

PROCEDURES AND PRACTICES FOR DEFENSE ATTORNEYS PRACTICING WITHIN  
THE HERCULANEUM MUNICIPAL DIVISION

COURT OPERATING RULE 2

COURT PROCEDURE

1. Entries of Appearance: A written entry of appearance shall be filed with court personnel in person, by mail, or by fax; every effort should be made to avoid duplicate submissions. The entry shall include the date of submission, defendant's full name, case number, the attorney's name and MO bar number, fax and phone contact information, email address, and certificate of service to the prosecutor. Entries filed with the court only will NOT be forwarded to the prosecutor. Any pleading filed with an attorney's signature is considered an entry of appearance and the attorney will be added to the case.
2. Request for Recommendation: See 'Attachment A' Requests for Recommendation shall be filed with the prosecutor or prosecutor clerk. Requests for recommendation for the prosecutor filed with the court only will NOT be forwarded to the prosecutor.
3. Request for Discovery: See 'Attachment B'. Requests for Discovery shall be filed with the Court and a separate copy sent addressed to the prosecutor. Requests of the prosecution filed with the court only will NOT be forwarded to the prosecutor.
4. Acceptance of the Prosecutor's recommendation: See 'Attachment C'
5. Filings and Motions: Filings and motions shall be made in writing and can be filed in person, by mail, or by fax; every effort should be made to avoid duplicate submissions. A certificate of service to opposing counsel must be included in all filings and motions. Oral motions may be allowed at the Judge's discretion or as allowed by Local Court Rules. In cases of emergency, the Judge will take submissions under advisement on a case by case basis. All filings and motions with notice, when applicable, shall be filed timely and in proper form, including the attorney's name and bar number and the date of submission, or as directed by Local Court Rules and include a certificate of service pursuant to Missouri Supreme Court Rule 43.01.
6. Continuances: Continuances are granted by the Judge or as directed by Local Court Rules. Requests for continuance may be made in person, by mail, or fax; every effort should be made to avoid duplicate submissions. Motions for continuance shall be made in writing. A certificate of service to opposing counsel must be included. Oral motions may be allowed at the Judge's discretion or as allowed by Local Court Rules. Continuances are not granted until approved the court. Court clerks may not grant continuances. The attorney assumes the risk of the request for continuance being denied if the request/motion is not made at least 5 days prior to the next scheduled court date.

7. Request for Recall of Warrant(s): A written request may be included in the attorney's entry of appearance or filed as a separate motion. Requests for a warrant(s) to be recalled may be filed in person, by mail, or fax; every effort should be made to avoid duplicate submissions. A certificate of service to the prosecutor must be included. Oral motions may be allowed at the Judge's discretion or as allowed by Local Court Rules. All requests for warrant recall will be ruled on by the Judge in a timely manner taking any objections of the prosecutor into account. Warrants will not be recalled automatically upon filing and entry of appearance. Any court date immediately following the recall of any warrant requires the appearance of the attorney and defendant.
8. Representation: An attorney who has entered his/her appearance on a case shall remain the attorney of record until a motion to withdraw is filed with the court and granted by the Judge. It is the expectation that the attorney of record appear at all scheduled court appearances with the defendant, unless otherwise instructed by the court. In the event that secondary counsel files an entry of appearance on the case that attorney will be added to the case as co-counsel. It is not the responsibility of the court to handle matters between attorneys and/or their clients. If the defendant is represented by counsel all notifications will be sent to the attorney of record, not the defendant.
9. Withdrawal: A written motion to withdraw shall be filed with the court and ruled on by the Judge. The motion may be filed in person, by mail, or fax; every effort should be made to avoid duplicate submissions. A certificate of service to the prosecutor and defendant must be included. Oral motions may be allowed at the Judge's discretion or as allowed by Local Court Rules.
10. Bonds: Bonds can be collected by any peace officer within the agency that is has the defendant in custody. Bonds collected by law enforcement for outside agencies will be forwarded to the court of jurisdiction by the police department or city, the bonds for outside agencies will not be processed by the court. Bonds can be collected by court personnel during regular business hours for cases within the jurisdiction of the division collecting the bond money. Any bonds collected on a case will be returned to the defendant unless a notarized bond assignment is filed with the court to disburse any refund to another party. All fines and costs shall be deducted from the collected bond money prior to any bond money being refunded.

