dwelling house or usual place of residence with someone of suitable age and discretion residing there.

(B) Mailing a copy to the person served as set forth in Rule 33. Service by mail is complete on mailing.

(C) Any other means ordered by the court.

(c) Notice of Orders. Immediately upon the entry of an order made on a written motion subsequent to the first appearance 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; 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 the party or the party's attorney shall constitute a representation by the party or the party's attorney

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 judicial officer may permit the papers to be filed with the judicial officer, in which event the judicial officer shall note 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 is not obeyed, the court may order them to be regarded as stricken and their service to be of no effect.

Rule 28. Appearance, Withdrawal, and Excusal of Counsel Attorneys

(a) Appearance. An attorney for a defendant in a case before a municipal court or the traffic tribunal shall forthwith file an appearance in writing with the clerk of the court wherein the action is pending. If the charged violation is a refusal to submit to a chemical test pursuant to G.L. 1956 § 31-27-2.1, the attorney shall send a copy of the entry of appearance to the Office of the Attorney General.

(b) Withdrawal.

(1) *By Motion.* An attorney who has filed an entry of appearance on behalf of any defendant in a pending action may not withdraw unless the attorney 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 appends to the motion the last known address of the attorney's 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 Servicemembers Civil Relief Act (50 U.S.C.A. App. § 501, et seq.), the motion shall not be granted unless the defendant consents thereto in writing or another attorney appears as counsel of record at the time of such withdrawal.

(2) *By Stipulation.* Where a defendant for whom the attorney has filed an entry of appearance is desirous of substituting a new attorney, a stipulation may be entered in which the first attorney withdraws the entry and the replacement attorney enters an appearance. Such a stipulation shall not be entered where the substitution of the attorney shall be cited by the defendant as justification for delay of proceedings.

(c) Excusal. An attorney shall not be excused from attendance except upon application to the

chief magistrate or a judicial officer in the absence of the 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 the attorney, or the attorney's absence from a hearing for some other imperative and unforeseen cause, the judicial officer shall take such action, without notice, as shall appear reasonable under the circumstances.

Rule 29. Courts and Clerks

(a) Traffic Tribunal Always Open; Clerk's Office. Subject to law or by order of the Rhode Island Supreme Court, the 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 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 judicial officer of the court, or the clerk in the courtroom, shall call each day's calendar at 9:00 a.m., or at other such times as the 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 by the chief magistrate.

Rule 30. Appeals Panel

The chief magistrate shall establish an appeals panel consisting of three (3) or more judicial officers of the traffic tribunal and shall designate a presiding judicial officer for each panel so appointed.

Rule 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, or officer, whether by appeal or petition or otherwise, proceedings for such review shall be instituted by the filing of a complaint and any other required documents together with the fees prescribed by law with the court. The complaint shall include a concise statement of the grounds upon which the plaintiff claims he or she is entitled to relief, and a demand for judgment for the relief the plaintiff seeks. No responsive pleading need be filed unless required by statute or by order of the 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, or officer, and upon all other parties to the proceeding to be reviewed in the manner provided by Rule 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. An appeal may be taken from any judgment of the court in any action to the appeals panel in the manner provided by these rules.

Rule 32. Refusal to Submit to Chemical Test Cases

(a) General Procedure. The adjudication of summonses which include charges brought for violation of G.L. 1956 § 31-27-2.1 may follow the procedure established by these rules except that the first appearance in such cases shall be scheduled no later than two (2) calendar weeks after the date the summons was issued. Judicial review of the officer's report for the possible suspension of the defendant's driver's license shall be conducted at the first appearance on said charge. No case over which the traffic tribunal has jurisdiction which alleges a violation of G.L. 1956 § 31-27-2.1 and is scheduled for the first appearance 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.

A copy of any discovery request shall be provided to the Department of Attorney General.

(b) Motion to Prevent or Stay License Suspension. Any motion by a defendant to prevent or stay the entry of an order of license suspension shall be made pursuant to Rule 25 and shall be made with notice to the 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 transaction or occurrence that constitute the probable cause for the request that the defendant submit to a chemical test shall be brought before the traffic tribunal together with the charged violation of G.L. 1956 § 31-27.2.1.

Rule 33. Notice

Whenever, pursuant to these rules, notice of a future court date or other notice issued by the court 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 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 to the division of motor vehicles pursuant to the duty imposed by G.L. 1956 § 31-10-32.

Rule 34. Obligations of the Municipal Courts

Each municipal court shall electronically submit to the traffic tribunal the disposition and payment information on every case, whether disposed administratively or by hearing, within seventy-two (72) hours from the date of disposition.

Rule 35. Obligations of Authorized Law Enforcement Agencies

(a) Mandatory eCitation. The issuance of eCitation summonses shall be mandatory for all authorized law enforcement agencies within one (1) year from the Effective Date set forth in Rule 36.

(b) Submission of eCitation Summons to the Traffic Tribunal. Every eCitation summons issued shall be submitted to the traffic tribunal on a daily basis. The authorized law enforcement agency shall also submit the eCitation to the respective municipal court.

(c) Mandatory Electronic Submission of the Summons. All other summonses issued from authorized law enforcement agencies shall be submitted electronically to the traffic tribunal on a daily basis. The authorized law enforcement agency shall also submit all other summonses to the respective municipal court.

(d) Language Assistance Notices. In an effort to provide language assistance to limited English proficient persons, service of the summons shall include the Language Assistance Notices which informs the recipient of the right to a foreign language interpreter at no cost and contains instructions about how to obtain language assistance services. The most current version of the Language Assistance Notices are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(e) Universal Summons. All authorized law enforcement agencies shall use the summons in Rule 3(a) to issue violations.

(f) Scheduling of the First Appearance. All authorized law enforcement agencies shall schedule the first appearance within the time frame prescribed by the chief magistrate of the traffic tribunal.

(g) Refusal Packets. All refusal packets shall be delivered to the Traffic Tribunal no later than seven (7) days before the first appearance.

Rule 36. Effective Date

These rules shall take effect on June 8, 2015.