So Ordered:



R. Scott Harness                      April 7, 2023  
Municipal Judge  
Herculaneum Municipal Court

# ATTACHMENT A

## PROCEDURES AND PRACTICES FOR DEFENSE ATTORNEYS PRACTICING WITHIN THE HERCULANEUM MUNICIPAL DIVISION

### REQUESTS FOR RECOMMENDATION

1. All requests for a recommendation must be made in writing to the prosecutor/prosecutor clerk. Requests for a recommendation are not required to be filed with the court. Requests can be made in person, by mail, or fax; every effort should be made to avoid duplicate submissions. Requests of the prosecution filed with the court only will NOT be forwarded to the prosecutor.
2. Recommendation requests should include any documentations to assist the prosecutor in making a recommendation, including any compliance documents and driving record.
3. The Prosecutor will send to the defense counsel a response to a request for recommendation disposition which may include no recommendation. The recommendation will indicate if a court appearance is required or if the case can be disposed of without a court appearance pursuant to a Judge's order in accordance with Rule 37.57. The prosecutor will notify the court that a plea offer has been extended and request the case be continued and that notification of the new court date will be sent to the prosecutor and defense counsel by the court. The prosecution may not grant or issue continuance dates. It is the responsibility of defense counsel to notify their client of the change in court date. If the defendant is represented by counsel all notifications will be sent to the attorney of record, not the defendant.
4. The prosecution may file the plea offer offered with the court. This filing would be open to the public unless otherwise ordered by the court for good cause shown. If the prosecution should choose to file plea offers with the court, the court may not take notice or make a decision until all parties have signed the plea agreement.
5. The prosecuting attorney, attorney of record, and the defendant must sign the plea agreement before the agreement can go before the judge for final disposition pursuant to plea procedures in Rule 37.58. Payment on plea agreements will not be accepted until the judge has accepted the plea agreement and judgment is entered.
6. Requests for recommendation will not be processed by court personnel.
7. The Court reserves the right to reject any or all terms of any plea bargain at any time and any recommendation for disposition as negotiated between the prosecutor and defense counsel is not binding upon the court.

## ATTACHMENT B

### PROCEDURES AND PRACTICES FOR DEFENSE ATTORNEYS PRACTICING WITHIN THE HERCULANEUM MUNICIPAL DIVISION

#### REQUEST FOR DISCOVERY

1. Discovery in the municipal divisions is governed by Rule 37.54 and is subject to judicial discretion.
2. Discovery may be mailed upon request if a self-addressed and stamped envelope (appropriate for the size and weight) is included with the request.
3. All other requests for discovery must be requested in the form of a written motion filed with the court accompanied by a certificate of service to the prosecutor. Any motions for discovery filed with the court should follow the procedure found under "Court Procedure" in this same document.
4. Following the order of the court on the defendant's motion for discovery all items ordered to be provided to the defense will be made available within 30 calendar days, or as otherwise specified within the judge's order. Ordered discovery items may be mailed upon request if a self-addressed and stamped envelope (appropriate for the size and weight) is included with the request.

## ATTACHMENT C

### PROCEDURES AND PRACTICES FOR DEFENSE ATTORNEYS PRACTICING WITHIN THE HERCULANEUM MUNICIPAL DIVISION

#### ACCEPTANCE OF PROSECUTORS' RECOMMENDATION

1. Acceptance of the prosecutor's recommendation by the defendant and/or defense counsel when a court appearance is not required by order of the Judge's, pursuant to Rule 37.57, must be paid in full prior to the scheduled court date, including fines and costs.
2. If acceptance of the prosecutor's recommendation by the defendant and/or defense counsel does require a court appearance, it is expected that defense counsel will be present at the scheduled court date. Failure to do so could result in the judge being unwilling to accept the defendant's plea until counsel is present and/or a Show Cause Order being issued for the attorney to appear in court and explain to the judge why he or she failed to appear with their client as instructed.
3. Payment on a case disposed, pursuant to Rule 37.57, without a court appearance will not be accepted without a copy of the recommendation signed by the prosecutor, defendant, and/or defense counsel, and approval by the judge pursuant to Rule 37.58 and all signatures appearing on the same page.
4. All payments of fines and costs are to be transacted with court personnel. The prosecutor's office will not accept any payments.
5. Online payment options are available. A copy of the recommendation signed by the prosecutor, defendant, defense counsel, and judge must be filed with the court prior to the court accepting the online payment. In the event that a copy of the signed recommendation is not on file the payment will be returned.